

**ASSEMBLY, No. 3119**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Burlington and Camden)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

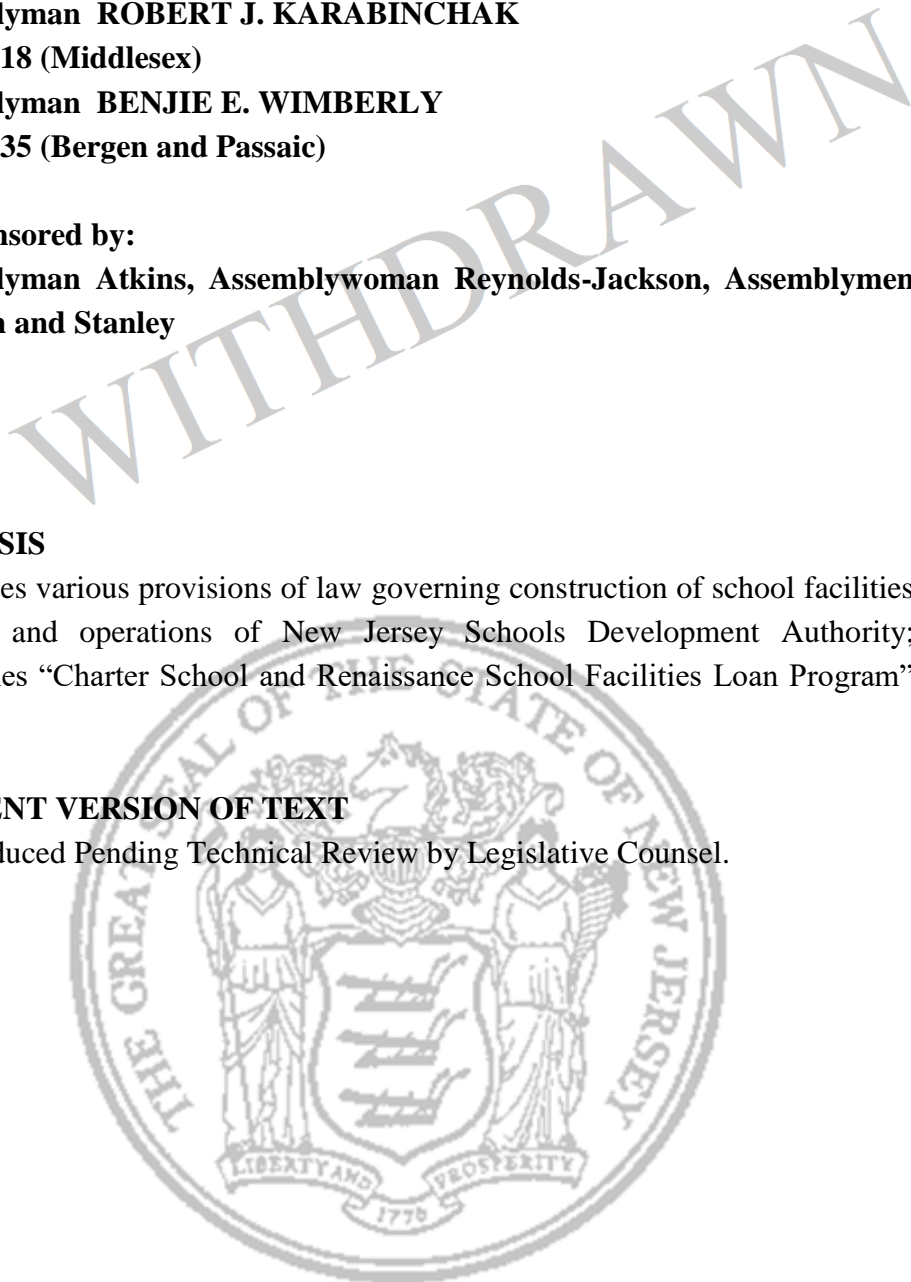
**Assemblyman Atkins, Assemblywoman Reynolds-Jackson, Assemblymen  
Freiman and Stanley**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

13 2. The Legislature finds and declares that:

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

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

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

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

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

Matter underlined thus is new matter.

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

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

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

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

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

31 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

37 "Final eligible costs" means for school facilities projects to be  
38 constructed by the development authority, the final eligible costs of the  
39 school facilities project as determined by the commissioner, in  
40 consultation with the development authority, pursuant to section 5 of  
41 P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final  
42 eligible costs of the project as determined by the commissioner and  
43 reviewed by the development authority which may include the cost of  
44 community design features determined by the commissioner to be an  
45 integral part of the school facility and which do not exceed the  
46 facilities efficiency standards, and which were reviewed by the  
47 development authority and approved by the State Treasurer pursuant to  
48 section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than

1 SDA districts, final eligible costs as determined pursuant to paragraph  
2 (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

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

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

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

43 "“Kit of Parts” standardized school design elements” means the  
44 prototypical design utilizing standardized Modern Building  
45 Component Elements, Model Educational Specifications, and Model  
46 Program Templates created by the development authority for the  
47 efficient, adaptable, and scalable organization and configuration of



1 instructional, large group assembly, and other elements within a school  
2 facilities project;

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

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

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

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

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

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

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

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

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

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

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

15 “Model Educational Specifications” means the development of:

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

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

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

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

31 “Other allowable costs” means the costs of temporary facilities,  
32 site development, acquisition of land or other real property interests  
33 necessary to effectuate the school facilities project, fees for the  
34 services of design professionals, including architects, engineers,  
35 construction managers and other design professionals, legal fees,  
36 financing costs and the administrative costs of the development  
37 authority and the financing authority or the district incurred in  
38 connection with the school facilities project;

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

45 “Preliminary eligible costs” means the initial eligible costs of a  
46 school facilities project as calculated pursuant to the formulas set forth  
47 in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided  
48 pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall

1 be deemed to include the costs of construction and other allowable  
2 costs;

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

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

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

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

27 "School facility" means and includes any structure, building, or  
28 facility used wholly or in part for educational purposes by a district  
29 and facilities that physically support such structures, buildings and  
30 facilities, such as district wastewater treatment facilities, power  
31 generating facilities, and steam generating facilities, but shall exclude  
32 other facilities;

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

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

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

48 "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 in the case of a school facilities  
27 project to be financed pursuant to section 15 of P.L.2000, c.72  
28 (C.18A:7G-15), the State share as determined pursuant to that section;

29 "Total costs" means, in the case of a school facilities project which  
30 is to be constructed by the development authority or a redevelopment  
31 entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-  
32 15), the final eligible costs plus excess costs if any; and in the case of a  
33 school facilities project which is not to be constructed by the  
34 development authority or a redevelopment entity or financed pursuant  
35 to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the  
36 project as determined by the district.  
37 (cf: P.L.2007, c.260, s.39)

38

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

41 4. a. (1) By December 15, 2000 and by October 1, 2005, each  
42 district shall prepare and submit to the commissioner a long-range  
43 facilities plan that details the district's school facilities needs and the  
44 district's plan to address those needs for the ensuing five years.  
45 Following the approval of the 2005 long-range facilities plan, each  
46 district shall amend its long-range facilities plan at least once every  
47 five years to update enrollment projections, building capacities, and  
48 health and safety conditions. The long-range facilities plan shall

1 incorporate the facilities efficiency standards and shall be filed with  
2 the commissioner for approval in accordance with those standards.  
3 For those Abbott districts that have submitted long-range facilities  
4 plans to the commissioner prior to the effective date of P.L.2000, c.72  
5 (C.18A:7G-1 et al.), this subsection shall not be read to require an  
6 additional filing by October 1, 2000.

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

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

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

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

45 d. Each long-range facilities plan shall include a cohort survival  
46 methodology or other methodology approved by the commissioner,  
47 accompanied by a certification by a qualified demographer retained by

1 the district that serves as the basis for identifying the capacity and  
2 program needs detailed in the long-range facilities plan.

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

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

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

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

45 The facilities efficiency standards developed by the commissioner  
46 shall not be construction design standards but rather shall represent the  
47 instructional spaces, specialized instructional areas, and administrative  
48 spaces that are determined by the commissioner to be educationally

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

13 Within a reasonable period of time after the effective date of  
14 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the  
15 facilities efficiency standards developed for the 2000-2001, 2001-  
16 2002, and 2002-2003 school years in the New Jersey Register. Within  
17 a reasonable period of time after 30 days after publication in the New  
18 Jersey Register, the commissioner shall file the facilities efficiency  
19 standards with the Office of Administrative Law and those standards  
20 shall become effective immediately upon filing with the Office of  
21 Administrative Law. During the 30-day period the commissioner shall  
22 provide an opportunity for public comment on the proposed facilities  
23 efficiency standards.

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

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

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

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

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

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

23 (cf: P.L.2007, c.260, s.40)  
24

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

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

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

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

47 d. (1) Any district seeking to initiate a school facilities project  
48 shall apply to the commissioner for approval of the project. The



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

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

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

34 (c) In the case of a district other than an SDA district, the project  
35 design of a school facilities project may conform to the standards of  
36 the model school design program developed by the development  
37 authority pursuant to paragraph (2) of subsection h. of section 4 of  
38 P.L.2000, c.72 (C.18A:7G-4).

39 e. The commissioner shall review each proposed school facilities  
40 project to determine whether it is consistent with the district's long-  
41 range facilities plan and whether it complies with the facilities  
42 efficiency standards and the area allowances per FTE student derived  
43 from those standards; and in the case of an SDA district the  
44 commissioner shall also review the project's educational priority  
45 ranking and the Statewide strategic plan developed pursuant to  
46 paragraphs (2) and (3) of subsection m. of this section and whether the  
47 project conforms to the standards of the model school design program;  
48 and in the case of a district other than an SDA district the

1 commissioner shall also review the project's priority pursuant to  
2 paragraph (4) of subsection m. of this section. The commissioner shall  
3 make a decision on a district's application within 90 days from the date  
4 the commissioner determines that the application is fully and  
5 accurately completed and that all information necessary for a decision  
6 has been filed by the district, or from the date of the last revision made  
7 by the district. If the commissioner is not able to make a decision  
8 within 90 days, the commissioner shall notify the district in writing  
9 explaining the reason for the delay and indicating the date on which a  
10 decision on the project will be made, provided that the date shall not  
11 be later than 60 days from the expiration of the original 90 days set  
12 forth in this subsection. If the decision is not made by the subsequent  
13 date indicated by the commissioner, then the project shall be deemed  
14 approved and the preliminary eligible costs for new construction shall  
15 be calculated by using the proposed square footage of the building as  
16 the approved area for unhoused students.

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

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

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

47 (2) The commissioner may waive a facilities efficiency standard if  
48 the board of education or State district superintendent, as appropriate,

1 demonstrates to the commissioner's satisfaction that the waiver will  
2 not adversely affect the educational adequacy of the school facility,  
3 including the ability to deliver the programs and services necessary to  
4 enable all students to achieve the core curriculum content standards.

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

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

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

1 c.72 (C.18A:7G-3) plus 0.25, or 100 percent for any nonconforming  
2 spaces approved by the commissioner pursuant to this paragraph.

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

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

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

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

1 preliminary eligible costs of the project; the project's priority ranking  
2 determined pursuant to subsection m. of this section; any other factors  
3 to be considered by the development authority in undertaking the  
4 project; and the name and address of the person from the district to  
5 contact in regard to the project.

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

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

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

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

41 (b) If the development authority determines that it is not possible  
42 to make changes in the school facilities project so that it can be  
43 completed within the preliminary eligible costs either because the  
44 additional costs are the result of factors outside the control of the  
45 district or the additional costs are required to meet the facilities  
46 efficiency standards, the development authority shall recommend to  
47 the commissioner that the preliminary eligible costs be increased  
48 accordingly, whereupon the commissioner shall: calculate the final



1 eligible costs to equal the sum of the preliminary eligible costs plus the  
2 increase recommended by the development authority; give final  
3 approval to the project; and issue a final project report to the  
4 development authority pursuant to subsection j. of this section.

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

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

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

41 k. For the SDA districts, the State share shall be 100 percent of  
42 the final eligible costs. Except as otherwise provided pursuant to  
43 section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other districts, the  
44 State share shall be an amount equal to the district aid percentage;  
45 except that the State share shall not be less than 40 percent of the final  
46 eligible costs.

47 If any district which is included in district factor group A or B,  
48 other than an SDA district, is having difficulty financing the local

1 share of a school facilities project, the district may apply to the  
2 commissioner to receive 100 percent State support for the project and  
3 the commissioner may request the approval of the Legislature to  
4 increase the State share of the project to 100 percent.

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

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

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

35 (3) (a) Upon the commissioner's determination of the educational  
36 priority ranking of school facilities projects in SDA districts pursuant  
37 to paragraph (2) of this subsection, the development authority, in  
38 consultation with the commissioner, the SDA districts, and the  
39 governing bodies of the municipalities in which the SDA districts are  
40 situate, shall establish a Statewide strategic plan to be used in the  
41 sequencing of SDA district school facilities projects based upon the  
42 projects' educational priority rankings and issues which impact the  
43 development authority's ability to complete the projects including, but  
44 not limited to, the construction schedule and other appropriate factors.  
45 The development authority shall revise the Statewide strategic plan  
46 and the sequencing of SDA district school facilities projects in  
47 accordance with that plan no less than once every five years, except  
48 that the plan shall be updated within 120 days of the effective date of

1 P.L. , c. (C. ) (pending before the Legislature as this bill). In  
2 addition to any other information that the development authority may  
3 deem appropriate, the Statewide strategic plan shall include a  
4 description of the project, which shall indicate whether the project will  
5 be new construction or renovation and whether the project will require  
6 the acquisition of land

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

9 (i) new construction projects;

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

12 (iii) projects needed to replace school buildings that have been in  
13 use for 100 or more years.

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

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

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

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

46 o. In the case of a school facilities project of a district other than  
47 an SDA district, any proceeds of school bonds issued by the district for  
48 the purpose of funding the project which remain unspent upon

1 completion of the project shall be used by the district to reduce the  
2 outstanding principal amount of the school bonds.

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

8 q. The development authority shall determine the cause of any  
9 costs of construction which exceed the amount originally projected by  
10 the development authority and approved for financing by the financing  
11 authority.

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

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

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

15

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

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

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

47 d. The county lease payments made to the county improvement  
48 authority pursuant to subsection c. of this section shall not be

1 subject to any cap on appropriations or on spending or to any tax  
2 levy cap. The county lease payments shall be sufficient to pay debt  
3 service on the county improvement authority bonds issued to fund  
4 the school facilities project, or any refunding bonds, that remains  
5 after the application of any State debt service aid paid on those  
6 bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The  
7 county lease payments shall be payable over the life of the bonds.

8 e. When the bonds issued by a county improvement authority  
9 are no longer outstanding, the leases and liens of the county and the  
10 county improvement authority shall expire and the school facilities  
11 project shall be solely vested in the school district. The school  
12 district shall be responsible for the operation, maintenance, and  
13 improvement of the school facility upon the completion of the  
14 school facilities project.

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

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

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

26 where

27  $A = B \times AC/P \times DAP \times M$ , with  $AC/P = 1$   
28 whenever  $AC/P$  would otherwise yield a number greater than one,  
29 and where:

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

32 AC is the preliminary eligible costs determined pursuant to section  
33 7 of P.L.2000, c.72 (C.18A:7G-7);

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

36 DAP is the district's district aid percentage as defined pursuant to  
37 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be  
38 less than 40 percent. If the project's design incorporates the  
39 implementation of energy efficiency improvements or the installation  
40 of energy efficient features or equipment, the DAP shall be increased  
41 by no more than five percent. In order to qualify for a DAP increase  
42 for the implementation of energy efficiency improvements or the  
43 installation of energy efficient features or equipment pursuant to this  
44 subsection, a district shall submit to the development authority and  
45 Department of Education a certification, along with evidential  
46 documentation, attesting that the project's design incorporates the  
47 implementation of energy efficiency improvements or the installation  
48 of energy efficient features or equipment; and



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

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

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

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

18 (1) Effective ten years from the date of the enactment of P.L.2000,  
 19 c.72 (C.18A:7G-1 et al.), the maintenance factor for aid for  
 20 reconstruction, remodeling, alteration, modernization, renovation or  
 21 repair, or for an addition to a school facility, shall be zero for all  
 22 school facilities projects for which the district fails to demonstrate over  
 23 the ten years preceding issuance a net investment in maintenance of  
 24 the related school facility of at least two percent of the replacement  
 25 cost of the school facility, determined pursuant to subsection b. of  
 26 section 7 of P.L.2000, c.72 (C.18A:7G-7) using the area cost  
 27 allowance of the year ten years preceding the year in which the school  
 28 bonds are issued.

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

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

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

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

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

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

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

30  
31       7. (New section) a. Notwithstanding any provision of law to the  
32 contrary, when the board of education of a district determines that it is  
33 not financing a school facilities project under section 15 of P.L.2000,  
34 c.72 (C.18A:7G-15) and that it is necessary to sell bonds to raise  
35 money for the total costs of a school facilities project, the board of  
36 education may issue such bonds as are necessary to fund the project  
37 without the approval of the voters of the district, provided that before  
38 issuing the bonds:

39       (1) the board of education has entered into a written contract with  
40 one or more municipalities, wherein the municipality shall annually  
41 remit to the board of education a portion of the payments in lieu of  
42 taxes received by the municipality from one or more designated  
43 properties, which portion shall be sufficient for the full repayment of  
44 the bonds, and the board of education shall pledge all remittances to  
45 the full repayment of the bonds; and

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

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

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

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

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

29  
30       8. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read  
31 as follows:

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

46       b. The financing authority shall undertake the financing of school  
47 facilities projects pursuant to the provisions of this act. The financing  
48 authority shall finance the State share of a school facilities project and

1 may, in its discretion and upon consultation with the district, finance  
2 the local share of the project. In the event that the financing authority  
3 finances only the State share of a project, the development authority  
4 shall not commence acquisition or construction of the project until the  
5 development authority receives the local share from the district.

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

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

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

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

1 the experience of the SDA district, the size, complexity, and cost of  
2 the project, time constraints, and other relevant factors.

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

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

17 (5) If the development authority determines to delegate a school  
18 facilities project to an SDA district in accordance with paragraph (2)  
19 of this subsection, the SDA district shall be deemed to be in  
20 noncompliance with the grant agreement entered into pursuant to  
21 paragraph (4) of this subsection if the district enters into a contract  
22 with a contractor, subcontractor, or consultant which is debarred,  
23 suspended, or disqualified from State, development authority, or  
24 federal government contracting at the time of the contract award<sup>1</sup> or  
25 with a firm which has not been prequalified by the development  
26 authority. If the district enters into a contract with a debarred,  
27 suspended, or disqualified contractor, subcontractor, or consultant,  
28 then the grant agreement shall be rendered null and void.

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

30

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

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

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



1 (C.18A:7G-15); and financing the acquisition of school facilities  
2 projects to permit the refinancing of debt by the district pursuant to  
3 section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the  
4 provisions of this section to the contrary, bonds and refunding bonds,  
5 or any indebtedness or other borrowed moneys, secured, in whole or in  
6 part, by moneys received pursuant to sections 17, 18, and 19 of  
7 P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19) or,  
8 pursuant to this section after the effective date of P.L. , c. (C. )  
9 (pending before the Legislature as this bill) shall not be issued for the  
10 purposes of financing costs related to the issuance of the bonds,  
11 indebtedness, or other borrowed moneys including, but not limited to,  
12 the administrative, non-project insurance, operating and other  
13 expenses of the financing authority to undertake the financing, and the  
14 development authority to undertake the planning, design, and  
15 construction of school facilities projects. Bonds, indebtedness, or other  
16 borrowed moneys issued pursuant to this section shall also not be  
17 issued for the purposes of financing any costs related to the issuance of  
18 moneys lent to local units to pay the costs of all or a portion of school  
19 facilities projects. The administrative, non-project insurance,  
20 operating, and other expenses of the financing authority related to  
21 undertaking the financing of school facilities projects pursuant to this  
22 section shall be supported by State appropriations. The administrative,  
23 non-project insurance, operating, and other expenses of the  
24 development authority to undertake the planning, design, and  
25 construction of school facilities projects shall be funded by State  
26 appropriations pursuant to paragraph (2) of subsection o. of section 4  
27 of P.L.2007, c.137, (C.52:18A-238). Bonds and refunding bonds, or  
28 any indebtedness or other borrowed moneys issued pursuant to this  
29 section after the effective date of P.L. , c. (C. ) (pending before  
30 the Legislature as this bill) shall only be issued for the purposes of:  
31 financing all or a portion of the costs of school facilities projects;  
32 lending moneys to local units to pay the costs of all or a portion of  
33 school facilities projects; funding the grants to be made pursuant to  
34 section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the  
35 acquisition of school facilities projects to permit the refinancing of  
36 debt by the district pursuant to section 16 of P.L.2000, c.72  
37 (C.18A:7G-16). The aggregate principal amount of the bonds, notes or  
38 other obligations issued by the financing authority as authorized  
39 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:  
40 \$100,000,000 for the State share of costs for county vocational school  
41 district school facilities projects; \$6,000,000,000 for the State share of  
42 costs for Abbott district school facilities projects; and \$2,500,000,000  
43 for the State share of costs for school facilities projects in all other  
44 districts. The aggregate principal amount of the bonds, notes or other  
45 obligations issued by the financing authority as authorized pursuant to  
46 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:  
47 \$2,900,000,000 for the State share of costs of SDA district school  
48 facilities projects; and \$1,000,000,000 for the State share of costs for

1 school facilities projects in all other districts, \$50,000,000 of which  
2 shall be allocated for the State share of costs for county vocational  
3 school district school facilities projects. This limitation shall not  
4 include any bonds, notes or other obligations issued for refunding  
5 purposes.

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

25 b. The financing authority shall issue the bonds or refunding  
26 bonds in such manner as it shall determine in accordance with the  
27 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
28 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);  
29 provided that notwithstanding any other law to the contrary, no  
30 resolution adopted by the financing authority authorizing the issuance  
31 of bonds or refunding bonds pursuant to this section shall be adopted  
32 or otherwise made effective without the approval in writing of the  
33 State Treasurer; and refunding bonds issued to refund bonds issued  
34 pursuant to this section shall be issued on such terms and conditions as  
35 may be determined by the financing authority and the State Treasurer.  
36 The financing authority may, in any resolution authorizing the  
37 issuance of bonds or refunding bonds issued pursuant to this section,  
38 pledge the contract with the State Treasurer provided for pursuant to  
39 section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or  
40 may pledge all or any part of the repayments of loans made to local  
41 units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the  
42 payment or redemption of the bonds or refunding bonds, and covenant  
43 as to the use and disposition of money available to the financing  
44 authority for payment of the bonds and refunding bonds. All costs  
45 associated with the issuance of bonds and refunding bonds by the  
46 financing authority for the purposes set forth in this act may be paid by  
47 the financing authority from amounts it receives from the proceeds of  
48 the bonds or refunding bonds, and from amounts it receives pursuant

1 to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-  
2 18 and C.18A:7G-19). The costs may include, but shall not be limited  
3 to, any costs relating to the issuance of the bonds or refunding bonds,  
4 administrative costs of the financing authority attributable to the  
5 making and administering of loans and grants to fund school facilities  
6 projects, and costs attributable to the agreements entered into pursuant  
7 to subsection d. of this section. Notwithstanding the provisions of this  
8 section to the contrary, the proceeds of bonds and refunding bonds that  
9 are issued pursuant to this section after the effective date of P.L. , c.  
10 (C. ) (pending before the Legislature as this bill) shall not pay for  
11 the administrative costs of the financing authority associated with the  
12 issuance of the bonds and refunding bonds including, but not limited  
13 to, administrative costs of the financing authority attributable to the  
14 making and administering of loans and grants to fund school facilities  
15 projects, and costs attributable to the agreements entered into pursuant  
16 to subsection d. of this section. Such costs of the financing authority  
17 shall be supported by State appropriations.

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

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

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

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

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

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

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

44 (7) A mortgage on all or any part of the property, real or personal,  
45 comprising a school facilities project then owned or thereafter to be  
46 acquired, or a pledge or assignment of mortgages made to the  
47 financing authority by any person or entity, public or private, including

1 one or more local units and rights and interests of the financing  
2 authority therein; and

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

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

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

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

1 any political subdivision thereof, and all bonds and refunding bonds  
2 issued by the financing authority shall contain a statement to that  
3 effect on their face.

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

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

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

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

45 (2) the Regular Operating District Construction and Maintenance  
46 Grants Fund, in which shall be deposited any funds made available for  
47 the State share of costs for school facilities projects in districts other  
48 than SDA districts, which funds shall include, but not be limited to, the



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

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

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

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

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

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

37 15. a. In the case of a district other than an SDA district, for any  
38 project approved by the commissioner after the effective date of  
39 P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect to receive a  
40 one-time grant for the State share of the project in accordance with the  
41 provisions of subsection b. of this section rather than annual debt  
42 service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State  
43 share payable to the district shall equal the product of the project's  
44 final eligible costs and the district aid percentage or 40 percent,  
45 whichever is greater. If the project's design incorporates the  
46 implementation of energy efficiency improvements or the installation  
47 of energy efficient features or equipment, the district aid percentage  
48 shall be increased by no more than five percent. In order to qualify for

1 a district aid percentage increase for the implementation of energy  
2 efficiency improvements or the installation of energy efficient features  
3 or equipment pursuant to this subsection, a district shall submit to the  
4 development authority and Department of Education a certification,  
5 along with evidential documentation, attesting that the project's design  
6 incorporates the implementation of energy efficiency improvements or  
7 the installation of energy efficient features or equipment.

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

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

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

26  
27 11. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to  
28 read as follows:

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

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

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

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

25  
26       13. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to  
27 read as follows:

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

38       b. A board of education or a board of school estimate, as  
39 appropriate, may appropriate funds in the district's annual budget  
40 for the establishment of the capital reserve account pursuant to  
41 subsection a. of this section or to supplement the funds in the  
42 account as required to meet the needs of the long-range facilities  
43 plan.

44       c. A board of education may, by resolution of the board:  
45 transfer funds from the capital reserve account to the appropriate  
46 line item account for the funding of capital projects as contained in  
47 the district's long-range facilities plan; and transfer funds from the  
48 capital reserve account to the debt service account for the purpose

1 of offsetting principal and interest payments for bonded projects  
2 which are included in the district's long-range facilities plan.

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

13  
14 14. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to  
15 read as follows:

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

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

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

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

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

41 (5) Disclosure of any judgments, convictions or criminal  
42 indictments for any conduct constituting a crime under local, State or  
43 federal law. The prospective bidder shall also disclose whether, in the  
44 past five years, the following have been convicted of a criminal  
45 offense under local, State, or federal law: the contractor; the  
46 contractor's corporate directors or officers; any employee of the  
47 contractor serving in a supervisory capacity or who is empowered to  
48 make discretionary decisions with respect to bids or public works

1 contracts; or any individual who owns five percent or more of any  
2 class of stock in the corporation or is a five percent or more partner in  
3 the firm. Failure to disclose a conviction of a criminal offense  
4 pursuant to this paragraph shall constitute cause for the denial or  
5 revocation of a contractor's prequalification status;

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

10 (7) Disclosure of any determination for violations of federal, State  
11 or local laws, rules or regulations, including health laws,  
12 unemployment insurance or workers' compensation coverage or claim  
13 requirements, the "Employee Retirement Income Security Act of  
14 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
15 environmental laws, safety laws, licensing laws, tax laws and antitrust  
16 laws;

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

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

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

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

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

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

44 b. After the receipt of the submission provided for in subsection  
45 a. of this section, the development authority may verify information  
46 provided in the contractor's submission, including applicable license  
47 and certificate requirements, federal or State debarments and



1 violations of law. The development authority may also conduct  
2 random inquiries or surveys of the contractor's prior customers.

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

7 (1) a trade or work classification; and

8 (2) an aggregate rating limit.

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

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

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

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

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

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

30  
31 15. (New section) a. As part of the application process  
32 established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for  
33 the prequalification of a contractor that desires to bid on school  
34 facilities projects, the development authority shall seek certification  
35 from the Department of Labor and Workforce Development and the  
36 Department of the Treasury that the contractor is in substantial good  
37 standing with the respective department or has entered into an  
38 agreement with the respective department that includes a practical  
39 corrective action plan for the contractor.

40 b. As part of the application process established under section  
41 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a  
42 contractor that desires to bid on school facilities projects, the  
43 development authority shall undertake a moral integrity review,  
44 which shall include a criminal history record check, judgment  
45 search, and lien search of:

46 (1) the contractor;

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

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

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

7 c. The development authority shall not approve the application  
8 of a contractor for prequalification to bid on a school facilities  
9 projects if the contractor has been convicted of a criminal offense  
10 under local, State, or federal law or if, at the time of the application,  
11 the contractor is disbarred, suspended, or disqualified from State,  
12 development authority, or federal government contracting.

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

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

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

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

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

34  
35 17. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to  
36 read as follows:

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

41 b. A contractor shall be notified of a performance evaluation.  
42 The contractor shall be afforded an opportunity to respond to an  
43 adverse evaluation. Following the opportunity for the contractor to  
44 respond to an adverse evaluation, the development authority may  
45 revoke a contractor's prequalification to bid on school facilities  
46 projects, provided that the contractor had a below average score  
47 according to the development authority's scoring criteria for the

1 mandatory uniform evaluation conducted pursuant to subsection a. of  
2 this section.

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

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

6

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

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

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

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

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

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

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

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

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

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

41

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

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

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

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

37

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

47       b. Under the Emergent Condition Remediation Program  
48 established pursuant to subsection a. of this section, the development

1 authority shall create a process whereby contractors prequalified by  
2 the development authority to bid on school facilities projects apply to  
3 be a part of a pool of contractors available to address emergent  
4 conditions in SDA districts under a standing retainer agreement  
5 subject to the development authority's project labor agreement for  
6 emergent projects in accordance with the provisions of P.L.2002, c.44  
7 (C.52:38-1 et seq.). The prequalified contractors that are part of the  
8 pool of contractors established pursuant to this subsection shall be  
9 available for any emergent project in any SDA district. Nothing in this  
10 subsection shall be construed as requiring the retainer of prequalified  
11 contractors for specific emergent projects.

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

18  
19 21. (New section) Notwithstanding the provisions of any law,  
20 rule, or regulation to the contrary, an SDA district to which the  
21 development authority has delegated management of a school  
22 facilities project shall not enter into a cooperative pricing system or  
23 agreement for construction services on school facilities projects.

24  
25 22. N.J.S.18A:18A-4 is amended to read as follows:

26 18A:18A-4. a. Every contract for the provision or performance  
27 of any goods or services, the cost of which in the aggregate exceeds  
28 the bid threshold, shall be awarded only by resolution of the board  
29 of education to the lowest responsible bidder after public  
30 advertising for bids and bidding therefor, except as is provided  
31 otherwise in this chapter or specifically by any other law.

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

37 (1) any board of education has had prior negative experience  
38 with the bidder within the past 10 years, as reported in a contractor  
39 evaluation submitted pursuant to N.J.S. 18A:18A-15; or

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



1 performance evaluation conducted pursuant to section 62 of  
2 P.L.2000, c.72 (C.18A:7G-36), as appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35

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

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

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

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

5

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

8 2. a. As used in this section:

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

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

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

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

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

37 b. (1) A school district may enter into a contract with a private  
38 entity, subject to subsection f. of this section, to be referred to as a  
39 public-private partnership agreement, that permits the private entity  
40 to assume full financial and administrative responsibility for a  
41 project of, or for the benefit of, the school district, except that a  
42 school district may, by resolution, draw against its capital reserve  
43 account in order to finance a portion of a project for which a school  
44 district and private entity enter into a public-private partnership  
45 agreement pursuant to the provisions of this section.

46 (2) A public-private partnership agreement may include an  
47 agreement under which a school district and a private entity enter  
48 into a lease of a revenue-producing public building, structure, or

1 facility in exchange for up-front or structured financing by the  
2 private entity for the project. Under the lease agreement, the  
3 private entity shall be responsible for the management, operation,  
4 and maintenance of the building, structure, or facility. The private  
5 entity shall receive some or all, as per the agreement, of the revenue  
6 generated by the building, structure, or facility, and shall operate  
7 the building, structure, or facility in accordance with school district  
8 standards. At the end of the lease term, subsequent revenue  
9 generated by the building, structure, or facility, along with  
10 management, operation, and maintenance responsibility, shall revert  
11 to the school district. A lease agreement entered into pursuant to  
12 this section shall be limited in duration to a term of not more than  
13 30 years. A lease agreement shall be subject to all applicable  
14 provisions of current law governing leases by a school district not  
15 inconsistent with the provisions of this section.

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

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

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

42 (3) Prior to the commencement of work on a project, the private  
43 entity shall establish a construction account and appoint a third-  
44 party financial institution, who shall be prequalified by the State  
45 Treasurer to act as a collateral agent and manage the construction  
46 account. The construction account shall include the funding,  
47 financial instruments, or both, that shall be used to fully capitalize  
48 and fund the project, and the collateral agent shall maintain a full

1 accounting of the funds and instruments in the account. The funds  
2 and instruments in the construction account shall be held in trust for  
3 the benefit of the contractor, construction manager, and design-  
4 build team involved in the project. The funds and instruments in  
5 the construction account shall not be the property of the private  
6 entity unless all amounts due to the construction account  
7 beneficiaries are paid in full. The construction account shall not be  
8 designated for more than one project.

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

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

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

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



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

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

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

38 f. (1) All projects proposed in accordance with this section  
39 shall be submitted to the State Treasurer for review and approval,  
40 which shall be conducted in consultation with the Commissioner of  
41 the Department of Education and the Chief Executive Officer of the  
42 Schools Development Authority. The Commissioner of the  
43 Department of Education shall determine if a project is subject to  
44 voter approval pursuant to N.J.S.18A:24-10. If a project is subject  
45 to voter approval, such approval is required prior to progressing  
46 thru the procurement process. The projects are encouraged, when  
47 practicable, to adhere to the green building manual prepared by the

1 Commissioner of Community Affairs pursuant to section 1 of  
2 P.L.2007, c.132 (C.52:27D-130.6).

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

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

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

43 (4) The State Treasurer, in consultation with the authority, the  
44 Commissioner of the Department of Education, and the Chief  
45 Executive Officer of the Schools Development Authority, shall  
46 review all completed applications, and request additional  
47 information as is needed to make a complete assessment of the  
48 project. No public-private partnership agreement shall be executed

1 until approval has been granted by the State Treasurer. Prior to a  
2 final decision by the State Treasurer on the application, the  
3 authority, the Department of Education, and the Schools  
4 Development Authority shall be afforded the opportunity to provide  
5 comments on the application that they deem appropriate, and the  
6 State Treasurer shall consider any comments submitted by the  
7 authority, the Department of Education, and the Schools  
8 Development Authority with respect to the application. The State  
9 Treasurer will find that: (i) the school district's assumptions  
10 regarding the project's scope, its benefits, its risks and the cost of  
11 the public sector option were fully and reasonably developed (ii) the  
12 design of the project is feasible; (iii) the experience and  
13 qualifications of the private entity; (iv) the financial plan is sound;  
14 (v) the long-range maintenance plan is adequate to protect the  
15 investment; (vi) the project is in the best interest of the public,  
16 using the criteria in paragraph (6) of subsection e. of this section;  
17 (vii) a resolution by the school district's governing body of its intent  
18 to enter into a public-private partnership agreement for the project  
19 has been received; and (viii) the term sheet for any proposed  
20 procurement contains all necessary elements.

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

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

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

43 i. Any public-private partnership agreement, if appropriate,  
44 shall include provisions affirming that the agreement and any work  
45 performed under the agreement are subject to the provisions of the  
46 "Construction Industry Independent Contractor Act," P.L.2007,  
47 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement  
48 will also include, at a minimum: (i) the term of the agreement, (ii)

1 the total project cost, (iii) a completion date guarantee, (iv) a  
2 provision for damages if the private entity fails to meet the  
3 completion date, and (v) a maximum rate of return to the private  
4 entity and a provision for the distribution of excess earnings to the  
5 local government unit or to the private party for debt reduction.

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

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

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

36 (4) The school district may accept unsolicited proposals from  
37 private entities for public-private partnership agreements. If the  
38 school district receives an unsolicited proposal and determines that  
39 it meets the standards of this section, the school district shall  
40 publish a notice of the receipt of the proposal on the Internet site of  
41 the school district and through advertisement in at least one or more  
42 newspapers with Statewide circulation. The school district shall  
43 also provide notice of the proposal at its next scheduled public  
44 meeting and to the State Treasurer. To qualify as an unsolicited  
45 proposal, the unsolicited proposal must at a minimum include a  
46 description of the public-private project, the estimated construction  
47 and life-cycle costs, a timeline for development, proposed plan of  
48 financing, including projected revenues, public or private, debt,

1 equity investment, description of how the project meets needs  
2 identified in existing plans, the permits and approvals needed to  
3 develop the project from local, state and federal agencies and a  
4 projected schedule for obtaining such permits and approvals, a  
5 statement of risks, liabilities and responsibilities to be assumed by  
6 the private entity. The notice shall provide that the school district  
7 will accept, for 120 days after the initial date of publication,  
8 proposals meeting the standards of this section from other private  
9 entities for eligible projects that satisfy the same basic purpose and  
10 need. A copy of the notice shall be mailed to each municipal and  
11 county local government body in the geographic area affected by  
12 the proposal.

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

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

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

46 (8) Nothing in this section shall be construed as or deemed a  
47 waiver of the sovereign immunity of the State, the local government  
48 unit or an affected locality or public entity or any officer or



1 employee thereof with respect to the participation in or approval of  
2 all or any part of the public-private project.  
3 (cf: P.L.2018, c.90, s.2)

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

6 18A:21-4. A board of education may in any school year draw  
7 against its capital reserve account, up to the amount of the balance  
8 therein, to the extent that the withdrawal is anticipated as a revenue  
9 in the school budget for the then current school year or approved by  
10 the commissioner for good cause; provided, that no money drawn  
11 from the account may be used for current expenses of the general  
12 fund or debt service payments but shall be used exclusively for  
13 capital expenses of the general fund or capital projects fund when  
14 expressly authorized as part of a referendum, except as provided for  
15 in section 2 of P.L.2018, c.90 (C.18A:18A-60).

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

17  
18 26. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to  
19 read as follows:

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

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

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

1 transmit a certified copy of the ordinance and financial agreement to  
2 the chief financial officer of the county and to the county counsel for  
3 informational purposes.

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

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

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

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

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

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

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

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

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

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

47       (b) For the second stage of the exemption period, which shall not  
48 be less than one year nor more than six years, as specified in the

1 financial agreement, an amount equal to either the amount determined  
2 pursuant to paragraph (1) of this subsection and section 11 of  
3 P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of taxes  
4 otherwise due on the value of the land and improvements, whichever  
5 shall be greater;

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

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

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

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

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

36 Each municipality which enters into a financial agreement on or  
37 after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall  
38 remit five percent of the annual service charge collected by the  
39 municipality to the county in accordance with the provisions of  
40 R.S.54:4-74. If the municipality enters into a contract with a board of  
41 education pursuant to section 7 of P.L. , c. (C. ) (pending  
42 before the Legislature as this bill), the municipality shall also remit to  
43 the board of education such amounts as may be required under the  
44 contract.

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

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

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

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

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

21

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

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

32 b. The development authority shall consist of the Commissioner  
33 of Education, the Commissioner of the Department of Community  
34 Affairs, the executive director of the Economic Development  
35 Authority, and the State Treasurer, who shall serve as ex officio  
36 members; and 12 public members appointed by the Governor with the  
37 advice and consent of the Senate. At least one of the public members  
38 shall have knowledge or expertise in the area of law enforcement and  
39 the remaining public members shall have knowledge or expertise in  
40 real estate development, construction management, finance,  
41 architectural or building design, education, or any other related field.  
42 In addition, the development authority shall consist of two public  
43 members, one appointed by the Senate President and one appointed by  
44 the Speaker of the General Assembly, which members shall have  
45 knowledge or expertise in real estate development, construction  
46 management, finance, architectural or building design, education, or  
47 any other related field.



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

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

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

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

30 e. A chairperson shall be appointed by the Governor from the  
31 public members. The members of the development authority shall  
32 elect from their remaining number a vice-chairperson, a secretary, and  
33 a treasurer thereof. The development authority shall employ an  
34 executive director who shall be its chief executive officer. The powers  
35 of the development authority shall be vested in the members thereof in  
36 office from time to time and 10 members of the development authority  
37 shall constitute a quorum at any meeting thereof. Action may be taken  
38 and motions and resolutions adopted by the development authority at  
39 any meeting thereof by the affirmative vote of at least 10 members of  
40 the development authority. No vacancy in the membership of the  
41 development authority shall impair the right of a quorum of the  
42 members to exercise all the powers and perform all the duties of the  
43 development authority.

44 f. Each member of the development authority shall execute a  
45 bond to be conditioned upon the faithful performance of the duties of  
46 such member in such form and amount as may be prescribed by the  
47 Director of the Division of Budget and Accounting in the Department  
48 of the Treasury. Such bonds shall be filed in the Office of the

1 Secretary of State. At all times thereafter the members and treasurer  
2 of the development authority shall maintain such bonds in full force  
3 and effect. All costs of such bonds shall be borne by the development  
4 authority.

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

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

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

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

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

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

47 m. The development authority shall submit to the Governor, the  
48 Joint Budget Oversight Committee, the President of the Senate and the

- 1 Speaker of the General Assembly a biannual report pursuant to the
- 2 provisions of section 24 of P.L.2000, c.72 (C.18A:7G-24).
- 3 n. The Director of the Division of Budget and Accounting in the
- 4 Department of the Treasury and the director's legally authorized
- 5 representatives are authorized and empowered from time to time to
- 6 examine the accounts, books and records of the development authority
- 7 including its receipts, disbursements, contracts, funds, investments and
- 8 any other matters relating thereto and to its financial standing.
- 9 o. No member, officer, employee or agent of the development
- 10 authority shall be interested, either directly or indirectly, in any school
- 11 facilities project, or in any contract, sale, purchase, lease or transfer of
- 12 real or personal property to which the development authority is a party.
- 13 (cf: P.L.2007, c.137, s.3)
- 14
- 15 28. Section 4 of P.L.2007, c.137 (C.52:18A-238) is amended to
- 16 read as follows:
- 17 4. The development authority shall have the following powers:
- 18 a. To adopt bylaws for the regulation of its affairs and the
- 19 conduct of its business;
- 20 b. To adopt and have a seal and to alter the same at pleasure;
- 21 c. To sue and be sued;
- 22 d. To acquire in the name of the development authority by
- 23 purchase or otherwise, on such terms and conditions and such manner
- 24 as it may deem proper, or by the exercise of the power of eminent
- 25 domain in the manner provided by the "Eminent Domain Act of 1971,"
- 26 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
- 27 other property which it may determine is reasonably necessary for any
- 28 school facilities project;
- 29 e. To enter into contracts with a person upon such terms and
- 30 conditions as the development authority shall determine to be
- 31 reasonable, including, but not limited to, for the planning, design,
- 32 construction, reconstruction, improvement, equipping, furnishing,
- 33 operation and maintenance of a school facilities project and the
- 34 reimbursement thereof, and to pay or compromise any claims arising
- 35 therefrom;
- 36 f. To sell, convey or lease to any person all or any portion of its
- 37 property, for such consideration and upon such terms as the
- 38 development authority may determine to be reasonable;
- 39 g. To mortgage, pledge or assign or otherwise encumber all or
- 40 any portion of any property or revenues, whenever it shall find such
- 41 action to be in furtherance of the purposes of P.L.2000, c.72
- 42 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 43 h. To grant options to purchase or renew a lease for any of its
- 44 property on such terms as the development authority may determine to
- 45 be reasonable;
- 46 i. To contract for and to accept any gifts or grants or loans of
- 47 funds or property or financial or other aid in any form from the United
- 48 States of America or any agency or instrumentality thereof, or from the

- 1 State or any agency, instrumentality or political subdivision thereof, or  
2 from any other source and to comply, subject to the provisions of  
3 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
4 235 et al.), with the terms and conditions thereof;
- 5 j. In connection with any application for assistance under  
6 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235  
7 et al.) or commitments therefor, to require and collect such fees and  
8 charges as the development authority shall determine to be reasonable;
- 9 k. To adopt, amend and repeal regulations to carry out the  
10 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137  
11 (C.52:18A-235 et al.);
- 12 l. To acquire, purchase, manage and operate, hold and dispose of  
13 real and personal property or interests therein, take assignments of  
14 rentals and leases and make and enter into all contracts, leases,  
15 agreements and arrangements necessary or incidental to the  
16 performance of its duties;
- 17 m. To purchase, acquire and take assignments of notes, mortgages  
18 and other forms of security and evidences of indebtedness;
- 19 n. To purchase, acquire, attach, seize, accept or take title to any  
20 property by conveyance or by foreclosure, and sell, lease, manage or  
21 operate any property for a use specified in P.L.2000, c.72 (C.18A:7G-  
22 1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 23 o. (1) To employ consulting engineers, architects, attorneys, real  
24 estate counselors, appraisers, and such other consultants and  
25 employees as may be required in the judgment of the development  
26 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et  
27 al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their  
28 compensation from funds available to the development authority  
29 therefor, all without regard to the provisions of Title 11A of the New  
30 Jersey Statutes, provided, however, that an affirmative vote of the  
31 development authority shall be required in the hiring, termination, and  
32 disciplining of the management team of the development authority,  
33 which shall include the Chief Executive Officer, the Vice President  
34 and Chief Financial Officer, and the Vice President of Corporate  
35 Governance;
- 36 (2) Notwithstanding the provisions of P.L.2007, c.137 (C.52:18A-  
37 235 et al.) or any other law, rule, or regulation to the contrary, the  
38 operations of the development authority shall be funded annually  
39 through State appropriations. The Legislature shall annually  
40 appropriate such sums as are necessary to finance the operations of the  
41 development authority, as authorized under this subsection.
- 42 p. To do and perform any acts and things authorized by P.L.2000,  
43 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.)  
44 under, through or by means of its own officers, agents and employees,  
45 or by contract with any person;
- 46 q. To procure insurance against any losses in connection with its  
47 property, operations or assets in such amounts and from such insurers  
48 as it deems desirable;

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

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

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

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

29       v. To make and contract to make loans or leases to local units to  
30 finance the cost of school facilities projects and to acquire and contract  
31 to acquire bonds, notes or other obligations issued or to be issued by  
32 local units to evidence the loans or leases, all in accordance with 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       w. To charge to and collect from local units, the State, and any  
36 other person, any fees and charges in connection with the development  
37 authority's actions undertaken with respect to school facilities projects  
38 including, but not limited to, fees and charges for the development  
39 authority's administrative, organization, insurance, operating and other  
40 expenses incident to the planning, design, construction and placing  
41 into service and maintenance of school facilities projects.

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

43  
44       29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to read  
45 as follows:

46       3. a. If a contracting unit determines in its discretion that the  
47 design-build approach meets their needs better than the traditional  
48 design-bid-build approach established under New Jersey public



1 procurement statutes for the project or projects under consideration,  
2 it shall be the public policy of this State to permit that contracting  
3 unit to enter into design-build contracts as defined in section 2 of  
4 P.L.2021, c.71 (C.52:35B-2), provided the following conditions are  
5 met:

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

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

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

22 c. Except where the contracting unit is the Department of  
23 Transportation, all design-build construction projects shall be  
24 encouraged to adhere to the Leadership in Energy and  
25 Environmental Design Green Building Rating System as adopted by  
26 the United States Green Building Council, the Green Globes  
27 Program adopted by the Green Building Initiative, or a comparable  
28 nationally recognized, accepted, and appropriate sustainable  
29 development system.

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

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

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

45  
46 30. (New section) As used in sections 31 through 34 of P.L. ,  
47 c. (C. ) (pending before the Legislature as this bill):

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

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

5       “Charter school development corporation” means a non-profit  
6 corporation established pursuant to Title 15 of the Revised Statutes,  
7 Title 15A of the New Jersey Statutes, any other law of this State, or  
8 is otherwise qualified to do business in New Jersey and has a  
9 primary purpose of providing operational, development,  
10 fundraising, real estate, or other supporting services to charter  
11 schools or renaissance school projects, or other non-profit entity  
12 with experience undertaking facilities construction, development,  
13 rehabilitation, leasing and financing, and acquisition of real estate  
14 for community development or charter schools.

15       “Community Development Financial Institution” means an entity  
16 designated and certified by the United States Department of the  
17 Treasury as a Community Development Financial Institution  
18 pursuant to 12 C.F.R. Part 1805.

19       “Department” means the Department of Education.

20       “Eligible borrower” means a non-profit charter school, non-profit  
21 renaissance school project, community development financial  
22 institution, charter school development corporation, eligible lender,  
23 a non-profit entity with expertise in charter school lending that can  
24 leverage the loan, and any other entity designated an eligible  
25 borrower by the authority. Eligible borrower shall not include a  
26 charter school or renaissance school project that is operated by a  
27 for-profit management company.

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

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

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

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

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

44       “School facilities project” means the planning, acquisition of  
45 new land or building in the municipality in which the charter school  
46 or renaissance school project’s charter has permitted them to  
47 operate, demolition, construction, improvement, alteration,  
48 modernization, renovation, reconstruction, or capital maintenance

1 of all or any part of a school facility or of any other personal  
2 property necessary for, or ancillary to, any school facility, and shall  
3 include fixtures, furnishings, and equipment, and shall also include,  
4 but is not limited to, refinancing short term bridge funding to  
5 commence construction, site acquisition, site development, services  
6 of design professionals, such as engineers and architects,  
7 construction management, legal services, financing costs, and  
8 administrative costs and expenses incurred in connection with the  
9 project.

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

12  
13 31. (New section) Notwithstanding the provisions of section 10  
14 of P.L.1995, c.426 (C.18A:36A-10), section 7 of P.L.2011, c.176  
15 (C.18A:36C-7), or any other law, rule, or regulation to the contrary:

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

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

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

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

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

43  
44 32. (New section) a. The authority shall establish and administer  
45 a loan program to be known as the “Charter School and Renaissance  
46 School Project Facilities Loan Program” to provide eligible borrowers  
47 with a loan including, but not limited to, subordinate loans, to  
48 undertake or facilitate school facilities projects for non-profit charter

1 schools and non-profit renaissance school projects located in an SDA  
2 district.

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

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

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

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

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

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

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

27 (vi) security and communication systems upgrades;

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

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

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

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

44 (2) In the event that a school facilities project for which an eligible  
45 borrower is seeking a loan pursuant to this section is requested for a  
46 leased facility in which the charter school or renaissance school project  
47 is the sole lessee, the eligible borrower shall submit the lease  
48 agreement or lease agreement addendum as part of the application.

1 The lease agreement or lease agreement addendum shall demonstrate  
2 that the lessor of the facility is a non-profit entity or government  
3 agency and that the term of the lease is no less than 10 years, inclusive  
4 of all lease renewal options. An eligible borrower shall not receive a  
5 loan pursuant to this section in the event that the school facilities  
6 project for which the eligible borrower is seeking funds is requested  
7 for a leased facility in which the lessor is a for-profit entity.

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

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

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

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

47 e. (1) The authority shall require, as a condition of a loan for  
48 a school facilities project pursuant to the provisions of sections 30



1 through 34 of P.L. , c. (C. ) (pending before the Legislature as  
2 this bill) on a school facility owned by the charter school or  
3 renaissance school project, that, notwithstanding the provisions of  
4 section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule or  
5 regulation to the contrary, in the event the authorization to operate a  
6 charter school is revoked, not renewed, or surrendered or the  
7 authorization to operate a renaissance school project is terminated or  
8 expires for any reason, and no substitute or replacement owner or  
9 operator for that charter school or renaissance school project has been  
10 approved prior to the date that the operations of the charter school or  
11 renaissance school project cease the title to the charter school or  
12 renaissance school project shall revert to another eligible borrower or  
13 the State, except as provided pursuant to paragraph (2) of this  
14 subsection, for consideration in an amount calculated as follows:

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

28 (b) if the fair market value of the charter school or renaissance  
29 school project is greater than the amount of the principal and interest  
30 due on the outstanding debt used to finance a school facilities project  
31 pursuant to the provisions of sections 30 through 34 of P.L. , c.  
32 (C. ) (pending before the Legislature as this bill) of a charter  
33 school or renaissance school project, the State shall pay to the owner  
34 of the charter school or renaissance school project the fair market  
35 value of the charter school or renaissance project, provided that, to the  
36 extent that any debt used to finance the school facilities project  
37 pursuant to the provisions of sections 30 through 34  
38 of P.L. , c. (C. ) (pending before the Legislature as this bill) of  
39 a charter school or renaissance school project, is then outstanding, the  
40 owner of the charter school or renaissance school project shall utilize  
41 the funds received from the State pursuant to this subparagraph to  
42 retire the outstanding debt. If the school district in which the charter  
43 school or renaissance school project is located does not exercise its  
44 right of first refusal established pursuant to paragraph (2) of this  
45 subsection, the State may sell the property to another charter school or  
46 renaissance school project.

47 (2) The authority shall require, as a condition of a loan for a school  
48 facilities project pursuant to the provisions of sections 30 through 34

1 of P.L. , c. (C. ) (pending before the Legislature as this bill) on  
2 a school facility owned by the charter school or renaissance school  
3 project that, notwithstanding the provisions of section 7 of P.L.2013,  
4 c.149 (C.18A:36C-16) or any other law, rule, or regulation to the  
5 contrary, in the event the authorization to operate a charter school is  
6 revoked, not renewed, or surrendered or the authorization to operate a  
7 renaissance school project is terminated or expired for any reason, and  
8 no substitute or replacement owner or operator for that charter school  
9 or renaissance school project has been approved prior to the date that  
10 the operations of the charter school or renaissance school project  
11 cease, the board of education of the district in which the charter school  
12 or renaissance school project is located shall have the right of first  
13 refusal of the title to the charter school or renaissance school project  
14 school facility. If the title transfers to the board of education, the State  
15 shall assume, pursuant to subparagraph (a) of paragraph (1) of this  
16 subsection, or pay, any outstanding debt used to finance a school  
17 facilities project of the charter school or renaissance school project  
18 pursuant to the provisions of sections 30 through 34 of P.L. , c.  
19 (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

45 i. In the event that the aggregate amount of a loan provided  
46 pursuant to this section exceeds \$5,000,000 for a school facilities  
47 project approved pursuant to the provisions of sections 30 through 34  
48 of P.L. , c. (C. ) (pending before the Legislature as this bill),

1 the authority shall require as a condition of the loan that the school  
2 facilities project be subject to the provisions of the Schools  
3 Development Authority's project labor agreement.  
4

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

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

15 34. (New section) The Legislature shall annually appropriate to  
16 the New Jersey Economic Development Authority for deposit into  
17 the "Charter School and Renaissance School Project Facilities Loan  
18 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 35. (New section) Notwithstanding the provisions of section 10  
27 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).  
37

38 36. (New section) Notwithstanding the provisions of section 7  
39 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  
47 32 of P.L. , c. (C. ) (pending before the Legislature as this  
48 bill).

1       37. This act shall take effect immediately.

2

3

4

#### STATEMENT

5

6       This bill provides various changes to the laws governing the  
7 construction of school facilities projects and the operations of the  
8 New Jersey Schools Development Authority (SDA).

9

#### 10   *Model School Designs*

11       The bill requires the SDA, in consultation with the  
12 Commissioner of Education, to establish a model school design  
13 program that would establish uniform standards for the exterior and  
14 interior design of school facilities projects. The bill defines the  
15 components of the model school design program.

16       The bill requires all projects in SDA districts to conform to the  
17 standards of the model school design program.

18

#### 19   *Non-SDA Projects*

20       The bill also provides several changes to the laws governing the  
21 construction of school facilities projects in non-SDA school  
22 districts.

23       The bill allows a school district to raise bonds for a school  
24 facilities project without the approval of the voters of the district if  
25 the school district enters into a contract with one or more  
26 municipalities, wherein the municipality provides the district with  
27 not less than 60 percent of the payments in lieu of taxes received  
28 from one or more designated properties, and the district pledges  
29 those monies to the repayment of the bonds. However, after  
30 entering into the contract, the school district would also be required  
31 to submit an application to the commissioner before issuing the  
32 bonds without voter approval.

33       Additionally, the bill permits the board of education of a district  
34 other than an SDA district to enter into an agreement with a county  
35 improvement authority to construct a school facilities project and to  
36 issue bonds to finance certain portions of the project.

37       The bill also permits a board of education of a school district to  
38 draw against its capital reserve account in order to finance a portion  
39 of a project for which a school district and private entity enter into a  
40 public-private partnership agreement pursuant to current law.

41       The bill also requires the commissioner, in consultation with the  
42 SDA, to promulgate regulations concerning the incorporation of  
43 construction contract provisions that encourage the completion of  
44 construction projects on schedule.

45

#### 46   *SDA Finances and Operations*

47       The bill provides that bonds issued by the New Jersey Economic  
48 Development Authority (EDA) for the State share of school

1 facilities projects, the proceeds of which are transferred to the SDA,  
2 will not support the costs of either agency related to the issuance of  
3 the bonds. Bonds issued after the effective date of the committee  
4 substitute will not support the administrative, non-project insurance,  
5 operating and other expenses of the EDA to issue the bonds. Under  
6 the committee substitute, the costs related to the undertaking of the  
7 planning, design, and construction of school facilities projects will  
8 also not be supported by bonds issued after the substitute's effective  
9 date. These administrative costs would instead be annually  
10 supported by State appropriations.

11 The bill also requires the SDA to establish three funds in which  
12 the net proceeds of the bonds issued for school facilities projects,  
13 and any State appropriations for school facilities projects, would be  
14 deposited. The three funds are as follows: (1) the SDA District  
15 Project Fund; (2) the Regular Operating District Construction and  
16 Maintenance Grants Fund; and (3) the SDA District Emergent  
17 Project Fund.

18 The bill stipulates that no less than 70 percent of any  
19 appropriations providing direct funding for school facilities projects  
20 would be appropriated for SDA district school facilities projects  
21 and SDA district emergent needs. The remaining funds would be  
22 disbursed to the Regular Operating District Construction and  
23 Maintenance Grant Fund.

24  
25 *School Facilities Projects of Charter Schools and Renaissance*  
26 *School Projects in SDA Districts and the Charter School and*  
27 *Renaissance School Project Facilities Loan Program.*

28 The bill establishes the "Charter School and Renaissance School  
29 Project Facilities Loan Program," which would provide eligible  
30 borrowers with a loan, including but not limited to subordinate  
31 loans, to undertake or facilitate school facilities projects for non-  
32 profit charter schools and non-profit renaissance school projects  
33 located in an SDA district.