

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4496

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED FEBRUARY 9, 2023

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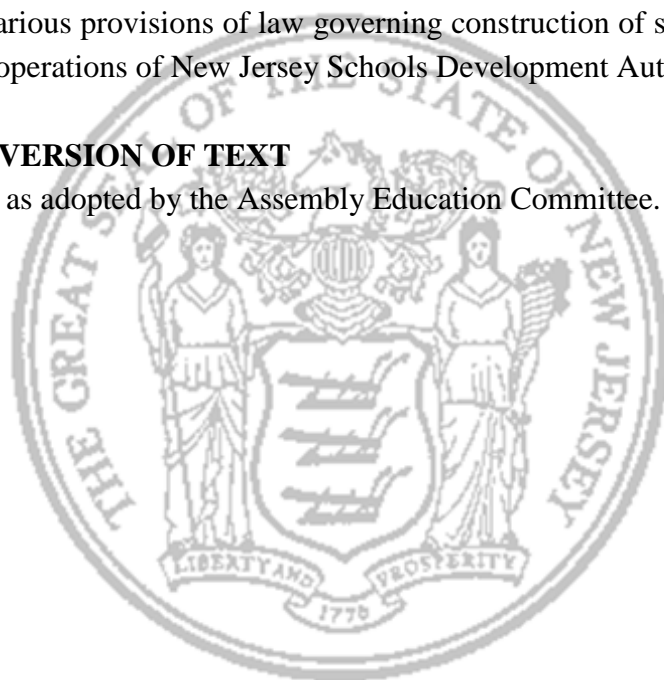
Assemblyman Atkins

SYNOPSIS

Revises various provisions of law governing construction of school facilities projects and operations of New Jersey Schools Development Authority.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Education Committee.



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

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

5

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

8

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

11 2. The Legislature finds and declares that:

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

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

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

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

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

Matter underlined thus is new matter.

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

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

9

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

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

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

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

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

33 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

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

1 the facilities efficiency standards, and which were reviewed by the
2 development authority and approved by the State Treasurer
3 pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); **and** for
4 districts other than SDA districts, final eligible costs as determined
5 pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000,
6 c.72 (C.18A:7G-5); and for school facilities projects of charter
7 schools and renaissance school projects physically located in SDA
8 districts, final eligible costs as determined pursuant to subsection c.
9 of section 5 of P.L. , c. (C.) (pending before the
10 Legislature as this bill);

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%** 100 percent of the actual count of students, in
17 the case of districts which operate a half-day kindergarten program
18 each kindergarten student shall be counted at **50%** 50 percent of
19 the actual count of kindergarten students, in the case of districts
20 which operate a full-day kindergarten program or which currently
21 operate a half-day kindergarten program but propose to build
22 facilities to house a full-day kindergarten program each
23 kindergarten student shall be counted at **100%** 100 percent of the
24 actual count of kindergarten students, and each preschool student
25 who is enrolled in a full-day preschool program pursuant to section
26 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at **100%**
27 100 percent of the actual count of preschool students. In addition,
28 each preschool disabled child who is entitled to receive a full-time
29 program pursuant to N.J.S.18A:46-6 shall be counted at **100%**
30 100 percent of the actual 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
36 existing gross square footage of a school building by the minimum
37 area allowance per FTE student pursuant to subsection b. of section
38 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students
39 contained therein. The difference between the projected enrollment
40 determined pursuant to subsection a. of section 8 of P.L.2000, c.72
41 (C.18A:7G-8) and the functional capacity is the unhoused students
42 that are the basis upon which the additional costs of space to
43 provide educationally adequate facilities for the entire projected
44 enrollment are determined. The existing gross square footage for
45 the purposes of defining functional capacity is exclusive of existing
46 spaces that are not contained in the facilities efficiency standards
47 but which are used to deliver programs and services aligned to the

1 core curriculum content standards, used to provide support services
2 directly to students, or other existing spaces that the district can
3 demonstrate would be structurally or fiscally impractical to convert
4 to other uses contained in the facilities efficiency standards;

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

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

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

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

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

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

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

1 include capital maintenance or contracted custodial or janitorial
2 services, expenditures for the cleaning of a school facility or its
3 fixtures, the care and upkeep of grounds or parking lots, and the
4 cleaning of, or repairs and replacements to, movable furnishings or
5 equipment, or other expenditures which are not required to maintain
6 the original condition over the school facility's useful life.
7 Approved maintenance expenditures shall be as determined by the
8 commissioner pursuant to regulations to be adopted by the
9 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-
10 26);

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

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

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

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

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

25 “Model Educational Specifications” means the development of:

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

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

33 “Model Program Templates” means the development of
34 programmable models that define the number and type of rooms and
35 spaces to be provided in a school facility.

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

43 "Other allowable costs" means the costs of temporary facilities,
44 site development, acquisition of land or other real property interests
45 necessary to effectuate the school facilities project, fees for the
46 services of design professionals, including architects, engineers,
47 construction managers and other design professionals, legal fees,
48 financing costs and the administrative costs of the development

1 authority and the financing authority or the district, charter school,
2 or renaissance school project incurred in connection with the school
3 facilities project;

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

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

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

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

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

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

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

42 "School facility" means and includes any structure, building, or
43 facility used wholly or in part for educational purposes by a district
44 and facilities that physically support such structures, buildings and
45 facilities, such as district wastewater treatment facilities, power
46 generating facilities, and steam generating facilities, but shall
47 exclude other facilities. "School facility" shall also mean any
48 structure, building, or facility used wholly or in part for educational

1 purposes that is owned, or leased from a nonprofit entity or
2 government agency, and operated by a charter school or renaissance
3 school project and the facilities that physically support such
4 structures, buildings, and facilities, for which the charter school or
5 renaissance school project is seeking the State share of funding
6 pursuant to section 5 of P.L. , c. (C.) (pending before the
7 Legislature as this bill);

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

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

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

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

24 "State debt service aid" means for school bonds issued for school
25 facilities projects approved by the commissioner after the effective
26 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect
27 not to have a redevelopment entity construct the project or which
28 elect not to finance the project under section 15 of P.L.2000, c.72
29 (C.18A:7G-15), the amount of State aid determined pursuant to
30 section 9 of P.L.2000, c.72 (C.18A:7G-9); and for school bonds or
31 certificates of participation issued for school facilities projects
32 approved by the commissioner prior to the effective date of
33 P.L.2000, c.72 (C.18A:7G-1 et al.) the amount of State aid
34 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-
35 10);

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

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

44 "State share" means the State's proportionate share of the final
45 eligible costs of a school facilities project to be constructed by the
46 development authority as determined pursuant to section 5 of
47 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration
48 project, the State's proportionate share of the final eligible costs of

1 the project as determined pursuant to sections 5 and 6 of P.L.2000,
2 c.72 (C.18A:7G-5 and C.18A:7G-6); **and** in the case of a school
3 facilities project to be financed pursuant to section 15 of P.L.2000,
4 c.72 (C.18A:7G-15), the State share as determined pursuant to that
5 section; and in the case of a school facilities project of a charter
6 school or renaissance school project physically located in an SDA
7 district, the State share as determined pursuant to section 5 of
8 P.L. , c. (C.) (pending before the Legislature as this bill);

9 "Total costs" means, in the case of a school facilities project
10 which is to be constructed by the development authority or a
11 redevelopment entity or financed pursuant to section 15 of
12 P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess
13 costs if any; and in the case of a school facilities project which is
14 not to be constructed by the development authority or a
15 redevelopment entity or financed pursuant to section 15 of
16 P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as
17 determined by the district.
18 (cf: P.L.2007, c.260, s.39)

19

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

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

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

45 (b) Beginning in the 2025-2026 school year and for each school
46 year thereafter, a school district, as part of its comprehensive
47 review conducted under the New Jersey Quality Single
48 Accountability Continuum administered pursuant to section 10 of

1 P.L.1975, c.212 (C.18A:7A-10), shall certify that it has included in
2 its most recent long-range facilities plan a capital improvement plan
3 for each public school within the district in accordance with the
4 provisions of subparagraph (a) of this paragraph. Notwithstanding
5 the provisions of this paragraph to the contrary, an SDA district
6 shall not be required to complete a capital improvement plan for a
7 school that is part of an SDA district school facilities project
8 included in the most recent Statewide strategic plan developed
9 pursuant to paragraphs (2) and (3) of subsection m. of section 5 of
10 P.L.2000, c.72 (C.18A:7G-5).

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

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

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

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

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

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

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

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

1 Within a reasonable period of time after the effective date of
2 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
3 the facilities efficiency standards developed for the 2000-2001,
4 2001-2002, and 2002-2003 school years in the New Jersey Register.
5 Within a reasonable period of time after 30 days after publication in
6 the New Jersey Register, the commissioner shall file the facilities
7 efficiency standards with the Office of Administrative Law and
8 those standards shall become effective immediately upon filing with
9 the Office of Administrative Law. During the 30-day period the
10 commissioner shall provide an opportunity for public comment on
11 the proposed facilities efficiency standards.

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

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

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

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

44 l. By July 1, 2001, the commissioner shall provide the
45 Legislature with recommendations to address the circumstances of
46 districts which are contiguous with two or more Abbott districts.
47 The recommendations shall address the issues of the financing of
48 school facilities projects and the funding of the educational and

1 other programs required within these districts as a result of their
2 unique demographic situation.

3 m. By July 1, 2001, the commissioner shall study the Safe
4 Schools Design Guidelines, prepared by the Florida Center for
5 Community Design and Research, which address the issues of
6 school safety and security through the design of school facilities.
7 Based upon the commissioner's study, the commissioner shall issue
8 recommendations to districts on the appropriateness of including
9 the Safe Schools Design Guidelines in the design and construction
10 of school facilities projects.

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

12

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

15 5. a. The development authority shall undertake and the
16 financing authority shall finance the school facilities projects of
17 SDA districts.

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

22 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
23 contrary, the procedures for obtaining approval of a school facilities
24 project shall be as set forth in **[this act]** P.L.2000, c.72 (C.18A:7G-
25 1 et al.); provided that any district whose school facilities project is
26 not constructed by the development authority shall also be required
27 to comply with the provisions of N.J.S.18A:18A-16 and, in the case
28 of a school facilities project that has estimated total costs over
29 \$10,000,000, shall be overseen by a non-conflicted construction
30 management service provider, which holds a current, valid
31 classification issued by the Division of Property Management and
32 Construction in the Department of Treasury pursuant to its
33 classification processes for construction managers, who shall serve
34 from initial application to the commissioner for approval of the
35 project through project completion.

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

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

17 (b) In the case of an SDA district school facilities project, the
18 project design shall conform to the standards of the model school
19 design program developed by the development authority pursuant to
20 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72
21 (C.18A:7G-4). The development authority may permit an SDA
22 district school facilities project to include design features that are
23 considered excess costs provided that the design features do not
24 exceed the lesser of 10 percent of total estimated project costs or
25 \$2,000,000.

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

33 e. The commissioner shall review each proposed school
34 facilities project to determine whether it is consistent with the
35 district's long-range facilities plan and whether it complies with the
36 facilities efficiency standards and the area allowances per FTE
37 student derived from those standards; and in the case of an SDA
38 district the commissioner shall also review the project's educational
39 priority ranking and the Statewide strategic plan developed pursuant
40 to paragraphs (2) and (3) of subsection m. of this section and
41 whether the project conforms to the standards of the model school
42 design program; and in the case of a district other than an SDA
43 district the commissioner shall also review the project's priority
44 pursuant to paragraph (4) of subsection m. of this section. The
45 commissioner shall make a decision on a district's application
46 within 90 days from the date **[he]** the commissioner determines that
47 the application is fully and accurately completed and that all
48 information necessary for a decision has been filed by the district,

1 or from the date of the last revision made by the district. If the
2 commissioner is not able to make a decision within 90 days, [he]
3 the commissioner shall notify the district in writing explaining the
4 reason for the delay and indicating the date on which a decision on
5 the project will be made, provided that the date shall not be later
6 than 60 days from the expiration of the original 90 days set forth in
7 this subsection. If the decision is not made by the subsequent date
8 indicated by the commissioner, then the project shall be deemed
9 approved and the preliminary eligible costs for new construction
10 shall be calculated by using the proposed square footage of the
11 building as the approved area for unhoused students.

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

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

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

44 (2) The commissioner may waive a facilities efficiency standard
45 if the board of education or State district superintendent, as
46 appropriate, demonstrates to the commissioner's satisfaction that the
47 waiver will not adversely affect the educational adequacy of the
48 school facility, including the ability to deliver the programs and

1 services necessary to enable all students to achieve the core
2 curriculum content standards.

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

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

23 (4) The commissioner shall approve spaces in excess of, or
24 inconsistent with, the facilities efficiency standards, hereinafter
25 referred to as nonconforming spaces, upon a determination by the
26 district that the spaces are necessary to comply with State or federal
27 law concerning individuals with disabilities, including that the
28 spaces are necessary to provide in-district programs and services for
29 current disabled pupils who are being served in out-of-district
30 placements or in-district programs and services for the projected
31 disabled pupil population. A district may apply for additional State
32 aid for nonconforming spaces that will permit pupils with
33 disabilities to be educated to the greatest extent possible in the same
34 buildings or classes with their nondisabled peers. The
35 nonconforming spaces may: (a) allow for the return of pupils with
36 disabilities from private facilities; (b) permit the retention of pupils
37 with disabilities who would otherwise be placed in private facilities;
38 (c) provide space for regional programs in a host school building
39 that houses both disabled and nondisabled pupils; and (d) provide
40 space for the coordination of regional programs by a county special
41 services school district, educational services commission, jointure
42 commission, or other agency authorized by law to provide regional
43 educational services in a school building that houses both disabled
44 and nondisabled pupils. A district's State support ratio shall be
45 adjusted to equal the lesser of the sum of its district aid percentage
46 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or
47 **【100%】** 100 percent for any nonconforming spaces approved by the
48 commissioner pursuant to this paragraph.

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

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

19 The appeal shall outline the reasons why the preliminary eligible
20 costs calculated for the project are inadequate and estimate the
21 amount of the adjustment which needs to be made to the
22 preliminary eligible costs. The commissioner shall forward the
23 appeal information to the development authority for its review and
24 recommendation. If the additional costs are the result of factors
25 that are within the control of the district or are the result of design
26 factors that are not required to meet the facilities efficiency
27 standards, the development authority shall recommend to the
28 commissioner that the preliminary eligible costs be accepted as the
29 final eligible costs. If the development authority determines the
30 additional costs are not within the control of the district or are the
31 result of design factors required to meet the facilities efficiency
32 standards, the development authority shall recommend to the
33 commissioner a final eligible cost based on its experience for
34 districts with similar characteristics, provided that, notwithstanding
35 anything to the contrary, the commissioner shall not approve an
36 adjustment to the preliminary eligible costs which exceeds **【10%】**
37 10 percent of the preliminary eligible costs. The commissioner
38 shall make a determination on the appeal within 30 days of its
39 receipt. If the commissioner does not approve an adjustment to the
40 school facilities project's preliminary eligible costs, the
41 commissioner shall issue his findings in writing on the reasons for
42 the denial and on why the preliminary eligible costs as originally
43 calculated are sufficient.

44 (2) In the case of an SDA district, the commissioner shall
45 promptly prepare and submit to the development authority a
46 preliminary project report which shall consist, at a minimum, of the
47 following information: a complete description of the school
48 facilities project; the actual location of the project; the total square

1 footage of the project together with a breakdown of total square
2 footage by functional component; the preliminary eligible costs of
3 the project; the project's priority ranking determined pursuant to
4 subsection m. of this section; any other factors to be considered by
5 the development authority in undertaking the project; and the name
6 and address of the person from the district to contact in regard to
7 the project.

8 i. Upon receipt by the development authority of the
9 preliminary project report, the development authority, upon
10 consultation with the district, shall prepare detailed plans and
11 specifications and schedules which contain the development
12 authority's estimated cost and schedule to complete the school
13 facilities project. The development authority shall transmit to the
14 commissioner its recommendations in regard to the project which
15 shall, at a minimum, contain the detailed plans and specifications;
16 whether the school facilities project can be completed within the
17 preliminary eligible costs; and any other factors which the
18 development authority determines should be considered by the
19 commissioner.

20 (1) In the event that the development authority determines that
21 the school facilities project can be completed within the preliminary
22 eligible costs: the final eligible costs shall be deemed to equal the
23 preliminary eligible costs; the commissioner shall be deemed to
24 have given final approval to the project; and the preliminary project
25 report shall be deemed to be the final project report delivered to the
26 development authority pursuant to subsection j. of this section.

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

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

44 (b) If the development authority determines that it is not
45 possible to make changes in the school facilities project so that it
46 can be completed within the preliminary eligible costs either
47 because the additional costs are the result of factors outside the
48 control of the district or the additional costs are required to meet the

1 facilities efficiency standards, the development authority shall
2 recommend to the commissioner that the preliminary eligible costs
3 be increased accordingly, whereupon the commissioner shall:
4 calculate the final eligible costs to equal the sum of the preliminary
5 eligible costs plus the increase recommended by the development
6 authority; give final approval to the project; and issue a final project
7 report to the development authority pursuant to subsection j. of this
8 section.

9 (c) If the additional costs are the result of factors that are within
10 the control of the district or are the result of design factors that are
11 not required to meet the facilities efficiency standards or approved
12 pursuant to paragraph (1) of subsection g. of this section, the
13 development authority shall recommend to the commissioner that
14 the preliminary eligible costs be accepted, whereupon the
15 commissioner shall: calculate the final eligible costs to equal the
16 preliminary eligible costs and specify the excess costs which are to
17 be borne by the district; give final approval to the school facilities
18 project; and issue a final project report to the development authority
19 pursuant to subsection j. of this section; provided that the
20 commissioner may approve final eligible costs which are in excess
21 of the preliminary eligible costs if, in his judgment, the action is
22 necessary to meet the educational needs of the district.

23 (d) For a school facilities project undertaken by the
24 development authority, the development authority shall be
25 responsible for any costs of construction, but only from the
26 proceeds of bonds issued by the financing authority pursuant to
27 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
28 235 et al.), which exceed the amount originally projected by the
29 development authority and approved for financing by the
30 development authority, provided that the excess is the result of an
31 underestimate of labor or materials costs by the development
32 authority. After receipt by the development authority of the final
33 project report, the district shall be responsible only for the costs
34 associated with changes, if any, made at the request of the district to
35 the scope of the school facilities project.

36 j. The development authority shall not commence the
37 construction of a school facilities project unless the commissioner
38 transmits to the development authority a final project report and the
39 district complies with the approval requirements for the local share,
40 if any, pursuant to section 11 of P.L.2000, c.72 (C.18A:7G-11).
41 The final project report shall contain all of the information
42 contained in the preliminary project report and, in addition, shall
43 contain: the final eligible costs; the excess costs, if any; the total
44 costs which equals the final eligible costs plus excess costs, if any;
45 the State share; and the local share.

46 k. For the SDA districts, the State share shall be **【100%】** 100
47 percent of the final eligible costs. Except as otherwise provided
48 pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other

1 districts, the State share shall be an amount equal to the district aid
2 percentage; except that the State share shall not be less than **【40%】**
3 40 percent of the final eligible costs.

4 If any district which is included in district factor group A or B,
5 other than an SDA district, is having difficulty financing the local
6 share of a school facilities project, the district may apply to the
7 commissioner to receive **【100%】** 100 percent State support for the
8 project and the commissioner may request the approval of the
9 Legislature to increase the State share of the project to **【100%】** 100
10 percent.

11 1. The local share for school facilities projects constructed by
12 the authority or a redevelopment entity shall equal the final eligible
13 costs plus any excess costs less the State share.

14 m. (1) Within 90 days of the effective date of P.L.2007, c.137
15 (C.52:18A-235 et al.), the commissioner shall develop an
16 educational facilities needs assessment for each SDA district. The
17 assessment shall be updated periodically by the commissioner in
18 accordance with the schedule the commissioner deems appropriate
19 for the district; except that each assessment shall at a minimum be
20 updated within five years of the development of the district's most
21 recent prior educational facilities needs assessment. The
22 assessment shall be transmitted to the development authority to be
23 used to initiate the planning activities required prior to the
24 establishment of the educational priority ranking of school facilities
25 projects pursuant to paragraph (2) of this subsection.

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

41 (3) (a) Upon the commissioner's determination of the
42 educational priority ranking of school facilities projects in SDA
43 districts pursuant to paragraph (2) of this subsection, the
44 development authority, in consultation with the commissioner, the
45 SDA districts, and the governing bodies of the municipalities in
46 which the SDA districts are situate, shall establish a Statewide
47 strategic plan to be used in the sequencing of SDA district school
48 facilities projects based upon the projects' educational priority

1 rankings and issues which impact the development authority's
2 ability to complete the projects including, but not limited to, the
3 construction schedule and other appropriate factors. The
4 development authority shall revise the Statewide strategic plan and
5 the sequencing of SDA district school facilities projects in
6 accordance with that plan no less than once every five years, except
7 that the plan shall be updated within 120 days of the effective date
8 of P.L. , c. (C.) (pending before the Legislature as this
9 bill). In addition to any other information that the development
10 authority may deem appropriate, the Statewide strategic plan shall
11 include the following information for each project:

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

15 (ii) the total estimated project costs; and

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

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

20 (i) new construction projects;

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

23 (iii) projects needed to replace school buildings that have been
24 in use for 50 or more years.

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

35 (d) Within 10 days following any update to the Statewide
36 strategic plan, the development authority shall transmit the plan to
37 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
38 19.1), and to the members of the Senate Education Committee and
39 the Assembly Education Committee, or any successor committees.

40 (4) In the case of a district other than an SDA district, the
41 commissioner shall establish a priority process for the financing of
42 school facilities projects based upon the commissioner's
43 determination of critical need in accordance with priority project
44 categories developed by the commissioner. The priority project
45 categories shall include, but not be limited to, health and safety,
46 overcrowding in the elementary, middle, and high school grade
47 levels, spaces necessary to provide in-district programs and services
48 for current disabled students who are being served in out-of-district

1 placements or in-district programs and services for the projected
2 disabled student population, and full-day kindergarten facilities in
3 the case of school districts required to provide full-day preschool
4 pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

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

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

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

20 q. The development authority shall determine the cause of any
21 costs of construction which exceed the amount originally projected
22 by the development authority and approved for financing by the
23 financing authority.

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

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

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

27

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

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

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

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

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

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

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

32 (v) hazardous material abatement and required refinishing work,
33 which hazardous material may include, but not be limited to, radon,
34 lead, and asbestos;

35 (vi) security and communications systems upgrades;

36 (vii) technology infrastructure upgrades;

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

39 (ix) the upgrade or replacement of existing elementary and
40 secondary school playgrounds to meet lifecycle, safety, or consumer
41 product safety codes;

42 (x) the renovation, or new construction, of early childhood
43 classrooms;

44 (xi) projects necessary to address special population needs for
45 program expansion and educational adequacy;

46 (xii) existing site upgrades, including upgrades to sidewalks,
47 paving, fencing, and security lighting, but excluding upgrades to
48 athletic fields and tracks; and

1 (xiii) renovation or new construction of capacity-generating
2 classrooms to address overcrowding or substandard conditions;

3 (b) new construction projects; and

4 (c) major renovation and rehabilitation projects that seek to
5 expand the capacity of a charter school or renaissance school
6 project facility used for education purposes.

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

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

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

44 d. Following the determination of final eligible costs of a school
45 facilities project pursuant to subsection c. of this section, the
46 development authority shall authorize the charter school or
47 renaissance school project to undertake the school facilities project.
48 Notwithstanding the provisions of section 7 of P.L.2011, c.176

1 (C.18A:36C-7) or any other law, rule, or regulation to the contrary,
2 a charter school or renaissance school project authorized to
3 undertake a school facilities project pursuant to this section shall be
4 subject to public bidding requirements, as provided under the
5 "Public School Contracts Law," N.J.S.18A:18A-1 et seq.
6 Notwithstanding the provisions of section 7 of P.L.2011, c.176
7 (C.18A:36C-7) or any other law, rule, or regulation to the contrary,
8 the development authority may undertake a school facilities project
9 on behalf of the charter school or renaissance school project, at the
10 request of the charter school or renaissance school project.
11 Notwithstanding the provisions of section 10 of P.L.1995, c.426
12 (C.18A:36A-10) or any other law, rule, or regulation to the
13 contrary, any school facilities project of a charter school or
14 renaissance school project that is undertaken by the development
15 authority shall adhere to all public school facility regulations.

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

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

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

41 f. The development authority shall require, as a condition of
42 providing the State share of funds pursuant to this section for a
43 school facilities project that includes a facility in which a charter
44 school or renaissance school project is a lessee, that the school
45 facilities project is a capital maintenance project, as that term is
46 defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3),
47 provided that the useful life of any leasehold improvements made

1 under the capital maintenance project does not exceed the
2 remaining term of the lease inclusive of any lease renewal options.

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

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

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

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

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

24 (4) the process for the reversion to the State of a school facilities
25 project pursuant to subsection e. of this section.

26

27 6. (New section) a. Notwithstanding the provisions of
28 P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to
29 the contrary, the board of education of a district other than an SDA
30 district may enter into an agreement with a county improvement
31 authority to construct a school facilities project and to issue its
32 bonds to finance the local share of a project that is to be financed
33 pursuant to section 15 of P.L.2000, c.72 (18A:7G-15), or to finance
34 the total costs of a project that is not to be financed pursuant to
35 section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county
36 improvement authority issued to finance the total costs of a school
37 facilities project that is not to be financed pursuant to section 15 of
38 P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt
39 service aid in accordance with the formula established pursuant to
40 section 9 of P.L.2000, c.72 (C.18A:7G-9).

41 b. A district other than an SDA district may lease its lands or
42 facilities to the county improvement authority, which may construct
43 the school facilities project. Whenever a school facilities project is
44 constructed by a county improvement authority pursuant to the
45 provisions of this section, the improvement authority shall follow
46 the applicable public bidding procedures or requirements under the
47 “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., section 2

1 of P.L.2018, c.90 (C.18A:18A-60), or sections 34 through 41 of
2 P.L.2021, c.71 (C.18A:18A-61 through C.18A:18A-68).

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

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

20 e. When the bonds issued by a county improvement authority
21 are no longer outstanding, the leases and liens of the county and the
22 county improvement authority shall expire and the school facilities
23 project shall be solely vested in the school district. The school
24 district shall be responsible for the operation, maintenance, and
25 improvement of the school facility upon the completion of the
26 school facilities project.

27

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

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

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

39 where

40 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

41 whenever AC/P would otherwise yield a number greater than one,
42 and where:

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

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

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

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

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

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

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

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

28 (1) Effective ten years from the date of the enactment of
29 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid
30 for reconstruction, remodeling, alteration, modernization,
31 renovation or repair, or for an addition to a school facility, shall be
32 zero for all school facilities projects for which the district fails to
33 demonstrate over the ten years preceding issuance a net investment
34 in maintenance of the related school facility of at least **【2%】** two
35 percent of the replacement cost of the school facility, determined
36 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-
37 7) using the area cost allowance of the year ten years preceding the
38 year in which the school bonds are issued.

39 (2) For new construction, additions, and school facilities aided
40 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
41 supported by financing issued for projects approved by the
42 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-
43 1 et al.), beginning in the fourth year after occupancy of the school
44 facility, the maintenance factor shall be reduced according to the
45 following schedule for all school facilities projects for which the
46 district fails to demonstrate in the prior fiscal year an investment in
47 maintenance of the related school facility of at least two-tenths of

1 **[1%]** one percent of the replacement cost of the school facility,
 2 determined pursuant to subsection b. of section 7 of P.L.2000, c.72
 3 (C.18A:7G-7).

4	Maintenance Percentage	Maintenance Factor (M)
5	.199% - .151%	75%
6	.150% - .100%	50%
7	Less than .100%	Zero

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

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

23 Any district which received approval from the commissioner for
 24 a school facilities project at any time prior to the effective date of
 25 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other
 26 than short term notes, may submit an application pursuant to section
 27 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of
 28 the project determined pursuant to that section and to have the New
 29 Jersey Economic Development Authority construct the project; or,
 30 at its discretion, the district may choose to receive debt service aid
 31 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-
 32 10) or to receive a grant under section 15 of P.L.2000, c.72
 33 (C.18A:7G-15).

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

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

43
 44 8. (New section) a. Notwithstanding any provision of law to
 45 the contrary, when the board of education of a district determines
 46 that it is not financing a school facilities project under section 15 of
 47 P.L.2000, c.72 (C.18A:7G-15) and that it is necessary to sell bonds
 48 to raise money for the total costs of a school facilities project, the

1 board of education may issue such bonds as are necessary to fund
2 the project without the approval of the voters of the district,
3 provided that before issuing the bonds:

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

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

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

21 (2) Within 30 days of receiving the application, the
22 commissioner shall approve, conditionally approve, or reject the
23 application. If the application is conditionally approved, the
24 commissioner shall state, in writing, the revisions that shall be made
25 to the contract in order for the application to be approved. If the
26 commissioner does not approve, conditionally approve, or reject the
27 application within 30 days of the date of receipt, the commissioner
28 shall be deemed to have approved the application.

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

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

43
44 9. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to
45 read as follows:

46 13. a. The financing authority shall be responsible for the
47 issuance of bonds pursuant to section 14 of P.L.2000, c.72
48 (C.18A:7G-14) and the development authority shall be responsible

1 for the planning, design, construction management, acquisition,
2 construction, and completion of school facilities projects. In the
3 case of a capital maintenance project, the development authority
4 may, in its discretion, authorize an SDA district to undertake the
5 design, acquisition, construction and all other appropriate actions
6 necessary to complete the capital maintenance project and shall
7 enter into a grant agreement with the district for the payment of the
8 State share. The development authority may also authorize an SDA
9 district to undertake the design, acquisition, construction and all
10 other appropriate actions necessary to complete any other school
11 facilities project in accordance with the procedures established
12 pursuant to subsection e. of this section.

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

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

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

42 e. (1) Within one year of the effective date of P.L.2007, c.137
43 (C.52:18A-235 et al.), the commissioner, in consultation with the
44 development authority, 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 commissioner shall determine whether an
47 SDA district is eligible to be considered by the development
48 authority to manage a school facilities project or projects. In

1 making the determination, the commissioner shall consider the
2 district's fiscal integrity and operations, the district's performance in
3 each of the five key components of school district effectiveness
4 under the New Jersey Quality Single Accountability Continuum
5 (NJQSAC) in accordance with section 10 of P.L.1975, c.212
6 (C.18A:7A-10), and other relevant factors.

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

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

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

32 (5) If the development authority determines to delegate a school
33 facilities project to an SDA district in accordance with paragraph
34 (2) of this subsection, the SDA district shall be deemed to be in
35 noncompliance with the grant agreement entered into pursuant to
36 paragraph (4) of this subsection if the district enters into a contract
37 with a contractor, subcontractor, or consultant which is debarred,
38 suspended, or disqualified from State or development authority
39 contracting or with a firm which has not been prequalified by the
40 development authority. If the district enters into a contract with a
41 debarred, suspended, or disqualified contractor, subcontractor, or
42 consultant, then the grant agreement shall be rendered null and
43 void.

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

45

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

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

1 a. The financing authority shall have the power, pursuant to the
2 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
3 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to
4 issue bonds and refunding bonds, incur indebtedness and borrow
5 money secured, in whole or in part, by moneys received pursuant to
6 sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
7 18, and C.18A:7G-19) for the purposes of: financing all or a portion
8 of the costs of school facilities projects and any costs related to the
9 issuance thereof, including, but not limited to, the administrative,
10 insurance, operating and other expenses of the financing authority
11 to undertake the financing, and the development authority to
12 undertake the planning, design, and construction of school facilities
13 projects; lending moneys to local units to pay the costs of all or a
14 portion of school facilities projects and any costs related to the
15 issuance thereof; funding the grants to be made pursuant to section
16 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition
17 of school facilities projects to permit the refinancing of debt by the
18 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).
19 Notwithstanding the provisions of this section to the contrary,
20 bonds and refunding bonds, or any indebtedness or other borrowed
21 moneys, secured, in whole or in part, by moneys received pursuant
22 to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17,
23 C.18A:7G-18, and C.18A:7G-19) pursuant to this section after the
24 effective date of P.L. , c. (C.) (pending before the
25 Legislature as this bill) shall not be issued for the purposes of
26 financing costs related to the issuance of the bonds, indebtedness, or
27 other borrowed moneys including, but not limited to, the
28 administrative, insurance, operating and other expenses of the
29 financing authority to undertake the financing, and the development
30 authority to undertake the planning, design, and construction of
31 school facilities projects. Bonds, indebtedness, or other borrowed
32 moneys issued pursuant to this section shall also not be issued for
33 the purposes of financing any costs related to the issuance of
34 moneys lent to local units to pay the costs of all or a portion of
35 school facilities projects. The administrative, insurance, operating,
36 and other expenses of the financing authority related to undertaking
37 the financing of school facilities projects pursuant to this section
38 shall be supported by State appropriations. The administrative,
39 insurance, operating, and other expenses of the development
40 authority to undertake the planning, design, and construction of
41 school facilities projects shall be funded by State appropriations
42 pursuant to paragraph (2) of subsection o. of section 4 of P.L.2007,
43 c.137, (C.52:18A-238). Bonds and refunding bonds, or any
44 indebtedness or other borrowed moneys issued pursuant to this
45 section after the effective date of P.L. , c. (C.) (pending
46 before the Legislature as this bill) shall only be issued for the
47 purposes of: financing all or a portion of the costs of school
48 facilities projects; lending moneys to local units to pay the costs of

1 all or a portion of school facilities projects; funding the grants to be
2 made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and
3 financing the acquisition of school facilities projects to permit the
4 refinancing of debt by the district pursuant to section 16 of
5 P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of
6 the bonds, notes or other obligations issued by the financing
7 authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et
8 al.) shall not exceed: \$100,000,000 for the State share of costs for
9 county vocational school district school facilities projects;
10 \$6,000,000,000 for the State share of costs for Abbott district
11 school facilities projects; and \$2,500,000,000 for the State share of
12 costs for school facilities projects in all other districts. The
13 aggregate principal amount of the bonds, notes or other obligations
14 issued by the financing authority as authorized pursuant to
15 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:
16 \$2,900,000,000 for the State share of costs of SDA district school
17 facilities projects; and \$1,000,000,000 for the State share of costs
18 for school facilities projects in all other districts, \$50,000,000 of
19 which shall be allocated for the State share of costs for county
20 vocational school district school facilities projects. This limitation
21 shall not include any bonds, notes or other obligations issued for
22 refunding purposes.

23 The financing authority may establish reserve funds to further
24 secure bonds and refunding bonds issued pursuant to this section
25 and may issue bonds to pay for the administrative, insurance and
26 operating costs of the financing authority and the development
27 authority in carrying out the provisions of this act. Notwithstanding
28 the provisions of this section to the contrary, the proceeds of bonds
29 issued pursuant to this section after the effective date of P.L. _____,
30 c. (C. _____) (pending before the Legislature as this bill) shall not
31 pay for any costs related to the issuance of the bonds, including the
32 administrative, insurance and operating costs of the financing
33 authority and the development authority in carrying out the
34 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). Such costs of the
35 financing authority shall be supported by State appropriations. Such
36 costs of the development authority shall be funded by State
37 appropriations pursuant to paragraph (2) of subsection o. of section
38 4 of P.L.2007, c.137, (C.52:18A-238). In addition to its bonds and
39 refunding bonds, the financing authority shall have the power to
40 issue subordinated indebtedness, which shall be subordinate in lien
41 to the lien of any or all of its bonds or refunding bonds as the
42 financing authority may determine.

43 b. The financing authority shall issue the bonds or refunding
44 bonds in such manner as it shall determine in accordance with the
45 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
46 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);
47 provided that notwithstanding any other law to the contrary, no
48 resolution adopted by the financing authority authorizing the

1 issuance of bonds or refunding bonds pursuant to this section shall
2 be adopted or otherwise made effective without the approval in
3 writing of the State Treasurer; and refunding bonds issued to refund
4 bonds issued pursuant to this section shall be issued on such terms
5 and conditions as may be determined by the financing authority and
6 the State Treasurer. The financing authority may, in any resolution
7 authorizing the issuance of bonds or refunding bonds issued
8 pursuant to this section, pledge the contract with the State Treasurer
9 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-
10 18), or any part thereof, or may pledge all or any part of the
11 repayments of loans made to local units pursuant to section 19 of
12 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the
13 bonds or refunding bonds, and covenant as to the use and
14 disposition of money available to the financing authority for
15 payment of the bonds and refunding bonds. All costs associated
16 with the issuance of bonds and refunding bonds by the financing
17 authority for the purposes set forth in this act may be paid by the
18 financing authority from amounts it receives from the proceeds of
19 the bonds or refunding bonds, and from amounts it receives
20 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-
21 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but
22 shall not be limited to, any costs relating to the issuance of the
23 bonds or refunding bonds, administrative costs of the financing
24 authority attributable to the making and administering of loans and
25 grants to fund school facilities projects, and costs attributable to the
26 agreements entered into pursuant to subsection d. of this section.
27 Notwithstanding the provisions of this section to the contrary, the
28 proceeds of bonds and refunding bonds that are issued pursuant to
29 this section after the effective date of P.L. _____, c. _____ (C. _____)
30 (pending before the Legislature as this bill) shall not pay for the
31 administrative costs of the financing authority associated with the
32 issuance of the bonds and refunding bonds including, but not
33 limited to, administrative costs of the financing authority
34 attributable to the making and administering of loans and grants to
35 fund school facilities projects, and costs attributable to the
36 agreements entered into pursuant to subsection d. of this section.
37 Such costs of the financing authority shall be supported by State
38 appropriations.

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

45 (1) Pledge of the revenues and other receipts to be derived from
46 the payment of local unit obligations and any other payment made
47 to the financing authority pursuant to agreements with any local

- 1 unit, or a pledge or assignment of any local unit obligations, and the
2 rights and interest of the financing authority therein;
- 3 (2) Pledge of rentals, receipts and other revenues to be derived
4 from leases or other contractual arrangements with any person or
5 entity, public or private, including one or more local units, or a
6 pledge or assignment of those leases or other contractual
7 arrangements and the rights and interests of the financing authority
8 therein;
- 9 (3) Pledge of all moneys, funds, accounts, securities and other
10 funds, including the proceeds of the bonds;
- 11 (4) Pledge of the receipts to be derived from payments of State
12 aid to the financing authority pursuant to section 21 of P.L.2000,
13 c.72 (C.18A:7G-21);
- 14 (5) Pledge of the contract or contracts with the State Treasurer
15 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);
- 16 (6) Pledge of any sums remitted to the local unit by donation
17 from any person or entity, public or private, subject to the approval
18 of the State Treasurer;
- 19 (7) A mortgage on all or any part of the property, real or
20 personal, comprising a school facilities project then owned or
21 thereafter to be acquired, or a pledge or assignment of mortgages
22 made to the financing authority by any person or entity, public or
23 private, including one or more local units and rights and interests of
24 the financing authority therein; and
- 25 (8) The receipt of any grants, reimbursements or other payments
26 from the federal government.
- 27 d. The resolution authorizing the issuance of bonds or
28 refunding bonds pursuant to this section may also provide for the
29 financing authority to enter into any revolving credit agreement,
30 agreement establishing a line of credit or letter of credit,
31 reimbursement agreement, interest rate exchange agreement,
32 currency exchange agreement, interest rate floor or cap, options,
33 puts or calls to hedge payment, currency, rate, spread or similar
34 exposure or similar agreements, float agreements, forward
35 agreements, insurance contracts, surety bonds, commitments to
36 purchase or sell bonds, purchase or sale agreements, or
37 commitments or other contracts or agreements and other security
38 agreements approved by the financing authority in connection with
39 the issuance of the bonds or refunding bonds pursuant to this
40 section. In addition, the financing authority may, in anticipation of
41 the issuance of the bonds or the receipt of appropriations, grants,
42 reimbursements or other funds, including, without limitation, grants
43 from the federal government for school facilities projects, issue
44 notes, the principal of or interest on which, or both, shall be payable
45 out of the proceeds of notes, bonds or other obligations of the
46 financing authority or appropriations, grants, reimbursements or
47 other funds or revenues of the financing authority.

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

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

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

40 h. The financing authority and the development authority may
41 charge to and collect from local units, districts, the State and any
42 other person, any fees and charges in connection with the financing
43 authority's or development authority's actions undertaken with
44 respect to school facilities projects, including, but not limited to,
45 fees and charges for the financing authority's administrative,
46 organization, insurance, operating and other expenses incident to
47 the financing of school facilities projects, and the development
48 authority's administrative, organization, insurance, operating,

1 planning, design, construction management, acquisition,
2 construction, completion and placing into service and maintenance
3 of school facilities projects. Notwithstanding any provision of this
4 act to the contrary, no SDA district shall be responsible for the
5 payment of any fees and charges related to the development
6 authority's operating expenses.

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

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

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

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

45 (b) as used in this paragraph, "emergent project" means a school
46 facilities project or other capital project eligible for State funding
47 that would alleviate a condition that, if not corrected on an
48 expedited basis, would render a building or facility so potentially

1 injurious or hazardous that it causes an imminent peril to the health
2 and safety of students or staff; and

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

17 j. In the event that the annual appropriations act provides for
18 direct funding for school facilities projects, or in the event that a
19 separate act appropriates direct funding of school facilities projects
20 from the “New Jersey Debt Defeasance and Prevention Fund”
21 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2),
22 no less than 50 percent of the direct funding shall be appropriated to
23 the SDA District Project Fund and the SDA District Emergent
24 Project Fund. The remaining funds for school facilities projects
25 shall be utilized in a manner to be determined by the development
26 authority.

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

28

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

31 15. a. In the case of a district other than an SDA district, for any
32 project approved by the commissioner after the effective date of
33 **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect
34 to receive a one-time grant for the State share of the project in
35 accordance with the provisions of subsection b. of this section
36 rather than annual debt service aid under section 9 of P.L.2000, c.72
37 (C.18A:7G-9). The State share payable to the district shall equal
38 the product of the project's final eligible costs and the district aid
39 percentage or **[40%]** 40 percent, whichever is greater, except that if
40 the project's design conforms to the standards of the model school
41 design program established by the development authority pursuant
42 to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72
43 (C.18A:7G-4), the district aid percentage shall be increased by 15
44 percent above the amount calculated under section 3 of P.L.2000,
45 c.72 (C.18A:7G-3). If the project's design incorporates the
46 implementation of energy efficiency improvements or the
47 installation of energy efficient features or equipment, the district aid
48 percentage shall be increased by no more than five percent.

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

11 c. The development authority shall provide grant funding for
12 the State's share of the final eligible costs of a school facilities
13 project pursuant to an agreement between the district and the
14 development authority which shall, in addition to other terms and
15 conditions, set forth the terms of disbursement of the State share.
16 The funding of the State share shall not commence until the district
17 secures financing for the local share.
18 (cf: P.L.2008, c.39, s.5)

19

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

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

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

41

42 13. (New section) There is hereby created within the
43 development authority an Office of Contracting Accountability. The
44 office shall, in consultation with the Department of Labor and
45 Workforce Development, ensure the compliance in the payment of
46 no less than the prevailing wage rate determined by the
47 Commissioner of Labor and Workforce Development pursuant to
48 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), as well as

1 with all other applicable State wage and hour laws and regulations,
2 by contractors selected for a school facilities project undertaken by
3 the development authority or by an SDA district that has been
4 delegated management of the project by the development authority.
5 The office shall collect and review all certified payrolls for work on
6 school facilities projects undertaken by the development authority
7 or by an SDA district that has been delegated management of the
8 project by the development authority, and shall conduct at least one
9 worksite inspection per project on a quarterly basis. Violations of
10 State wage and hour law requirements shall be reflected in the
11 mandatory uniform performance evaluation of contractors, as
12 required pursuant to section 62 of P.L.2000, c.72 (C.18A:7G-36).
13 Violations of wage and hour requirements shall constitute grounds
14 for the development authority to revoke prequalification from a
15 contractor, which prequalification is granted pursuant to the process
16 established by the development authority pursuant to section 59 of
17 P.L.2000, c.72 (C.18A:7G-33).

18

19 14. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to
20 read as follows:

21 57. a. Notwithstanding any provision of this act or any other
22 law or regulation to the contrary, a board of education or a board of
23 school estimate, as appropriate, may, through the adoption of a
24 board resolution, establish a capital reserve account. The account
25 shall be established and held in accordance with GAAP and shall be
26 subject to annual audit. The funds in the capital reserve account
27 shall be used to finance the district's long-range facilities plan
28 required pursuant to subsection a. of section 4 of **[this act]**
29 P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall
30 not exceed the total amount of local funds required to implement
31 the plan.

32 b. A board of education or a board of school estimate, as
33 appropriate, may appropriate funds in the district's annual budget
34 for the establishment of the capital reserve account pursuant to
35 subsection a. of this section or to supplement the funds in the
36 account as required to meet the needs of the long-range facilities
37 plan.

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

45 d. A board of education may, by resolution of the board:
46 transfer funds from the capital reserve account to the appropriate
47 line item account for the funding of capital projects subject to a
48 public-private partnership agreement entered into pursuant to

1 section 2 of P.L.2018, c.90 (C.18A:18A-60); and transfer funds
2 from the capital reserve account to the debt service account for the
3 purpose of offsetting principal and interest payments for bonded
4 projects subject to a public-private partnership agreement entered
5 into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).
6 (cf: P.L.2004, c.73, s.5)

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

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

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

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

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

31 (4) A list of the names and titles of all individuals who own
32 10% or more of any class of stock in the corporation or are a 10%
33 or more partner in the firm. If any of the aforementioned
34 stockholders or partners is itself a corporation, or a partnership, that
35 entity shall also provide the information specified herein;

36 (5) Disclosure of any judgments, convictions or criminal
37 indictments for any conduct constituting a crime under local, State
38 or federal law;

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

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

1 environmental laws, safety laws, licensing laws, tax laws and
2 antitrust laws;

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

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

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

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

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

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

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

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

42 (1) a trade or work classification; and

43 (2) an aggregate rating limit.

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

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

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

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

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

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

20
21 16. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to
22 read as follows:

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

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

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

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

39 62. a. A mandatory uniform performance evaluation shall be
40 conducted on all school facilities projects undertaken by the
41 development authority. The evaluation shall, at a minimum, include
42 cost, schedule adherence and quality.

43 b. A contractor shall be notified of a performance evaluation.
44 The contractor shall be afforded an opportunity to respond to an
45 adverse evaluation. Following the opportunity for the contractor to
46 respond to an adverse evaluation, the development authority may
47 revoke a contractor's prequalification to bid on school facilities
48 projects.

1 c. The contractor performance evaluations shall be utilized in
2 reviewing bid submissions.
3 (cf: P.L.2007, c.137, s.41)
4

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

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

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

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

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

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

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

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

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

38 (cf: P.L.2000, c.72, s.63)
39

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

47 b. The development authority and any SDA district to which
48 the development authority has delegated management of a school

1 facilities project shall insert in all contracts with all contracted
2 parties, and all contractors and consultants shall insert into all of
3 their contracts with all subcontractors and subconsultants, a clause
4 stating that the contracted party, its subcontractors or
5 subconsultants may be debarred, suspended or disqualified from
6 contracting or working, or both, on the approved school facilities
7 project if the contracted party commits any of the acts listed in
8 N.J.A.C.17:19-4.1 or any other applicable regulation issued by the
9 development authority.

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

29

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

39 b. Under the Emergent Condition Remediation Program
40 established pursuant to subsection a. of this section, the
41 development authority shall create a process whereby contractors
42 prequalified by the development authority to bid on school facilities
43 projects apply to be a part of a pool of contractors available to
44 address emergent conditions in SDA districts under a standing
45 retainer agreement subject to the development authority's project
46 labor agreement. The prequalified contractors that are part of the
47 pool of contractors established pursuant to this subsection shall be
48 available for any emergent project in any SDA district. Nothing in

1 this subsection shall be construed as requiring the retainer of
2 prequalified contractors for specific emergent projects.

3

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

9

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

11 18A:18A-4. a. Every contract for the provision or performance
12 of any goods or services, the cost of which in the aggregate exceeds
13 the bid threshold, shall be awarded only by resolution of the board
14 of education to the lowest responsible bidder after public
15 advertising for bids and bidding therefor, except as is provided
16 otherwise in this chapter or specifically by any other law.

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

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

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

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

42 (1) the bidder has been found, through either court adjudication,
43 arbitration, mediation, or other contractually stipulated alternate
44 dispute resolution mechanism, to have: failed to provide or perform
45 goods or services; or failed to complete the contract in a timely
46 manner; or otherwise performed unsatisfactorily under a prior
47 contract with a board of education or, in the case of a school

- 1 facilities project, with the New Jersey Economic Development
2 Authority or the New Jersey Schools Development Authority;
- 3 (2) the bidder defaulted on a contract, thereby requiring a board
4 of education or, in the case of a school facilities project, the New
5 Jersey Economic Development Authority or the New Jersey Schools
6 Development Authority, to utilize the services of another contractor
7 to provide the goods or perform the services or to correct or
8 complete the contract;
- 9 (3) the bidder defaulted on a contract, thereby requiring a board
10 of education or, in the case of a school facilities project, the New
11 Jersey Economic Development Authority or the New Jersey Schools
12 Development Authority, to look to the bidder's surety for
13 completion of the contract or tender of the costs of completion; **[or]**
- 14 (4) the bidder is debarred or suspended from contracting with
15 any of the agencies or departments of the executive branch of the
16 State of New Jersey at the time of the contract award, whether or
17 not the action was based on experience with a board of education
18 or, in the case of a school facilities project, with the New Jersey
19 Economic Development Authority **[.]** or the New Jersey Schools
20 Development Authority;
- 21 (5) the bidder's prequalification to bid on a school facilities
22 project, which prequalification was granted pursuant to the process
23 established by the development authority under section 59 of
24 P.L.2000, c.72 (C.18A:7G-33), has been revoked by the New Jersey
25 Schools Development Authority;
- 26 (6) the bidder has been suspended from contracting or engaging
27 in work or services on a school facilities project; or
- 28 (7) the bidder's prequalification to submit bids on a school
29 facilities project has been revoked pursuant to subsection b. of
30 section 61 of P.L.2000, c.72 (C.18A:7G-35) or subsection b. of
31 section 62 of P.L.2000, c.72 (C.18A:7G-36).
- 32 c. The following conditions apply if the board of education is
33 contemplating a disqualification based on prior negative experience:
- 34 (1) The existence of any of the indicators of prior negative
35 experience set forth in this section shall not require that a bidder be
36 disqualified. In each instance, the decision to disqualify shall be
37 made within the discretion of the board of education and shall be
38 rendered in the best interests of the board of education.
- 39 (2) All mitigating factors shall be considered in determining the
40 seriousness of the prior negative experience and in deciding
41 whether disqualification is warranted.
- 42 (3) The bidder shall be furnished by the board of education with
43 a written notice (a) stating that a disqualification is being
44 considered; (b) setting forth the reason for the disqualification; and
45 (c) indicating that the bidder shall be accorded an opportunity for a
46 hearing before the board of education if the bidder so requests
47 within a stated period of time. At the hearing, the bidder shall show
48 good cause why the bidder should not be disqualified by presenting

1 documents and testimony. If the board of education determines that
2 good cause has not been shown by the bidder, it may vote to find
3 the bidder lacking in responsibility and, thus, disqualified.

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

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

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

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

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

25

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

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

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

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

43

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

46 2. a. As used in this section:

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

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

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

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

18 "School district" shall have the same meaning as provided in
19 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local
20 school district, regional school district, or county special services
21 school district or county vocational school established and
22 operating under the provisions of Title 18A of the New Jersey
23 Statutes that can demonstrate to the satisfaction of the
24 Commissioner of Education and the Chief Executive Officer of the
25 Schools Development Authority that a school facility is necessary
26 due to overcrowding or is in need of replacement. The term "school
27 district" shall include a charter school established under P.L.1995,
28 c.426 (C.18A:36A-1 et seq.)

29 b. (1) A school district may enter into a contract with a private
30 entity, subject to subsection f. of this section, to be referred to as a
31 public-private partnership agreement, that permits the private entity
32 to assume full financial and administrative responsibility for a
33 project of, or for the benefit of, the school district~~],~~ provided that
34 the project is financed in whole by the private entity~~],~~ except that a
35 school district may, by resolution, draw against its capital reserve
36 account in order to finance a portion of a project for which a school
37 district and private entity enter into a public-private partnership
38 agreement pursuant to the provisions of this section.

39 (2) A public-private partnership agreement may include an
40 agreement under which a school district and a private entity enter
41 into a lease of a revenue-producing public building, structure, or
42 facility in exchange for up-front or structured financing by the
43 private entity for the project. Under the lease agreement, the
44 private entity shall be responsible for the management, operation,
45 and maintenance of the building, structure, or facility. The private
46 entity shall receive some or all, as per the agreement, of the revenue
47 generated by the building, structure, or facility, and shall operate
48 the building, structure, or facility in accordance with school district

1 standards. At the end of the lease term, subsequent revenue
2 generated by the building, structure, or facility, along with
3 management, operation, and maintenance responsibility, shall revert
4 to the school district. A lease agreement entered into pursuant to
5 this section shall be limited in duration to a term of not more than
6 30 years. A lease agreement shall be subject to all applicable
7 provisions of current law governing leases by a school district not
8 inconsistent with the provisions of this section.

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

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

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

36 (3) Prior to the commencement of work on a project, the private
37 entity shall establish a construction account and appoint a third-
38 party financial institution, who shall be prequalified by the State
39 Treasurer to act as a collateral agent and manage the construction
40 account. The construction account shall include the funding,
41 financial instruments, or both, that shall be used to fully capitalize
42 and fund the project, and the collateral agent shall maintain a full
43 accounting of the funds and instruments in the account. The funds
44 and instruments in the construction account shall be held in trust for
45 the benefit of the contractor, construction manager, and design-
46 build team involved in the project. The funds and instruments in
47 the construction account shall not be the property of the private
48 entity unless all amounts due to the construction account

1 beneficiaries are paid in full. The construction account shall not be
2 designated for more than one project.

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

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

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

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

42 (4) Prior to being submitted to the State Treasurer for review
43 and approval, all projects proposed in accordance with this section
44 shall be subject to a public hearing, the record of which shall have
45 been kept open for a period of seven days following the conclusion
46 of the hearing, after the ranking of proposals takes place pursuant to
47 paragraph (5) of subsection j. of this section. The school district
48 shall provide notice of the public hearing no less than 14 days prior

1 to the date of the hearing. The notice shall prominently state the
2 purpose and nature of the proposed project, and shall be published
3 on the official Internet website of the school district and in at least
4 one or more newspapers with Statewide circulation.

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

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

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

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

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

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

36 (4) The State Treasurer, in consultation with the authority, the
37 Commissioner of the Department of Education, and the Chief
38 Executive Officer of the Schools Development Authority, shall
39 review all completed applications, and request additional
40 information as is needed to make a complete assessment of the
41 project. No public-private partnership agreement shall be executed
42 until approval has been granted by the State Treasurer. Prior to a
43 final decision by the State Treasurer on the application, the
44 authority, the Department of Education, and the Schools
45 Development Authority shall be afforded the opportunity to provide
46 comments on the application that they deem appropriate, and the
47 State Treasurer shall consider any comments submitted by the
48 authority, the Department of Education, and the Schools

1 Development Authority with respect to the application. The State
2 Treasurer will find that: (i) the school district's assumptions
3 regarding the project's scope, its benefits, its risks and the cost of
4 the public sector option were fully and reasonably developed (ii) the
5 design of the project is feasible; (iii) the experience and
6 qualifications of the private entity; (iv) the financial plan is sound;
7 (v) the long-range maintenance plan is adequate to protect the
8 investment; (vi) the project is in the best interest of the public,
9 using the criteria in paragraph (6) of subsection e. of this section;
10 (vii) a resolution by the school district's governing body of its intent
11 to enter into a public-private partnership agreement for the project
12 has been received; and (viii) the term sheet for any proposed
13 procurement contains all necessary elements.

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

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

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

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

47 j. (1) A private entity seeking to enter into a public-private
48 partnership agreement with the school district shall be qualified by

1 the school district as part of the procurement process, provided such
2 process ensures that the private entity and its subcontractors and
3 consultants, where relevant, meet at least the minimum
4 qualifications standards promulgated by the State Treasurer, in
5 consultation with the New Jersey Economic Development
6 Authority, Department of Education, Schools Development
7 Authority, and such other school district standards for qualification
8 for professional services, construction contracting, and other
9 qualifications applicable to the project, prior to submitting a
10 proposal under the procurement process.

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

17 (3) After the school district determines the qualified respondents
18 utilizing, at minimum, the qualification standards promulgated by
19 the State Treasurer, the school district shall issue a request for
20 proposals to each qualified respondent no less than 45 days prior to
21 the date established for submission of the proposals. The request
22 for proposals shall include relevant technical submissions,
23 documents, and the evaluation criteria to be used in the selection of
24 the designated respondent. The evaluation criteria shall be, at
25 minimum, criteria promulgated by the State Treasurer, in
26 consultation with the New Jersey Economic Development
27 Authority, Department of Education, and Schools Development
28 Authority.

29 (4) The school district may accept unsolicited proposals from
30 private entities for public-private partnership agreements. If the
31 school district receives an unsolicited proposal and determines that
32 it meets the standards of this section, the school district shall
33 publish a notice of the receipt of the proposal on the Internet site of
34 the school district and through advertisement in at least one or more
35 newspapers with Statewide circulation. The school district shall
36 also provide notice of the proposal at its next scheduled public
37 meeting and to the State Treasurer. To qualify as an unsolicited
38 proposal, the unsolicited proposal must at a minimum include a
39 description of the public-private project, the estimated construction
40 and life-cycle costs, a timeline for development, proposed plan of
41 financing, including projected revenues, public or private, debt,
42 equity investment, description of how the project meets needs
43 identified in existing plans, the permits and approvals needed to
44 develop the project from local, state and federal agencies and a
45 projected schedule for obtaining such permits and approvals, a
46 statement of risks, liabilities and responsibilities to be assumed by
47 the private entity. The notice shall provide that the school district
48 will accept, for 120 days after the initial date of publication,

1 proposals meeting the standards of this section from other private
2 entities for eligible projects that satisfy the same basic purpose and
3 need. A copy of the notice shall be mailed to each municipal and
4 county local government body in the geographic area affected by
5 the proposal.

6 (5) After the proposal or proposals have been received, and any
7 public notification period has expired, the school district shall rank
8 the proposals in order of preference. In ranking the proposals, the
9 school district shall rely upon, at minimum, the evaluation criteria
10 promulgated by the State Treasurer, in consultation with the New
11 Jersey Economic Development Authority, Department of Education,
12 and Schools Development Authority. In addition, the local school
13 district may consider factors that include, but may not be limited to,
14 professional qualifications, general business terms, innovative
15 engineering, architectural services, or cost-reduction terms, finance
16 plans, and the need for school district funds to deliver the project
17 and discharge the agreement. The private entity selected shall
18 comply with all laws and regulations required by the State
19 government entity, including but not limited to section 1 of
20 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,
21 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2),
22 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-
23 51 et al.), Executive Order No. 117 of 2008, Executive Order No.
24 118 of 2008, Executive Order No. 189, prior to executing the public
25 private partnership agreement. If only one proposal is received, the
26 school district shall negotiate in good faith and, if not satisfied with
27 the results of the negotiations, the school district may, at its sole
28 discretion, terminate negotiations.

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

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

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

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

45

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

47 18A:21-4. A board of education may in any school year draw
48 against its capital reserve account, up to the amount of the balance

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

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

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

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

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

35
36 27. Section 7 of P.L.2011, c.176 (C.18A:36C-7) is amended to
37 read as follows:

38 7. a. Notwithstanding that a renaissance school project shall be
39 constructed, controlled, operated, and managed by a nonprofit
40 entity, except that the New Jersey Schools Development Authority
41 may undertake a school facilities project on behalf of a renaissance
42 school project pursuant to section 5 of P.L. , c. (C.)
43 (pending before the Legislature as this bill), and not the local board
44 of education, it shall be a public school. However nothing contained
45 herein shall restrict a for-profit entity from constructing a
46 renaissance school project, or a renaissance school project from
47 being located on land owned by a for-profit entity. Further, the
48 renaissance school project shall be authorized to retain any business

1 entity, however formed, whose primary purpose is the staffing,
2 operation, and management of elementary schools, middle schools,
3 or high schools in the United States, except as it relates to
4 instructional services.

5 b. The costs of a renaissance school project including, but not
6 limited to, the costs of land acquisition, site remediation, site
7 development, design, construction, and any other costs required to
8 place into service the school facility or facilities constituting the
9 renaissance school project shall be at the sole expense of the
10 nonprofit entity, except that a renaissance school project physically
11 located in an SDA district may receive funds for the State share of a
12 school facilities project pursuant to the provisions of section 5 of
13 P.L. _____, c. (C. _____) (pending before the Legislature as this bill).
14 The nonprofit entity may use State funds to pay for a lease, debt
15 service, or mortgage for any facility constructed or otherwise
16 acquired.

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

25 d. Notwithstanding the provisions of the "Public School
26 Contracts Law," N.J.S.18A:18A-1 et seq., or any other law or
27 regulation to the contrary, the nonprofit entity or any entity acting
28 in cooperation with a renaissance school project shall not be subject
29 to public bidding for goods and services, and any contracts entered
30 into by the nonprofit entity shall not be deemed public contracts or
31 public works; except that any contract entered into by the nonprofit
32 entity or any entity acting in cooperation with a renaissance school
33 project shall be deemed a public work for the purposes of the "New
34 Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et
35 seq.), and subject to the applicable provisions of that act.

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

47 f. Renaissance school projects shall be required to meet the
48 same testing and academic performance standards established by

1 law and regulation for public school students, and shall meet any
2 additional testing and academic performance standards established
3 by the nonprofit entity and approved by the commissioner.

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

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

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

14
15 28. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to
16 read as follows:

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

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

44 Within 10 calendar days following the later of the effective date
45 of an ordinance following its final adoption by the governing body
46 approving the tax exemption or the execution of the financial
47 agreement by the urban renewal entity, the municipal clerk shall
48 transmit a certified copy of the ordinance and financial agreement

1 to the chief financial officer of the county and to the county counsel
2 for informational purposes.

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

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

23 (1) the financial agreement may specify a duration of not more
24 than 30 years from the completion of the entire project, or unit of
25 the project if the project is undertaken in units, or not more than 35
26 years from the execution of the financial agreement between the
27 municipality and the urban renewal entity; or

28 (2) for each project undertaken pursuant to a redevelopment
29 agreement which allows the redeveloper to undertake two or more
30 projects sequentially, the financial agreement may specify a
31 duration of not more than 30 years from the completion of a project,
32 or unit of the project if the project is undertaken in units, or not
33 more than 50 years from the execution of the first financial
34 agreement implementing a project under the redevelopment
35 agreement. As used in this subsection, "redevelopment agreement"
36 means an agreement entered into pursuant to subsection f. of section
37 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or
38 redevelopment entity and a redeveloper.

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

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

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

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

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

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

1 (b) For the second stage of the exemption period, which shall
2 not be less than one year nor more than six years, as specified in the
3 financial agreement, an amount equal to either the amount
4 determined pursuant to paragraph (1) of this subsection and section
5 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of
6 taxes otherwise due on the value of the land and improvements,
7 whichever shall be greater;

8 (c) For the third stage of the exemption period, which shall not
9 be less than one year nor more than six years, as specified in the
10 financial agreement, an amount equal to either the amount
11 determined pursuant to paragraph (1) of this subsection and section
12 11 of P.L.1991, c.431 (C.40A:20-11), or 40% of the amount of
13 taxes otherwise due on the value of the land and improvements,
14 whichever shall be greater;

15 (d) For the fourth stage of the exemption period, which shall not
16 be less than one year nor more than six years, as specified in the
17 financial agreement, an amount equal to either the amount
18 determined pursuant to paragraph (1) of this subsection and section
19 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of
20 taxes otherwise due on the value of the land and improvements,
21 whichever shall be greater; and

22 (e) For the final stage of the exemption period, the duration of
23 which shall not be less than one year and shall be specified in the
24 financial agreement, an amount equal to either the amount
25 determined pursuant to paragraph (1) of this subsection and section
26 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of
27 taxes otherwise due on the value of the land and improvements,
28 whichever shall be greater.

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

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

41 Each municipality which enters into a financial agreement on or
42 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.)
43 shall remit 5 percent of the annual service charge collected by the
44 municipality to the county in accordance with the provisions of
45 R.S.54:4-74. If the municipality enters into a contract with a board
46 of education pursuant to section 8 of P.L. , c. (C.) (pending
47 before the Legislature as this bill), the municipality shall also remit

1 to the board of education such amounts as may be required under
2 the contract.

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

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

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

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

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

27

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

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

38 b. The development authority shall consist of the
39 Commissioner of Education, the Commissioner of the Department
40 of Community Affairs, the executive director of the Economic
41 Development Authority, and the State Treasurer, who shall serve as
42 ex officio members; and 11 public members appointed by the
43 Governor with the advice and consent of the Senate. At least one of
44 the public members shall have knowledge or expertise in the area of
45 law enforcement and the remaining public members shall have
46 knowledge or expertise in real estate development, construction
47 management, finance, architectural or building design, or any other
48 related field. In addition, the development authority shall consist of

1 two public members, one appointed by the Senate President and one
2 appointed by the Speaker of the General Assembly, which members
3 shall have knowledge or expertise in real estate development,
4 construction management, finance, architectural or building design,
5 or any other related field.

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

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

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

26 (2) Each member appointed by the Senate President and Speaker
27 of the General Assembly may be removed from office by the Senate
28 President or Speaker as applicable, for cause, after a public hearing,
29 and may be suspended by the Senate President or Speaker as
30 applicable pending the completion of the hearing. Each member
31 before entering upon the member's duties shall take and subscribe
32 an oath to perform the duties of the office faithfully, impartially and
33 justly to the best of the member's ability. A record of the oath shall
34 be filed in the Office of the Secretary of State.

35 e. A chairperson shall be appointed by the Governor from the
36 public members. The members of the development authority shall
37 elect from their remaining number a vice-chairperson, a secretary,
38 and a treasurer thereof. The development authority shall employ an
39 executive director who shall be its chief executive officer. The
40 powers of the development authority shall be vested in the members
41 thereof in office from time to time and **【eight】** nine members of the
42 development authority shall constitute a quorum at any meeting
43 thereof. Action may be taken and motions and resolutions adopted
44 by the development authority at any meeting thereof by the
45 affirmative vote of at least **【eight】** nine members of the
46 development authority. No vacancy in the membership of the
47 development authority shall impair the right of a quorum of the

- 1 members to exercise all the powers and perform all the duties of the
2 development authority.
- 3 f. Each member of the development authority shall execute a
4 bond to be conditioned upon the faithful performance of the duties
5 of such member in such form and amount as may be prescribed by
6 the Director of the Division of Budget and Accounting in the
7 Department of the Treasury. Such bonds shall be filed in the Office
8 of the Secretary of State. At all times thereafter the members and
9 treasurer of the development authority shall maintain such bonds in
10 full force and effect. All costs of such bonds shall be borne by the
11 development authority.
- 12 g. The members of the development authority shall serve
13 without compensation, but the development authority may
14 reimburse its members for actual expenses necessarily incurred in
15 the discharge of their duties. Notwithstanding the provisions of any
16 other law to the contrary, no officer or employee of the State shall
17 be deemed to have forfeited or shall forfeit any office or
18 employment or any benefits or emoluments thereof by reason of the
19 acceptance of the office of ex officio member of the development
20 authority or any services therein.
- 21 h. Each ex officio member of the development authority may
22 designate an officer or employee of the member's department to
23 represent the member at meetings of the development authority, and
24 each such designee may lawfully vote and otherwise act on behalf
25 of the member for whom the person constitutes the designee. Any
26 such designation shall be in writing delivered to the development
27 authority and shall continue in effect until revoked or amended by
28 writing delivered to the development authority.
- 29 i. The development authority shall appoint from among its
30 members an audit committee and such other committees as it deems
31 necessary or conducive to the efficient management and operation
32 of the development authority.
- 33 j. The development authority may be dissolved by act of the
34 Legislature on condition that the development authority has no
35 debts or obligations outstanding or that provision has been made for
36 the payment or retirement of such debts or obligations. Upon any
37 such dissolution of the development authority, all property, funds
38 and assets thereof shall be vested in the State.
- 39 k. A true copy of the minutes of every meeting of the
40 development authority shall be forthwith delivered by and under the
41 certification of the secretary thereof to the Governor. No action
42 taken at the meeting by the development authority shall have force
43 or effect until 10 days, Saturdays, Sundays, and public holidays
44 excepted, after the copy of the minutes shall have been so delivered,
45 unless during such 10-day period the Governor shall approve the
46 same in which case the action shall become effective upon such
47 approval. If, in that 10-day period, the Governor returns a copy of
48 the minutes with veto of any action taken by the development

1 authority or any member thereof at the meeting, the action shall be
2 null and void and of no effect.

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

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

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

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

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

26

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

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

30 a. To adopt bylaws for the regulation of its affairs and the
31 conduct of its business;

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

33 c. To sue and be sued;

34 d. To acquire in the name of the development authority by
35 purchase or otherwise, on such terms and conditions and such
36 manner as it may deem proper, or by the exercise of the power of
37 eminent domain in the manner provided by the "Eminent Domain
38 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or
39 interests therein or other property which it may determine is
40 reasonably necessary for any school facilities project;

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

- 1 f. To sell, convey or lease to any person all or any portion of
2 its property, for such consideration and upon such terms as the
3 development authority may determine to be reasonable;
- 4 g. To mortgage, pledge or assign or otherwise encumber all or
5 any portion of any property or revenues, whenever it shall find such
6 action to be in furtherance of the purposes of P.L.2000, c.72
7 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 8 h. To grant options to purchase or renew a lease for any of its
9 property on such terms as the development authority may determine
10 to be reasonable;
- 11 i. To contract for and to accept any gifts or grants or loans of
12 funds or property or financial or other aid in any form from the
13 United States of America or any agency or instrumentality thereof,
14 or from the State or any agency, instrumentality or political
15 subdivision thereof, or from any other source and to comply,
16 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
17 P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and
18 conditions thereof;
- 19 j. In connection with any application for assistance under
20 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-
21 235 et al.) or commitments therefor, to require and collect such fees
22 and charges as the development authority shall determine to be
23 reasonable;
- 24 k. To adopt, amend and repeal regulations to carry out the
25 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007,
26 c.137 (C.52:18A-235 et al.);
- 27 l. To acquire, purchase, manage and operate, hold and dispose
28 of real and personal property or interests therein, take assignments
29 of rentals and leases and make and enter into all contracts, leases,
30 agreements and arrangements necessary or incidental to the
31 performance of its duties;
- 32 m. To purchase, acquire and take assignments of notes,
33 mortgages and other forms of security and evidences of
34 indebtedness;
- 35 n. To purchase, acquire, attach, seize, accept or take title to any
36 property by conveyance or by foreclosure, and sell, lease, manage
37 or operate any property for a use specified in P.L.2000, c.72
38 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 39 o. (1) To employ consulting engineers, architects, attorneys,
40 real estate counselors, appraisers, and such other consultants and
41 employees as may be required in the judgment of the development
42 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1
43 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay
44 their compensation from funds available to the development
45 authority therefor, all without regard to the provisions of Title 11A
46 of the New Jersey Statutes, provided, however, that an affirmative
47 vote of the development authority shall be required in the hiring,
48 termination, and disciplining of employees of the development

1 authority, as well as in the transfer of any employees of the
2 development authority among different subunits of the development
3 authority;

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

11 p. To do and perform any acts and things authorized by
12 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-
13 235 et al.) under, through or by means of its own officers, agents
14 and employees, or by contract with any person;

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

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

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

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

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

46 v. To make and contract to make loans or leases to local units
47 to finance the cost of school facilities projects and to acquire and
48 contract to acquire bonds, notes or other obligations issued or to be

1 issued by local units to evidence the loans or leases, all in
2 accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
3 al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

4 w. To charge to and collect from local units, the State, and any
5 other person, any fees and charges in connection with the
6 development authority's actions undertaken with respect to school
7 facilities projects including, but not limited to, fees and charges for
8 the development authority's administrative, organization, insurance,
9 operating and other expenses incident to the planning, design,
10 construction and placing into service and maintenance of school
11 facilities projects.

12 (cf: P.L.2007, c.137, s.4)

13

14 31. This act shall take effect immediately.