

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 3247

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED JANUARY 4, 2024

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



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.), and P.L.1974, c.80 (C.34:1B-1 et seq.), and
5 amending various parts of the statutory law.

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

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

12 2. The Legislature finds and declares that:

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

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

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

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

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

Matter underlined thus is new matter.

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

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

9

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

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

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

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

30 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

36 "Final eligible costs" means for school facilities projects to be
37 constructed by the development authority, the final eligible costs of the
38 school facilities project as determined by the commissioner, in
39 consultation with the development authority, pursuant to section 5 of
40 P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final
41 eligible costs of the project as determined by the commissioner and
42 reviewed by the development authority which may include the cost of
43 community design features determined by the commissioner to be an
44 integral part of the school facility and which do not exceed the
45 facilities efficiency standards, and which were reviewed by the
46 development authority and approved by the State Treasurer pursuant to
47 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%】** 100 percent of the actual count of students, in the
9 case of districts which operate a half-day kindergarten program each
10 kindergarten student shall be counted at **【50%】** 50 percent of the
11 actual count of kindergarten students, in the case of districts which
12 operate a full-day kindergarten program or which currently operate a
13 half-day kindergarten program but propose to build facilities to house
14 a full-day kindergarten program each kindergarten student shall be
15 counted at **【100%】** 100 percent of the actual count of kindergarten
16 students, and each preschool student who is enrolled in a full-day
17 preschool program pursuant to section 12 of P.L.2007, c.260
18 (C.18A:7F-54) shall be counted at **【100%】** 100 percent of the actual
19 count of preschool students. In addition, each preschool disabled child
20 who is entitled to receive a full-time program pursuant to
21 N.J.S.18A:46-6 shall be counted at **【100%】** 100 percent of the actual
22 count of these students in the district;

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

44 "Kit of Parts' standardized school design elements" means the
45 prototypical design utilizing standardized Modern Building
46 Component Elements, Model Educational Specifications, and Model
47 Program Templates created by the development authority for the

1 efficient, adaptable, and scalable organization and configuration of
2 instructional, large group assembly, and other elements within a school
3 facilities project;

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

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

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

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

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

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

1 regulations to be adopted by the commissioner pursuant to section 26
2 of P.L.2000, c.72 (C.18A:7G-26);

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

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

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

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

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

17 “Model Educational Specifications” means the development of:

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

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

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

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

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

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

47 “Preliminary eligible costs” means the initial eligible costs of a
48 school facilities project as calculated pursuant to the formulas set forth

1 in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise provided
2 pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall
3 be deemed to include the costs of construction and other allowable
4 costs;

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

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

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

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

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

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

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

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

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

5 "State debt service aid" means for school bonds issued for school
6 facilities projects approved by the commissioner after the effective
7 date of P.L.2000, c.72 (C.18A:7G-1 et al.) of districts which elect not
8 to have a redevelopment entity construct the project or which elect not
9 to finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-
10 15), the amount of State aid determined pursuant to section 9 of
11 P.L.2000, c.72 (C.18A:7G-9); and for school bonds or certificates of
12 participation issued for school facilities projects approved by the
13 commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-
14 1 et al.) the amount of State aid determined pursuant to section 10 of
15 P.L.2000, c.72 (C.18A:7G-10);

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

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

24 "State share" means the State's proportionate share of the final
25 eligible costs of a school facilities project to be constructed by the
26 development authority as determined pursuant to section 5 of
27 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project,
28 the State's proportionate share of the final eligible costs of the project
29 as determined pursuant to sections 5 and 6 of P.L.2000, c.72
30 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities
31 project to be financed pursuant to section 15 of P.L.2000, c.72
32 (C.18A:7G-15), the State share as determined pursuant to that section;

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

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

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

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

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

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

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

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

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

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

47 g. Each district shall submit the long-range facilities plan to the
48 planning board of the municipality or municipalities in which the

1 district is situate for the planning board's review and findings and the
2 incorporation of the plan's goals and objectives into the municipal
3 master plan adopted by the municipality pursuant to section 19 of
4 P.L.1975, c.291 (C.40:55D-28).

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

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

44 Within a reasonable period of time after the effective date of
45 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish the
46 facilities efficiency standards developed for the 2000-2001, 2001-
47 2002, and 2002-2003 school years in the New Jersey Register. Within
48 a reasonable period of time after 30 days after publication in the New

1 Jersey Register, the commissioner shall file the facilities efficiency
2 standards with the Office of Administrative Law and those standards
3 shall become effective immediately upon filing with the Office of
4 Administrative Law. During the 30-day period the commissioner shall
5 provide an opportunity for public comment on the proposed facilities
6 efficiency standards.

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

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

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

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

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

45 m. By July 1, 2001, the commissioner shall study the Safe Schools
46 Design Guidelines, prepared by the Florida Center for Community
47 Design and Research, which address the issues of school safety and
48 security through the design of school facilities. Based upon the

1 commissioner's study, the commissioner shall issue recommendations
2 to districts on the appropriateness of including the Safe Schools
3 Design Guidelines in the design and construction of school facilities
4 projects.

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

6

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

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

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

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

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

40 (2) (a) In the case of an SDA district school facilities project,
41 based upon its educational priority ranking and the Statewide strategic
42 plan established pursuant to subsection m. of this section, the
43 commissioner may authorize the development authority to undertake
44 preconstruction activities which may include, but need not be limited
45 to, site identification, investigation, and acquisition, feasibility studies,
46 land-related design work, design work, site remediation, demolition,
47 and acquisition of temporary facilities. Upon receipt of the
48 authorization, the development authority may initiate the

1 preconstruction activities required to prepare the application for
2 commissioner approval of the school facilities project. Site
3 remediation and demolition preconstruction activities undertaken by
4 the development authority pursuant to this subparagraph shall be
5 included as part of the project charter of the SDA district school
6 facilities project, which project charter covers all other construction
7 activities of the school facilities project.

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

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

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

47 f. If the commissioner determines that the school facilities project
48 complies with the facilities efficiency standards and the district's long-

1 range facilities plan and does not exceed the area allowance per FTE
2 student derived from those standards, the commissioner shall calculate
3 the preliminary eligible costs of the project pursuant to the formulas
4 set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7); except that (1)
5 in the case of a county special services school district or a county
6 vocational school district, the commissioner shall calculate the
7 preliminary eligible costs to equal the amount determined by the board
8 of school estimate and approved by the board of chosen freeholders
9 pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or
10 N.J.S.18A:54-31 as appropriate, and (2) in the case of an SDA district,
11 the commissioner shall calculate the preliminary eligible costs to equal
12 the estimated cost as determined by the development authority.

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

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

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

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

45 If the commissioner approves excess facilities efficiency standards
46 or additional area allowances pursuant to paragraph (1), (2), or (3) of
47 this subsection, the commissioner shall calculate the preliminary
48 eligible costs based upon the additional area allowances or excess

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

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

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

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

1 plans and specifications. If the district chooses not to file an appeal,
2 then the final eligible costs shall equal the preliminary eligible costs.

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

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

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

1 (1) In the event that the development authority determines that the
2 school facilities project can be completed within the preliminary
3 eligible costs: the final eligible costs shall be deemed to equal the
4 preliminary eligible costs; the commissioner shall be deemed to have
5 given final approval to the project; and the preliminary project report
6 shall be deemed to be the final project report delivered to the
7 development authority pursuant to subsection j. of this section.

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

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

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

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

1 judgment, the action is necessary to meet the educational needs of the
2 district.

3 (d) For a school facilities project undertaken by the development
4 authority, the development authority shall be responsible for any costs
5 of construction, but only from the proceeds of bonds issued by the
6 financing authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and
7 P.L.2007, c.137 (C.52:18A-235 et al.), which exceed the amount
8 originally projected by the development authority and approved for
9 financing by the development authority, provided that the excess is the
10 result of an underestimate of labor or materials costs by the
11 development authority. After receipt by the development authority of
12 the final project report, the district shall be responsible only for the
13 costs associated with changes, if any, made at the request of the district
14 to the scope of the school facilities project.

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

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

31 If any district which is included in district factor group A or B,
32 other than an SDA district, is having difficulty financing the local
33 share of a school facilities project, the district may apply to the
34 commissioner to receive **【100%】** 100 percent State support for the
35 project and the commissioner may request the approval of the
36 Legislature to increase the State share of the project to **【100%】** 100
37 percent.

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

41 m. (1) Within 90 days of the effective date of P.L.2007, c.137
42 (C.52:18A-235 et al.), the commissioner shall develop an educational
43 facilities needs assessment for each SDA district. The assessment
44 shall be updated periodically by the commissioner in accordance with
45 the schedule the commissioner deems appropriate for the district;
46 except that each assessment shall at a minimum be updated within five
47 years of the development of the district's most recent prior educational
48 facilities needs assessment. The assessment shall be transmitted to the

1 development authority to be used to initiate the planning activities
2 required prior to the establishment of the educational priority ranking
3 of school facilities projects pursuant to paragraph (2) of this
4 subsection.

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

20 (3) (a) Upon the commissioner's determination of the educational
21 priority ranking of school facilities projects in SDA districts pursuant
22 to paragraph (2) of this subsection, the development authority, in
23 consultation with the commissioner, the SDA districts, and the
24 governing bodies of the municipalities in which the SDA districts are
25 situate, shall establish a Statewide strategic plan to be used in the
26 sequencing of SDA district school facilities projects based upon the
27 projects' educational priority rankings and issues which impact the
28 development authority's ability to complete the projects including, but
29 not limited to, the construction schedule and other appropriate factors.
30 The development authority shall revise the Statewide strategic plan
31 and the sequencing of SDA district school facilities projects in
32 accordance with that plan no less than once every five years, except
33 that the plan shall be updated within 120 days of the effective date of
34 P.L. , c. (C.) (pending before the Legislature as this bill). In
35 addition to any other information that the development authority may
36 deem appropriate, the Statewide strategic plan shall include a
37 description of the project, which shall indicate whether the project will
38 be new construction or renovation and whether the project will require
39 the acquisition of land.

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

42 (i) new construction projects;

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

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

47 (c) Any amendment to an SDA district's long-range facilities plan
48 that is submitted to the commissioner in the period between the five-

1 year updates of the long-range facilities plan shall be considered by the
2 development authority, in consultation with the commissioner, for
3 incorporation into the Statewide strategic plan. In making a
4 determination on whether or not to amend the Statewide strategic plan,
5 the development authority shall consider the cost of the amendment,
6 the impact of the amendment upon the school development plans for
7 other districts, and other appropriate factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

41 e. When the bonds issued by a county improvement authority
42 are no longer outstanding, the leases and liens of the county and the
43 county improvement authority shall expire and the school facilities
44 project shall be solely vested in the school district. The school
45 district shall be responsible for the operation, maintenance, and
46 improvement of the school facility upon the completion of the
47 school facilities project.

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

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

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

11 where

12 $A = B \times AC/P \times DAP \times M$, with $AC/P = 1$

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

14 and where:

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

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

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

21 DAP is the district's district aid percentage as defined pursuant to
22 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be
23 less than **【40%】** 40 percent. If the project's design incorporates the
24 implementation of energy efficiency improvements or the installation
25 of energy efficient features or equipment, the DAP shall be increased
26 by no more than five percent. In order to qualify for a DAP increase
27 for the implementation of energy efficiency improvements or the
28 installation of energy efficient features or equipment pursuant to this
29 subsection, a district shall submit to the development authority and
30 Department of Education a certification, along with evidential
31 documentation, attesting that the project's design incorporates the
32 implementation of energy efficiency improvements or the installation
33 of energy efficient features or equipment; and

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

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

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

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

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

15 (2) For new construction, additions, and school facilities aided
 16 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
 17 supported by financing issued for projects approved by the
 18 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1
 19 et al.), beginning in the fourth year after occupancy of the school
 20 facility, the maintenance factor shall be reduced according to the
 21 following schedule for all school facilities projects for which the
 22 district fails to demonstrate in the prior fiscal year an investment in
 23 maintenance of the related school facility of at least two-tenths of
 24 **[1%]** one percent of the replacement cost of the school facility,
 25 determined pursuant to subsection b. of section 7 of P.L.2000, c.72
 26 (C.18A:7G-7).

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

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

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

46 Any district which received approval from the commissioner for a
 47 school facilities project at any time prior to the effective date of
 48 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other than

1 short term notes, may submit an application pursuant to section 5 of
2 P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of the
3 project determined pursuant to that section and to have the New Jersey
4 Economic Development Authority construct the project; or, at its
5 discretion, the district may choose to receive debt service aid under
6 this section or under section 10 of P.L.2000, c.72 (C.18A:7G-10) or to
7 receive a grant under section 15 of P.L.2000, c.72 (C.18A:7G-15).

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

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

16 (cf: P.L.2009, c.185, s.2)

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

26 (1) the board of education has entered into a written contract with
27 one or more municipalities, wherein the municipality shall annually
28 remit to the board of education a portion of the payments in lieu of
29 taxes received by the municipality from one or more designated
30 properties, which portion shall be sufficient for the full repayment of
31 the bonds, and the board of education shall pledge all remittances to
32 the full repayment of the bonds; and

33 (2) the bond issuance and contract has been approved by the Local
34 Finance Board pursuant to subsection b. of this section and the
35 commissioner pursuant to subsection c. of this section.

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

1 c. (1) If a board of education elects to issue bonds pursuant to this
2 section, the board of education shall apply to the commissioner for
3 approval of the bond issuance. The commissioner shall be entitled to
4 receive from the applicant an amount sufficient to provide for all
5 reasonable professional and other fees and expenses incurred for the
6 review, analysis, and determination with respect thereto. In addition to
7 any other information that the commissioner may deem appropriate,
8 the application shall include: a description of the school facilities
9 project; a certification of the amount to raised by the bonds; a
10 description of the anticipated annual debt service costs, including the
11 amounts to be supported by municipal remittances; and a copy of the
12 contract.

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

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

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

35
36 8. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to read
37 as follows:

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

1 acquisition, construction and all other appropriate actions necessary to
2 complete any other school facilities project in accordance with the
3 procedures established pursuant to subsection e. of this section.

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

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

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

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

45 (2) Within one year of the effective date of P.L.2007, c.137
46 (C.52:18A-235 et al.), the development authority, in consultation with
47 the commissioner, shall adopt pursuant to the "Administrative
48 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and

1 regulations by which the development authority shall determine the
2 capacity of an SDA district, deemed eligible by the commissioner
3 pursuant to paragraph (1) of this subsection, to manage a school
4 facilities project or projects identified by the development authority.
5 In making the determination, the development authority shall consider
6 the experience of the SDA district, the size, complexity, and cost of
7 the project, time constraints, and other relevant factors.

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

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

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

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

35
36 9. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to read
37 as follows:

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

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

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

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

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

1 shall have the power to issue subordinated indebtedness, which shall
2 be subordinate in lien to the lien of any or all of its bonds or refunding
3 bonds as the financing authority may determine.

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

- 1 costs of the financing authority shall be supported by State
2 appropriations when financial support is made available following a
3 budget request pursuant to subsection k. of this section.
- 4 c. Each issue of bonds or refunding bonds of the financing
5 authority shall be special obligations of the financing authority payable
6 out of particular revenues, receipts or funds, subject only to any
7 agreements with the holders of bonds or refunding bonds, and may be
8 secured by other sources of revenue, including, but not limited to, one
9 or more of the following:
- 10 (1) Pledge of the revenues and other receipts to be derived from
11 the payment of local unit obligations and any other payment made to
12 the financing authority pursuant to agreements with any local unit, or a
13 pledge or assignment of any local unit obligations, and the rights and
14 interest of the financing authority therein;
- 15 (2) Pledge of rentals, receipts and other revenues to be derived
16 from leases or other contractual arrangements with any person or
17 entity, public or private, including one or more local units, or a pledge
18 or assignment of those leases or other contractual arrangements and
19 the rights and interests of the financing authority therein;
- 20 (3) Pledge of all moneys, funds, accounts, securities and other
21 funds, including the proceeds of the bonds;
- 22 (4) Pledge of the receipts to be derived from payments of State aid
23 to the financing authority pursuant to section 21 of P.L.2000, c.72
24 (C.18A:7G-21);
- 25 (5) Pledge of the contract or contracts with the State Treasurer
26 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);
- 27 (6) Pledge of any sums remitted to the local unit by donation from
28 any person or entity, public or private, subject to the approval of the
29 State Treasurer;
- 30 (7) A mortgage on all or any part of the property, real or personal,
31 comprising a school facilities project then owned or thereafter to be
32 acquired, or a pledge or assignment of mortgages made to the
33 financing authority by any person or entity, public or private, including
34 one or more local units and rights and interests of the financing
35 authority therein; and
- 36 (8) The receipt of any grants, reimbursements or other payments
37 from the federal government.
- 38 d. The resolution authorizing the issuance of bonds or refunding
39 bonds pursuant to this section may also provide for the financing
40 authority to enter into any revolving credit agreement, agreement
41 establishing a line of credit or letter of credit, reimbursement
42 agreement, interest rate exchange agreement, currency exchange
43 agreement, interest rate floor or cap, options, puts or calls to hedge
44 payment, currency, rate, spread or similar exposure or similar
45 agreements, float agreements, forward agreements, insurance
46 contracts, surety bonds, commitments to purchase or sell bonds,
47 purchase or sale agreements, or commitments or other contracts or
48 agreements and other security agreements approved by the financing

1 authority in connection with the issuance of the bonds or refunding
2 bonds pursuant to this section. In addition, the financing authority
3 may, in anticipation of the issuance of the bonds or the receipt of
4 appropriations, grants, reimbursements or other funds, including,
5 without limitation, grants from the federal government for school
6 facilities projects, issue notes, the principal of or interest on which, or
7 both, shall be payable out of the proceeds of notes, bonds or other
8 obligations of the financing authority or appropriations, grants,
9 reimbursements or other funds or revenues of the financing authority.

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

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

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

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

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

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

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

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

1 may be authorized for SDA district emergent projects, and any State
2 appropriations for SDA district emergent projects;

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

9 j. In the event that the annual appropriations act provides for
10 direct funding for school facilities projects, or in the event that a
11 separate act appropriates direct funding of school facilities projects
12 from the “New Jersey Debt Defeasance and Prevention Fund”
13 established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no
14 less than 70 percent of the direct funding shall be appropriated to the
15 SDA District Project Fund and the SDA District Emergent Project
16 Fund. The remaining funds for school facilities projects shall be
17 disbursed to the Regular Operating District Construction and
18 Maintenance Grants Fund.

19 k. In the event that the financing authority issues bonds or incurs
20 indebtedness pursuant to this section for the purpose of financing all
21 or a portion of the costs of school facilities projects and for the
22 purpose of providing funding to the development authority to
23 undertake school facilities projects, the development authority may
24 submit a budget request directly to the Division of Budget and
25 Accounting in the Department of the Treasury, for State support to
26 provide supplemental financing for the development authority’s
27 operations in carrying out the provisions of P.L.2000, c.72
28 (C.18A:7G-1 et al.).

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

30

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

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

1 Department of Education a certification, along with evidential
2 documentation, attesting that the project's design incorporates the
3 implementation of energy efficiency improvements or the installation
4 of energy efficient features or equipment.

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

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

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

23

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

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

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

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

45

46 12. (New section) There is hereby created within the
47 development authority an Office of Contracting Accountability. The
48 office shall, in consultation with the Department of Labor and

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

22

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

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

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

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

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

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

11
12 14. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to
13 read as follows:

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

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

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

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

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

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

1 the firm. Failure to disclose a conviction of a criminal offense
2 pursuant to this paragraph shall constitute cause for the denial or
3 revocation of a contractor's prequalification status;

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

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

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

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

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

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

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

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

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

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

5 (1) a trade or work classification; and

6 (2) an aggregate rating limit.

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

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

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

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

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

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

28
29 15. (New section) a. As part of the application process
30 established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for
31 the prequalification of a contractor that desires to bid on school
32 facilities projects, the development authority shall seek certification
33 from the Department of Labor and Workforce Development and the
34 Department of the Treasury that the contractor is in substantial good
35 standing with the respective department or has entered into an
36 agreement with the respective department that includes a practical
37 corrective action plan for the contractor.

38 b. As part of the application process established under section
39 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a
40 contractor that desires to bid on school facilities projects, the
41 development authority shall undertake a moral integrity review,
42 which shall include a criminal history record check, judgment
43 search, and lien search of:

44 (1) the contractor;

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

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

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

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

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

15
16 16. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to
17 read as follows:

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

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

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

31
32 17. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to
33 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 b. The development authority and any SDA district to which the
47 development authority has delegated management of a school facilities
48 project shall insert in all contracts with all contracted parties, and all

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

8 c. (1) The development authority or the SDA district to which the
9 development authority has delegated management of a school facilities
10 project shall include in its bid specification for any work or services on
11 an approved school facilities project that all bidders submit a sworn
12 statement by the bidder, or an officer or partner of the bidder,
13 indicating whether the bidder is, at the time of the bid, included on the
14 State Treasurer's, the development authority's or the federal
15 government's list of debarred, suspended or disqualified bidders as a
16 result of action taken by any state or federal agency, as the case may
17 be. Bid specifications for the approved school facilities project shall
18 state that the district shall immediately notify the development
19 authority in writing whenever it appears that a bidder is on the State
20 Treasurer's, the development authority's, or the federal government's
21 list.

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

34

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

44 b. Under the Emergent Condition Remediation Program
45 established pursuant to subsection a. of this section, the development
46 authority shall create a process whereby contractors prequalified by
47 the development authority to bid on school facilities projects apply to
48 be a part of a pool of contractors available to address emergent

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

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

15
16 21. (New section) Notwithstanding the provisions of any law,
17 rule, or regulation to the contrary, an SDA district to which the
18 development authority has delegated management of a school
19 facilities project shall not enter into a cooperative pricing system or
20 agreement for construction services on school facilities projects.

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

23 18A:18A-4. a. Every contract for the provision or performance
24 of any goods or services, the cost of which in the aggregate exceeds
25 the bid threshold, shall be awarded only by resolution of the board
26 of education to the lowest responsible bidder after public
27 advertising for bids and bidding therefor, except as is provided
28 otherwise in this chapter or specifically by any other law.

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

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

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

1 facilities project performance evaluation, or in a mandatory uniform
2 performance evaluation conducted pursuant to section 62 of
3 P.L.2000, c.72 (C.18A:7G-36), as appropriate.

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

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

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

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

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

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

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

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

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

46 (1) The existence of any of the indicators of prior negative
47 experience set forth in this section shall not require that a bidder be
48 disqualified. In each instance, the decision to disqualify shall be

1 made within the discretion of the board of education and shall be
2 rendered in the best interests of the board of education.

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

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

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

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

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

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

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

37

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

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

1 the commissioner may deem appropriate, the regulations shall
2 prescribe:

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

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

7

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

10 2. a. As used in this section:

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

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

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

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

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

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

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

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

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

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

46 (3) Prior to the commencement of work on a project, the private
47 entity shall establish a construction account and appoint a third-
48 party financial institution, who shall be prequalified by the State

1 Treasurer to act as a collateral agent and manage the construction
2 account. The construction account shall include the funding,
3 financial instruments, or both, that shall be used to fully capitalize
4 and fund the project, and the collateral agent shall maintain a full
5 accounting of the funds and instruments in the account. The funds
6 and instruments in the construction account shall be held in trust for
7 the benefit of the contractor, construction manager, and design-
8 build team involved in the project. The funds and instruments in
9 the construction account shall not be the property of the private
10 entity unless all amounts due to the construction account
11 beneficiaries are paid in full. The construction account shall not be
12 designated for more than one project.

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

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

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

47 (3) The general contractor, construction manager, or design-
48 build team shall be required to post a performance bond to ensure

1 the completion of the project and a payment bond guaranteeing
2 prompt payment of moneys due in accordance with and conforming
3 to the requirements of N.J.S.2A:44-143 et seq.

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

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

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

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

1 thru the procurement process. The projects are encouraged, when
2 practicable, to adhere to the green building manual prepared by the
3 Commissioner of Community Affairs pursuant to section 1 of
4 P.L.2007, c.132 (C.52:27D-130.6).

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

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

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

45 (4) The State Treasurer, in consultation with the authority, the
46 Commissioner of the Department of Education, and the Chief
47 Executive Officer of the Schools Development Authority, shall
48 review all completed applications, and request additional

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

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

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

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

45 i. Any public-private partnership agreement, if appropriate,
46 shall include provisions affirming that the agreement and any work
47 performed under the agreement are subject to the provisions of the
48 "Construction Industry Independent Contractor Act," P.L.2007,

1 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement
2 will also include, at a minimum: (i) the term of the agreement, (ii)
3 the total project cost, (iii) a completion date guarantee, (iv) a
4 provision for damages if the private entity fails to meet the
5 completion date, and (v) a maximum rate of return to the private
6 entity and a provision for the distribution of excess earnings to the
7 local government unit or to the private party for debt reduction.

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

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

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

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

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

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

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

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

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

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

7
8 25. N.J.S.18A:21-4 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

42 A financial agreement may provide for an exemption period of less
43 than 30 years from the completion of the entire project, less than 35
44 years from the execution of the financial agreement, or less than 50
45 years from the execution of the first financial agreement implementing
46 a project under the redevelopment agreement. Nothing in this
47 subsection shall be construed as requiring a financial agreement for a
48 project undertaken pursuant to a redevelopment agreement which

1 allows the redeveloper to undertake two or more projects sequentially
2 to specify a duration within the parameters of paragraph (2) of this
3 subsection.

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

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

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

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

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

1 of the period of the exemption, if any, the annual service charge shall
2 be determined as follows:

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

36 b. The development authority shall consist of the Commissioner
37 of Education, the Commissioner of the Department of Community
38 Affairs, the executive director of the Economic Development
39 Authority, and the State Treasurer, who shall serve as ex officio
40 members; and **【11】** 12 public members appointed by the Governor
41 with the advice and consent of the Senate. At least one of the public
42 members shall have knowledge or expertise in the area of law
43 enforcement and the remaining public members shall have knowledge
44 or expertise in real estate development, construction management,
45 finance, architectural or building design, education, or any other
46 related field. In addition, the development authority shall consist of
47 two public members, one appointed by the Governor upon the
48 recommendation of the Senate President and one appointed by the

1 Governor upon the recommendation of the Speaker of the General
2 Assembly, which members shall have knowledge or expertise in real
3 estate development, construction management, finance, architectural
4 or building design, education, or any other related field.

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

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

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

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

36 e. A chairperson shall be appointed by the Governor from the
37 public members. The members of the development authority shall
38 elect from their remaining number a vice-chairperson, a secretary, and
39 a treasurer thereof. The development authority shall employ an
40 executive director who shall be its chief executive officer. The powers
41 of the development authority shall be vested in the members thereof in
42 office from time to time and **[eight]** 10 members of the development
43 authority shall constitute a quorum at any meeting thereof. Action
44 may be taken and motions and resolutions adopted by the development
45 authority at any meeting thereof by the affirmative vote of at least
46 **[eight]** 10 members of the development authority. No vacancy in the
47 membership of the development authority shall impair the right of a

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

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

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

- 1 appropriate such sums as are necessary to finance the operations of the
2 development authority, as authorized under this subsection.
- 3 p. To do and perform any acts and things authorized by P.L.2000,
4 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.)
5 under, through or by means of its own officers, agents and employees,
6 or by contract with any person;
- 7 q. To procure insurance against any losses in connection with its
8 property, operations or assets in such amounts and from such insurers
9 as it deems desirable;
- 10 r. To do any and all things necessary or convenient to carry out
11 its purposes and exercise the powers given and granted in P.L.2000,
12 c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- 13 s. To construct, reconstruct, rehabilitate, improve, alter, equip,
14 maintain or repair or provide for the construction, reconstruction,
15 improvement, alteration, equipping or maintenance or repair of any
16 property and lot, award and enter into construction contracts, purchase
17 orders and other contracts with respect thereto, upon such terms and
18 conditions as the development authority shall determine to be
19 reasonable, including, but not limited to, reimbursement for the
20 planning, designing, construction, reconstruction, improvement,
21 equipping, furnishing, operation and maintenance of any such property
22 and the settlement of any claims arising therefrom;
- 23 t. To undertake school facilities projects and to enter into
24 agreements or contracts, execute instruments, and do and perform all
25 acts or things necessary, convenient or desirable for the purposes of
26 the development authority to carry out any power expressly provided
27 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137
28 (C.52:18A-235 et al.), including, but not limited to, entering into
29 contracts with the State Treasurer, the New Jersey Economic
30 Development Authority, the Commissioner of Education, districts, and
31 any other entity which may be required in order to carry out the
32 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137
33 (C.52:18A-235 et al.);
- 34 u. To enter into leases, rentals or other disposition of a real
35 property interest in and of any school facilities project to or from any
36 local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007,
37 c.137 (C.52:18A-235 et al.);
- 38 v. To make and contract to make loans or leases to local units to
39 finance the cost of school facilities projects and to acquire and contract
40 to acquire bonds, notes or other obligations issued or to be issued by
41 local units to evidence the loans or leases, all in accordance with the
42 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137
43 (C.52:18A-235 et al.);
- 44 w. To charge to and collect from local units, the State, and any
45 other person, any fees and charges in connection with the development
46 authority's actions undertaken with respect to school facilities projects
47 including, but not limited to, fees and charges for the development
48 authority's administrative, organization, insurance, operating and other

1 expenses incident to the planning, design, construction and placing
2 into service and maintenance of school facilities projects.
3 (cf: P.L.2007, c.137, s.4)

4
5 29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to read
6 as follows:

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

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

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

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

31 c. Except where the contracting unit is the Department of
32 Transportation, all design-build construction projects shall be
33 encouraged to adhere to the Leadership in Energy and
34 Environmental Design Green Building Rating System as adopted by
35 the United States Green Building Council, the Green Globes
36 Program adopted by the Green Building Initiative, or a comparable
37 nationally recognized, accepted, and appropriate sustainable
38 development system.

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

46 e. Notwithstanding the provisions of any other law, rule, or
47 regulation to the contrary, in the event that a government entity that
48 enters a contract pursuant to P.L.2007, c.137 (C.52:18A:-235 et

1 seq.) already has an established prequalification, project rating, or
2 proposal process for design-build contracts as of the effective date
3 of P.L.2021, c.71 (C.52:35B-1 et al.), that entity may continue to
4 award design-build contracts pursuant to that process.
5 (cf: P.L.2021, c.71, s.3)

6
7 30. (New section) As used in sections 31 through 34 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill):

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

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

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

23 “Community Development Financial Institution” means an entity
24 designated and certified by the United States Department of the
25 Treasury as a Community Development Financial Institution
26 pursuant to 12 C.F.R. Part 1805.

27 “Department” means the Department of Education.

28 “Eligible borrower” means a non-profit charter school, non-profit
29 renaissance school project, community development financial
30 institution, charter school development corporation, eligible lender,
31 a non-profit entity with expertise in charter school lending that can
32 leverage the loan, and any other entity designated an eligible
33 borrower by the authority. Eligible borrower shall not include a
34 charter school or renaissance school project that is operated by a
35 for-profit management company.

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

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

41 “Loan program” means the “Charter School and Renaissance
42 School Project Facilities Loan Program” established pursuant to
43 section 32 of P.L. , c. (C.) (pending before the Legislature
44 as this bill).

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

47 “School facility” means any structure, building, or facility used
48 wholly or in part for educational purposes that is owned or leased

1 from a nonprofit entity, its wholly owned subsidiary, or government
2 agency, and operated by a charter school or renaissance school
3 project.

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

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

20 “Title” means ownership, simple or in fee, or a 99-year ground
21 leasehold.

22

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

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

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

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

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

47 e. Nothing in sections 30 through 34 of P.L. , c. (C.)
48 (pending before the Legislature as this bill) shall be construed to

1 prohibit an eligible borrower who receives a loan pursuant to those
2 provisions from simultaneously seeking or accepting private
3 funding to support the undertaking of a school facilities project of a
4 charter school or renaissance school project.

5
6 32. (New section) a. The authority shall establish and
7 administer a loan program to be known as the “Charter School and
8 Renaissance School Project Facilities Loan Program” to provide
9 eligible borrowers with a loan including, but not limited to,
10 subordinate loans, to undertake or facilitate school facilities projects
11 for non-profit charter schools and non-profit renaissance school
12 projects located in an SDA district.

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

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

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

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

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

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

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

38 (vi) security and communication systems upgrades;

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

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

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

1 (c) major renovation and rehabilitation projects, including
2 projects that seek to expand the capacity of a charter school or
3 renaissance school project facility used for educational purposes of
4 a charter school or renaissance school project that operates grade
5 levels permitted within the school's charter and within the
6 municipality in which the charter school or renaissance school
7 project's charter has permitted them to operate.

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

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

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

47 d. (1) The authority and department may approve applications
48 for loans on a quarterly basis, subject to the availability of funds in

1 the loan fund established pursuant to section 33 of P.L. ,
2 c. (C.) (pending before the Legislature as this bill). Upon
3 approval of the application, the authority shall provide loans with
4 an interest rate that is equal to the lower of one-half of the Triple A
5 Bond Rate available on the date of loan approval or 1.75 percent to
6 eligible borrowers seeking to undertake school facilities projects for
7 charter schools and renaissance school projects located in SDA
8 districts. The terms of the loan and the repayment schedule shall be
9 established by the authority.

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

14 e. (1) The authority shall require, as a condition of a loan
15 for a school facilities project pursuant to the provisions of sections
16 30 through 34 of P.L. , c. (C.) (pending before the
17 Legislature as this bill) on a school facility owned by the charter
18 school or renaissance school project, that, notwithstanding the
19 provisions of section 7 of P.L.2013, c.149 (C.18A:36C-16) or any
20 other law, rule or regulation to the contrary, in the event the
21 authorization to operate a charter school is revoked, not renewed, or
22 surrendered or the authorization to operate a renaissance school
23 project is terminated or expires for any reason, and no substitute or
24 replacement owner or operator for that charter school or renaissance
25 school project has been approved prior to the date that the
26 operations of the charter school or renaissance school project cease,
27 the title to the charter school or renaissance school project shall
28 revert to another eligible borrower or the Department of the
29 Treasury, except as provided pursuant to paragraph (2) of this
30 subsection, for consideration in an amount calculated as follows:

31 (a) if the principal and interest due on any outstanding debt used
32 to finance a school facilities project pursuant to the provisions of
33 sections 30 through 34 of P.L. , c. (C.) (pending before the
34 Legislature as this bill) of a charter school or renaissance school
35 project is equal to or greater than the fair market value of the
36 charter school or renaissance school project, as determined by a
37 certified appraiser agreed to by the board of education of the district
38 in which the charter school or renaissance school project is located
39 and the owner of the charter school or renaissance school project,
40 an eligible borrower or the Department of the Treasury shall assume
41 any outstanding debt used to finance the school facilities project of
42 the charter school or renaissance school project, and thereafter an
43 eligible borrower or the State shall be legally obligated for the
44 payment thereof; or

45 (b) if the fair market value of the charter school or renaissance
46 school project is greater than the amount of the principal and
47 interest due on the outstanding debt used to finance a school
48 facilities project pursuant to the provisions of sections 30 through

1 34 of P.L. , c. (C.) (pending before the Legislature as this
2 bill) of a charter school or renaissance school project, the State shall
3 pay to the owner of the charter school or renaissance school project
4 the fair market value of the charter school or renaissance project,
5 provided that, to the extent that any debt used to finance the school
6 facilities project pursuant to the provisions of sections 30 through
7 34 of P.L. , c. (C.) (pending before the Legislature as this
8 bill) of a charter school or renaissance school project, is then
9 outstanding, the owner of the charter school or renaissance school
10 project shall utilize the funds received from the State pursuant to
11 this subparagraph to retire the outstanding debt. If the school
12 district in which the charter school or renaissance school project is
13 located does not exercise its right of first refusal established
14 pursuant to paragraph (2) of this subsection, the Department of the
15 Treasury may sell the property to another charter school or
16 renaissance school project or another eligible borrower.

17 (2) The authority shall require, as a condition of a loan for a
18 school facilities project pursuant to the provisions of sections 30
19 through 34 of P.L. , c. (C.) (pending before the Legislature
20 as this bill) on a school facility owned by the charter school or
21 renaissance school project that, notwithstanding the provisions of
22 section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule,
23 or regulation to the contrary, in the event the authorization to
24 operate a charter school is revoked, not renewed, or surrendered or
25 the authorization to operate a renaissance school project is
26 terminated or expired for any reason, and no substitute or
27 replacement owner or operator for that charter school or renaissance
28 school project has been approved prior to the date that the
29 operations of the charter school or renaissance school project cease,
30 the board of education of the district in which the charter school or
31 renaissance school project is located shall have the right of first
32 refusal of the title to the charter school or renaissance school project
33 school facility. If the title transfers to the board of education, the
34 State shall assume, pursuant to subparagraph (a) of paragraph (1) of
35 this subsection, or pay, any outstanding debt used to finance a
36 school facilities project of the charter school or renaissance school
37 project pursuant to the provisions of sections 30 through 34 of
38 P.L. , c. (C.) (pending before the Legislature as this bill).

39 f. The authority, in consultation with the department, shall
40 promulgate within 12 months following the date of enactment of
41 P.L. , c. (C.) (pending before the Legislature as this bill),
42 pursuant to the "Administrative Procedures Act," P.L.1968, c.410
43 (C.52:14B-1 et seq.), such rules and regulations as may be
44 necessary to implement the provisions of this section, which rules
45 and regulations shall at a minimum establish:

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

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

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

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

19 i. In the event that the aggregate amount of a loan provided
20 pursuant to this section exceeds \$5,000,000 for a school facilities
21 project approved pursuant to the provisions of sections 30 through
22 34 of P.L. , c. (C.) (pending before the Legislature as this
23 bill), the authority shall require as a condition of the loan that the
24 school facilities project be subject to the provisions of a project
25 labor agreement.

26
27 33. (New section) a. The authority shall establish and maintain
28 the “Charter School and Renaissance School Project Facilities Loan
29 Fund,” which shall be a non-lapsing, revolving fund that shall serve
30 as the repository of all monies used to support the loan program.

31 b. All loans provided under section 32 of P.L. , c. (C.)
32 (pending before the Legislature as this bill) shall be issued from
33 monies held in the loan fund. All monies received by the authority
34 from the repayment of loans and the interest thereon shall be
35 deposited into the loan fund.

36
37 34. (New section) The Legislature shall annually appropriate to
38 the New Jersey Economic Development Authority for deposit into
39 the “Charter School and Renaissance School Project Facilities Loan
40 Fund” such funds as are necessary for the implementation of
41 sections 30 through 33 of P.L. , c. (C.) (pending before the
42 Legislature as this bill) until such time as the loan program becomes
43 self-sustaining. The New Jersey Economic Development Authority
44 may also utilize such other funds, including federal funds, as
45 available, for deposit into the “Charter School and Renaissance
46 School Project Facilities Loan Fund.”

1 35. (New section) Notwithstanding the provisions of section 10
2 of P.L.1995, c.426 (C.18A:36A-10) or any other law, rule, or
3 regulation to the contrary, a charter school located in an SDA
4 district may construct a facility with public funds other than federal
5 funds, including loan funds received pursuant to the provisions of
6 sections 30 through 34 of P.L. , c. (C.) (pending before the
7 Legislature as this bill), and be subject to the provisions of the
8 “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., provided
9 that the public funds are provided for a school facilities project
10 approved pursuant to section 32 of P.L. , c. (C.) (pending
11 before the Legislature as this bill).
12
13 36. This act shall take effect immediately.