

§5  
C.18A:7G-5b  
§7  
C.18A:7G-15.1a  
§12  
C.18A:7G-23.1  
§15  
C.18A:7G-34.1  
§§19,21  
C.18A:7G-47.2  
and 18A:7G-47.3  
§20  
C.18A:7G-47.1  
§23  
C.18A:18A-41.1  
§§30-35  
C.34:1B-21.37  
to 34:1B-21.42  
§35  
Note to  
C.18A:36A-10

P.L. 2023, CHAPTER 311, *approved January 16, 2024*  
Assembly Committee Substitute (*Fourth Reprint*)  
for Assembly, No. 4496

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

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

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

13 2. The Legislature finds and declares that:

14 a. The Constitution of the State of New Jersey requires the  
15 Legislature to provide for the maintenance and support of a  
16 thorough and efficient system of free public schools and this  
17 legislative responsibility includes ensuring that students are

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

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

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

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

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

1 educated in physical facilities that are safe, healthy, and conducive  
2 to learning.

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

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

24 d. While providing that the educational infrastructure meets the  
25 requirements of a thorough and efficient education, the State must  
26 also protect the interests of taxpayers who will bear the burden of  
27 this obligation. Design of school facilities should incorporate  
28 maximum operating efficiencies and new technologies to advance  
29 the energy efficiency of school facilities and the efficiency of other  
30 school building systems, construction should be achieved in as  
31 efficient a manner as possible while also ensuring that public funds  
32 spent on the construction of school facilities support a skilled  
33 workforce compensated at dignified wages, and a mechanism to  
34 assure proper maintenance of new facilities should be established  
35 and implemented, in order to reduce the overall cost of the program  
36 and to preserve this infrastructure investment.

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

38

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

41 3. As used in sections 1 through 30 and 57 through 71 of  
42 P.L.2000, c.72 (C.18A:7G-1 et al.) **and**, sections 14 through 17 of  
43 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections  
44 5,<sup>1</sup>**[6, 8]** 7<sup>1</sup>, <sup>1</sup>**[13]** 12<sup>1</sup>, <sup>2</sup>15,<sup>2</sup> and 19 through 21 of P.L. \_\_\_\_\_, c.  
45 (C. \_\_\_\_\_) (pending before the Legislature as this bill), unless the context  
46 clearly requires a different meaning:

47 "Area cost allowance" means \$138 per square foot for the school  
48 year 2000-2001 and shall be inflated by an appropriate cost index for

1 the 2001-2002 school year. For the 2002-2003 school year and  
2 subsequent school years, the area cost allowance shall be established  
3 by the commissioner pursuant to subsection h. of section 4 of  
4 P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in  
5 determining preliminary eligible costs of school facilities projects shall  
6 be that of the year of application for approval of the project;

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

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

13 "Commissioner" means the Commissioner of Education;

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

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

23 "Debt service" means and includes payments of principal and  
24 interest upon school bonds issued to finance the acquisition of school  
25 sites and the purchase or construction of school facilities, additions to  
26 school facilities, or the reconstruction, remodeling, alteration,  
27 modernization, renovation or repair of school facilities, including  
28 furnishings, equipment, architect fees and the costs of issuance of such  
29 obligations and shall include payments of principal and interest upon  
30 school bonds heretofore issued to fund or refund such obligations, and  
31 upon municipal bonds and other obligations which the commissioner  
32 approves as having been issued for such purposes. Debt service  
33 pursuant to the provisions of P.L.1978, c.74 (C.18A:58-33.22 et seq.),  
34 P.L.1971, c.10 (C.18A:58-33.6 et seq.) and P.L.1968, c.177  
35 (C.18A:58-33.2 et seq.) is excluded;

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

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

42 "District" means a local or regional school district established  
43 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
44 Statutes, a county special services school district established pursuant  
45 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a  
46 county vocational school district established pursuant to article 3 of  
47 chapter 54 of Title 18A of the New Jersey Statutes, and a district under

1 full State intervention pursuant to P.L.1987, c.399 (C.18A:7A-34 et  
2 al.);

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

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

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

20 "Final eligible costs" means for school facilities projects to be  
21 constructed by the development authority, the final eligible costs of the  
22 school facilities project as determined by the commissioner, in  
23 consultation with the development authority, pursuant to section 5 of  
24 P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final  
25 eligible costs of the project as determined by the commissioner and  
26 reviewed by the development authority which may include the cost of  
27 community design features determined by the commissioner to be an  
28 integral part of the school facility and which do not exceed the  
29 facilities efficiency standards, and which were reviewed by the  
30 development authority and approved by the State Treasurer pursuant to  
31 section 6 of P.L.2000, c.72 (C.18A:7G-6); **and** <sup>1</sup>and<sup>1</sup> for districts  
32 other than SDA districts, final eligible costs as determined pursuant to  
33 paragraph (1) of subsection h. of section 5 of P.L.2000, c.72  
34 (C.18A:7G-5)<sup>1</sup>; and for school facilities projects of charter schools  
35 and renaissance school projects physically located in SDA districts,  
36 final eligible costs as determined pursuant to subsection c. of section 5  
37 of P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>;

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

41 "FTE" means a full-time equivalent student which shall be  
42 calculated as follows: each student in grades 1 through 12 shall be  
43 counted at **100%** 100 percent of the actual count of students, in the  
44 case of districts which operate a half-day kindergarten program each  
45 kindergarten student shall be counted at **50%** 50 percent of the  
46 actual count of kindergarten students, in the case of districts which  
47 operate a full-day kindergarten program or which currently operate a  
48 half-day kindergarten program but propose to build facilities to house

1 a full-day kindergarten program each kindergarten student shall be  
2 counted at **【100%】** 100 percent of the actual count of kindergarten  
3 students, and each preschool student who is enrolled in a full-day  
4 preschool program pursuant to section 12 of P.L.2007, c.260  
5 (C.18A:7F-54) shall be counted at **【100%】** 100 percent of the actual  
6 count of preschool students. In addition, each preschool disabled child  
7 who is entitled to receive a full-time program pursuant to  
8 N.J.S.18A:46-6 shall be counted at **【100%】** 100 percent of the actual  
9 count of these students in the district;

10 "Functional capacity" means the number of students that can be  
11 housed in a building in order to have sufficient space for it to be  
12 educationally adequate for the delivery of programs and services  
13 necessary for student achievement of the core curriculum content  
14 standards. Functional capacity is determined by dividing the existing  
15 gross square footage of a school building by the minimum area  
16 allowance per FTE student pursuant to subsection b. of section 8 of  
17 P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained  
18 therein. The difference between the projected enrollment determined  
19 pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8)  
20 and the functional capacity is the unhoused students that are the basis  
21 upon which the additional costs of space to provide educationally  
22 adequate facilities for the entire projected enrollment are determined.  
23 The existing gross square footage for the purposes of defining  
24 functional capacity is exclusive of existing spaces that are not  
25 contained in the facilities efficiency standards but which are used to  
26 deliver programs and services aligned to the core curriculum content  
27 standards, used to provide support services directly to students, or  
28 other existing spaces that the district can demonstrate would be  
29 structurally or fiscally impractical to convert to other uses contained in  
30 the facilities efficiency standards;

31 “Kit of Parts’ standardized school design elements” means the  
32 prototypical design utilizing standardized Modern Building  
33 Component Elements, Model Educational Specifications, and Model  
34 Program Templates created by the development authority for the  
35 efficient, adaptable, and scalable organization and configuration of  
36 instructional, large group assembly, and other elements within a school  
37 facilities project<sup>1</sup>【.】<sup>1</sup>

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

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

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

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

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

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

37 "Materials and Systems Standards" means the development  
38 authority's "Materials and Systems Standards Manual" and  
39 "Construction Details Manual," which are:

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

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

46 c. comprised of "Construction Details" containing standardized  
47 construction details for the construction of school facilities projects.

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

4       “Model Educational Specifications” means the development of:

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

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

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

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

20       “Other allowable costs” means the costs of temporary facilities,  
21 site development, acquisition of land or other real property interests  
22 necessary to effectuate the school facilities project, fees for the  
23 services of design professionals, including architects, engineers,  
24 construction managers and other design professionals, legal fees,  
25 financing costs and the administrative costs of the development  
26 authority and the financing authority or the district<sup>1</sup> [., charter school,  
27 or renaissance school project]<sup>1</sup> incurred in connection with the school  
28 facilities project;

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

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

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

46       “Redevelopment entity” means a redevelopment entity authorized  
47 by a municipal governing body to implement plans and carry out  
48 redevelopment projects in the municipality pursuant to the “Local

1 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et  
2 al.);

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

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

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

19 "School facility" means and includes any structure, building, or  
20 facility used wholly or in part for educational purposes by a district  
21 and facilities that physically support such structures, buildings and  
22 facilities, such as district wastewater treatment facilities, power  
23 generating facilities, and steam generating facilities, but shall exclude  
24 other facilities<sup>1</sup>. "School facility" shall also mean any structure,  
25 building, or facility used wholly or in part for educational purposes  
26 that is owned, or leased from a nonprofit entity or government agency,  
27 and operated by a charter school or renaissance school project and the  
28 facilities that physically support such structures, buildings, and  
29 facilities, for which the charter school or renaissance school project is  
30 seeking the State share of funding pursuant to section 5 of P.L. , c.  
31 (C. ) (pending before the Legislature as this bill)]<sup>1</sup>;

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

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

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

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

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

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

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

20 "State share" means the State's proportionate share of the final  
 21 eligible costs of a school facilities project to be constructed by the  
 22 development authority as determined pursuant to section 5 of  
 23 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project,  
 24 the State's proportionate share of the final eligible costs of the project  
 25 as determined pursuant to sections 5 and 6 of P.L.2000, c.72  
 26 (C.18A:7G-5 and C.18A:7G-6); **and** <sup>1</sup>and<sup>1</sup> in the case of a school  
 27 facilities project to be financed pursuant to section 15 of P.L.2000,  
 28 c.72 (C.18A:7G-15), the State share as determined pursuant to that  
 29 section<sup>1</sup>**;** and in the case of a school facilities project of a charter  
 30 school or renaissance school project physically located in an SDA  
 31 district, the State share as determined pursuant to section 5 of  
 32 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>;

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

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

42  
 43 3. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to read  
 44 as follows:

45 4. a. <sup>4</sup>**[(1)]**<sup>4</sup> By December 15, 2000 and by October 1, 2005,  
 46 each district shall prepare and submit to the commissioner a long-  
 47 range facilities plan that details the district's school facilities needs and  
 48 the district's plan to address those needs for the ensuing five years.

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

11 <sup>4</sup>[(2) (a) Every long-range facilities plan submitted to the  
12 commissioner after the effective date of P.L. , c. (C. ) (pending  
13 before the Legislature as this bill), including any amendment thereto,  
14 shall include a capital improvement plan for each public school within  
15 the district. At a minimum, the capital improvement plan shall  
16 indicate the <sup>2</sup>[enrollment projections,]<sup>2</sup> building capacities <sup>2</sup>[,]<sup>2</sup> and  
17 health and safety conditions of each public school within the district,  
18 as well as the school facilities needs of each school.

19 (b) Beginning in the 2025-2026 school year and for each school  
20 year thereafter, a school district, as part of its comprehensive review  
21 conducted under the New Jersey Quality Single Accountability  
22 Continuum administered pursuant to section 10 of P.L.1975, c.212  
23 (C.18A:7A-10), shall certify that it has included in its most recent  
24 long-range facilities plan a capital improvement plan for each public  
25 school within the district in accordance with the provisions of  
26 subparagraph (a) of this paragraph. Notwithstanding the provisions of  
27 this paragraph to the contrary, an SDA district shall not be required to  
28 complete a capital improvement plan for a school that is part of an  
29 SDA district school facilities project included in the most recent  
30 Statewide strategic plan developed pursuant to paragraphs (2) and (3)  
31 of subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).]<sup>4</sup>

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

- 1 c. An amendment to a long-range facilities plan may be submitted  
2 at any time to the commissioner for review and determination on the  
3 approval or disapproval of the amendment.
- 4 d. Each long-range facilities plan shall include a cohort survival  
5 methodology or other methodology approved by the commissioner,  
6 accompanied by a certification by a qualified demographer retained by  
7 the district that serves as the basis for identifying the capacity and  
8 program needs detailed in the long-range facilities plan.
- 9 e. The long-range facilities plan shall include an educational  
10 adequacy inventory of all existing school facilities in the district  
11 including the adequacy of school facilities to educate within the  
12 district the existing and projected number of pupils with disabilities,  
13 the identification of all deficiencies in the district's current inventory  
14 of school facilities, which includes the identification of those  
15 deficiencies that involve emergent health and safety concerns, and the  
16 district's proposed plan for future construction and renovation. The  
17 long-range facilities plan submissions shall conform to the guidelines,  
18 criteria and format prescribed by the commissioner.
- 19 f. Each district shall determine the number of "unhoused  
20 students" for the ensuing five-year period calculated pursuant to the  
21 provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).
- 22 g. Each district shall submit the long-range facilities plan to the  
23 planning board of the municipality or municipalities in which the  
24 district is situate for the planning board's review and findings and the  
25 incorporation of the plan's goals and objectives into the municipal  
26 master plan adopted by the municipality pursuant to section 19 of  
27 P.L.1975, c.291 (C.40:55D-28).
- 28 h. (1) The commissioner shall develop, for the March 2002  
29 Report on the Cost of Providing a Thorough and Efficient Education  
30 issued by the commissioner pursuant to section 4 of P.L.1996, c.138  
31 (C.18A:7F-4), facilities efficiency standards for elementary, middle,  
32 and high schools consistent with the core curriculum school delivery  
33 assumptions in the report and sufficient for the achievement of the  
34 core curriculum content standards, including the provision of required  
35 programs in Abbott districts and early childhood education programs  
36 in the districts in which these programs are required by the State. The  
37 area allowances per FTE student in each class of the district shall be  
38 derived from these facilities efficiency standards. The commissioner  
39 shall revise the facilities efficiency standards and the area cost  
40 allowance in accordance with such schedule as the commissioner  
41 deems necessary. The commissioner shall publish the revised facilities  
42 efficiency standards and the area cost allowance in the New Jersey  
43 Register and, within a reasonable period of time after 30 days  
44 following publication, shall file the revised facilities efficiency  
45 standards and the area cost allowance with the Office of  
46 Administrative Law for publication in the New Jersey Register and  
47 those standards shall become effective immediately upon filing.  
48 During the 30-day period the commissioner shall provide an

1 opportunity for public comment on the proposed facilities efficiency  
2 standards and the area cost allowance.

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

19 Within a reasonable period of time after the effective date of  
20 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the  
21 facilities efficiency standards developed for the 2000-2001, 2001-  
22 2002, and 2002-2003 school years in the New Jersey Register. Within  
23 a reasonable period of time after 30 days after publication in the New  
24 Jersey Register, the commissioner shall file the facilities efficiency  
25 standards with the Office of Administrative Law and those standards  
26 shall become effective immediately upon filing with the Office of  
27 Administrative Law. During the 30-day period the commissioner shall  
28 provide an opportunity for public comment on the proposed facilities  
29 efficiency standards.

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

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

1 the commissioner determines is necessary to make the plan accurate  
2 and complete. The district shall submit that information to the  
3 commissioner, and the commissioner shall have 60 days from the date  
4 of receipt of accurate and complete information to determine whether  
5 to approve the plan or not.

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

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

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

20 m. By July 1, 2001, the commissioner shall study the Safe Schools  
21 Design Guidelines, prepared by the Florida Center for Community  
22 Design and Research, which address the issues of school safety and  
23 security through the design of school facilities. Based upon the  
24 commissioner's study, the commissioner shall issue recommendations  
25 to districts on the appropriateness of including the Safe Schools  
26 Design Guidelines in the design and construction of school facilities  
27 projects.

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

29

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

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

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

38 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
39 contrary, the procedures for obtaining approval of a school facilities  
40 project shall be as set forth in **【this act】** P.L.2000, c.72 (C.18A:7G-1  
41 et al.); provided that any district whose school facilities project is not  
42 constructed by the development authority shall also be required to  
43 comply with the provisions of N.J.S.18A:18A-16 and, in the case of a  
44 school facilities project that has estimated total costs over  
45 \$10,000,000, shall be overseen by a non-conflicted construction  
46 management service provider, which holds a current, valid  
47 classification issued by the Division of Property Management and  
48 Construction in the Department of Treasury pursuant to its

1 classification processes for construction managers, who shall serve  
2 from initial application to the commissioner for approval of the project  
3 through project completion.

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

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

31 (b) In the case of an SDA district school facilities project, the  
32 project design shall conform to the standards of the model school  
33 design program developed by the development authority pursuant to  
34 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72  
35 (C.18A:7G-4). The development authority may permit an SDA district  
36 school facilities project to include design features that are considered  
37 excess costs provided that the design features do not exceed the lesser  
38 of <sup>4</sup>[10] 15<sup>4</sup> percent of total estimated project costs or <sup>4</sup>[\$2,000,000]  
39 \$4,000,000<sup>4</sup>.

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

47 e. The commissioner shall review each proposed school facilities  
48 project to determine whether it is consistent with the district's long-

1 range facilities plan and whether it complies with the facilities  
2 efficiency standards and the area allowances per FTE student derived  
3 from those standards; and in the case of an SDA district the  
4 commissioner shall also review the project's educational priority  
5 ranking and the Statewide strategic plan developed pursuant to  
6 paragraphs (2) and (3) of subsection m. of this section and whether the  
7 project conforms to the standards of the model school design program;  
8 and in the case of a district other than an SDA district the  
9 commissioner shall also review the project's priority pursuant to  
10 paragraph (4) of subsection m. of this section. The commissioner shall  
11 make a decision on a district's application within 90 days from the date  
12 **[he]** the commissioner determines that the application is fully and  
13 accurately completed and that all information necessary for a decision  
14 has been filed by the district, or from the date of the last revision made  
15 by the district. If the commissioner is not able to make a decision  
16 within 90 days, **[he]** the commissioner shall notify the district in  
17 writing explaining the reason for the delay and indicating the date on  
18 which a decision on the project will be made, provided that the date  
19 shall not be later than 60 days from the expiration of the original 90  
20 days set forth in this subsection. If the decision is not made by the  
21 subsequent date indicated by the commissioner, then the project shall  
22 be deemed approved and the preliminary eligible costs for new  
23 construction shall be calculated by using the proposed square footage  
24 of the building as the approved area for unhoused students.

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

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

43 (1) The commissioner shall approve area allowances in excess of  
44 the area allowances per FTE student derived from the facilities  
45 efficiency standards if the board of education or State district  
46 superintendent, as appropriate, demonstrates that school facilities  
47 needs related to required programs cannot be addressed within the  
48 facilities efficiency standards and that all other proposed spaces are

1 consistent with those standards. The commissioner shall approve area  
2 allowances in excess of the area allowances per FTE student derived  
3 from the facilities efficiency standards if the additional area  
4 allowances are necessary to accommodate centralized facilities to be  
5 shared among two or more school buildings within the district and the  
6 centralized facilities represent a more cost effective alternative.

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

13 (3) To house the district's central administration, a district may  
14 request an adjustment to the approved areas for unhoused students of  
15 2.17 square feet for each FTE student in the projected total district  
16 school enrollment if the proposed administrative offices will be housed  
17 in a school facility and the district demonstrates either that the existing  
18 central administrative offices are obsolete or that it is more practical to  
19 convert those offices to instructional space. To the extent that existing  
20 administrative space will continue to be used for administrative  
21 purposes, the space shall be included in the formulas set forth in  
22 section 7 of P.L.2000, c.72 (C.18A:7G-7).

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

33 (4) The commissioner shall approve spaces in excess of, or  
34 inconsistent with, the facilities efficiency standards, hereinafter  
35 referred to as nonconforming spaces, upon a determination by the  
36 district that the spaces are necessary to comply with State or federal  
37 law concerning individuals with disabilities, including that the spaces  
38 are necessary to provide in-district programs and services for current  
39 disabled pupils who are being served in out-of-district placements or  
40 in-district programs and services for the projected disabled pupil  
41 population. A district may apply for additional State aid for  
42 nonconforming spaces that will permit pupils with disabilities to be  
43 educated to the greatest extent possible in the same buildings or  
44 classes with their nondisabled peers. The nonconforming spaces may:  
45 (a) allow for the return of pupils with disabilities from private  
46 facilities; (b) permit the retention of pupils with disabilities who would  
47 otherwise be placed in private facilities; (c) provide space for regional  
48 programs in a host school building that houses both disabled and

1 nondisabled pupils; and (d) provide space for the coordination of  
2 regional programs by a county special services school district,  
3 educational services commission, jointure commission, or other  
4 agency authorized by law to provide regional educational services in a  
5 school building that houses both disabled and nondisabled pupils. A  
6 district's State support ratio shall be adjusted to equal the lesser of the  
7 sum of its district aid percentage as defined in section 3 of P.L.2000,  
8 c.72 (C.18A:7G-3) plus 0.25, or **【100%】** 100 percent for any  
9 nonconforming spaces approved by the commissioner pursuant to this  
10 paragraph.

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

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

28 The appeal shall outline the reasons why the preliminary eligible  
29 costs calculated for the project are inadequate and estimate the amount  
30 of the adjustment which needs to be made to the preliminary eligible  
31 costs. The commissioner shall forward the appeal information to the  
32 development authority for its review and recommendation. If the  
33 additional costs are the result of factors that are within the control of  
34 the district or are the result of design factors that are not required to  
35 meet the facilities efficiency standards, the development authority  
36 shall recommend to the commissioner that the preliminary eligible  
37 costs be accepted as the final eligible costs. If the development  
38 authority determines the additional costs are not within the control of  
39 the district or are the result of design factors required to meet the  
40 facilities efficiency standards, the development authority shall  
41 recommend to the commissioner a final eligible cost based on its  
42 experience for districts with similar characteristics, provided that,  
43 notwithstanding anything to the contrary, the commissioner shall not  
44 approve an adjustment to the preliminary eligible costs which exceeds  
45 **【10%】** 10 percent of the preliminary eligible costs. The commissioner  
46 shall make a determination on the appeal within 30 days of its receipt.  
47 If the commissioner does not approve an adjustment to the school  
48 facilities project's preliminary eligible costs, the commissioner shall

1 issue his findings in writing on the reasons for the denial and on why  
2 the preliminary eligible costs as originally calculated are sufficient.

3 (2) In the case of an SDA district, the commissioner shall promptly  
4 prepare and submit to the development authority a preliminary project  
5 report which shall consist, at a minimum, of the following information:  
6 a complete description of the school facilities project; the actual  
7 location of the project; the total square footage of the project together  
8 with a breakdown of total square footage by functional component; the  
9 preliminary eligible costs of the project; the project's priority ranking  
10 determined pursuant to subsection m. of this section; any other factors  
11 to be considered by the development authority in undertaking the  
12 project; and the name and address of the person from the district to  
13 contact in regard to the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (3) (a) Upon the commissioner's determination of the educational  
45 priority ranking of school facilities projects in SDA districts pursuant  
46 to paragraph (2) of this subsection, the development authority, in  
47 consultation with the commissioner, the SDA districts, and the  
48 governing bodies of the municipalities in which the SDA districts are

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

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

17 (ii) the total estimated project costs; and

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

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

22 (i) new construction projects;

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

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

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

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

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

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

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

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

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

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

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

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

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

28

29 <sup>1</sup>[5. (New section) a. The State share of a school facilities  
30 project undertaken by a charter school or renaissance school project  
31 that is physically located in an SDA district shall be 100 percent of  
32 the final eligible costs as determined pursuant to subsection c. of  
33 this section. A charter school or renaissance school project that is  
34 not physically located in an SDA district shall not be eligible for  
35 State support pursuant to this section. Notwithstanding the  
36 provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5) or of any  
37 other section of law, rule, or regulation to the contrary, a charter  
38 school or renaissance school project located in an SDA district  
39 seeking to initiate a school facilities project, and that is seeking the  
40 State share of the school facilities project, shall apply to the  
41 development authority for approval of the project. In the case of a  
42 charter school or renaissance school project established after the  
43 effective date of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill), the development authority shall not approve  
45 a school facilities project until after the charter school's first  
46 renewal under section 17 of P.L.1995, c.426 (C.18A:36A-17) or  
47 after the renaissance school project's first renewal under section 10  
48 of P.L.2011, c.176 (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. ]<sup>1</sup>

26  
27 <sup>1</sup>[6.] 5.<sup>1</sup> (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 <sup>1</sup>~~7.~~ 6. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended  
29 to 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-15),  
33 shall be distributed upon a determination of preliminary eligible costs  
34 by the commissioner, according to the following formula:

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

38 where

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

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

41 and where:

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

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

46 P is the principal of the individual issuance plus any other funding  
47 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 be  
3 less than ~~【40%】~~ 40 percent<sup>1</sup>, 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) of  
6 subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4), the DAP  
7 shall be increased by 15 percent<sup>1</sup>. If the project's design incorporates  
8 the implementation of energy efficiency improvements or the  
9 installation of energy efficient features or equipment, the DAP shall be  
10 increased by no more than five percent<sup>2</sup>. In order to qualify for a  
11 DAP increase for the implementation of energy efficiency  
12 improvements or the installation of energy efficient features or  
13 equipment pursuant to this subsection, a district shall submit to the  
14 development authority and Department of Education a certification,  
15 along with evidential documentation, attesting that the project's design  
16 incorporates the implementation of energy efficiency improvements or  
17 the installation of energy efficient features or equipment<sup>2</sup>; and

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

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

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

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

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

46 (2) For new construction, additions, and school facilities aided  
47 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)  
48 supported by financing issued for projects approved by the

1 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1  
 2 et al.), beginning in the fourth year after occupancy of the school  
 3 facility, the maintenance factor shall be reduced according to the  
 4 following schedule for all school facilities projects for which the  
 5 district fails to demonstrate in the prior fiscal year an investment in  
 6 maintenance of the related school facility of at least two-tenths of  
 7 **[1%]** one percent of the replacement cost of the school facility,  
 8 determined pursuant to subsection b. of section 7 of P.L.2000, c.72  
 9 (C.18A:7G-7).

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

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

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

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

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

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

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

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

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

19           b. <sup>4</sup>A municipality intending to enter into a contract to pledge a  
20 portion of the payments in lieu of taxes received by the municipality  
21 from one or more designated properties pursuant to this section shall  
22 obtain the approval of the Local Finance Board prior to the adoption of  
23 an ordinance or resolution, as applicable, authorizing the municipality  
24 to enter into the contract. The board shall be entitled to receive from  
25 the applicant an amount sufficient to provide for all reasonable  
26 professional and other fees and expenses incurred by it for the review,  
27 analysis, and determination with respect thereto. As part of the  
28 board's review and approval, the board shall consider whether the  
29 proposed contract will adversely impact the financial stability of the  
30 municipality.

31           c.<sup>4</sup> (1) If a board of education elects to issue bonds pursuant to  
32 this section, the board of education shall apply to the commissioner for  
33 approval of the bond issuance. <sup>4</sup>The commissioner shall be entitled to  
34 receive from the applicant an amount sufficient to provide for all  
35 reasonable professional and other fees and expenses incurred for the  
36 review, analysis, and determination with respect thereto.<sup>4</sup> In addition  
37 to any other information that the commissioner may deem appropriate,  
38 the application shall include: a description of the school facilities  
39 project; a certification of the amount to be raised by the bonds; a  
40 description of the anticipated annual debt service costs, including the  
41 amounts to be supported by municipal remittances; and a copy of the  
42 contract.

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

1 conditionally approve, or reject the application within 30 days of the  
2 date of receipt, the commissioner shall be deemed to have approved  
3 the application.

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

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

18

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

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

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

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

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

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

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

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

46 (4) If the development authority determines to delegate a school  
47 facilities project to an SDA district in accordance with paragraph (2)  
48 of this subsection, the development authority, the commissioner, and

1 the district shall enter into a grant agreement. The grant agreement  
2 shall, at a minimum, establish a timeline for the completion of the  
3 school facilities project, which timeline shall be established based on  
4 the scope of the work to be performed.

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

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

24

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

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

28 a. The financing authority shall have the power, pursuant to the  
29 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
30 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue  
31 bonds and refunding bonds, incur indebtedness and borrow money  
32 secured, in whole or in part, by moneys received pursuant to sections  
33 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and  
34 C.18A:7G-19) for the purposes of: financing all or a portion of the  
35 costs of school facilities projects and any costs related to the issuance  
36 thereof, including, but not limited to, the administrative, insurance,  
37 operating and other expenses of the financing authority to undertake  
38 the financing, and the development authority to undertake the  
39 planning, design, and construction of school facilities projects; lending  
40 moneys to local units to pay the costs of all or a portion of school  
41 facilities projects and any costs related to the issuance thereof; funding  
42 the grants to be made pursuant to section 15 of P.L.2000, c.72  
43 (C.18A:7G-15); and financing the acquisition of school facilities  
44 projects to permit the refinancing of debt by the district pursuant to  
45 section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the  
46 provisions of this section to the contrary, <sup>4</sup>if financial support is  
47 provided to the development authority following a budget request  
48 made directly to the Division of Budget and Accounting in the

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

1 administrative expenses of the financing authority that are in  
2 connection with retained professional services related to the issuance  
3 of the bonds, indebtedness, or other borrowed moneys<sup>4</sup>. The aggregate  
4 principal amount of the bonds, notes or other obligations issued by the  
5 financing authority as authorized pursuant to P.L.2000, c.72  
6 (C.18A:7G-1 et al.) shall not exceed: \$100,000,000 for the State share  
7 of costs for county vocational school district school facilities projects;  
8 \$6,000,000,000 for the State share of costs for Abbott district school  
9 facilities projects; and \$2,500,000,000 for the State share of costs for  
10 school facilities projects in all other districts. The aggregate principal  
11 amount of the bonds, notes or other obligations issued by the financing  
12 authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et  
13 al.) shall not exceed: \$2,900,000,000 for the State share of costs of  
14 SDA district school facilities projects; and \$1,000,000,000 for the  
15 State share of costs for school facilities projects in all other districts,  
16 \$50,000,000 of which shall be allocated for the State share of costs for  
17 county vocational school district school facilities projects. This  
18 limitation shall not include any bonds, notes or other obligations  
19 issued for refunding purposes.

20 The financing authority may establish reserve funds to further  
21 secure bonds and refunding bonds issued pursuant to this section and  
22 may issue bonds to pay for the administrative, insurance and operating  
23 costs of the financing authority and the development authority in  
24 carrying out the provisions of this act. Notwithstanding the provisions  
25 of this section to the contrary, the proceeds of bonds issued pursuant to  
26 this section after the effective date of P.L. , c. (C. ) (pending  
27 before the Legislature as this bill) shall not pay for any costs related to  
28 the issuance of the bonds, including the administrative<sup>4</sup>expenses  
29 (other than retained professional services related to the issuance of the  
30 bonds, indebtedness, or other borrowed moneys)<sup>4</sup>, <sup>1</sup>non-project<sup>1</sup>  
31 insurance and operating costs of the financing authority and the  
32 development authority in carrying out the provisions of P.L.2000, c.72  
33 (C.18A:7G-1 et al.). Such costs of the financing authority shall be  
34 supported by State appropriations<sup>4</sup>when financial support is made  
35 available following a budget request pursuant to subsection k. of this  
36 section<sup>4</sup>. Such costs of the development authority shall be funded by  
37 State appropriations pursuant to paragraph (2) of subsection o. of  
38 section 4 of P.L.2007, c.137, (C.52:18A-238)<sup>4</sup>when financial support  
39 is made available following a budget request pursuant to subsection k.  
40 of this section<sup>4</sup>. In addition to its bonds and refunding bonds, the  
41 financing authority shall have the power to issue subordinated  
42 indebtedness, which shall be subordinate in lien to the lien of any or all  
43 of its bonds or refunding bonds as the financing authority may  
44 determine.

45 b. The financing authority shall issue the bonds or refunding  
46 bonds in such manner as it shall determine in accordance with the  
47 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
48 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);

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

45 c. Each issue of bonds or refunding bonds of the financing  
46 authority shall be special obligations of the financing authority payable  
47 out of particular revenues, receipts or funds, subject only to any  
48 agreements with the holders of bonds or refunding bonds, and may be

- 1 secured by other sources of revenue, including, but not limited to, one  
2 or more of the following:
- 3 (1) Pledge of the revenues and other receipts to be derived from  
4 the payment of local unit obligations and any other payment made to  
5 the financing authority pursuant to agreements with any local unit, or a  
6 pledge or assignment of any local unit obligations, and the rights and  
7 interest of the financing authority therein;
- 8 (2) Pledge of rentals, receipts and other revenues to be derived  
9 from leases or other contractual arrangements with any person or  
10 entity, public or private, including one or more local units, or a pledge  
11 or assignment of those leases or other contractual arrangements and  
12 the rights and interests of the financing authority therein;
- 13 (3) Pledge of all moneys, funds, accounts, securities and other  
14 funds, including the proceeds of the bonds;
- 15 (4) Pledge of the receipts to be derived from payments of State aid  
16 to the financing authority pursuant to section 21 of P.L.2000, c.72  
17 (C.18A:7G-21);
- 18 (5) Pledge of the contract or contracts with the State Treasurer  
19 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);
- 20 (6) Pledge of any sums remitted to the local unit by donation from  
21 any person or entity, public or private, subject to the approval of the  
22 State Treasurer;
- 23 (7) A mortgage on all or any part of the property, real or personal,  
24 comprising a school facilities project then owned or thereafter to be  
25 acquired, or a pledge or assignment of mortgages made to the  
26 financing authority by any person or entity, public or private, including  
27 one or more local units and rights and interests of the financing  
28 authority therein; and
- 29 (8) The receipt of any grants, reimbursements or other payments  
30 from the federal government.
- 31 d. The resolution authorizing the issuance of bonds or refunding  
32 bonds pursuant to this section may also provide for the financing  
33 authority to enter into any revolving credit agreement, agreement  
34 establishing a line of credit or letter of credit, reimbursement  
35 agreement, interest rate exchange agreement, currency exchange  
36 agreement, interest rate floor or cap, options, puts or calls to hedge  
37 payment, currency, rate, spread or similar exposure or similar  
38 agreements, float agreements, forward agreements, insurance  
39 contracts, surety bonds, commitments to purchase or sell bonds,  
40 purchase or sale agreements, or commitments or other contracts or  
41 agreements and other security agreements approved by the financing  
42 authority in connection with the issuance of the bonds or refunding  
43 bonds pursuant to this section. In addition, the financing authority  
44 may, in anticipation of the issuance of the bonds or the receipt of  
45 appropriations, grants, reimbursements or other funds, including,  
46 without limitation, grants from the federal government for school  
47 facilities projects, issue notes, the principal of or interest on which, or  
48 both, shall be payable out of the proceeds of notes, bonds or other

1 obligations of the financing authority or appropriations, grants,  
2 reimbursements or other funds or revenues of the financing authority.

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

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

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

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

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

8 i. Upon the issuance by the financing authority of bonds pursuant  
9 to this section, other than refunding bonds, the net proceeds of the  
10 bonds shall be transferred to the development authority. The  
11 development authority shall establish <sup>1</sup>four<sup>1</sup> three<sup>1</sup> funds in which  
12 the net proceeds of the bonds issued pursuant to this section, and any  
13 State appropriations for school facilities projects, shall be deposited.  
14 The <sup>1</sup>four<sup>1</sup> three<sup>1</sup> funds shall be as follows:

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

23 (2) the Regular Operating District Construction and Maintenance  
24 Grants Fund, in which shall be deposited any funds made available for  
25 the State share of costs for school facilities projects in districts other  
26 than SDA districts, which funds shall include, but not be limited to, the  
27 proceeds of bonds issued pursuant to subsection a. of this section for  
28 the State share of costs for school facilities projects in districts other  
29 than SDA districts, the proceeds of any general obligation or other  
30 bonds that may be authorized for school facilities projects in districts  
31 other than SDA districts, and any State appropriations for school  
32 facilities projects in districts other than SDA districts; <sup>1</sup>and<sup>1</sup>

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

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

1       (4) the Charter School and Renaissance School Project  
2 Construction and Maintenance Fund in which shall be deposited any  
3 funds made available for school facilities projects of charter schools or  
4 renaissance school projects located in SDA districts approved pursuant  
5 to section 5 of P.L. , c. (C. ) (pending before the Legislature as  
6 this bill), which funds shall include, but not be limited to, the proceeds  
7 of bonds issued pursuant to subsection a. of this section for the State  
8 share of costs for school facilities projects of charter schools and  
9 renaissance school projects physically located in SDA districts, the  
10 proceeds of any general obligation bonds that may be authorized for  
11 SDA district charter school or renaissance school project school  
12 facilities projects or any State appropriations for SDA district charter  
13 school or renaissance school project school facilities projects】<sup>1</sup>.

14       j. In the event that the annual appropriations act provides for  
15 direct funding for school facilities projects, or in the event that a  
16 separate act appropriates direct funding of school facilities projects  
17 from the “New Jersey Debt Defeasance and Prevention Fund”  
18 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no  
19 less than <sup>1</sup>【50】 70<sup>1</sup> percent of the direct funding shall be appropriated  
20 to the SDA District Project Fund and the SDA District Emergent  
21 Project Fund. The remaining funds for school facilities projects shall  
22 be <sup>1</sup>【utilized in a manner to be determined by the development  
23 authority】 disbursed to the Regular Operating District Construction  
24 and Maintenance Grants Fund<sup>1</sup>.

25       <sup>4</sup>k. In the event that the financing authority issues bonds or incurs  
26 indebtedness pursuant to this section for the purpose of financing all or  
27 a portion of the costs of school facilities projects and for the purpose  
28 of providing funding to the development authority to undertake school  
29 facilities projects, the development authority may submit a budget  
30 request directly to the Division of Budget and Accounting in the  
31 Department of the Treasury, for State support to provide supplemental  
32 financing for the development authority’s operations in carrying out  
33 the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.).<sup>4</sup>  
34 (cf: P.L.2008, c.39, s.4)

35  
36       <sup>1</sup>【11.】 10.<sup>1</sup> Section 15 of P.L.2000, c.72 (C.18A:7G-15) is  
37 amended to read as follows:

38       15. a. In the case of a district other than an SDA district, for any  
39 project approved by the commissioner after the effective date of 【this  
40 act】 P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect to  
41 receive a one-time grant for the State share of the project in  
42 accordance with the provisions of subsection b. of this section rather  
43 than annual debt service aid under section 9 of P.L.2000, c.72  
44 (C.18A:7G-9). The State share payable to the district shall equal the  
45 product of the project's final eligible costs and the district aid  
46 percentage or 【40%】 40 percent, whichever is greater <sup>2</sup>【, except that if  
47 the project’s design conforms to the standards of the model school

1 design program established by the development authority pursuant to  
2 paragraph (2) of subsection h. of section 4 of P.L.2000, c.72  
3 (C.18A:7G-4), the district aid percentage shall be increased by 15  
4 percent above the amount calculated under section 3 of P.L.2000, c.72  
5 (C.18A:7G-3)]<sup>2</sup>. If the project's design incorporates the  
6 implementation of energy efficiency improvements or the installation  
7 of energy efficient features or equipment, the district aid percentage  
8 shall be increased by no more than five percent. <sup>2</sup>In order to qualify  
9 for a district aid percentage increase for the implementation of energy  
10 efficiency improvements or the installation of energy efficient features  
11 or equipment pursuant to this subsection, a district shall submit to the  
12 development authority and Department of Education a certification,  
13 along with evidential documentation, attesting that the project's design  
14 incorporates the implementation of energy efficiency improvements or  
15 the installation of energy efficient features or equipment.<sup>2</sup>

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

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

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

34

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

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

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

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

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

33  
34 <sup>1</sup>**[14.] 13.**<sup>1</sup> Section 57 of P.L.2000, c.72 (C.18A:7G-31) is  
35 amended to read as follows:

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

47 b. A board of education or a board of school estimate, as  
48 appropriate, may appropriate funds in the district's annual budget

1 for the establishment of the capital reserve account pursuant to  
2 subsection a. of this section or to supplement the funds in the  
3 account as required to meet the needs of the long-range facilities  
4 plan.

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

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

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

22

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

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

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

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

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

45 (4) A list of the names and titles of all individuals who own 10%  
46 or more of any class of stock in the corporation or are a 10% or more  
47 partner in the firm. If any of the aforementioned stockholders or

1 partners is itself a corporation, or a partnership, that entity shall also  
2 provide the information specified herein;

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

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

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

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

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

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

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

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

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

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

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

16 (1) a trade or work classification; and

17 (2) an aggregate rating limit.

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

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

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

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

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

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

39

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

1        b. As part of the application process established under section  
2 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a  
3 contractor that desires to bid on school facilities projects, the  
4 development authority shall undertake a moral integrity review,  
5 which shall include a criminal history record check, judgment  
6 search, and lien search of:

7        (1) the contractor;

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

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

12        (4) any individual who owns five percent or more of any class  
13 of stock in the corporation or is a five percent or more partner in the  
14 firm.

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

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

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

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

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

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

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

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

1       b. A contractor shall be notified of a performance evaluation.  
2 The contractor shall be afforded an opportunity to respond to an  
3 adverse evaluation. Following the opportunity for the contractor to  
4 respond to an adverse evaluation, the development authority may  
5 revoke a contractor's prequalification to bid on school facilities  
6 projects <sup>1</sup>, provided that the contractor had a below average score  
7 according to the development authority's scoring criteria for the  
8 mandatory uniform evaluation conducted pursuant to subsection a. of  
9 this section<sup>1</sup>.

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

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

13

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

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

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

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

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

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

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

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

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

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

1 19. (New section) a. The development authority and an SDA  
2 district to which the development authority has delegated management  
3 of a school facilities project, as well as any contractor or consultant  
4 retained thereby, shall not enter into a contract for work with any  
5 person or firm that <sup>1</sup>**【has been】** is currently<sup>1</sup> debarred, suspended, or  
6 disqualified from State, development authority, or federal government  
7 contracting.

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

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

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

44  
45 20. (New section) a. There is hereby created within the  
46 development authority an Emergent Condition Remediation Program  
47 to provide for the financing of emergent projects in the public schools

1 of SDA districts, which public schools shall not include charter  
 2 schools or renaissance school projects physically located in the SDA  
 3 districts. Emergent projects financed under the program shall be  
 4 funded by moneys from the SDA District Emergent Project Fund  
 5 established pursuant to paragraph (3) of subsection i. of section 14 of  
 6 P.L.2000, c.72 (C.18A:7G-14).

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

20 <sup>1</sup>c. As used in this section, "emergent project" means a school  
 21 facilities project or other capital project eligible for State funding that  
 22 would alleviate a condition that, if not corrected on an expedited basis,  
 23 would render a building or facility so potentially injurious or  
 24 hazardous that it causes an imminent peril to the health and safety of  
 25 students or staff.<sup>1</sup>  
 26

27 21. (New section) Notwithstanding the provisions of any law,  
 28 rule, or regulation to the contrary, an SDA district to which the  
 29 development authority has delegated management of a school  
 30 facilities project shall not enter into a cooperative pricing system or  
 31 agreement for construction services on school facilities projects.  
 32

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

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

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

45 (1) any board **or, in the case of a contract for a school facilities**  
 46 **project, the New Jersey Economic Development Authority,** of  
 47 education has had prior negative experience with the bidder within  
 48 the past 10 years, as reported in a contractor evaluation submitted

1 pursuant to N.J.S. 18A:18A-15 **[**or in a school facilities project  
2 performance evaluation submitted pursuant to regulations of the  
3 Department of the Treasury or section 62 of P.L.2000, c.72  
4 (C.18A:7G-36), as appropriate.**]** or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47       (cf: P.L.2002, c.90, s.1)

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

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

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

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

18

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

21       2. a. As used in this section:

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

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

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

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

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

1 district" shall include a charter school established under P.L.1995,  
2 c.426 (C.18A:36A-1 et seq.)

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

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

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

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

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

1 entity has been selected by the school district pursuant to a  
2 solicitation of proposals or qualifications from at least two private  
3 entities. For the purposes of this subsection, a public entity shall  
4 include the New Jersey Economic Development Authority, and any  
5 project undertaken pursuant to this section of which the authority  
6 becomes the owner or lessee, or which is situated on land of which  
7 the authority becomes the lessee, shall be deemed a "project" under  
8 "The New Jersey Economic Development Authority Act," P.L.1974,  
9 c.80 (C.34:1B-1 et seq.).

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

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

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

47 (2) All projects proposed in accordance with this section shall  
48 be submitted to the State Treasurer, in consultation with the

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

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

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

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

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

1 will result in timely and efficient development and operation, and  
2 (vi) the risks, liabilities and responsibilities transferred to the  
3 private entity provide sufficient benefits to warrant not using other  
4 means of procurement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19

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

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

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

32

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (cf: P.L.2014, c.61, s.3) **1**

36

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

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

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

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

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

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

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

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

46 (2) for each project undertaken pursuant to a redevelopment  
47 agreement which allows the redeveloper to undertake two or more  
48 projects sequentially, the financial agreement may specify a duration

1 of not more than 30 years from the completion of a project, or unit of  
2 the project if the project is undertaken in units, or not more than 50  
3 years from the execution of the first financial agreement implementing  
4 a project under the redevelopment agreement. As used in this  
5 subsection, "redevelopment agreement" means an agreement entered  
6 into pursuant to subsection f. of section 8 of P.L.1992, c.79  
7 (C.40A:12A-8) between a municipality or redevelopment entity and a  
8 redeveloper.

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

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

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

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

1 project unit cost shall not be more than 2% in the case of a low and  
2 moderate income housing project, and shall not be less than 2% in the  
3 case of all other projects.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39

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

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

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

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

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

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

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

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

1 perform the duties of the office faithfully, impartially and justly to the  
2 best of the member's ability. A record of the oath shall be filed in the  
3 Office of the Secretary of State.

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

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

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

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

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

47 j. The development authority may be dissolved by act of the  
48 Legislature on condition that the development authority has no debts

1 or obligations outstanding or that provision has been made for the  
2 payment or retirement of such debts or obligations. Upon any such  
3 dissolution of the development authority, all property, funds and assets  
4 thereof shall be vested in the State.

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

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

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

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

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

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

37

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

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

41 a. To adopt bylaws for the regulation of its affairs and the  
42 conduct of its business;

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

44 c. To sue and be sued;

45 d. To acquire in the name of the development authority by  
46 purchase or otherwise, on such terms and conditions and such manner  
47 as it may deem proper, or by the exercise of the power of eminent  
48 domain in the manner provided by the "Eminent Domain Act of 1971,"

- 1 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
2 other property which it may determine is reasonably necessary for any  
3 school facilities project;
- 4 e. To enter into contracts with a person upon such terms and  
5 conditions as the development authority shall determine to be  
6 reasonable, including, but not limited to, for the planning, design,  
7 construction, reconstruction, improvement, equipping, furnishing,  
8 operation and maintenance of a school facilities project and the  
9 reimbursement thereof, and to pay or compromise any claims arising  
10 therefrom;
- 11 f. To sell, convey or lease to any person all or any portion of its  
12 property, for such consideration and upon such terms as the  
13 development authority may determine to be reasonable;
- 14 g. To mortgage, pledge or assign or otherwise encumber all or  
15 any portion of any property or revenues, whenever it shall find such  
16 action to be in furtherance of the purposes of P.L.2000, c.72  
17 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 18 h. To grant options to purchase or renew a lease for any of its  
19 property on such terms as the development authority may determine to  
20 be reasonable;
- 21 i. To contract for and to accept any gifts or grants or loans of  
22 funds or property or financial or other aid in any form from the United  
23 States of America or any agency or instrumentality thereof, or from the  
24 State or any agency, instrumentality or political subdivision thereof, or  
25 from any other source and to comply, subject to the provisions of  
26 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
27 235 et al.), with the terms and conditions thereof;
- 28 j. In connection with any application for assistance under  
29 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235  
30 et al.) or commitments therefor, to require and collect such fees and  
31 charges as the development authority shall determine to be reasonable;
- 32 k. To adopt, amend and repeal regulations to carry out the  
33 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137  
34 (C.52:18A-235 et al.);
- 35 l. To acquire, purchase, manage and operate, hold and dispose of  
36 real and personal property or interests therein, take assignments of  
37 rentals and leases and make and enter into all contracts, leases,  
38 agreements and arrangements necessary or incidental to the  
39 performance of its duties;
- 40 m. To purchase, acquire and take assignments of notes, mortgages  
41 and other forms of security and evidences of indebtedness;
- 42 n. To purchase, acquire, attach, seize, accept or take title to any  
43 property by conveyance or by foreclosure, and sell, lease, manage or  
44 operate any property for a use specified in P.L.2000, c.72 (C.18A:7G-  
45 1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 46 o. (1) To employ consulting engineers, architects, attorneys, real  
47 estate counselors, appraisers, and such other consultants and  
48 employees as may be required in the judgment of the development

1 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et  
2 al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their  
3 compensation from funds available to the development authority  
4 therefor, all without regard to the provisions of Title 11A of the New  
5 Jersey Statutes, provided, however, that an affirmative vote of the  
6 development authority shall be required in the hiring, termination, and  
7 disciplining of '【employees】 the management team'<sup>1</sup> of the  
8 development authority, '【as well as in the transfer of any employees  
9 of the development authority among different subunits of the  
10 development authority】 which shall include the Chief Executive  
11 Officer, the Vice President and Chief Financial Officer, and the Vice  
12 President of Corporate Governance'<sup>1</sup>;

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

19 p. To do and perform any acts and things authorized by 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 under, through or by means of its own officers, agents and employees,  
22 or by contract with any person;

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

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

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

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

1 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137  
2 (C.52:18A-235 et al.);

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

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

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

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

21

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

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

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

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

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

1 c. Except where the contracting unit is the Department of  
2 Transportation, all design-build construction projects shall be  
3 encouraged to adhere to the Leadership in Energy and  
4 Environmental Design Green Building Rating System as adopted by  
5 the United States Green Building Council, the Green Globes  
6 Program adopted by the Green Building Initiative, or a comparable  
7 nationally recognized, accepted, and appropriate sustainable  
8 development system.

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

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

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

24  
25 <sup>1</sup>30. (New section) As used in sections 31 through 34 of P.L. ,  
26 c. (C. ) (pending before the Legislature as this bill):

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

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

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

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

45 “Department” means the Department of Education.

46 “Eligible borrower” means a non-profit charter school, non-profit  
47 renaissance school project, community development financial  
48 institution, charter school development corporation, eligible lender,

1 a non-profit entity with expertise in charter school lending that can  
2 leverage the loan, and any other entity designated an eligible  
3 borrower by the authority. Eligible borrower shall not include a  
4 charter school or renaissance school project that is operated by a  
5 for-profit management company.

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

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

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

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

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

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

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

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

40  
41 <sup>1</sup>31. (New section) Notwithstanding the provisions of section  
42 10 of P.L.1995, c.426 (C.18A:36A-10), section 7 of P.L.2011, c.176  
43 (C.18A:36C-7), or any other law, rule, or regulation to the contrary:

44 a. a charter school, renaissance school project, or any other  
45 eligible borrower authorized to undertake a school facilities project  
46 pursuant to sections 30 through 34 of P.L. , c. (C. )  
47 (pending before the Legislature as this bill) shall be subject to the

1 public bidding requirements provided pursuant to the “Public  
2 School Contracts Law,” N.J.S.18A:18A-1 et seq.;

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

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

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

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

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

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

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

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

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

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

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

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

10 (vi) security and communication systems upgrades;

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

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

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

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

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

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

47 c. An eligible borrower seeking a loan for a school facilities  
48 project pursuant to the provisions of this section shall apply to the

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

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

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

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

1 pursuant to paragraph (2) of this subsection,<sup>2</sup> for consideration in an  
 2 amount calculated as follows:

3 <sup>2</sup>**[(1)]** (a)<sup>2</sup> if the principal and interest due on any outstanding  
 4 debt used to finance a school facilities project pursuant to the  
 5 provisions of sections 30 through 34 of P.L. , c. (C. ) (pending  
 6 before the Legislature as this bill) of a charter school or renaissance  
 7 school project is equal to or greater than the fair market value of the  
 8 charter school or renaissance school project, as determined by a  
 9 certified appraiser agreed to by the board of education of the district in  
 10 which the charter school or renaissance school project is located and  
 11 the owner of the charter school or renaissance school project, <sup>2</sup>[the  
 12 board of education of the district in which the charter school or  
 13 renaissance school project is located] <sup>3</sup>[the] an<sup>3</sup> eligible borrower<sup>2</sup> or  
 14 the <sup>4</sup>[State] Department of the Treasury<sup>4</sup> shall assume any  
 15 outstanding debt used to finance the school facilities project of the  
 16 charter school or renaissance school project, and thereafter <sup>2</sup>[the board  
 17 of education of the district in which the charter school or renaissance  
 18 school project is located] an eligible borrower<sup>2</sup> or the State shall be  
 19 legally obligated for the payment thereof; or

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

43 (2) The authority shall require, as a condition of a loan for a school  
 44 facilities project pursuant to the provisions of sections 30 through 34  
 45 of P.L. , c. (C. ) (pending before the Legislature as this bill) on  
 46 a school facility owned by the charter school or renaissance school  
 47 project that, notwithstanding the provisions of section 7 of P.L.2013,

1 c.149 (C.18A:36C-16) or any other law, rule, or regulation to the  
2 contrary, in the event the authorization to operate a charter school is  
3 revoked, not renewed, or surrendered or the authorization to operate a  
4 renaissance school project is terminated or expired for any reason, and  
5 no substitute or replacement owner or operator for that charter school  
6 or renaissance school project has been approved prior to the date that  
7 the operations of the charter school or renaissance school project  
8 cease, the board of education of the district in which the charter school  
9 or renaissance school project is located shall have the right of first  
10 refusal of the title to the charter school or renaissance school project  
11 school facility. If the title transfers to the board of education, the State  
12 shall assume, pursuant to subparagraph (a) of paragraph (1) of this  
13 subsection, or pay, any outstanding debt used to finance a school  
14 facilities project of the charter school or renaissance school project  
15 pursuant to the provisions of sections 30 through 34 of  
16 P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>

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

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

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

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

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

43 <sup>2</sup>i. In the event that the aggregate amount of a loan provided  
44 pursuant to this section exceeds \$5,000,000 for a school facilities  
45 project approved pursuant to the provisions of sections 30 through 34  
46 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
47 the authority shall require as a condition of the loan that the school

1 facilities project be subject to the provisions of <sup>3</sup>[the Schools  
2 Development Authority's] a<sup>3</sup> project labor agreement.<sup>2</sup>

3  
4 <sup>1</sup>33. (New section) a. The authority shall establish and  
5 maintain the "Charter School and Renaissance School Project  
6 Facilities Loan Fund," which shall be a non-lapsing, revolving fund  
7 that shall serve as the repository of all monies used to support the  
8 loan program.

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

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

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

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

1 32 of P.L. , c. (C. )(pending before the Legislature as this  
2 bill).<sup>2</sup><sup>3</sup>

3

4 <sup>1</sup>[31.] <sup>2</sup>[35.1] <sup>3</sup>[37.2] 36.<sup>3</sup> This act shall take effect  
5 immediately.

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9

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