

# SENATE, No. 200

## STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 17, 2000

**Sponsored by:**

**Senator WILLIAM L. GORMLEY**

**District 2 (Atlantic)**

**Senator JOHN A. LYNCH**

**District 17 (Middlesex, Somerset and Union)**

**SYNOPSIS**

The "Educational Facilities Construction and Financing Act."

**CURRENT VERSION OF TEXT**

As introduced.



S200 GORMLEY, LYNCH

2

1 AN ACT concerning the construction and financing of public school  
2 facilities, revising parts of the statutory law and making an  
3 appropriation.

4

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

7

8 1. (New section) Sections 1 through 30 of this act shall be known  
9 and may be cited as the “Educational Facilities Construction and  
10 Financing Act.”

11

12 2. (New section) 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 thorough  
15 and efficient system of free public schools and this legislative  
16 responsibility includes ensuring that students are educated in physical  
17 facilities that are safe, healthy, conducive to learning and located as far  
18 as possible in economically and socially viable communities.

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 for  
22 adequate educational facilities is met, there is a need to establish an  
23 efficiency standard for educational facilities at the elementary, middle,  
24 and secondary school levels which will assure that the core curriculum  
25 content standards are taught to all of the children of the State in a  
26 setting which facilitates and promotes that learning.

27 c. Educational infrastructure inadequacies are greatest in the  
28 Abbott 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 Abbott 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 required  
34 to meet the school facilities efficiency standards in the Abbott districts.  
35 In other districts, the State must also identify need in view of  
36 anticipated growth in school population, and must contribute to the  
37 cost of the renovation and construction of new facilities to ensure the  
38 provision of a thorough and efficient education in those districts.

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

**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 efficiency of school facilities and the efficiency of other school  
2 building systems, construction should be achieved in as efficient a  
3 manner as possible, and a mechanism to assure proper maintenance of  
4 new facilities should be established and implemented, in order to  
5 reduce the overall cost of the program and to preserve this  
6 infrastructure investment.

7 e. At the same time, the location of school facilities in the context  
8 of the communities which they serve is important to both the  
9 educational success of the schools and the development of those  
10 communities. It is highly desirable, particularly in urban communities  
11 where the State has indicated a particular concern respecting local  
12 development efforts, that the planning and construction of schools be  
13 integrated where possible into the economic and community  
14 development efforts of local governments and community  
15 redevelopment entities in order to promote more effective and efficient  
16 use of land, resources and expertise and to better assure the future  
17 viability of local neighborhoods and communities.

18

19 3. (New section) As used in sections 1 through 30 of this act,  
20 unless the context clearly requires a different meaning:

21 "Abbott district" means an Abbott district as defined in section 3 of  
22 P.L.1996, c.138 (C.18A:7F-3);

23 "Area cost allowance" means \$131 per square foot for the school  
24 year 1999-2000 and shall be inflated by an appropriate cost index for  
25 the 2000-2001 school year. For subsequent school years, the area  
26 cost allowance shall be as established in the biennial Report on the  
27 Cost of Providing a Thorough and Efficient Education and inflated by  
28 an appropriate cost index for the second year to which the report  
29 applies. The area cost allowance used in determining preliminary  
30 eligible costs of school facilities projects shall be that of the year of  
31 application for approval of the project;

32 "Building authority" means the New Jersey Building Authority  
33 established pursuant to P.L.1981, c.120 (C.52:18A-78.1 et seq.);

34 "Commissioner" means the Commissioner of Education;

35 "Community development project" means a redevelopment project  
36 undertaken as part of a redevelopment plan adopted or proposed to  
37 be adopted by the municipal governing body pursuant to the "Local  
38 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et  
39 seq.), which contains a school facilities project;

40 "Community redevelopment entity" means a redevelopment entity  
41 authorized by a municipal governing body to implement redevelopment  
42 plans and to carry out redevelopment projects in the municipality  
43 pursuant to the "Local Redevelopment and Housing Law," P.L.1992,  
44 c.79 (C.40A:12A-1 et seq.), a county improvement authority  
45 designated by the municipality to implement redevelopment plans or  
46 carry out redevelopment projects pursuant to section 34 of P.L.1979,

1 c.275 (C.40:37A-55.1), or the New Jersey Redevelopment Authority,  
2 where the municipality has designated that authority as its  
3 redevelopment agency pursuant to subsection y. of section 5 of  
4 P.L.1996, c.62 (C.55:19-24);

5 "Core curriculum content standards" means the standards  
6 established pursuant to the provisions of subsection a. of section 4 of  
7 P.L.1996, c.138 (C.18A:7F-4);

8 "Cost index" means the average annual increase, expressed as a  
9 decimal, in actual construction cost factors for the New York City and  
10 Philadelphia areas during the second fiscal year preceding the budget  
11 year as determined pursuant to regulations promulgated by the  
12 building authority pursuant to section 26 of this act;

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

26 "District" means a local or regional school district established  
27 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
28 Statutes, a county special services school district established pursuant  
29 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a  
30 county vocational school district established pursuant to article 3 of  
31 chapter 54 of Title 18A of the New Jersey Statutes, and a State-  
32 operated school district established pursuant to P.L.1987, c.399  
33 (C.18A:7A-34 et seq.);

34 "District aid percentage" means the number expressed as a  
35 percentage derived from dividing the district's core curriculum  
36 standards aid calculated pursuant to section 15 of P.L.1996, c.138  
37 (C.18A:7F-15) by the district's T & E budget calculated pursuant to  
38 subsection d. of section 13 of P.L.1996, c.138 (C.18A:7F-13);

39 "Excess costs" means the additional costs, if any, which shall be  
40 borne by the district, of a school facilities project which result from  
41 design factors that are either not required to meet the facilities  
42 efficiency standards and not approved pursuant to paragraph (1) of  
43 subsection g. of section 5 of this act or are not authorized as  
44 community design features included in final eligible costs pursuant to  
45 subsection c. of section 6 of this act;

46 "Facilities authority" means the New Jersey Educational Facilities

1 Authority created pursuant to N.J.S.18A:72A-1 et seq.;

2 "Facilities efficiency standards" means the standards promulgated  
3 by the commissioner pursuant to subsection c. of section 4 of this act;

4 "Final eligible costs" means for school facilities projects to be  
5 constructed by the building authority, the final eligible costs of the  
6 school facilities project as determined by the commissioner, in  
7 consultation with the building authority, pursuant to section 5 of this  
8 act; for community development school projects to be constructed by  
9 a community redevelopment entity, the final eligible costs of the  
10 community development school project as determined by the  
11 commissioner and reviewed by the building authority plus community  
12 design feature costs as approved by the Urban Coordinating Council  
13 pursuant to section 6 of this act and reviewed by the building authority  
14 pursuant to section 6 of this act; and for districts whose district aid  
15 percentage is less than 50% and which elect not to have the building  
16 authority construct a school facilities project, final eligible costs shall  
17 equal preliminary eligible costs;

18 "FTE" means a full-time equivalent student which shall be  
19 calculated as follows: in districts that qualify for early childhood  
20 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16),  
21 each student in grades kindergarten through 12 shall be counted at  
22 100% of the actual count of students, and each preschool student  
23 approved by the commissioner to be served in the district shall be  
24 counted at 50% or 100% of the actual count of preschool students for  
25 an approved half-day or full-day program, respectively; in districts that  
26 do not qualify for early childhood program aid pursuant to section 16  
27 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through  
28 12 shall be counted at 100% of the actual count of students, in the  
29 case of districts which operate a half-day kindergarten program each  
30 kindergarten student shall be counted at 50% of the actual count of  
31 kindergarten students, in the case of districts which operate a full-day  
32 kindergarten program or which currently operate a half-day  
33 kindergarten program but propose to build facilities to house a full-  
34 day kindergarten program each kindergarten student shall be counted  
35 at 100% of the actual count of kindergarten students, and preschool  
36 students shall not be counted. In addition, each preschool  
37 handicapped child who is entitled to receive a full-time program  
38 pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual  
39 count of these students in the district;

40 "Functional capacity" means the number of students that can be  
41 housed in a building in order to have sufficient space for it to be  
42 educationally adequate for the delivery of programs and services  
43 necessary for student achievement of the core curriculum content  
44 standards. Functional capacity is determined by dividing the existing  
45 gross square footage of a school building by the minimum area  
46 allowance per FTE student pursuant to subsection b. of section 8 of

1 this act for the grade level students contained therein. The difference  
2 between the projected enrollment determined pursuant to subsection  
3 a. of section 8 of this act and the functional capacity is the unhoused  
4 students that are the basis upon which the additional costs of space to  
5 provide educationally adequate facilities for the entire projected  
6 enrollment are determined. The existing gross square footage for the  
7 purposes of defining functional capacity is exclusive of existing spaces  
8 that are not contained in the facilities efficiency standards but which  
9 are used to deliver programs and services aligned to the core  
10 curriculum content standards, used to provide support services directly  
11 to students, or other existing spaces that the district can demonstrate  
12 would be structurally or fiscally impractical to convert to other uses  
13 contained in the facilities efficiency standards;

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

24 "Level II district" means a district which is directed by the  
25 commissioner to enter level II monitoring pursuant to the provisions  
26 of section 14 of P.L.1975, c.212 (C.18A:7A-14);

27 "Local share" means, in the case of a school facilities project to be  
28 constructed by the building authority or a community redevelopment  
29 entity, the total costs less the State share as determined pursuant to  
30 sections 5 and 6 of this act; and in the case of a school facilities  
31 project not to be constructed by the building authority or a community  
32 redevelopment entity, the total costs less State debt service aid;

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

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

42 "Long-range facilities plan" means the plan required to be submitted  
43 to the commissioner and where appropriate to the Urban Coordinating  
44 Council by a district pursuant to section 4 of this act;

45 "Maintenance" means expenditures which are approved for repairs  
46 and replacements for the purpose of keeping a school facility open and

1 safe for use or in its original condition, including repairs and  
2 replacements to a school facility's heating, lighting, ventilation,  
3 security and other fixtures to keep the facility or fixtures in effective  
4 working condition. Maintenance shall not include contracted custodial  
5 or janitorial services, expenditures for the cleaning of a school facility  
6 or its fixtures, the care and upkeep of grounds or parking lots, and the  
7 cleaning of, or repairs and replacements to, movable furnishings or  
8 equipment, or other expenditures which are not required to maintain  
9 the original condition over the school facility's useful life. Approved  
10 maintenance expenditures shall be as determined by the commissioner  
11 pursuant to regulations to be adopted by the commissioner pursuant  
12 to section 25 of this act;

13 "Preliminary eligible costs" means the initial eligible costs of a  
14 school facilities project as calculated pursuant to the formulas set forth  
15 in section 7 of this act;

16 "Report on the Cost of Providing a Thorough and Efficient  
17 Education" or "Report" means the report issued by the commissioner  
18 pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4);

19 "School bonds" means, in the case of a school facilities project  
20 which is to be constructed by the building authority or a community  
21 redevelopment entity, bonds, notes or other obligations issued by a  
22 district to finance the local share; and, in the case of a school facilities  
23 project which is not to be constructed by the building authority or a  
24 community redevelopment entity, bonds, notes or other obligations  
25 issued by a district to finance the total costs;

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

31 "School facility" means and includes any structure, building or  
32 facility used wholly or in part for academic purposes by a district, but  
33 shall exclude athletic stadiums, grandstands, and any structure,  
34 building or facility used solely for school administration;

35 "School facilities project" means the acquisition, demolition,  
36 construction, improvement, repair, alteration, modernization,  
37 renovation, reconstruction or 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, services of design professionals, such as  
42 engineers and architects, construction management, legal services,  
43 financing costs and administrative costs and expenses incurred in  
44 connection with the project;

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

1 Statutes;

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

3 "State debt service aid" means for school bonds issued for school  
4 facilities projects approved by the commissioner after the effective  
5 date of P.L. , c. (C. ) (now pending before the Legislature as this  
6 bill) of districts which elect not to have the building authority or a  
7 community redevelopment entity construct the project, the amount of  
8 State aid determined pursuant to section 9 of this act; and for school  
9 bonds or certificates of participation issued for school facilities  
10 projects approved by the commissioner prior to the effective date of  
11 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
12 the amount of State aid determined pursuant to section 10 of this act;

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

19 "State school aid" means the funds made available to school  
20 districts pursuant to sections 15 and 17 of P.L.1996, c.138  
21 (C.18A:7F-15 and 17);

22 "State share" means the State's proportionate share of the final  
23 eligible costs of a school facilities project to be constructed by the  
24 building authority as determined pursuant to section 5 of this act, and  
25 in the case of a community development school project the State's  
26 proportionate share of the final eligible costs of the community  
27 development school project as determined pursuant to sections 5 and  
28 6 of this act;

29 "Total costs" means, in the case of a school facilities project which  
30 is to be constructed by the building authority or a community  
31 redevelopment entity, the final eligible costs plus excess costs if any;  
32 and in the case of a school facilities project which is not to be  
33 constructed by the building authority or a community redevelopment  
34 entity, the total cost of the project as determined by the district;

35 "Urban Coordinating Council" means the Urban Coordinating  
36 Council established pursuant to section 45 of P.L.1996, c.62 (C.55:19-  
37 60);

38 "Urban development municipality" means a municipality qualifying  
39 for assistance from the Urban Coordinating Council.

40

41 4. (New section) a. (1) Beginning in the 1999-2000 school year  
42 and in every school year thereafter ending with a "0" or a "5", each  
43 district shall prepare and submit to the commissioner a long-range  
44 facilities plan that details the district's school facilities needs and the  
45 district's plan to address those needs for the ensuing five years. The  
46 long-range facilities plan shall incorporate the facilities efficiency



1 standards and shall be filed with the commissioner no later than  
2 October 1, 2000 and no later than October 1 of the other filing years  
3 for approval in accordance with those standards. For all Abbott  
4 districts that have submitted long-range facilities plans to the  
5 commissioner prior to the effective date of P.L. , c. (C. )(now  
6 pending before the Legislature as this bill), the commissioner shall  
7 within 10 days of the effective date of P.L. , c. (C. )(now pending  
8 before the Legislature as this bill) submit the plan to the appropriate  
9 local planning board for review pursuant to subsection b. of this  
10 section and the 90-day review period established by that subsection  
11 shall begin on the date of the planning board's receipt of the plan. For  
12 those Abbott districts, this paragraph shall not be read to require an  
13 additional filing by October 1, 2000.

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

28 (3) An amendment to a long-range facilities plan may be submitted  
29 at any time to the commissioner for review and approval. An  
30 amendment to include a community development school project in the  
31 plan shall be appropriate at any time unless construction or acquisition  
32 of the school facilities project affected by the amendment has been  
33 initiated by the building authority pursuant to section 5 of this act.

34 (4) Each long-range facilities plan shall include a cohort survival  
35 methodology or other methodology approved by the commissioner,  
36 accompanied by a certification by a qualified demographer retained by  
37 the district that serves as the basis for identifying the capacity and  
38 program needs detailed in the long-range facilities plan.

39 (5) The long-range facilities plan shall include an educational  
40 adequacy inventory of all existing school facilities in the district, the  
41 identification of all deficiencies in the district's current inventory of  
42 school facilities, which includes the identification of those deficiencies  
43 that involve emergent health and safety concerns, and the district's  
44 proposed plan for future construction and renovation. The long-range  
45 facilities plan submissions shall conform to the guidelines, criteria and  
46 format prescribed by the commissioner.

1 (6) Each district shall determine the number of "unhoused  
2 students" for the ensuing five-year period calculated pursuant to the  
3 provisions of section 8 of this act.

4 b. (1) Notwithstanding subsection a. of this section, prior to the  
5 submission of a long-range facilities plan to the commissioner pursuant  
6 to subsection a. of this section, a district located in an urban  
7 development municipality and any district which is a Level II district  
8 on the effective date of P.L. , c. (C. ) (now pending before the  
9 Legislature as this bill) shall submit the long-range facilities plan to  
10 the planning board of the municipality pursuant to section 22 of  
11 P.L.1975, c.291 (C.40:55D-31) for the planning board's review, which  
12 shall include an assessment of the extent to which the plan takes  
13 account of the land use and development proposals contained within  
14 the municipal master plan adopted pursuant to section 19 of P.L.1975,  
15 c.291 (C.40:55D-28) and recommendations as to the community  
16 development impact of individual school facilities projects contained  
17 in the long-range facilities plan. The commissioner shall not approve  
18 any long-range facilities plan submitted by a district located in an  
19 urban development municipality or by a Level II district, whether  
20 submitted before or after the effective date of P.L. , c. (C. )  
21 (now pending before the Legislature as this bill), unless the plan  
22 submitted for approval includes a resolution of the municipal planning  
23 board reviewed by the Urban Coordinating Council, setting forth the  
24 board's findings respecting the coordination of land use and  
25 development proposals for the municipality and school facilities  
26 planning and the anticipated impact of the school facilities projects  
27 contained in the plan on community development and redevelopment  
28 efforts and plans in the municipality or the period established by  
29 paragraph (2) of this subsection has expired. The commissioner shall  
30 not consider any resolution that is not submitted to him in accordance  
31 with the requirements established by paragraph (2) of this subsection.  
32 The requirements of this subsection shall not bar the commissioner  
33 from approving individual school projects in urban development  
34 municipalities or in any district which is a Level II district on the  
35 effective date of P.L. , c. (C. ) (now pending before the  
36 Legislature as this bill) if those projects could otherwise be approved  
37 without the commissioner's approval of a long-range facilities plan as  
38 provided in paragraph (2) of subsection a. of this section.

39 (2) Within 90 days following submission of a long-range facilities  
40 plan to the municipality's planning board, the planning board shall  
41 adopt a resolution setting forth:

42 (a) a description of the actions taken by the municipal planning  
43 board respecting the long-range facilities plan pursuant to section 22  
44 of P.L.1975, c.291 (C.40:55D-31);

45 (b) the board's findings as to the extent to which the long-range  
46 facilities plan is informed by, and consistent with, the land use and

1 development proposals contained within the municipal master plan  
2 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28);

3 (c) the board's findings respecting the anticipated impact of the  
4 school facilities projects contained in the long-range facilities plan on  
5 community development and redevelopment efforts and plans in the  
6 municipality;

7 (d) the board's recommendations with respect to any school  
8 facilities project contained in the plan which the board finds to be  
9 appropriate for undertaking as a community development school  
10 project consistent with existing or proposed community development  
11 and redevelopment plans and projects in the municipality. The  
12 municipal planning board shall transmit the adopted resolution to the  
13 district as an attachment to the long-range facilities plan.

14 (3) On the first business day following adoption of the resolution,  
15 the planning board shall transmit copies of the plan and the resolution  
16 to the council and to the commissioner.

17 (4) Any district which is not located in an urban development  
18 municipality or which is not a Level II district on the effective date of  
19 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
20 may elect to have its long-range facilities plan reviewed by the  
21 municipal planning board pursuant to this subsection, and the  
22 municipal planning board shall undertake that review and adopt a  
23 resolution as set forth in paragraphs (1) and (2) of this subsection.

24 (5) The Urban Coordinating Council shall provide technical  
25 assistance to municipal planning boards in urban development  
26 municipalities and in Level II district municipalities to assist in their  
27 review of long-range facilities plans and in formulating  
28 recommendations pursuant to this subsection. The council shall  
29 facilitate cooperative efforts of districts and planning boards by  
30 identifying or suggesting opportunities for community development  
31 school projects in the municipality.

32 (6) Within 45 days of the council's receipt of a long-range facilities  
33 plan with an accompanying resolution of the municipal planning board  
34 pursuant to this subsection, the council shall review the resolution to  
35 determine if the findings of the municipal planning board demonstrate  
36 a good faith effort to consult with the district with regard to the  
37 coordination of land use and educational facilities planning and with  
38 pertinent redevelopment entities with respect to the anticipated impact  
39 of school facilities projects on community development and  
40 redevelopment efforts and plans in the municipality.

41 c. The commissioner shall develop, for the March 2002 and  
42 subsequent Reports on the Cost of Providing a Thorough and Efficient  
43 Education, facilities efficiency standards for elementary, middle, and  
44 high schools consistent with the core curriculum school delivery  
45 assumptions in the report and sufficient for the achievement of the  
46 core curriculum content standards, and for the provision of required

1 programs in Abbott districts and early childhood education programs  
2 in the districts in which these programs are required by the State. The  
3 area allowances per FTE student in each class of the district shall be  
4 derived from these facilities efficiency standards.

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

21 Within a reasonable period of time after the effective date of P.L. ,  
22 c. (C. ) (now pending before the Legislature as this bill), the  
23 commissioner shall publish the facilities efficiency standards developed  
24 for the 2000-2001, 2001-2002, and 2002-2003 school years in the  
25 New Jersey Register. Within a reasonable period of time after 30 days  
26 after publication in the New Jersey Register, the commissioner shall  
27 file the facilities efficiency standards with the Office of Administrative  
28 Law and those standards shall become effective immediately upon  
29 filing with the Office of Administrative Law. During the 30-day  
30 period the commissioner shall provide an opportunity for public  
31 comment on the proposed facilities efficiency standards.

32 d. Within 90 days of the commissioner's receipt of a long-range  
33 facilities plan for review, the commissioner shall determine whether the  
34 plan is fully and accurately completed and whether all information  
35 necessary for a decision on the plan has been filed by the district.  
36 Where pertinent, this 90-day period shall commence at the same time  
37 as the 45-day period for council review provided in paragraph (6) of  
38 subsection b. of this section. If the commissioner determines that the  
39 plan is complete, the commissioner shall promptly notify the district in  
40 writing and shall have 60 days from the date of that notification to  
41 determine whether to approve the plan or not. If the commissioner  
42 determines that the plan is not complete, the commissioner shall notify  
43 the district in writing. The district shall provide to the commissioner  
44 whatever information the commissioner determines is necessary to  
45 make the plan accurate and complete. The district shall submit that  
46 information to the commissioner, and the commissioner shall have 60

1 days from the date of receipt of accurate and complete information to  
2 determine whether to approve the plan or not.

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

9  
10 5. (New section) a. The building authority shall construct and the  
11 facilities authority shall finance the school facilities projects of Abbott  
12 districts, level II districts, and districts with a district aid percentage  
13 equal to or greater than 50%.

14 b. (1) Any district whose district aid percentage is less than 50%  
15 may elect to have the facilities authority undertake the financing and  
16 the building authority undertake the construction of a school facilities  
17 project in the district and the State share shall be determined pursuant  
18 to this section. In the event that the district elects not to have the  
19 building authority undertake the construction of the project, State debt  
20 service aid for the project shall be determined pursuant to section 9 of  
21 this act.

22 (2) A district whose district aid percentage is less than 50% may  
23 enter into an agreement with a county, municipality, other political  
24 entity, or public agency authorized to construct a school facilities  
25 project to undertake the design, planning, and construction of a school  
26 facilities project provided that the entity is subject to the "Local Public  
27 Contracts Law," P.L.1971, c.79 (C.40A:11-1 et seq.), the "Local  
28 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et  
29 seq.), or the "Public School Contracts Law, N.J.S.18A:18A-1 et  
30 seq.)."

31 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
32 contrary, the procedures for obtaining approval of a school facilities  
33 project shall be as set forth in this act; provided that any district  
34 whose district aid percentage is less than 50%, which elects not to  
35 have the building authority or a community redevelopment entity  
36 undertake the construction of the project, shall also be required to  
37 comply with the provisions of N.J.S.18A:18A-16.

38 d. Any district seeking to initiate a school facilities project shall  
39 apply to the commissioner for approval of the project. The application  
40 shall, at a minimum, contain the following information: a description  
41 of the school facilities project; a schematic drawing of the project or,  
42 at the option of the district, preliminary plans and specifications; a  
43 delineation and description of each of the functional components of the  
44 project; the number of unhoused students to be housed in the project;  
45 the area allowances per FTE student as calculated pursuant to section  
46 8 of this act; and the estimated cost to complete the project as

1 determined by the district.

2 e. The commissioner shall review each proposed school facilities  
3 project to determine whether it is consistent with the district's long-  
4 range facilities plan and whether it complies with the facilities  
5 efficiency standards and the area allowances per FTE student derived  
6 from those standards. The commissioner shall make a decision on a  
7 district's application within 90 days from the date he determines that  
8 the application is fully and accurately completed and that all  
9 information necessary for a decision has been filed by the district, or  
10 from the date of the last revision made by the district. If the  
11 commissioner is not able to make a decision within 90 days, he shall  
12 notify the district in writing explaining the reason for the delay and  
13 indicating the date on which a decision on the project will be made.  
14 If the decision is not made by the subsequent date indicated by the  
15 commissioner, then the project shall be deemed approved and the  
16 preliminary eligible costs shall equal the proposed cost of the project.

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

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

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

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

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

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

27 (4) The commissioner shall approve spaces in excess of, or  
28 inconsistent with, the facilities efficiency standards, hereinafter  
29 referred to as nonconforming spaces, upon a determination by the  
30 district that the spaces are necessary to comply with State or federal  
31 law concerning individuals with disabilities. A district may apply for  
32 additional State aid for nonconforming spaces that will permit pupils  
33 with learning disabilities to be educated to the greatest extent possible  
34 in the same buildings or classes with their nondisabled peers. The  
35 nonconforming spaces may: (a) allow for the return of pupils with  
36 learning disabilities from private facilities; (b) permit the retention of  
37 pupils with learning disabilities who would otherwise be placed in  
38 private facilities; (c) provide space for regional programs in a host  
39 school building that houses both disabled and nondisabled pupils; and  
40 (d) provide space for the coordination of regional programs by a  
41 county special services school district, educational services  
42 commission, jointure commission, or other agency authorized by law  
43 to provide regional educational services in a school building that  
44 houses both disabled and nondisabled pupils. A district's State support  
45 ratio shall be adjusted to equal the lesser of the sum of  
46 CCSAID/TEBUD as defined in section 9 of this act plus 0.25, or

1 100% for any nonconforming spaces approved by the commissioner  
2 pursuant to this paragraph.

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

5 (1) In the case of a district whose district aid percentage is less  
6 than 50% and which has elected not to have the building authority  
7 undertake the construction of the school facilities project, the  
8 commissioner shall notify the district whether the school facilities  
9 project is approved and, if so approved, the preliminary eligible costs  
10 and the excess costs, if any. Following the determination of  
11 preliminary eligible costs and the notification of project approval, the  
12 district may appeal to the commissioner for an increase in those costs  
13 if the detailed plans and specifications completed by a design  
14 professional for the school facilities project indicate that the cost of  
15 constructing that portion of the project which is consistent with the  
16 facilities efficiency standards and does not exceed the area allowances  
17 per FTE student exceeds the preliminary eligible costs as determined  
18 by the commissioner for the project by 10% or more. The district shall  
19 file its appeal within 30 days of the preparation of the plans and  
20 specifications. The appeal shall outline the reasons why the  
21 preliminary eligible costs calculated for the project are inadequate and  
22 estimate the amount of the adjustment which needs to be made to the  
23 preliminary eligible costs. The commissioner shall forward the appeal  
24 information to the building authority for its review and  
25 recommendation. If the additional costs are the result of factors that  
26 are within the control of the district or are the result of design factors  
27 that are not required to meet the facilities efficiency standards, the  
28 building authority shall recommend to the commissioner that the  
29 preliminary eligible costs be accepted as the final eligible costs. If the  
30 building authority determines the additional costs are not within the  
31 control of the district or are the result of design factors required to  
32 meet the facilities efficiency standards, the building authority shall  
33 recommend to the commissioner a final eligible cost based on its  
34 experience for districts with similar characteristics. The commissioner  
35 shall make a determination on the appeal within 30 days of its receipt.  
36 If the commissioner does not approve an adjustment to the school  
37 facilities project's preliminary eligible costs, the commissioner shall  
38 issue his findings in writing on the reasons for the denial and on why  
39 the preliminary eligible costs as originally calculated are sufficient.

40 (2) In all other cases, the commissioner shall promptly prepare and  
41 submit to the building authority a preliminary project report which  
42 shall consist, at a minimum, of the following information: a complete  
43 description of the school facilities project; the actual location of the  
44 project; the total square footage of the project together with a  
45 breakdown of total square footage by functional component; the  
46 preliminary eligible costs of the project; the project's priority ranking



1 determined pursuant to subsection m. of this section; any other  
2 factors to be considered by the building authority in undertaking the  
3 project; and the name and address of the person from the district to  
4 contact in regard to the project.

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

16 (1) In the event that the building authority advises the commissioner  
17 that the school facilities project can be completed within the  
18 preliminary eligible costs, the commissioner shall: calculate the final  
19 eligible costs to equal the preliminary eligible costs; give final approval  
20 to the project; and issue a final project report to the building authority  
21 pursuant to subsection j. of this section.

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

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

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

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

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

18 (d) For a school facilities project constructed by the building  
19 authority, the building authority shall be responsible for any costs of  
20 construction, but only from the proceeds of bonds issued by the  
21 facilities authority pursuant to this act, which exceed the amount  
22 originally projected by the building authority and approved for  
23 financing by the facilities authority, provided that the excess is the  
24 result of an underestimate of labor or materials costs by the building  
25 authority. After receipt by the building authority of the final project  
26 report, the district shall be responsible only for the costs associated  
27 with changes, if any, made at the request of the district to the scope  
28 of the school facilities project.

29 j. The building authority shall not commence the acquisition or  
30 construction of a school facilities project unless the commissioner  
31 transmits to the building authority a final project report and the district  
32 complies with the approval requirements for the local share, if any,  
33 pursuant to section 11 of this act. The final project report shall  
34 contain all of the information contained in the preliminary project  
35 report and, in addition, shall contain: the final eligible costs; the excess  
36 costs, if any; the total costs which equals the final eligible costs plus  
37 excess costs, if any; the State share; and the local share.

38 k. For the Abbott districts, the State share shall be 100% of the  
39 final eligible costs. For all other districts, the State share shall be an  
40 amount equal to 115% of the district aid percentage; except that the  
41 State share shall not be less than 10% of the final eligible costs.

42 l. The local share for school facilities projects constructed by the  
43 building authority or a community redevelopment entity shall equal  
44 the final eligible costs plus any excess costs less the State share.

45 m. The commissioner shall establish, in consultation with the  
46 Abbott districts, a priority ranking of all school facilities projects in the

1 Abbott districts based upon his determination of critical need, and shall  
2 establish priority categories for all school facilities projects in non-  
3 Abbott districts. The commissioner shall rank projects from Tier I to  
4 Tier IV in terms of critical need according to the follow prioritization:

5 Tier I: health and safety, including electrical system upgrades;  
6 required early childhood education programs; unhoused students/class  
7 size reduction as required to meet the standards of the  
8 "Comprehensive Educational Improvement and Financing Act of  
9 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.).

10 Tier II: educational adequacy - specialized instructional spaces,  
11 media centers, cafeteriums, and other non-general classroom spaces  
12 contained in the facilities efficiency standards; special education spaces  
13 to achieve the least restrictive environment.

14 Tier III: technology projects; regionalization/consolidation projects.

15 Tier IV: other local objectives.

16 n. Except as otherwise provided in paragraph (2) of subsection b.  
17 of this section, the provisions of the "Public School Contracts Law,"  
18 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
19 project constructed by a district but shall not be applicable to projects  
20 constructed by the building authority or a community redevelopment  
21 entity pursuant to the provisions of this act.

22 o. In the event that a district whose district aid percentage is less  
23 than 50% elects not to have the building authority undertake  
24 construction of a school facilities project, any proceeds of school  
25 bonds issued by the district for the purpose of funding the project  
26 which remain unspent upon completion of the project shall be used  
27 by the district to reduce the outstanding principal amount of the school  
28 bonds.

29 p. Upon completion by the building authority of a school facilities  
30 project, if the cost of construction and completion of the project is less  
31 than the total costs, the district shall be entitled to receive a portion of  
32 the local share based on a pro rata share of the difference based on the  
33 ratio of the State share to the local share.

34 q. The building authority shall determine the cause of any costs of  
35 construction which exceed the amount originally projected by the  
36 building authority and approved for financing by the facilities  
37 authority.

38 r. In the event that a district has engaged architectural services  
39 that have been prequalified by the building authority to prepare the  
40 documents required for initial proposal of a school facilities project,  
41 the district shall, if permitted by the terms of the district's contract for  
42 architectural services, assign the contract for architectural services to  
43 the building authority, provided that the fees for the architectural  
44 services shall not exceed the fees normally paid by the building  
45 authority for such services.

1       6. (New section) The provisions of section 5 of P.L.       , c.  
2 (C.       ) (now pending before the Legislature as this bill) shall pertain  
3 to community development school projects except as otherwise  
4 provided in this section.

5       a. A district and municipality may request that the Urban  
6 Coordinating Council designate as a community development school  
7 project a school facilities project contained in a long-range facilities  
8 plan for which a planning board resolution was reviewed by the  
9 council pursuant to subsection b. of section 4 of P.L.       , c. (C.       )  
10 (now pending before the Legislature as this bill) and determined by the  
11 council to demonstrate a good faith effort as provided in that  
12 subsection or which was added to the long-range facilities plan by  
13 amendment approved by the commissioner subsequent to adoption of  
14 the plan. The request shall set forth: (1) a project plan for carrying  
15 out the redevelopment project as a whole, including the construction  
16 of the school facility; (2) the name of the community redevelopment  
17 entity to undertake the project; and (3) a description of how the  
18 project fits into a redevelopment plan adopted or to be adopted by the  
19 municipal governing body pursuant to section 7 of P.L.1992, c.79  
20 (C.40A:12A-7). The council shall designate the project as a  
21 community development school project if it determines that:

22       (a) the project furthers definite local objectives as to appropriate  
23 land uses, density of population, and improved traffic and public  
24 transportation, public utilities, recreational and community facilities  
25 and other public improvements;

26       (b) the project provides significant social and economic benefits to  
27 the municipality, its neighborhoods and residents;

28       (c) based upon the past experience of the community  
29 redevelopment entity in undertaking similar projects and the financial  
30 capability of that redevelopment entity, there is a high degree of  
31 assurance that the project will be undertaken and completed  
32 successfully by the community redevelopment entity.

33       With the agreement of the district and the municipality, the council  
34 may designate the building authority as the redevelopment entity which  
35 shall undertake the community development school project. The  
36 designation shall be made if the council determines that neither the  
37 community redevelopment entity proposed by the district and  
38 municipality or any other redevelopment entity authorized to  
39 undertake redevelopment projects in the municipality is financially  
40 capable to do so, or possesses appropriate experience in undertaking  
41 similar projects.

42       In the event that the council designates the building authority as the  
43 redevelopment entity which shall undertake the community  
44 development school project, the building authority shall operate under  
45 the "Local Redevelopment and Housing Law," P.L.1992, c.79  
46 (C.40A:12A-1 et seq.) in undertaking the project.

1 The council's review of the proposed community development  
2 school project for designation under this section shall proceed at the  
3 same time as the commissioner's review of the school facilities project  
4 for approval under section 5 of P.L. , c. (C. ) (now pending  
5 before the Legislature as this bill). The council's designation or  
6 decision not to make a designation shall precede approval by the  
7 commissioner.

8 b. Designation of a community development school project shall  
9 entitle an urban development municipality and a municipality in which  
10 a Level II district is located on the effective date of P.L. , c.  
11 (C. ) (now pending before the Legislature as this bill) to higher  
12 priority for receipt of State assistance for the project as determined by  
13 the Urban Coordinating Council in consultation with the community  
14 redevelopment entity to undertake the project. The council shall  
15 coordinate the provision of State assistance for the community  
16 development school project which may include any or all of the  
17 following, so long as the purposes for which the moneys are to be  
18 expended are not inconsistent with the provisions of any other law:

19 (1) demolition grants or loans made available by the Department of  
20 Community Affairs;

21 (2) priority for loans and loan guarantees allocated to "qualified  
22 municipalities" by the New Jersey Economic Development Authority  
23 pursuant to section 59 of P.L.1996, c.62 (C.55:19-73) or otherwise  
24 made available for urban development purposes;

25 (3) priority for loans, loan guarantees and any other housing  
26 assistance made available by the New Jersey Housing and Mortgage  
27 Finance Agency pursuant to the "New Jersey Housing and Mortgage  
28 Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-1 et seq.),  
29 for which community development school projects may be eligible;

30 (4) priority for funding out of the "Neighborhood Preservation  
31 Nonlapsing Revolving Fund" established pursuant to section 20 of  
32 P.L.1985, c.222 (C.52:27D-320);

33 (5) priority for loans, loan guarantees, financing through tax exempt  
34 bond financing or any other financial assistance available for these  
35 projects by the New Jersey Redevelopment Authority established  
36 pursuant to section 4 of P.L.1996, c.62 (C.55:19-23);

37 (6) priority for low-income housing tax credits administered by the  
38 New Jersey Housing and Mortgage Finance Agency and made  
39 available pursuant to Section 42(h)(4) of the Internal Revenue Code  
40 for those projects which support the community development school  
41 project within the district;

42 (7) priority for any transportation infrastructure funds administered  
43 by the State for which the community development school project may  
44 otherwise be eligible, including any moneys available through  
45 reauthorization of the "New Jersey Transportation Trust Fund"  
46 pursuant to the "New Jersey Transportation Trust Fund Authority Act

1 of 1984," P.L.1984, c.73 (C.27:1B-1 et al.);

2 (8) priority for funds to assist in site remediation which may be  
3 made available pursuant to the "Hazardous Discharge Fund" created  
4 pursuant to the "Hazardous Discharge Bond Act," P.L.1981, c.275,  
5 the "Hazardous Discharge Site Cleanup Fund" established pursuant to  
6 section 1 of P.L.1985, c.247 (C.58:10-23.34) or any other moneys  
7 made available for purposes consistent with the implementation of a  
8 community development school project;

9 (9) priority for any funds which may be made available for the  
10 acquisition or development of lands by the State for recreation and  
11 conservation purposes pursuant to: P.L.1961, c.46; P.L.1971, c.165;  
12 P.L.1974, c.102; P.L.1978, c.118; P.L.1983, c.354; P.L.1987, c.265;  
13 and P.L.1989, c.183, or any similar act for such purposes that may be  
14 enacted; or any such funds administered pursuant to P.L.1961, c.45  
15 (C.13:8A-1 et seq.), P.L.1971, c.419 (C.13:8A-19 et seq.), and  
16 P.L.1975, c.155 (C.13:8A-35 et seq.), or any similar act for such  
17 purposes that may be enacted to the extent that those moneys further  
18 the implementation of a community development school project;

19 (10) priority for any State aid for a municipal library which  
20 supports a community development school project which is otherwise  
21 available pursuant to section 1 of P.L.1985, c.297 (C.18A:74-3.2) or  
22 any other law; and

23 (11) priority for any State moneys which may be made available to  
24 construct, maintain or operate recreational facilities or playgrounds in  
25 order to further the implementation of a community development  
26 school project.

27 c. In addition to the requirements set forth in section 5 of this act,  
28 a community development school project may request inclusion in the  
29 final eligible costs of the school facilities project, of all or any portion  
30 of the cost of any community design features including any area,  
31 rooms, equipment, recreational area or playground included in the  
32 school facilities project which are to be used in common by students  
33 of the district and by residents of the community, but there shall not  
34 be included in the final eligible costs any portion of the cost of any  
35 features which are not an integral part of the school building and  
36 grounds. The Urban Coordinating Council shall approve the request  
37 if it finds that the inclusion of the funding in the final eligible costs  
38 would be conducive to the usefulness and success of the project for  
39 both the students of the district and the residents of the community.  
40 The council may condition its approval upon the adoption by the  
41 school district of policies suitable for assuring continuing community  
42 access to the community design features.

43 The cost of the community design features approved by the Urban  
44 Coordinating Council shall be reviewed by the building authority. The  
45 district shall submit the documentation required by the building  
46 authority for the building authority to make its determination. The

1 building authority shall, in its recommendation to the commissioner  
2 pursuant to section 5 of this act, include its recommendation with  
3 respect to the cost of the community design features.

4 d. The facilities authority shall provide funding for the State's share  
5 of the final eligible costs of a school facilities project to be constructed  
6 as part of a designated community development school project as  
7 approved by the Urban Coordinating Council. The facilities authority  
8 shall provide the funding to the community redevelopment entity to  
9 undertake construction of the project, or to the building authority  
10 contracting for construction of the school facilities project, as  
11 determined in the designation of the project by the council. Prior to  
12 the provision of funding, the building authority shall review the  
13 preliminary eligible costs of the school facilities project and certify to  
14 the commissioner and the Urban Coordinating Council any increase or  
15 other adjustment necessary to permit the school facilities project to be  
16 constructed in a manner conducive to the success of the community  
17 development school project. If a community development school  
18 project is to be constructed by a community redevelopment entity, the  
19 facilities authority shall provide funding for the State share pursuant  
20 to an agreement among the facilities authority, the community  
21 redevelopment entity, and the State Treasurer which shall, in addition  
22 to any other terms and conditions, set forth the terms for disbursement  
23 of the State share and provide for the monitoring of construction by  
24 the State.

25 e. Upon completion of a community development school project by  
26 a community redevelopment entity, the district shall submit to the  
27 commissioner a plan to provide for the maintenance of the project and  
28 shall enter into a contract which provides for that maintenance.

29  
30 7. (New section) a. Preliminary eligible costs for construction of  
31 new school facilities and additions to school facilities, characterized by  
32 an increase in the square footage of the school facility, shall be  
33 approved only if necessary for reasons of unhoused students.  
34 Unhoused students are the number of students to be housed in a  
35 school building, but which cannot be housed in an existing building  
36 without additional space or a new building in order to maintain  
37 educational adequacy. Unhoused students are calculated by  
38 subtracting the projected enrollment for a school building from its  
39 functional capacity.

40 Preliminary eligible costs = AU x C plus other allowable costs

41 where

42 AU is the approved area for unhoused students; and

43 C is the area cost allowance;

44 b. Preliminary eligible costs shall be calculated as follows for  
45 reconstruction, remodeling, alteration, modernization, renovation or  
46 repair of school facilities that were originally constructed by the

1 district or that the district purchased more than five years prior to the  
 2 date of application for approval to the commissioner and that have not  
 3 been previously approved by the commissioner pursuant to this act  
 4 within the prior 10 years; provided that the 10-year requirement may  
 5 be waived by the commissioner if the district satisfactorily  
 6 demonstrates that extraordinary circumstances apply.

7 Preliminary eligible costs =  $R \times A$  plus other allowable costs

8 where

9  $R$  = the replacement costs of the facility =  $GA \times C$

10 and where

11  $GA$  is the gross area (square footage) of the existing school facility  
 12 being reconstructed, remodeled, altered, modernized, renovated or  
 13 repaired;

14  $C$  is the area cost allowance; and

15  $A$  is a factor determined by the age of the school facility, the  
 16 measure of which commences with occupancy of the school facility,  
 17 according to the following table:

18

19 Age of the School Facility	A
20 10 years or less	zero
21 11 years or more and less than 26 years	50%
22 26 years or more and less than 41 years	60%
23 41 years or more	85%

24

25 For the purposes of this section the age of the school facility shall be  
 26 a composite measure of the age of individual sections of the building  
 27 determined in accordance with a method approved by the  
 28 commissioner. The commissioner may adjust "A" for a district that  
 29 demonstrates that additional renovation expenditures are necessary to  
 30 address health and safety conditions, the "Americans with Disabilities  
 31 Act of 1990," Pub.L.101-336 (42 U.S.C. s.12101 et seq.), or  
 32 obsolescence.

33 Notwithstanding the provisions of this subsection, all school  
 34 facilities shall be deemed suitable for rehabilitation unless a pre-  
 35 construction evaluation undertaken by the district demonstrates to the  
 36 satisfaction of the commissioner that the structure might pose a risk to  
 37 the safety of the occupants even after rehabilitation, or that  
 38 rehabilitation is not cost-effective.

39 c. Preliminary eligible costs for new construction done in lieu of  
 40 renovations shall be determined in accordance with the methodology  
 41 for new construction, with preliminary eligible costs determined  
 42 pursuant to subsection a. of this section, only when the decision to  
 43 replace a school facility is supported by a feasibility study conducted  
 44 by the district, and either the age of the building being replaced is 41  
 45 years or greater or the commissioner determines that extraordinary  
 46 circumstances apply. When new construction done in lieu of



1 renovations qualifies as new construction, the approved area for  
2 unhoused students shall be determined by the commissioner, with  
3 consideration of the existing school facilities in the district.

4 d. Preliminary eligible costs for new construction done in lieu of  
5 renovations which does not meet the requirements of subsection c. of  
6 this section shall be determined in accordance with the methodology  
7 for aiding renovations, with the preliminary eligible costs determined  
8 pursuant to subsection b. of this section.

9 e. Preliminary eligible costs for purchase of an existing facility to  
10 be used as a school facility shall be determined in accordance with the  
11 methodology for new construction, with preliminary eligible costs  
12 determined pursuant to subsection a. of this section.

13 f. Preliminary eligible costs for any addition or reconstruction,  
14 remodeling, alteration, modernization, renovation or repair made to a  
15 purchased facility within five years of purchase shall be determined as  
16 follows:

17 Preliminary eligible costs =  $(ACP-PC) \times (C/CP)$  plus other  
18 allowable costs

19 where

20 ACP is the preliminary eligible costs for the facilities purchase  
21 pursuant to subsection e. of this section;

22 PC is the purchase cost for the facility;

23 C is the area cost allowance at the time of application for the  
24 renovation; and

25 CP is the area cost allowance at the time of purchase of the  
26 facility.

27 Preliminary eligible costs so calculated shall not be less than  
28 zero.

29 g. Other allowable costs shall include the costs of site  
30 development, acquisition of land or other real property interests  
31 necessary to effectuate the school facilities project, fees for the  
32 services of design professionals, including architects, engineers,  
33 construction managers and other design professionals, legal fees, and  
34 the costs associated with financing the school facilities project. Other  
35 allowable costs for school facilities projects to be undertaken by the  
36 building authority shall be determined by the building authority. Other  
37 allowable costs for school facilities projects to be undertaken by a  
38 district or a community redevelopment entity shall be equal to the  
39 actual costs unless the commissioner, in consultation with the building  
40 authority, determines these costs to be unreasonable in light of the  
41 experience of similarly situated districts.

42  
43 8. (New section) a. The number of unhoused students shall be  
44 calculated as the number of FTE students who are projected to be  
45 enrolled in preschool handicapped, preschool, kindergarten, grades 1  
46 through 12, and special education services pupil educational programs

1 provided in a district within five years, which are in excess of the  
2 functional capacity of the district's current school facilities or the  
3 functional capacity of the school facilities which will be available  
4 within five years other than the school facilities for which the  
5 preliminary eligible costs are determined, based upon the district's  
6 long-range facilities plan. The determination of unhoused capacity  
7 shall separately consider projected enrollments and functional  
8 capacities at the early childhood and elementary (preschool through  
9 grade 5), middle (grades six through eight), and high school (grades  
10 nine through 12) levels. For the purpose of calculating the district's  
11 unhoused students, special education services students shall be  
12 considered part of the grade level to which the students' chronological  
13 age corresponds. In the event that the commissioner approves a  
14 school facilities project which involves the construction of a new  
15 school facility to replace an existing school facility, which shall  
16 accommodate both the unhoused students and the students in the  
17 existing school facility, the calculation of the number of unhoused  
18 students shall include the number of students currently attending the  
19 existing facility which is to be replaced.

20 b. Approved area for unhoused students (AU) shall be determined  
21 according to the following formula:

22 
$$AU = (UEC \times SEC) + (UE \times SE) + (UM \times SM) + (UH \times SH)$$

23 where

24 UEC, UE, UM, UH are the numbers of unhoused students in the  
25 early childhood, elementary, middle, and high school enrollment  
26 categories, respectively; and

27 SEC, SE, SM, SH are the area allowances per FTE student in  
28 preschool and kindergarten, grades 1 through 5, grades 6 through 8,  
29 and grades 9 through 12, respectively. Area allowances shall be  
30 determined based on the grade level of a student regardless of the  
31 grade configurations used in the school buildings of the district.

32 The minimum area allowance per FTE student shall be as follows:

33

34	Preschool through grade 5	125 sq. ft.
35	Grades 6 through 8	136 sq. ft.
36	Grades 9 through 12	151 sq. ft.

37

38 The commissioner, in consultation with the State Treasurer and the  
39 Commissioner of the Department of Community Affairs, shall adopt  
40 regulations that establish a process for the consideration of special  
41 circumstances, in addition to those provided in section 5 of this act, in  
42 which the area allowances per FTE student established pursuant to this  
43 subsection may be exceeded. Any decision made by the commissioner  
44 pursuant to those regulations shall be made in consultation with the  
45 State Treasurer and the Commissioner of the Department of  
46 Community Affairs.

1 9. (New section) a. State debt service aid for capital investment  
2 in school facilities for a district whose district aid percentage is less  
3 than 50% and which elects not to have the building authority construct  
4 a school facilities project, shall be distributed upon a determination of  
5 preliminary eligible costs by the commissioner, according to the  
6 following formula:

7 Aid is the sum of A for each issuance of school bonds issued for a  
8 school facilities project approved by the commissioner after the  
9 effective date of P.L. , c. (C. ) (now pending before the  
10 Legislature as this bill)

11 where

12  $A = B \times AC/P \times (CCSAID/TEBUD \times 1.15) \times M$ , 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 this act;

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

21 CCSAID is the district's core curriculum standards aid amount  
22 determined pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15)  
23 as of the date of the commissioner's determination of the preliminary  
24 eligible costs;

25 TEBUD is the district's T&E budget determined pursuant to section  
26 13 of P.L.1996, c.138 (C.18A:7F-13) as of the date of the  
27 commissioner's determination of the preliminary eligible costs; and

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

31 For county special services school districts, CCSAID/TEBUD shall  
32 be that of the county vocational school district in the same county.  
33 Notwithstanding any provision of this subsection to the contrary, State  
34 debt service aid shall not be less than 10% of the preliminary eligible  
35 costs.

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

39 (1) Effective ten years from the date of the enactment of P.L. ,  
40 c. (C. ) (now pending before the Legislature as this bill), the  
41 maintenance factor for aid for reconstruction, remodeling, alteration,  
42 modernization, renovation or repair, or for an addition to a school  
43 facility, shall be zero for all school facilities projects for which the  
44 district fails to demonstrate over the ten years preceding issuance a net  
45 investment in maintenance of the related school facility of at least 2%  
46 of the replacement cost of the school facility, determined pursuant to

1 subsection b. of section 7 of this act using the area cost allowance of  
 2 the year ten years preceding the year in which the school bonds are  
 3 issued.

4 (2) For new construction, additions, and school facilities aided  
 5 under subsection b. of section 7 of this act supported by financing  
 6 issued for projects approved by the commissioner after the effective  
 7 date of P.L. , c. (C. ) (now pending before the Legislature as  
 8 this bill), beginning in the fourth year after occupancy of the school  
 9 facility, the maintenance factor shall be reduced according to the  
 10 following schedule for all school facilities projects for which the  
 11 district fails to demonstrate in the prior fiscal year an investment in  
 12 maintenance of the related school facility of at least two-tenths of 1 %  
 13 of the replacement cost of the school facility, determined pursuant to  
 14 subsection b. of section 7 of this act.

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

20  
 21 (3) Within one year of the enactment of P.L. , c. (C. ) (now  
 22 pending before the Legislature as this bill), the commissioner shall  
 23 promulgate rules requiring districts to develop a long-range  
 24 maintenance plan and specifying the expenditures that qualify as an  
 25 appropriate investment in maintenance for the purposes of this  
 26 subsection.

27 Any district which obtained approval from the commissioner for  
 28 a school facilities project since September 1, 1998 and prior to the  
 29 effective date of P.L. , c. (C. ) (now pending before the  
 30 Legislature as this bill) may elect to have the commissioner re-  
 31 calculate its State aid as if the project were subject to the provisions  
 32 of this act; provided that a district which received approval from the  
 33 commissioner for a school facilities project prior to the effective date  
 34 of P.L. , c. (C. ) (now pending before the Legislature as this  
 35 bill), but has not issued debt, other than short term notes, or entered  
 36 into construction contracts, shall not be precluded from deciding not  
 37 to proceed with the project and instead submitting an application  
 38 pursuant to section 5 of this act.

39  
 40 10. (New section) For each issuance of school bonds or  
 41 certificates of participation issued for a school facilities project  
 42 approved by the commissioner prior to the effective date of P.L. ,  
 43 c. (C. ) (now pending before the Legislature as this bill):

44 Aid is the sum of A

45 where

46  $A = B \times \text{CCSAID/TEBUD}$

1 and where

2 B is the district's total debt service or lease purchase payment for  
3 the individual issuance for the fiscal year, provided that for the  
4 purpose of determining debt service or lease purchase payment under  
5 this section the cost of site acquisition may be included;

6 CCSAID is the district's core curriculum standards aid amount  
7 determined pursuant to section 15 of P.L.1996, c.138 (C.18A:7F-15);  
8 and

9 TEBUD is the district's T&E budget determined pursuant to section  
10 13 of P.L.1996, c.138(C.18A:7F-13).

11 For county special services school districts, CCSAID/TEBUD shall  
12 be that of the county vocational school district in the same county.  
13

14 11. (New section) A school facilities project shall not be  
15 constructed unless the local share of the project, if any, is approved  
16 in accordance with the provisions for the approval of capital projects  
17 pursuant to N.J.S.18A:22-1 et seq., N.J.S.18A:24-1 et seq. and  
18 P.L.1991, c.139 (C.18A:7A-46.1 et seq.), as applicable to the district.  
19

20 12. (New section) A district, other than a State-operated school  
21 district, that sought approval pursuant to section 11 of this act of a  
22 school facilities project without excess costs but failed to receive that  
23 approval, and within the three years prior to that, sought and failed to  
24 receive approval of that school facilities project with or without excess  
25 costs, may submit the project to the commissioner and request that the  
26 commissioner approve the project and authorize the issuance of school  
27 bonds for the local share of the project. Upon receipt of the request,  
28 the commissioner shall review the school facilities project and  
29 determine whether the project is necessary for the provision of a  
30 thorough and efficient system of education in the district. If the  
31 commissioner concludes that the project is necessary, the  
32 commissioner may approve the project without excess costs and  
33 authorize the issuance of school bonds to fund the local share. In  
34 addition to the amount of taxes determined by the legal voters of the  
35 district at the annual school election, the secretary of the board of  
36 education shall certify the amount required for the repayment of the  
37 interest and principal of the bonds required to fund the local share  
38 amount approved by the commissioner in the same manner required  
39 for interest and debt redemption charges pursuant to N.J.S.18A:22-33,  
40 and the amount so certified shall be included in the taxes assessed,  
41 levied and collected in the municipality or municipalities comprising  
42 the school district for those purposes.

43 Any school facilities project authorized pursuant to this section  
44 shall be constructed by the building authority. Nothing in this section  
45 shall preclude a State-operated school district from using the process  
46 established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2)

1 to obtain the approval of the commissioner to undertake a school  
2 facilities project.

3

4 13. (New section) a. The facilities authority shall be responsible  
5 for the financing of school facilities projects and the building authority  
6 shall be responsible for the planning, design, construction  
7 management, acquisition, construction, and completion of school  
8 facilities projects. Upon submission to the building authority of a final  
9 project report and financing by the facilities authority, the building  
10 authority shall undertake the acquisition, construction, and all other  
11 appropriate actions necessary to complete the project. When the final  
12 eligible costs of a school facilities project are less than or equal to  
13 \$250,000, the building authority may, in its discretion, authorize a  
14 district to undertake the acquisition, construction and all other  
15 appropriate actions necessary to complete the project and enter into  
16 a grant agreement with the district for the payment of the State share.

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

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

32 d. Upon completion by the building authority of a school facilities  
33 project, the district shall enter into an agreement with the building  
34 authority to provide for the maintenance of the project by the district.  
35 In the event that the school facilities project is constructed by a  
36 district, upon the completion of the project, the district shall submit to  
37 the commissioner a plan to provide for the maintenance of the project  
38 by the district. Any agreement or plan shall contain, in addition to any  
39 other terms and provisions, a requirement for the establishment of a  
40 maintenance reserve fund, the funding levels of which shall be as set  
41 forth in regulations adopted by the commissioner pursuant to section  
42 25 of this act.

43 e. There is hereby established a separate fund entitled the "School  
44 Facilities Construction Fund." This fund shall be maintained by the  
45 building authority separate and apart from any other funds of the  
46 building authority and may be held in depositaries as may be selected

1 by the building authority and invested and reinvested as other funds in  
2 the custody of the building authority, subject to the approval of the  
3 State Treasurer. All interest or other income or earnings derived from  
4 the investment or reinvestment of moneys in the fund shall be credited  
5 to the fund. Any grants, contributions, donations and reimbursements  
6 from federal aid programs and from other public or private sources as  
7 may be used lawfully for the purposes of this act shall also be held in  
8 the fund, but shall be expended in accordance with any conditions or  
9 requirements attached thereto. The moneys in the fund are specifically  
10 dedicated and shall be applied to the cost of school facilities projects  
11 undertaken by the building authority pursuant to this act. The fund  
12 shall be credited with the proceeds of bonds issued pursuant to section  
13 14 of this act; any moneys appropriated or otherwise made available  
14 to it by the Legislature; net earnings received from the investment or  
15 deposit of monies in the fund, and any other moneys which the  
16 building authority determines to deposit therein.

17 f. Upon the issuance by the facilities authority of bonds pursuant  
18 to section 14 of this act, the proceeds of the bonds less costs of  
19 issuance shall be transferred to the building authority for deposit into  
20 the School Facilities Construction Fund.

21 g. In order to implement the arrangements provided for in this act,  
22 the State Treasurer, the facilities authority and the building authority  
23 are hereby authorized to enter into one or more contracts. The  
24 contracts shall provide, in addition to other terms and conditions, for  
25 the payment by the facilities authority to the building authority  
26 pursuant to subsection f. of this section in order for the building  
27 authority to carry out its responsibilities as set forth in this act. The  
28 contract or contracts shall be on terms and conditions as determined  
29 by the parties, provided that the incurrence of any obligations of the  
30 State under the contract or contracts, if any, shall be subject to and  
31 dependent upon appropriations being made from time to time by the  
32 Legislature for the purposes of this act.

33

34 14. (New section) Notwithstanding any other provisions of law  
35 to the contrary:

36 a. The facilities authority shall have the power, pursuant to the  
37 provisions of this act and N.J.S.18A:72A-1 et seq., to issue bonds and  
38 refunding bonds, incur indebtedness and borrow money secured, in  
39 whole or in part, by monies received pursuant to sections 17, 18 and  
40 19 of this act for the purposes of: financing all or a portion of the  
41 costs of school facilities projects and any costs related to the issuance  
42 thereof, including, but not limited to, the administrative, insurance,  
43 operating and other expenses of the facilities authority to undertake  
44 the financing of school facilities projects and the administrative,  
45 insurance and operating expenses of the building authority to  
46 undertake the design, construction and maintenance of school facilities

1 projects; lending moneys to local units to pay the costs of all or a  
2 portion of school facilities projects and any costs related to the  
3 issuance thereof; funding the school facilities project revolving loan  
4 fund pursuant to the provisions of section 15 of this act; and financing  
5 the acquisition of school facilities projects to permit the refinancing of  
6 debt by the district pursuant to section 16 of this act.

7 The facilities authority may establish reserve funds to further secure  
8 bonds and refunding bonds issued pursuant to this section and may  
9 issue bonds to pay for the administrative, insurance and operating  
10 costs of the facilities authority and the building authority in carrying  
11 out the provisions of this act. In addition to its bonds and refunding  
12 bonds, the facilities authority shall have the power to issue  
13 subordinated indebtedness, which shall be subordinate in lien to the  
14 lien of any or all of its bonds or refunding bonds as the facilities  
15 authority may determine.

16 b. The facilities authority shall issue the bonds or refunding bonds  
17 in such manner as it shall determine in accordance with the provisions  
18 of this act and N.J.S.18A:72A-1 et seq.; provided that notwithstanding  
19 any other law to the contrary, no resolution adopted by the facilities  
20 authority authorizing the issuance of bonds or refunding bonds  
21 pursuant to this section shall be adopted or otherwise made effective  
22 without the approval in writing of the State Treasurer; and refunding  
23 bonds issued to refund bonds issued pursuant to this section shall be  
24 issued on such terms and conditions as may be determined by the  
25 facilities authority and the State Treasurer. The facilities authority  
26 may, in any resolution authorizing the issuance of bonds or refunding  
27 bonds issued pursuant to this section, pledge the contract with the  
28 State Treasurer provided for pursuant to section 18 of this act, or any  
29 part thereof, or may pledge all or any part of the repayments of loans  
30 made to local units pursuant to section 19 of this act for the payment  
31 or redemption of the bonds or refunding bonds, and covenant as to the  
32 use and disposition of money available to the facilities authority for  
33 payment of the bonds and refunding bonds. All costs associated with  
34 the issuance of bonds and refunding bonds by the facilities authority  
35 for the purposes set forth in this act may be paid by the facilities  
36 authority from amounts it receives from the proceeds of the bonds or  
37 refunding bonds, and from amounts it receives pursuant to sections  
38 17, 18, and 19 of this act. The costs may include, but shall not be  
39 limited to, any costs relating to the issuance of the bonds or refunding  
40 bonds, administrative costs of the facilities authority attributable to the  
41 making and administering of loans to fund school facilities projects,  
42 and costs attributable to the agreements entered into pursuant to  
43 subsection d. of this section.

44 c. Each issue of bonds or refunding bonds of the facilities authority  
45 shall be special obligations of the facilities authority payable out of  
46 particular revenues, receipts or funds, subject only to any agreements



1 with the holders of bonds or refunding bonds, and may be secured by  
2 other sources of revenue, including, but not limited to, one or more of  
3 the following:

4 (1) Pledge of the revenues and other receipts to be derived from  
5 the payment of local unit obligations and any other payment made to  
6 the facilities authority pursuant to agreements with any local unit, or  
7 a pledge or assignment of any local unit obligations, and the rights and  
8 interest of the authority therein;

9 (2) Pledge of rentals, receipts and other revenues to be derived  
10 from leases or other contractual arrangements with any person or  
11 entity, public or private, including one or more local units, or a pledge  
12 or assignment of those leases or other contractual arrangements and  
13 the rights and interests of the facilities authority therein;

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

16 (4) Pledge of the receipts to be derived from payments of State aid  
17 to the facilities authority pursuant to section 21 of this act;

18 (5) Pledge of the contract or contracts with the State Treasurer  
19 pursuant to section 18 of this act;

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

23 (7) A mortgage on all or any part of the property, real or personal,  
24 comprising a school facilities project then owned or thereafter to be  
25 acquired, or a pledge or assignment of mortgages made to the facilities  
26 authority by any person or entity, public or private, including one or  
27 more local units and rights and interests of the facilities authority  
28 therein; and

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

31 d. The resolution authorizing the issuance of bonds or refunding  
32 bonds pursuant to this section may also provide for the facilities  
33 authority to enter into any revolving credit agreement, agreement  
34 establishing a line of credit or letter of credit, reimbursement  
35 agreement, interest rate exchange agreement, currency exchange  
36 agreement, interest rate floor or cap, options, puts or calls to hedge  
37 payment, currency, rate, spread or similar exposure or similar  
38 agreements, float agreements, forward agreements, insurance  
39 contracts, surety bonds, commitments to purchase or sell bonds,  
40 purchase or sale agreements, or commitments or other contracts or  
41 agreements and other security agreements approved by the facilities  
42 authority in connection with the issuance of the bonds or refunding  
43 bonds pursuant to this section. In addition, the facilities authority  
44 may, in anticipation of the issuance of the bonds or the receipt of  
45 appropriations, grants, reimbursements or other funds, including,  
46 without limitation, grants from the federal government for school

1 facilities projects, issue notes, the principal of or interest on which, or  
2 both, shall be payable out of the proceeds of notes, bonds or other  
3 obligations of the facilities authority or appropriations, grants,  
4 reimbursements or other funds or revenues of the facilities authority.

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

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

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

44 h. The facilities authority and the building authority may charge to  
45 and collect from local units, districts, the State and any other person,  
46 any fees and charges in connection with the facilities authority's or

1 building authority's actions undertaken with respect to school facilities  
2 projects, including, but not limited to, fees and charges for the  
3 facilities authority's administrative, organization, insurance, operating  
4 and other expenses incident to the financing of school facilities  
5 projects and the building authority's administrative, organization,  
6 insurance, operating and other expenses incident to the planning,  
7 design, construction management, acquisition, construction,  
8 completion and placing into service and maintenance of school  
9 facilities projects. Notwithstanding any provision of this act to the  
10 contrary, no Level II district or a district whose district aid percentage  
11 is greater than or equal to 50% but less than 100% shall be responsible  
12 for the payment of any fees and charges related to the building  
13 authority's operating expenses.

14

15 15. (New section) a. The facilities authority shall establish and  
16 maintain a special nonlapsing revolving loan fund to be known as the  
17 "School Facilities Project Revolving Loan Fund," hereinafter referred  
18 to as the "loan fund," which shall be credited with: (1) the proceeds of  
19 the sale of bonds pursuant to subsection b. of this section; (2) any  
20 moneys that shall be received by the facilities authority from the  
21 repayment of loans made from the fund; (3) any moneys appropriated  
22 or otherwise made available to it by the Legislature; (4) net earnings  
23 received from the investment or deposit of monies in the fund; and (5)  
24 any other moneys which the facilities authority determines to deposit  
25 therein.

26 b. In addition to any bonds which the facilities authority is  
27 authorized to issue pursuant to this act, the facilities authority is  
28 authorized to issue bonds in an aggregate principal amount not  
29 exceeding \$1,000,000,000 the proceeds from which shall be deposited  
30 into the loan fund. The bonds shall be secured in whole or in part by  
31 monies received pursuant to sections 17, 18 and 19 of this act.

32 c. The facilities authority shall use the monies in the loan fund  
33 exclusively for making loans to local units for the purposes of  
34 financing the final eligible costs of school facilities projects in  
35 accordance with the provisions of this section. The amount of loans  
36 that may be made in the first fiscal year shall not exceed  
37 \$400,000,000, in the second fiscal year, \$300,000,000, and in the third  
38 fiscal year, \$200,000,000. In any fiscal year in which the dollar value  
39 of the loans made is less than the amount permitted herein, the excess  
40 amount shall be carried forward and shall be available for loans in the  
41 following fiscal year. Each loan to a local unit from the loan fund shall  
42 be evidenced by local unit obligations and shall be authorized and  
43 issued as provided by law. Notwithstanding the provisions of any law  
44 to the contrary, the local unit obligations may be sold at private sale  
45 to the facilities authority at any price, whether or not less than par  
46 value, and shall be subject to redemption prior to maturity at any times

1 and at any prices as the facilities authority and the local unit may  
2 agree.

3 d. Loans from the fund may be made to districts whose district aid  
4 percentage is less than 50% and which have elected not to have the  
5 building authority construct a school facilities project. Loans from the  
6 fund shall be for time periods that are customary for the financing of  
7 the construction of school facilities. The facilities authority shall  
8 establish other terms of the loan which shall include, but not be limited  
9 to, a schedule for drawing down the loan, and a repayment schedule;  
10 provided that the interest rate shall be 2% per annum for a minimum  
11 period of two years following the effective date of this act, or such  
12 other rate as the State Treasurer may, from time to time, approve  
13 following the minimum two-year period. Any loan interest rate  
14 approved by the State Treasurer pursuant to this subsection shall be  
15 no greater than 4% below The Bond Buyer Municipal Bond Index  
16 Rate on the date of the establishment of the new loan interest rate.  
17 Each loan by the facilities authority, and the terms and conditions of  
18 the loan, shall be subject to approval by the State Treasurer.

19 In the event that the dollar value of the loan applications in any  
20 fiscal year exceeds the amount of loan funds available, the facilities  
21 authority may apportion the loan funds among eligible school facilities  
22 projects to finance such percentage as determined by the State  
23 Treasurer of each project's final eligible costs, and the district shall  
24 be eligible to receive State debt service aid pursuant to section 9 of  
25 this act on that portion of the school facilities project's final eligible  
26 costs for which loan funds are not available.

27 e. Loans made from the fund to finance school facilities projects  
28 shall be allocated to districts in accordance with the critical need for  
29 the project. The commissioner shall rank school facilities projects  
30 from Tier I to Tier IV in terms of critical need according to the  
31 following prioritization:

32 Tier I: health and safety, including electrical system upgrades;  
33 required early childhood education programs; unhoused students/class  
34 size reduction as required to meet the standards of the  
35 "Comprehensive Educational Improvement and Financing Act of  
36 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.).

37 Tier II: educational adequacy - specialized instructional spaces,  
38 media centers, cafeteriums, and other non-general classroom spaces  
39 contained in the facilities efficiency standards; special education spaces  
40 to achieve the least restrictive environment.

41 Tier III: technology projects; regionalization/consolidation projects.

42 Tier IV: other local objectives.

43 f. Except as otherwise provided in subsection d. of this section, if  
44 a district obtains a loan from the facilities authority for a school  
45 facilities project pursuant to this section, the district shall not receive  
46 State debt service aid for the project pursuant to section 9 of this act.

1 g. All repayments of the loans and interest thereon shall be  
2 deposited by the facilities authority into the loan fund for use as  
3 provided for in this section.

4 h. Any district shall be eligible to receive additional loans pursuant  
5 to this section even if the district has received a previous loan;  
6 provided that the additional loans are in conformance with the  
7 selection criteria established pursuant to this section.

8 i. The facilities authority shall promulgate as part of the regulations  
9 adopted pursuant to subsection b. of section 26 of this act, the  
10 procedures to be followed by districts in submitting loan applications,  
11 which shall include the dates within each fiscal year by which a district  
12 is required to submit its application in order to be eligible to receive  
13 loan funds.

14  
15 16. (New section) In addition to the other powers and duties  
16 which have been granted to the facilities authority, whenever any local  
17 unit finances the construction or acquisition of a school facilities  
18 project which would otherwise qualify under this act except that the  
19 debt was issued prior to the effective date of this act, the facilities  
20 authority may refinance the debt issued by the local unit through the  
21 issuance of bonds secured by repayments of loans made to the local  
22 units and may purchase the work or improvement and lease the same  
23 to the district, subject to the approval of the State Treasurer; except  
24 that the amount of the purchase price for a school facilities project  
25 shall not exceed the original cost. Each loan to a local unit pursuant  
26 to this section shall be evidenced by local unit obligations and shall be  
27 authorized and issued as provided by law. Notwithstanding the  
28 provisions of any law to the contrary, the local unit obligations may be  
29 sold at private sale to the facilities authority at any price, whether or  
30 not less than par value, and shall be subject to redemption prior to  
31 maturity at any times and at any prices as the facilities authority and  
32 the local unit may agree. All powers, rights, obligations and duties  
33 granted to or imposed upon the facilities authority, districts, State  
34 departments and agencies or others by this act in respect to school  
35 facilities projects shall apply to the same extent with respect to any  
36 refinance of debt pursuant to this section; except that any action  
37 otherwise required to be taken at a particular time in the  
38 implementation of a school facilities project may, when the  
39 circumstances require in connection with a refinance of debt pursuant  
40 to this section, be taken with the same effect as if taken at that  
41 particular time. Upon repayment of the bonds or provision for  
42 repayment of bonds issued by the facilities authority to refinance the  
43 debt of the local unit, the school facilities project shall be transferred  
44 to the district.

45  
46 17. (New section) In each fiscal year the State Treasurer shall pay

1 from the General Fund to the facilities authority and the building  
2 authority, in accordance with a contract among the State Treasurer,  
3 the facilities authority and the building authority as authorized  
4 pursuant to section 18 of this act, an amount equal to the debt service  
5 amount due to be paid in the State fiscal year on the bonds or  
6 refunding bonds of the facilities authority issued or incurred pursuant  
7 to section 14 of this act and any additional costs authorized pursuant  
8 to that section; provided that all such payments from the General Fund  
9 shall be subject to and dependent upon appropriations being made  
10 from time to time by the Legislature for those purposes, and provided  
11 further that all payments shall be used only to pay for the costs of  
12 school facilities projects and the costs of financing those projects.

13

14 18. (New section) The State Treasurer, the facilities authority and  
15 the building authority are authorized to enter into one or more  
16 contracts to implement the payment arrangement provided for in  
17 section 17 of this act. The contract shall provide for payment by the  
18 State Treasurer of the amounts required pursuant to section 17 of this  
19 act and shall set forth the procedure for the transfer of monies for the  
20 purpose of that payment. The contract shall contain terms and  
21 conditions as determined by the parties and shall, where appropriate,  
22 contain terms and conditions necessary and desirable to secure any  
23 bonds or refunding bonds of the facilities authority issued or incurred  
24 pursuant to this act; provided that notwithstanding any other provision  
25 of law or regulation of the facilities authority to the contrary, the  
26 facilities authority and the building authority shall be paid only such  
27 funds as shall be determined by the contract, and the incurrence of any  
28 obligation of the State under the contract, including any payments to  
29 be made thereunder from the General Fund, shall be subject to and  
30 dependent upon appropriations being made from time to time by the  
31 Legislature for the purposes of this act.

32

33 19. (New section) a. In addition to loans authorized pursuant to  
34 section 15 of this act, the facilities authority may make and contract  
35 to make loans to local units in accordance with and subject to the  
36 provisions of this act to finance all or any portion of the cost of a  
37 school facilities project which the local unit may lawfully undertake or  
38 acquire and for which the local unit is authorized by law to borrow  
39 money; or to refund obligations of the local unit which were issued to  
40 provide funds to pay for the cost of a school facilities project. The  
41 loans may be made subject to the terms and conditions the facilities  
42 authority determines to be consistent with the purposes of this act.  
43 Each loan by the facilities authority and the terms and conditions  
44 thereof shall be subject to approval by the State Treasurer.

45 b. Each loan to a local unit shall be evidenced by local unit  
46 obligations and shall be authorized and issued as provided by law.

1 Notwithstanding the provisions of any other law to the contrary, the  
2 local unit obligations may be sold at private sale to the facilities  
3 authority at any price, whether or not less than par value, and shall be  
4 subject to redemption prior to maturity at any times and at any prices  
5 as the facilities authority and the local unit may agree. Each loan to  
6 a local unit and the local unit obligations issued to evidence the loan  
7 shall bear interest at a rate or rates per annum, including zero interest,  
8 and shall be repaid in whole or in part, as the facilities authority and  
9 the local unit may agree, with the approval of the State Treasurer.

10

11 20. (New section) A local unit may purchase, lease, rent, sublease  
12 or otherwise acquire any school facilities project or any space within  
13 a project and pay the amounts as may be agreed upon between the  
14 local unit and the facilities authority as the purchase price, rent or  
15 other charge therefor; provided that the terms and conditions of the  
16 agreement between the facilities authority and the local unit relating  
17 to the purchase, lease, rental or sublease shall be subject to the  
18 approval of the State Treasurer.

19

20 21. (New section) a. In the event that a local unit has failed or is  
21 unable to pay to the facilities authority in full when due any local unit  
22 obligations issued by the local unit to the facilities authority, including,  
23 but not limited to, any lease or sublease obligations, or any other  
24 monies owed by the district to the facilities authority, to assure the  
25 continued operation and solvency of the facilities authority, the State  
26 Treasurer shall pay directly to the facilities authority an amount  
27 sufficient to satisfy the deficiency from State aid payable to the local  
28 unit; provided that if the local unit is a school district, the State aid  
29 shall not include any State aid which may otherwise be restricted  
30 pursuant to the provisions of P.L.1996, c.138 (C.18A:7F-1 et seq.).  
31 As used in this section, local unit obligations include the principal or  
32 interest on local unit obligations or payment pursuant to a lease or  
33 sublease of a school facilities project to a local unit, including the  
34 subrogation of the facilities authority to the right of the holders of  
35 those obligations, any fees or charges payable to the facilities  
36 authority, and any amounts payable by a local unit under a service  
37 contract or other contractual arrangement the payments under which  
38 are pledged to secure any local unit obligations issued to the facilities  
39 authority by another local unit.

40 b. If the facilities authority requires, and if there has been a failure  
41 or inability of a local unit to pay its local unit obligations to the  
42 facilities authority for a period of 30 days, the chairman or the  
43 executive director of the facilities authority shall certify to the State  
44 Treasurer, with written notice to the fiscal officer of the local unit, the  
45 amount remaining unpaid, and the State Treasurer shall pay that  
46 amount to the facilities authority; or if the right to receive those

1 payments has been pledged or assigned to a trustee for the benefit of  
2 the holders of bonds or refunding bonds of the facilities authority, to  
3 that trustee, out of the State aid payable to the local unit, until the  
4 amount so certified has been paid. Notwithstanding any provision of  
5 this act to the contrary, the State Treasurer's obligation to pay the  
6 facilities authority pursuant to this section shall not extend beyond the  
7 amount of State aid payable to the local unit.

8 c. The amount paid to the facilities authority pursuant to this  
9 section shall be deducted from the appropriation or apportionment of  
10 State aid payable to the local unit and shall not obligate the State to  
11 make, nor entitle the local unit to receive, any additional appropriation  
12 or apportionment. The obligation of the State Treasurer to make  
13 payments to the facilities authority or trustee and the right of the  
14 facilities authority or trustee to receive those payments shall be subject  
15 and subordinate to the rights of holders of qualified bonds issued prior  
16 to the effective date of this act pursuant to P.L.1976, c.38 (C.40A:3-1  
17 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

18

19 22. (New section) a. The facilities authority and the building  
20 authority shall have the power to accept and use any funds  
21 appropriated and paid by the State to the facilities authority and the  
22 building authority, for the purposes for which the appropriations are  
23 made. The facilities authority and the building authority shall have the  
24 power to apply for and receive and accept appropriations or grants of  
25 property, money, services or reimbursements for money previously  
26 spent and other assistance offered or made available to it by or from  
27 any person, government agency, public authority or any public or  
28 private entity whatever for any lawful corporate purpose of the  
29 facilities authority, including, without limitation, grants, appropriations  
30 or reimbursements from the federal government, and to apply and  
31 negotiate for the same upon such terms and conditions as may be  
32 required by any person, government agency, authority or entity as the  
33 facilities authority and the building authority may determine to be  
34 necessary, convenient or desirable.

35 b. The facilities authority shall establish a financial incentive program  
36 for the purpose of promoting donations to school facilities projects.  
37 Any entity which makes a donation approved by the State Treasurer  
38 to the preliminary eligible costs of a school facilities project shall  
39 receive an incentive payment pursuant to the provisions of this  
40 subsection. The amount of the incentive payment shall equal 50% of  
41 the fair market value of the donation but shall not in any one year  
42 exceed one-half of the amount of taxes paid or otherwise due from the  
43 donor pursuant to the provisions of the "New Jersey Gross Income  
44 Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation  
45 Business Tax Act," P.L.1945, c.45 (C.54:10A-1 et seq.), as applicable,  
46 for the tax year in which the donation is made. The fair market value



1 of a non-cash donation shall be determined by the State Treasurer. The  
2 carry-forward for incentive payments shall not be inconsistent with  
3 that allowed by P.L.1976, c.47 (C.54A:1-1 et seq) in the case of a  
4 donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in  
5 the case of a donation by a corporation.

6 All incentive payments made pursuant to this section shall be funded  
7 by and shall be subject to annual appropriations to the facilities  
8 authority for this purpose, and shall in no way rely upon funds raised  
9 by the issuance of bonds for school facilities projects.

10  
11 23. (New section) Not less than the prevailing wage rate  
12 determined by the Commissioner of Labor and Industry pursuant to  
13 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid  
14 to workers employed in the performance of construction contracts in  
15 connection with any school facilities project that is undertaken by the  
16 building authority, a community redevelopment entity, a district, or  
17 a county, municipality, other political entity or public agency  
18 designated by a school district.

19  
20 24. (New section) The commissioner, in consultation with the State  
21 Treasurer, shall annually submit to the Governor and the Legislature  
22 a report on the school facilities construction program established  
23 pursuant to the provisions of this act. The report shall be submitted  
24 no later than August 1 of each year and shall include, but not be  
25 limited to, the following information for the prior fiscal year: the  
26 number of school facilities projects approved by the commissioner  
27 pursuant to section 5 of this act; the number of projects constructed  
28 by the building authority and the amount of time that it has taken the  
29 building authority to complete those projects; the number of projects  
30 constructed by districts; the number of projects constructed by entities  
31 designated by districts; the number of community development school  
32 projects approved; the number of loans made to districts from the  
33 School Facilities Project Revolving Loan Fund; the percentage of the  
34 final eligible costs of each project which was supported through loan  
35 funding; the number, if any, of eligible school facilities projects for  
36 which loan funds were requested but not available; the number of  
37 approved projects which exceeded the facilities efficiency standards,  
38 the components of those projects which exceeded the standards, and  
39 the amount of construction by individual districts and Statewide  
40 estimated to have exceeded the standards; and recommendations for  
41 changes in the school facilities construction program established  
42 pursuant to this act.

43  
44 25. (New section) Notwithstanding the provisions of P.L.1999,  
45 c.138 to the contrary concerning the conditions on the appropriation  
46 and reappropriation of the balance in the School Construction and

1 Renovation Fund, the unexpended balance in the School Construction  
2 and Renovation Fund on the effective date of this act is appropriated  
3 to the building authority for deposit in the School Facilities  
4 Construction Fund established pursuant to subsection e. of section 13  
5 of this act.

6  
7 26. (New section) a. The commissioner shall adopt, pursuant to the  
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
9 seq.), rules and regulations necessary to implement the provisions of  
10 sections 1 through 12 of this act; except that notwithstanding any  
11 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
12 commissioner may adopt, immediately upon filing with the Office of  
13 Administrative Law, such rules and regulations as the commissioner  
14 deems necessary to implement the provisions of sections 1 through 12  
15 of this act which shall be effective for a period not to exceed 12  
16 months. Determinations made by the commissioner pursuant to this  
17 act and the rules and regulations adopted by the commissioner to  
18 implement this act shall be considered to be final agency action and  
19 appeal of that action shall be directly to the Appellate Division of the  
20 Superior Court. The regulations shall thereafter be amended, adopted  
21 or re-adopted by the State Board of Education in accordance with the  
22 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

23 b. The facilities authority shall adopt, pursuant to the  
24 "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et  
25 seq.), and in consultation with the State Treasurer, rules and  
26 regulations necessary to implement the provisions of sections 13  
27 through 22 of this act; except that notwithstanding any provision of  
28 P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the facilities  
29 authority may adopt, immediately upon filing with the Office of  
30 Administrative Law, such rules and regulations as the facilities  
31 authority deems necessary to implement the provisions of sections 13  
32 through 22 of this act which shall be effective for a period not to  
33 exceed six months and shall thereafter be amended, adopted or re-  
34 adopted by the facilities authority, in accordance with the provisions  
35 of P.L.1968, c.410 (C.52:14B-1 et seq.).

36 c. The building authority shall adopt, pursuant to the  
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
38 seq.), and in consultation with the State Treasurer, rules and  
39 regulations necessary to implement the provisions of this act as they  
40 apply to the building authority; except that notwithstanding any  
41 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
42 building authority may adopt, immediately upon filing with the Office  
43 of Administrative Law, such rules and regulations as the building  
44 authority deems necessary to implement the provisions of this act as  
45 they apply to the building authority which shall be effective for a  
46 period not to exceed six months and shall thereafter be amended,

1 adopted or readopted by the building authority in accordance with the  
2 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

3 d. Any regulations adopted to implement this act shall include  
4 provisions to ensure that all programs necessary to comply with  
5 Abbott V are approved.

6  
7 27. (New section) All property of the facilities authority and the  
8 building authority shall be exempt from levy and sale by virtue of an  
9 execution and no execution of other judicial process shall issue against  
10 the same nor shall any judgment against the facilities authority and the  
11 building authority be a charge or lien upon their property; provided  
12 that nothing herein contained shall apply to or limit the rights of the  
13 holder of any bonds, notes or other obligations to pursue any remedy  
14 for the enforcement of any pledge or lien given by the facilities  
15 authority and building authority on or with respect to any project,  
16 school facilities project, or any revenues or other moneys.

17  
18 28. (New section) If any clause, sentence, paragraph, section or  
19 part of this act shall be adjudged by any court of competent  
20 jurisdiction to be invalid, the judgment shall not affect, impair or  
21 invalidate the remainder thereof, but shall be confined in its operation  
22 to the clause, sentence, paragraph, section or part thereof directly  
23 involved in the controversy in which the judgment shall have been  
24 rendered.

25  
26 29. (New section) This act shall be construed liberally to effectuate  
27 the legislative intent and the purposes of this act as complete and  
28 independent authority for the performance of each act and thing herein  
29 authorized and all powers herein granted shall be broadly interpreted  
30 to effectuate the intent and purposes and not as a limitation of  
31 powers.

32  
33 30. (New section) There shall be appropriated annually for the  
34 purposes of this act up to \$100,000,000 from monies made available  
35 to the State from tobacco companies under the nationwide settlement  
36 of the respective actions by the various states against those companies,  
37 entered into by this State in the Master Settlement Agreement in State  
38 of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior  
39 Court, Chancery Division, Middlesex County, No.C.254-96.

40  
41 31. Section 11 of P.L.1975, c.212 (C.18A:7A-11) is amended to  
42 read as follows:

43 11. Each school district and county vocational school district shall  
44 make an annual report of its progress in conforming to the standards  
45 for the evaluation of school performance adopted pursuant to section  
46 10 of P.L.1975, c.212 (C.18A:7A-10). Each district's annual report  
47 shall include but not be limited to:

- 1 a. Demographic data related to each school;
- 2 b. Results of designated assessment programs, including Statewide  
3 assessment programs established pursuant to law and regulation;
- 4 c. Information on each school's fiscal operation, including the  
5 budget of each school;
- 6 d. (Deleted by amendment, P.L.1996, c.138).
- 7 e. Plans and programs for professional improvement;
- 8 f. Plans to carry out innovative educational programs designed to  
9 improve the quality of education;
- 10 g. Recommendations for school improvements during the ensuing  
11 year; and
- 12 h. Such additional information as may be prescribed by the  
13 commissioner.

14 [Additionally, the State Board of Education may require each district  
15 to submit a facilities survey, including current use practices and  
16 projected capital project needs.]

17 The district reports shall be submitted to the commissioner annually  
18 on a date to be prescribed by the commissioner, who shall make them  
19 the basis for an annual report to the Governor and the Legislature,  
20 describing the condition of education in New Jersey, the efforts of  
21 New Jersey schools in meeting the standards of a thorough and  
22 efficient education, the steps underway to correct deficiencies in  
23 school performance, and the progress of New Jersey schools in  
24 comparison to other state education systems in the United States.

25 (cf: P.L.1996, c.138, s.36)

26

27 32. Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is amended to  
28 read as follows:

29 1. a. In any State-operated school district created pursuant to the  
30 provisions of P.L.1975, c.212 (C.18A:7A-1 et seq.) there shall be  
31 established a Capital Project Control Board, hereinafter the board,  
32 which shall be responsible for the review of any capital project  
33 proposed by the State district superintendent provided that the State  
34 district superintendent proposes that the capital project be financed in  
35 whole or in part by school bonds or notes, or through a lease purchase  
36 agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board  
37 shall also be responsible for the certification to the State district  
38 superintendent of schools and the Commissioner of Education of the  
39 necessity for the capital project and the certification of the  
40 appropriation to be made by the governing body of the municipality.

41 b. The board shall consist of five voting members. One member  
42 shall be appointed by the Commissioner of Education and two  
43 members shall be appointed by the chief executive officer with the  
44 consent of a majority of the full membership of the local governing  
45 body of the municipality or municipalities in which the school district  
46 is located. If the school district is comprised of two municipalities,

1 each municipality shall be entitled to one member, appointed by the  
2 executive officer with the consent of the governing body. If the school  
3 district is comprised of more than two municipalities, each of the two  
4 municipalities with the largest population according to the most recent  
5 federal decennial census shall be entitled to one member, appointed by  
6 the executive officer with the consent of the governing body.  
7 However, if a local governing body fails to agree upon the selection of  
8 either board member appointed by an executive officer, then the  
9 Commissioner of Education shall make the appointment. One member  
10 shall be appointed by the Director of the Division of Local  
11 Government Services in the Department of Community Affairs who  
12 shall have experience in the area of local finance and capital projects.  
13 The fifth member shall be the State district superintendent of schools  
14 who shall serve ex-officio and shall act as chairperson of the board.  
15 The board members, except for the State district superintendent, shall  
16 each serve for a term of one year commencing on July 1 of each year  
17 and expiring on June 30 of the following year. Any vacancy in the  
18 membership of the board shall be filled for the unexpired term in the  
19 manner provided by the original appointment. Members of the board  
20 may be employees of the State or any subdivision thereof. All  
21 members of the board shall serve without compensation.

22 c. The board shall meet from time to time upon the request of the  
23 State district superintendent. All meetings of the board shall be  
24 conducted pursuant to the provisions of the "Open Public Meetings  
25 Act," P.L.1975, c.231 (C.10:4-6 et seq.). The State district  
26 superintendent, or his designee, shall be charged with the responsibility  
27 of preparing a transcript of the proceedings and all votes shall be  
28 recorded in writing.

29 (cf: P.L.1991, c.139, s.1)

30

31 33. Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is amended to  
32 read as follows:

33 2. The board shall hear the recommendation of the State district  
34 superintendent concerning any proposed capital project, which is to be  
35 financed in whole or in part by school bonds or notes, or through a  
36 lease purchase agreement pursuant to subsection f. of  
37 N.J.S.18A:20-4.2, and shall undertake all actions necessary to review  
38 the proposed capital project to determine whether the project will  
39 assist the State-operated school district in providing a thorough and  
40 efficient system of education in that district. In making this  
41 determination it may take into consideration factors such as the  
42 conditions in the school district, any applicable educational goals, the  
43 objectives and standards established by the State, the need for the  
44 capital project, the reasonableness of the amount to be expended for  
45 the capital project, the estimated time for the undertaking and  
46 completion of the capital project, and any other factors which the

1 board may deem necessary including the relationship of the capital  
2 project to the long-term capital budget or plan of the school district  
3 and the fiscal implications thereof.

4 Following its review and within 60 days of the date on which the  
5 State district superintendent submits the recommendation to the board,  
6 the board shall adopt a resolution as to whether the State-operated  
7 school district should undertake the capital project and providing its  
8 reasons therefor. The board shall adopt a resolution indicating the  
9 necessity for the capital project and shall also fix and determine by  
10 resolution the amount necessary to be raised locally for the capital  
11 project. If the board fails to act within 60 days of the submission date,  
12 the State district superintendent shall submit the recommendation to  
13 the commissioner who shall approve or disapprove the capital project.  
14 If the board makes a decision which is contrary to the recommendation  
15 of the superintendent, the superintendent may, within 30 days from the  
16 date of the board's action, submit the matter to the commissioner for  
17 final decision. If the commissioner determines that a capital project  
18 should be undertaken, the commissioner shall so notify the board and  
19 shall indicate the amount necessary to be raised locally for the capital  
20 project. Upon notification, the board shall adopt a resolution  
21 indicating the necessity for the capital project and shall also fix and  
22 determine by resolution the amount necessary for the capital project  
23 as indicated by the commissioner. Certified copies of any resolution  
24 requesting the authorization and issuance of bonds and notes or the  
25 authorization of a lease purchase agreement shall be delivered to the  
26 State district superintendent, the Commissioner of Education, the  
27 Director of the Division of Local Government Services in the  
28 Department of Community Affairs and the governing body of the  
29 municipality or municipalities in which the school district is located.  
30 The board shall not approve or recommend any capital project which  
31 is inconsistent with the provisions of N.J.S.18A:21-1.

32 (cf: P.L.1991, c.139, s.2)

33

34 34. Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is amended to  
35 read as follows:

36 3. Notwithstanding the provisions of any law to the contrary, the  
37 cost of any capital project authorized pursuant to this act which is to  
38 be funded by bonds or notes and certified by the board to the State  
39 district superintendent, the Commissioner of Education, the Director  
40 of the Division of Local Government Services in the Department of  
41 Community Affairs and the governing body of the municipality or  
42 municipalities in which the school district is located shall be financed  
43 by the issuance of school bonds or notes pursuant to the provisions of  
44 chapter 24 of Title 18A of the New Jersey Statutes and the "Local  
45 Bond Law," (N.J.S.40A:2-1 et seq.) and the notes, school bonds or  
46 other obligations shall be authorized, issued, sold and delivered in the

1 manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).  
2 (cf: P.L.1991, c.139, s.3)

3

4 35. N.J.S.18A:20-4.2 is amended to read as follows:

5 18A:20-4.2 The board of education of any school district may, for  
6 school purposes:

7 (a) Purchase, take and condemn lands within the district and lands  
8 not exceeding 50 acres in extent without the district but situate in a  
9 municipality or municipalities adjoining the district, but no more than  
10 25 acres may be so acquired in any one such municipality, without the  
11 district, except with the consent, by ordinance, of such municipality;

12 (b) Grade, drain and landscape lands owned or to be acquired by it  
13 and improve the same in like manner;

14 (c) Erect, lease for a term not exceeding 50 years, enlarge, improve,  
15 repair or furnish buildings;

16 (d) Borrow money therefor, with or without mortgage; in the case  
17 of a type II district without a board of school estimate, when  
18 authorized so to do at any annual or special school election; and in the  
19 case of a type II district having a board of school estimate, when the  
20 amount necessary to be provided therefor shall have been fixed,  
21 determined and certified by the board of school estimate; and in the  
22 case of a type I district, when an ordinance authorizing expenditures  
23 for such purpose is finally adopted by the governing body of a  
24 municipality comprised within the district; provided, however, that no  
25 such election shall be held nor shall any such resolution of a school  
26 estimate board or ordinance of a municipal governing body be  
27 introduced to authorize any lease of any building for a term exceeding  
28 one year, until the proposed terms of such lease have been reviewed  
29 and approved by the Commissioner of Education and the Local  
30 Finance Board in the Department of Community Affairs;

31 (e) Construct, purchase, lease or otherwise acquire a building with  
32 the federal government, the State, a political subdivision thereof or any  
33 other individual or entity properly authorized to do business in the  
34 State; provided that: (1) the noneducational uses of the building are  
35 compatible with the establishment and operation of a school, as  
36 determined by the Commissioner of Education; (2) the portion of the  
37 building to be used as a school meets regulations of the Department of  
38 Education; (3) the board of education has complied with the  
39 provisions of law and regulations relating to the selection and approval  
40 of sites; and (4) in the case of a lease, that any lease in excess of five  
41 years shall be approved by the Commissioner of Education and the  
42 Local Finance Board in the Department of Community Affairs;

43 (f) Acquire [by lease purchase agreement a site and school  
44 building; provided that the site and building meet guidelines and  
45 regulations of the Department of Education and that any lease  
46 purchase agreement in excess of five years shall be approved by the

1 Commissioner of Education as in the best interest of the school district  
2 after determining that the relationship of the proposed lease purchase  
3 project to the district's goals and objectives established pursuant to  
4 P.L.1975, c.212 (C.18A:7A-1 et seq.) has clearly been established; and  
5 provided that for any lease purchase agreement in excess of five years  
6 the Local Finance Board in the Department of Community Affairs shall  
7 determine within 30 days that the cost and the financial terms and  
8 conditions of the agreement are reasonable], with the approval of  
9 either the commissioner, or voters or board of school estimate, as  
10 applicable, equipment or improvements or additions to school  
11 buildings through lease purchase agreements not in excess of five  
12 years. The agreement shall be recorded as an expenditure of the  
13 General Fund of the district. The commissioner shall approve the  
14 agreement only upon a demonstration by the district that the lease  
15 purchase payments and any operating expenses related to the  
16 agreement can be included within the district's net budget spending  
17 growth limitation and will not result in the need for approval by the  
18 voters or board of school estimate, as appropriate, of additional  
19 spending proposals to maintain existing instructional programs and  
20 extracurricular activities. If the commissioner cannot approve the  
21 agreement, the board of education may frame a separate question to  
22 authorize the lease purchase agreement and obtain voter or board of  
23 school estimate approval to enter into the agreement. A lease  
24 purchase agreement for equipment shall not require approval by the  
25 commissioner unless the aggregate value of the agreement exceeds in  
26 any school year 1% of the district's net budget or \$250,000, whichever  
27 is less. As used herein, a "lease purchase agreement" refers to any  
28 agreement which gives the board of education as lessee the option of  
29 purchasing the leased [premises] equipment or improvements or  
30 additions to existing school buildings during or upon termination of  
31 the lease, with credit toward the purchase price of all or part of rental  
32 payments which have been made by the board of education in  
33 accordance with the lease. As part of such a transaction [approved by  
34 the Commissioner of Education], the board of education may transfer  
35 or lease land or rights in land, including any building thereon, after  
36 publicly advertising for proposals for the transfer for nominal or fair  
37 market value, to the party selected by the board of education, by  
38 negotiation or otherwise, after determining that the proposal is in the  
39 best interest of the taxpayers of the district, to construct or to improve  
40 and to lease or to own or to have ownership interests in the site and  
41 the school building to be leased pursuant to such lease purchase  
42 agreement, notwithstanding the provisions of any other law to the  
43 contrary. The land and any building thereon which is described in a  
44 lease purchase agreement entered into pursuant to this amendatory act,  
45 shall be deemed to be and treated as property of the school district,  
46 used for school purposes pursuant to R.S.54:4-3.3, and shall not be



1 considered or treated as property leased to another whose property is  
2 not exempt, and shall not be assessed as real estate pursuant to section  
3 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement  
4 authorized by this section shall contain a provision making payments  
5 thereunder subject to the annual appropriation of funds sufficient to  
6 meet the required payments or shall contain an annual cancellation  
7 clause and shall require all construction contracts let by public school  
8 districts or let by developers or owners of property used for school  
9 purposes to be competitively bid, pursuant to P.L.1977, c.114  
10 (N.J.S.18A:18A-1 et seq.);

11 (g) Establish with an individual or entity authorized to do business  
12 in the State a tenancy in common, condominium, horizontal property  
13 regime or other joint ownership arrangement on a site contributed by  
14 the school district; provided the following conditions are met:

15 (1) The individual or entity agrees to construct on the site, or  
16 provide for the construction thereon, a building or buildings for use of  
17 the board of education separately or jointly with the individual or  
18 entity, which shall be subject to the joint ownership arrangement;

19 (2) The provision of the building shall be at no cost or at a reduced  
20 cost to the board of education;

21 (3) The school district shall not make any payment for use of the  
22 building other than its pro rata share of costs of maintenance and  
23 improvements;

24 (4) The noneducational uses of the building are compatible with the  
25 establishment and operation of a school, as determined by the  
26 Commissioner of Education;

27 (5) The portion of the building to be used as a school, and the site,  
28 meet regulations of the Department of Education; and

29 (6) Any such agreement shall be approved by the Commissioner  
30 of Education and the Local Finance Board in the Department of  
31 Community Affairs;

32 (h) Acquire through sale and lease-back textbooks and  
33 non-consumable instructional materials provided that the sale price and  
34 principal amount of the lease-back do not exceed the fair market value  
35 of the textbooks and instructional materials and that the interest rate  
36 applied in the lease-back is consistent with prevailing market rates or  
37 is less.

38 (cf: P.L.1998, c.55, s.1)

39

40 36. N.J.S.18A:22-18 is amended to read as follows:

41 18A:22-18. When a board of education of a type I district shall  
42 determine by resolution that it is necessary to sell school bonds to  
43 raise money for any capital project authorized by law, it shall prepare  
44 and deliver to each member of the board of school estimate a  
45 statement of the amount of money estimated to be necessary for such  
46 purpose. The statement shall include the amount needed to be raised

1 by school bonds, the final eligible costs of the project as approved by  
2 the commissioner pursuant to section 5 of P.L. , c. (C. ) (now  
3 pending before the Legislature as this bill) and in the case of a  
4 community development school project by the Urban Coordinating  
5 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
6 before the Legislature as this bill), and, if applicable, the amount of  
7 any costs of the project which are in addition to the final eligible costs.  
8 (cf: P.L.1993, c.83, s.6)

9

10 37. N.J.S.18A:22-19 is amended to read as follows:

11 18A:22-19. The board of school estimate shall fix and determine the  
12 local share amount necessary for said purpose and shall certify such  
13 amount separately to the board of education and to the governing body  
14 of the municipality.

15 (cf: N.J.S.18A:22-19)

16

17 38. N.J.S.18A:22-27 is amended to read as follows:

18 18A:22-27. Whenever the board of education in a type II school  
19 district having a board of school estimate shall, by resolution adopted  
20 by recorded roll call affirmative vote of two thirds of its full  
21 membership, determine that it is necessary to sell school bonds to raise  
22 money for any capital project, it shall, by such resolution, estimate the  
23 amount necessary to be raised for such project or projects, itemizing  
24 such estimate so as to make it readily understandable, and the  
25 secretary of the board of education shall certify a copy of such  
26 resolution to each member of the board of school estimate of the  
27 district. The resolution shall include the amount needed to be raised  
28 by school bonds, the final eligible costs of the project as approved by  
29 the commissioner pursuant to section 5 of P.L. , c. (C. ) (now  
30 pending before the Legislature as this bill) and in the case of a  
31 community development school project by the Urban Coordinating  
32 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
33 before the Legislature as this bill), and, if applicable, the amount of  
34 any costs of the project which are in addition to the final eligible costs.

35 (cf: P.L.1993, c.83, s.8)

36

37 39. N.J.S.18A:22-28 is amended to read as follows:

38 18A:22-28. The board of education of such district shall also, upon  
39 delivery of such certificate to the members of the board of school  
40 estimate, fix a date, place and time for the holding of a public hearing  
41 by the board of school estimate with respect to the amount of money  
42 to be raised locally for such project or projects, which date shall be not  
43 less than 15 nor more than 30 days after the date of such delivery, and  
44 shall cause notice of such public hearing and such resolution, including  
45 a statement that said resolution will be on file and open to  
46 examination to the public between reasonable hours to be fixed and at

1 a place to be named therein from the date of such notice until the date  
2 of said public hearing, to be published at least once and not less than  
3 seven days before such public hearing in at least one newspaper,  
4 published in each municipality comprised within the school district,  
5 and if no newspaper is published in any such municipality, then, as to  
6 such municipality, in at least one newspaper circulating in the  
7 municipality, and said board of education shall cause said resolution  
8 to be on file and open to the examination of the public accordingly and  
9 to be produced at said public hearing for the information of those  
10 attending the same.

11 (cf: N.J.S.18A:22-28)

12

13 40. N.J.S.18A:22-29 is amended to read as follows:

14 18A:22-29. On the date and at the time and place so fixed for such  
15 public hearing, the board of school estimate shall grant the taxpayers  
16 and other interested persons an opportunity to present objections and  
17 to be heard with respect to said resolution and the amount of money  
18 necessary to be raised locally for such project or projects and with  
19 respect to the various items and projects for which the same is to be  
20 raised.

21 (cf: N.J.S.18A:22-29)

22

23 41. N.J.S.18A:22-30 is amended to read as follows:

24 18A:22-30. At or after such hearing the board of school estimate  
25 shall fix and determine the amount of money necessary to be raised  
26 locally for said project or projects, and the secretary of said board  
27 shall certify said amount to the board of education of the district and  
28 to the board or body of each municipality comprised therein which has  
29 power to make appropriations of money to be raised by taxes in such  
30 municipality. The board of education of the district and the governing  
31 body of each such municipality comprising the district shall apportion  
32 the amount so to be appropriated, assessed, levied and raised in each  
33 of such municipalities, as nearly as may be, on the same basis and by  
34 the application of the same standards as are provided by law for  
35 apportionment of appropriations by county tax boards.

36 (cf: N.J.S.18A:22-30)

37

38 42. N.J.S.18A:22-39 is amended to read as follows:

39 18A:22-39. Whenever the undertaking of any capital project or  
40 projects to be paid for from the proceeds of an issue or issue of bonds  
41 is submitted to the voters of a type II district at an annual or special  
42 school election for their approval or disapproval, the board shall frame  
43 and adopt by a recorded roll call majority vote of its full membership  
44 the question or questions to be submitted so that each project is  
45 submitted in a separate question, or all or any number of them are  
46 submitted in one question, which shall state the project or projects so

1 submitted and the amounts to be raised for each of the projects so  
2 separately submitted or for each or for all of the projects so jointly  
3 submitted, as the case may be, but any proposal for the purchase of  
4 land shall be sufficient to authorize the taking and condemning of such  
5 land. If the project is to be constructed by the New Jersey Building  
6 Authority or a community redevelopment entity, the referendum shall,  
7 when framed as a single question, request approval for the local share  
8 and shall disclose the final eligible costs of the project as approved by  
9 the commissioner pursuant to section 5 of P.L. , c. (C. ) (now  
10 pending before the Legislature as this bill) and in the case of a  
11 community development school project by the Urban Coordinating  
12 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
13 before the Legislature as this bill), and, if applicable, the amount of  
14 any costs of the project which are in addition to the final eligible costs.  
15 If the school facilities project is not to be constructed by the New  
16 Jersey Building Authority or a community redevelopment entity, the  
17 referendum shall, when framed as a single question, request approval  
18 for the total costs of the project, shall disclose State debt service aid  
19 for the project and, if applicable, the amount of any costs of the  
20 project which are in addition to the final eligible costs of the project.  
21 When a project is framed in more than one question, a summary shall  
22 be included in the explanatory statement which accompanies the  
23 questions that includes the total costs of the project, total State debt  
24 service aid, and, if applicable, the amount of the costs of the project  
25 which are in addition to the final eligible costs of the project, and any  
26 individual question containing costs in addition to the final eligible  
27 costs shall include the amount of those additional costs.

28 The statement of additional costs in any ballot question and in any  
29 explanatory statement that accompanies a ballot question shall describe  
30 the additional costs as follows: "This project includes \$(insert  
31 amount) for school facility construction elements in addition to the  
32 facilities efficiency standards developed by the Commissioner of  
33 Education."

34 (cf: P.L.1993, c.83, s.12)

35

36 43. N.J.S.18A:72A-1 is amended to read as follows:

37 18A:72A-1. [It is hereby declared] The Legislature finds and  
38 declares that a serious public emergency exists affecting and  
39 threatening the welfare, comfort, health, safety and prosperity of the  
40 people of the state and resulting from the fact that financial resources  
41 are lacking with which to construct required dormitory and other  
42 educational facilities at public and private institutions of higher  
43 education and to construct public elementary and secondary school  
44 facilities; that it is essential that this and future generations of youth  
45 be given the fullest opportunity to learn and to develop their  
46 intellectual and mental capacities; that it is essential that institutions

1 for higher education and school districts within the state be provided  
2 with appropriate additional means to assist such youth in achieving  
3 the required levels of learning and development of their intellectual  
4 and mental capacities; that it is essential that all resources of the state  
5 be employed in order to meet the tremendous demand for higher  
6 educational opportunities and public school facilities; that all  
7 institutions of higher education in the state, both public and private,  
8 and all public elementary and secondary educational institutions, are  
9 an integral part of the total educational effort in the state for  
10 providing higher educational opportunities, and that it is the purpose  
11 of this chapter and P.L. , c. (C. ) (now pending before the  
12 Legislature as this bill) to provide a measure of assistance and an  
13 alternative method of financing to enable institutions of higher  
14 education and public school districts in the state to provide the  
15 facilities which are sorely needed to accomplish the purposes of this  
16 chapter and P.L. , c. (C. ) (now pending before the Legislature as  
17 this bill), all to the public benefit and good, to the extent and manner  
18 provided herein and in P.L. , c. (C. ) (now pending before the  
19 Legislature as this bill).

20 The Legislature further finds that the inventory of public  
21 elementary and secondary school buildings and the equipment and  
22 capital resources currently available are aging, both chronologically  
23 and technologically; that the current funding at the federal, State, and  
24 local levels and the current mechanisms for construction of these  
25 capital projects is inadequate to meet the demonstrated need for public  
26 school facilities and these inadequacies necessitate additional sources  
27 of funding and the coordination of construction activities at the State  
28 level to meet those needs; that while the credit status of New Jersey's  
29 school districts is sound, it can be economically more reasonable to  
30 finance the costs of developing the educational infrastructure of the  
31 State's public elementary and secondary schools, by providing for the  
32 funding of capital projects through the issuance of bonds, notes or  
33 other obligations by the New Jersey Educational Facilities Authority,  
34 to be retired through annual payments made by the State subject to  
35 appropriation by the State Legislature, and to provide for the use of  
36 the proceeds of those bonds, notes or other obligations to pay for  
37 educational infrastructure projects; that such a structure would  
38 substantially reduce the costs of financing and provide for a more  
39 efficient use of the funds available for the development of the  
40 educational infrastructure; that the New Jersey Building Authority has  
41 substantial and significant experience in undertaking major capital  
42 construction projects, has a system of internal controls and procedures  
43 to ensure the integrity of construction activities, and is therefore the  
44 appropriate entity to undertake the planning, design, construction and  
45 operation of elementary and secondary educational infrastructure  
46 projects; and that by authorizing the New Jersey Educational Facilities

1 Authority and the New Jersey Building Authority to undertake these  
2 activities, there will be achieved economies of scale, better  
3 coordination of resources, effective financial management and  
4 reporting, and increased monitoring and quality control of school  
5 district instruction.

6 (cf: N.J.S.18A:72A-1)

7  
8 44. N.J.S.18A:72A-3 is amended to read as follows:

9 18A:72A-3. As used in this act, the following words and terms  
10 shall have the following meanings, unless the context indicates or  
11 requires another or different meaning or intent:

12 "Authority" means the New Jersey Educational Facilities Authority  
13 created by this chapter or any board, body, commission, department  
14 or officer succeeding to the principal functions thereof or to whom the  
15 powers conferred upon the authority by this chapter and P.L. , c.  
16 (C. ) (now pending before the Legislature as this bill) shall be given  
17 by law;

18 "Bond" means bonds [or] , notes or other obligations and refunding  
19 bonds of the authority issued pursuant to this chapter and P.L. , c.  
20 (C. ) (now pending before the Legislature as this bill);

21 "Cost" means in connection with a school facilities project, all costs  
22 and expenses necessary or incident to all or part of a school facilities  
23 project, including the costs associated with financing and  
24 administrative fees and expenses;

25 "County college capital project" means any capital project of a  
26 county college certified pursuant to section 2 of P.L.1971, c.12  
27 (C.18A:64A-22.2) and approved by the State Treasurer for funding  
28 pursuant to the "County College Capital Projects Fund Act,"  
29 P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

30 "District" means a local or regional school district established  
31 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
32 Statutes, a county special services school district established pursuant  
33 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a  
34 county vocational school district established pursuant to article 3 of  
35 chapter 54 of Title 18A of the New Jersey Statutes, and a State-  
36 operated school district established pursuant to P.L.1987, c.399  
37 (C.18A:7A-34);

38 "Dormitory" means a housing unit with necessary and usual  
39 attendant and related facilities and equipment;

40 "Educational facility" means a structure suitable for use as a  
41 dormitory, dining hall, student union, administration building,  
42 academic building, library, laboratory, research facility, classroom,  
43 athletic facility, health care facility, teaching hospital, and parking  
44 maintenance storage or utility facility and other structures or facilities  
45 related thereto or required or useful for the instruction of students or  
46 the conducting of research or the operation of an institution for higher

1 education, and public libraries, and the necessary and usual attendant  
2 and related facilities and equipment, but shall not include any facility  
3 used or to be used for sectarian instruction or as a place for religious  
4 worship;

5 "Emerging needs program" means a program at one or more public  
6 or private institutions of higher education directed to meeting new and  
7 advanced technology needs or to supporting new academic programs  
8 in science and technology;

9 "Higher education equipment" means any property consisting of, or  
10 relating to, scientific, engineering, technical, computer,  
11 communications or instructional equipment;

12 "Local unit" means a county, municipality, board of education or  
13 any other political entity authorized to construct, operate and maintain  
14 a school facilities project and to borrow money for those purposes  
15 pursuant to Title 18A of the New Jersey Statutes;

16 "Participating college" means a public institution of higher  
17 education or private college which, pursuant to the provisions of this  
18 chapter, participates with the authority in undertaking the financing  
19 and construction or acquisition of a project;

20 "Project" means a dormitory or an educational facility or any  
21 combination thereof, or a county college capital project, but shall not  
22 include a school facilities project;

23 "Private college" means an institution for higher education other  
24 than a public college, situated within the State and which, by virtue of  
25 law or charter, is a nonprofit educational institution empowered to  
26 provide a program of education beyond the high school level;

27 "Private institution of higher education" means independent colleges  
28 or universities incorporated and located in New Jersey, which by virtue  
29 of law or character or license, are nonprofit educational institutions  
30 authorized to grant academic degrees and which provide a level of  
31 education which is equivalent to the education provided by the State's  
32 public institutions of higher education as attested by the receipt of and  
33 continuation of regional accreditation by the Middle States Association  
34 of Colleges and Schools, and which are eligible to receive State aid;

35 "Public institution of higher education" means Rutgers, The State  
36 University, the State colleges, the New Jersey Institute of Technology,  
37 the University of Medicine and Dentistry of New Jersey, the county  
38 colleges and any other public university or college now or hereafter  
39 established or authorized by law;

40 "School facilities project" means the acquisition, demolition,  
41 construction, improvement, repair, alteration, modernization,  
42 renovation, reconstruction or maintenance of all or any part of any  
43 school facility or of any other personal property necessary for or  
44 ancillary to any school facility, and shall include fixtures, furnishings  
45 and equipment, and shall include, but is not limited to, site  
46 acquisition, site development, the services of design professionals such

1 as engineers and architects, construction management, legal services,  
2 financing costs and administrative fees and expenses incurred in  
3 connection with the school facilities project.

4 "School facility" means and includes any structure, building or  
5 facility used wholly or in part for academic purposes by a district, but  
6 shall exclude athletic stadiums, grandstands, and any structure,  
7 building or facility used solely for school administration.

8 "Refunding bonds" means bonds, notes, or other obligations issued  
9 to refinance bonds previously issued by the authority pursuant to this  
10 chapter and P.L. , c. (C. ) (now pending before the Legislature as  
11 this bill).

12 "University" means Rutgers, The State University.  
13 (cf: P.L.1999, c.184, s.6)

14

15 45. N.J.S.18A:72A-4 is amended to read as follows:

16 18A:72A-4. (a) There is hereby established in but not of the  
17 Department of the Treasury a public body corporate and politic, with  
18 corporate succession to be known as the "New Jersey educational  
19 facilities authority." Notwithstanding this allocation, the authority shall  
20 be independent of any supervision or control by the department or any  
21 officer thereof. The authority shall constitute a political subdivision of  
22 the State established as an instrumentality exercising public and  
23 essential governmental functions, and the exercise by the authority of  
24 the powers conferred by this chapter and P.L. , c. (C. ) (now  
25 pending before the Legislature as this bill) shall be deemed and held  
26 to be an essential governmental function of the State.

27 (b) The authority shall consist of seven members, two of whom  
28 shall be the chairman of the Commission on Higher Education, ex  
29 officio, and the State Treasurer, ex officio, or when so designated by  
30 them, their deputies; one person to be appointed by the Governor upon  
31 the recommendation of the President of the Senate and one person  
32 appointed by the Governor upon the recommendation of the Speaker  
33 of the General Assembly who shall serve during the two year  
34 legislative term in which they are appointed and until their successors  
35 are appointed and qualified; and [five] three citizens of the State to be  
36 appointed by the Governor [with the advice and consent of the Senate]  
37 no more than two of whom shall be of the same political party for  
38 terms of five years[; provided that the terms of the members first  
39 appointed shall be arranged by the Governor so that one of such terms  
40 shall expire on April 30 in each successive year ensuing after such  
41 appointments]. Each member shall hold office for the term of his  
42 appointment and shall continue to serve during the term of his  
43 successor unless and until his successor shall have been appointed and  
44 qualified. Any vacancy among the members appointed by the  
45 Governor shall be filled by appointment for the unexpired term only.  
46 A member of the authority shall be eligible for reappointment.



1     The terms of office of members of the authority appointed by the  
2 Governor who are serving on the effective date of P.L. , c. (C. )  
3 (now pending before the Legislature as this bill) shall expire upon the  
4 appointment by the Governor of five members of the authority as  
5 provided by this section. The five members initially appointed by the  
6 Governor pursuant to this section shall be as follows: one member  
7 upon the recommendation of the President of the Senate and one  
8 member upon the recommendation of the Speaker of the General  
9 Assembly, who shall serve during the two-year legislative term in  
10 which they are appointed; and three members whose terms shall be  
11 arranged so that a term of one of the members expires on April 30 in  
12 each successive year ensuing after the appointments.

13     (c) Any member of the authority appointed by the Governor may  
14 be removed from office by the Governor for cause after a public  
15 hearing.

16     (d) The members of the authority shall serve without  
17 compensation, but the authority may reimburse its members for  
18 necessary expenses incurred in the discharge of their duties.

19     (e) The authority, upon the first appointment of its members and  
20 thereafter on or after April 30 in each year, shall annually elect from  
21 among its members a chairman and a vice chairman who shall hold  
22 office until April 30 next ensuing and shall continue to serve during the  
23 terms of their respective successors unless and until their respective  
24 successors shall have been appointed and qualified. The authority may  
25 also appoint, retain and employ, without regard to the provisions of  
26 Title 11, Civil Service, of the Revised Statutes, such officers, agents,  
27 employees and experts as it may require, and it shall determine their  
28 qualifications, terms of office, duties, services and compensation.

29     (f) The powers of the authority shall be vested in the members  
30 thereof in office from time to time and a majority of the total  
31 authorized membership of the authority shall constitute a quorum at  
32 any meeting thereof. Action may be taken and motions and resolutions  
33 adopted by the authority at any meeting thereof by the affirmative vote  
34 of a majority of the members present, unless in any case the bylaws of  
35 the authority shall require a larger number. No vacancy in the  
36 membership of the authority shall impair the right of a quorum to  
37 exercise all the rights and perform all the duties of the authority.

38     (g) Before the issuance of any bonds under the provisions of this  
39 chapter or P.L. , c. (C. ) (now pending before the Legislature as  
40 this bill), the members and the officer of the authority charged with  
41 the handling of the authority's moneys shall be covered by a surety  
42 bond or bonds in a penal sum of not less than \$25,000.00 per person  
43 conditioned upon the faithful performance of the duties of their  
44 respective offices, and executed by a surety company authorized to  
45 transact business in the State of New Jersey as surety. Each such bond  
46 shall be submitted to the attorney general for his approval and upon his

1 approval shall be filed in the Office of the Secretary of State prior to  
2 the issuance of any bonds by the authority. At all times after the  
3 issuance of any bonds by the authority the officer of the authority and  
4 each member charged with the handling of the authority's moneys shall  
5 maintain such surety bonds in full force and effect. All costs of such  
6 surety bonds shall be borne by the authority.

7 (h) Notwithstanding any other law to the contrary, it shall not be  
8 or constitute a conflict of interest for a trustee, director, officer or  
9 employee of a participating college or a member or employee of a  
10 board of education to serve as a member of the authority; provided  
11 such trustee, director, officer, member or employee shall abstain from  
12 discussion, deliberation, action and vote by the authority under this  
13 chapter or P.L. , c. (C. ) (now pending before the Legislature as  
14 this bill) in specific respect to such participating college or board of  
15 education of which such member is a trustee, director, officer,  
16 member or employee.

17 (i) A true copy of the minutes of every meeting of the authority  
18 shall be forthwith delivered by and under the certification of the  
19 secretary thereof, to the Governor. No action taken at such meeting  
20 by the authority shall have force or effect until 10 days, Saturdays,  
21 Sundays and public holidays excepted, after such copy of the minutes  
22 shall have been so delivered. If, in said 10-day period, the Governor  
23 returns such copy of the minutes with veto of any action taken by the  
24 authority or any member thereof at such meeting, such action shall be  
25 null and of no effect. If the Governor shall not return the minutes  
26 within said 10-day period, any action therein recited shall have force  
27 and effect according to the wording thereof. At any time prior to the  
28 expiration of the said 10-day period, the Governor may sign a  
29 statement of approval of any such action of the authority, in which  
30 case the action so approved shall not thereafter be disapproved.

31 Notwithstanding the foregoing provisions of this subsection (i),  
32 with regard to the authorization or sale of bonds of the authority, the  
33 authority shall furnish to the Governor a certified copy of the minutes  
34 of the meeting at which the bonds are authorized or sold and the  
35 Governor shall indicate approval or disapproval of the action upon  
36 receipt of the certified copy of the minutes.

37 The powers conferred in this subsection (i) upon the Governor shall  
38 be exercised with due regard for the rights of the holders of bonds of  
39 the authority at any time outstanding, and nothing in, or done pursuant  
40 to, this subsection (i) shall in any way limit, restrict or alter the  
41 obligation or powers of the authority or any representative or officer  
42 of the authority to carry out and perform in every detail each and  
43 every covenant, agreement or contract at any time made or entered  
44 into by or on behalf of the authority with respect to its bonds or for  
45 the benefit, protection or security of the holders thereof.

46 (cf: P.L.1999, c.217, s.11)

- 1       46. N.J.S.18A:72A-5 is amended to read as follows:  
2       18A:72A-5. The authority shall have power:  
3       (a) To adopt bylaws for the regulation of its affairs and the conduct  
4       of its business;  
5       (b) To adopt and have an official common seal and alter the same  
6       at pleasure;  
7       (c) To maintain an office at such place or places within the State  
8       as it may designate;  
9       (d) To sue and be sued in its own name, and plead and be  
10       impleaded;  
11       (e) To borrow money and to issue bonds and notes and other  
12       obligations of the authority and to provide for the rights of the holders  
13       thereof as provided in this chapter and P.L. , c. (C. ) (now  
14       pending before the Legislature as this bill);  
15       (f) To acquire, lease as lessee, hold and dispose of real and  
16       personal property or any interest therein, in the exercise of its powers  
17       and the performance of its duties under this chapter and P.L. , c.  
18       (C. ) (now pending before the Legislature as this bill);  
19       (g) To acquire in the name of the authority by purchase or  
20       otherwise, on such terms and conditions and in such manner as it may  
21       deem proper, or by the exercise of the power of eminent domain, any  
22       land or interest therein and other property which it may determine is  
23       reasonably necessary for any project , including any lands held by any  
24       county, municipality or other governmental subdivision of the State;  
25       and to hold and use the same and to sell, convey, lease or otherwise  
26       dispose of property so acquired, no longer necessary for the authority's  
27       purposes;  
28       (h) To receive and accept, from any federal or other public agency  
29       or governmental entity, grants or loans for or in aid of the acquisition  
30       or construction of any project or school facilities project, and to  
31       receive and accept aid or contributions from any other source, of  
32       either money, property, labor or other things of value, to be held, used  
33       and applied only for the purposes for which such grants, loans and  
34       contributions may be made consistent with this chapter and section 22  
35       of P.L. , c. (C. ) (now pending before the Legislature as this bill);  
36       (i) To prepare or cause to be prepared plans, specifications, designs  
37       and estimates of costs for the construction and equipment of projects  
38       for participating colleges under the provisions of this chapter, and  
39       from time to time to modify such plans, specifications, designs or  
40       estimates;  
41       (j) By contract or contracts or by its own employees to construct,  
42       acquire, reconstruct, rehabilitate and improve, and furnish and equip,  
43       projects for participating colleges and, pursuant to the provisions of  
44       P.L. ,c. (C. ) (now pending before the Legislature as this bill), to  
45       finance the planning, design, and construction of school facilities  
46       projects; however, in any contract or contracts undertaken by the

1 authority for the construction, reconstruction, rehabilitation or  
2 improvement of any public college project where the cost of such  
3 work will exceed \$25,000, the contracting agent shall advertise for and  
4 receive in the manner provided by law:

- 5 (1) separate bids for the following categories of work;  
6 (a) the plumbing and gas fitting work;  
7 (b) the heating and ventilating systems and equipment;  
8 (c) the electrical work, including any electrical power plants;  
9 (d) the structural steel and ornamental iron work;  
10 (e) all other work and materials required for the completion of the  
11 project, or  
12 (2) bids for all work and materials required to complete the entire  
13 project if awarded as a single contract; or  
14 (3) both (1) and (2) above.

15 All bids submitted shall set forth the names and license numbers of,  
16 and evidence of performance security from, all subcontractors to  
17 whom the bidder will subcontract the work described in the foregoing  
18 categories (1)(a) through (1)(e).

19 Contracts shall be awarded to the lowest responsible bidder whose  
20 bid, conforming to the invitation for bids, will be the most  
21 advantageous to the authority;

22 (k) To determine the location and character of any project to be  
23 undertaken pursuant to the provisions of this chapter and to  
24 construct, reconstruct, maintain, repair, operate, lease, as lessee or  
25 lessor, and regulate the same pursuant to this chapter in the case of  
26 any project, and as authorized pursuant to the provisions of P.L. , c.  
27 (C. ) (now pending before the Legislature as this bill) in the case of  
28 any school facilities project; to enter into contracts for any or all such  
29 purposes; to enter into contracts for the management and operation of  
30 a project and the financing of a school facilities project, and to  
31 designate a participating college as its agent to determine the location  
32 and character of a project undertaken by such participating college  
33 under the provisions of this chapter and, as the agent of the authority,  
34 to construct, reconstruct, maintain, repair, operate, lease, as lessee or  
35 lessor, and regulate the same, and, as agent of the authority, to enter  
36 into contracts for any and all such purposes including contracts for the  
37 management and operation of such project;

38 (l) To establish rules and regulations for the use of a project or any  
39 portion thereof and to designate a participating college as its agent to  
40 establish rules and regulations for the use of a project undertaken by  
41 such participating college;

42 (m) Generally to fix and revise from time to time and to charge and  
43 collect rates, rents, fees and other charges for the use of and for the  
44 services furnished or to be furnished by a project or, if applicable, a  
45 school facilities project or any portion thereof and to contract with  
46 holders of its bonds and with any other person, party, association,

1 corporation or other body, public or private, in respect thereof;

2 (n) To enter into any and all agreements or contracts, execute any  
3 and all instruments, and do and perform any and all acts or things  
4 necessary, convenient or desirable for the purposes of the authority or  
5 to carry out any power expressly given in this chapter or in P.L. ,  
6 c. (C. ) (now pending before the Legislature as this bill);

7 (o) To invest any moneys held in reserve or sinking funds, or any  
8 moneys not required for immediate use or disbursement, at the  
9 discretion of the authority, in such obligations as are authorized by law  
10 for the investment of trust funds in the custody of the State Treasurer;

11 (p) To enter into any lease relating to higher education equipment  
12 with a public or private institution of higher education pursuant to the  
13 provisions of P.L.1993, c.136 (C.18A:72A-40 et al.);

14 (q) To enter into loan agreements with any county, to hold bonds  
15 or notes of the county evidencing those loans, and to issue bonds or  
16 notes of the authority to finance county college capital projects  
17 pursuant to the provisions of the "County College Capital Projects  
18 Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

19 (r) To enter into agreements or contracts, execute instruments, and  
20 do and perform all acts or things necessary, convenient or desirable for  
21 the purposes of the authority to carry out any power expressly  
22 provided pursuant to this chapter and P.L. , c. (C. )(now  
23 pending before the Legislature as this bill), including, but not limited  
24 to, entering into contracts with the State Treasurer and the building  
25 authority as authorized pursuant to section 18 of P.L. , c. (C. )  
26 (now pending before the Legislature as this bill) and entering into  
27 agreements with districts as may be authorized pursuant to P.L. , c.  
28 (C. ) (now pending before the Legislature as this bill);

29 (s) To enter into leases, rentals or other disposition of a real  
30 property interest in and of any school facilities project to or from any  
31 local unit, pursuant to P.L. , c. (C. )(now pending before the  
32 Legislature as this bill);

33 (t) To make and contract to make loans or leases to local units to  
34 finance the cost of school facilities projects and to acquire and  
35 contract to acquire bonds, notes or other obligations issued or to be  
36 issued by local units to evidence the loans or leases, all in accordance  
37 with the provisions of this chapter and P.L. , c. (C. )(now  
38 pending before the Legislature as this bill);

39 (u) Subject to any agreement with holders of its bonds issued to  
40 finance a school facilities project, obtain as security or to provide  
41 liquidity for payment of all or any part of the principal of and interest  
42 and premium on the bonds of the authority or for the purchase upon  
43 tender or otherwise of the bonds, lines of credit, letters of credit,  
44 reimbursement agreements, interest rate exchange agreements,  
45 currency exchange agreements, interest rate floors or caps, options,  
46 puts or calls to hedge payment, currency, rate, spread or similar

1 exposure or similar agreements, float agreements, forward agreements,  
2 insurance contract, surety bond, commitment to purchase or sell  
3 bonds, purchase or sale agreement, or commitments or other contracts  
4 or agreements and other security agreements or instruments in any  
5 amounts and upon any terms as the authority may determine and pay  
6 any fees and expenses required in connection therewith;

7 (v) To charge to and collect from local units, the State and any  
8 other person, any fees and charges in connection with the authority's  
9 actions undertaken with respect to projects and school facilities  
10 projects, including, but not limited to, fees and charges for the  
11 authority's administrative, organization, insurance, operating and other  
12 expenses incident to the financing, construction and placing into  
13 service and maintenance of projects and school facilities projects .

14 (cf: P.L.1997, c.360, s.6)

15

16 47. N.J.S.18A:72A-12 is amended to read as follows:

17 18A:72A-12. [All] With respect to projects, all moneys received  
18 pursuant to the authority of this chapter, whether as proceeds from the  
19 sale of bonds or as revenues, shall be deemed to be trust funds to be  
20 held and applied solely as provided in this chapter. Any officer with  
21 whom, or any bank or trust company with which, such moneys shall be  
22 deposited shall act as trustee of such moneys and shall hold and apply  
23 the same for the purposes hereof, subject to such regulations as this  
24 chapter and the resolution authorizing the bonds of any issue or the  
25 trust agreement securing such bonds may provide.

26 (cf: N.J.S.18A:72A-12)

27

28 48. N.J.S.18A:72A-15 is amended to read as follows:

29 18A:72A-15. Bonds and notes issued by the authority under the  
30 provisions of this chapter and P.L. , c. (C. ) (now pending before  
31 the Legislature as this bill) are hereby made securities in which the  
32 state and all political subdivisions of the state, their officers, boards,  
33 commissions, departments or other agencies, all banks, bankers,  
34 savings banks, trust companies, savings and loan associations,  
35 investment companies and other persons carrying on a banking  
36 business, all insurance companies, insurance associations, and other  
37 persons carrying on an insurance business, and all administrators,  
38 executors, guardians, trustees and other fiduciaries, and all other  
39 persons whatsoever who now are or may hereafter be authorized to  
40 invest in bonds or other obligations of the state, may properly and  
41 legally invest any funds, including capital belonging to them or within  
42 their control; and said bonds, notes or other securities or obligations  
43 are hereby made securities which may properly and legally be  
44 deposited with and received by any state or municipal officers or  
45 agency of the state for any purpose for which the deposit of bonds or

1 other obligations of the state is now or may hereafter be authorized  
2 by law.

3 (cf: N.J.S.18A:72A-15)

4

5 49. Section 2 of P.L.1981, c.120 (C.52:18A-78.2) is amended to  
6 read as follows:

7 2. As used in this act, unless the context clearly indicates  
8 otherwise:

9 a. "Authority" means the New Jersey Building Authority created  
10 under this act.

11 b. "Bonds" means bonds, notes, other obligations and refunding  
12 bonds issued by the authority pursuant to this act.

13 c. "Building" includes any portion thereof, such as an apartment  
14 created under the "Horizontal Property Act," P.L.1963, c.168  
15 (C.46:8A-1 et seq.) or a unit created under the "Condominium Act,"  
16 P.L.1969, c.257 (C.46:8B-1 et seq.).

17 d. "Local governmental agency" means any municipality, county,  
18 school district, or any agency, department or instrumentality of any of  
19 the foregoing, or any other public body having local or regional  
20 jurisdiction or powers and not constituting a State agency.

21 e. "Notes" means notes issued by the authority pursuant to this act.

22 f. "Project" means any building or buildings, including related  
23 structures, parking facilities, improvements, real and personal property  
24 or any interest therein, including lands under water, space rights and  
25 air rights, and other appurtenances and facilities necessary or  
26 convenient to the use or operation of the building or buildings,  
27 acquired, owned, constructed, reconstructed, extended, rehabilitated,  
28 renovated, preserved or improved by the authority for the purposes set  
29 forth in section 8 of P.L.1992, c.174 (C.52:18A-78.5a), but shall not  
30 include a school facilities project.

31 g. "State agency" means the Executive, Legislative or Judicial  
32 branch of the State Government or any officer, department, board,  
33 commission, bureau, division, public authority or corporation, agency  
34 or instrumentality of the State.

35 h. "Historic public building" means a building that is owned by a  
36 governmental agency and that is on or eligible for State or National  
37 Registers of Historic Places.

38 i. "District" means a local or regional school district established  
39 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
40 Statutes, a county special services school district established pursuant  
41 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a  
42 county vocational school district established pursuant to article 3 of  
43 chapter 54 of Title 18A of the New Jersey Statutes, and a State-  
44 operated school district established pursuant to P.L.1987, c.399  
45 (C.18A:7A-34).

46 j. "Local unit" means a county, municipality, board of education or

1 any other political entity authorized to construct, operate and maintain  
2 a school facilities project and to borrow money for those purposes  
3 pursuant to Title 18A of the New Jersey Statutes.

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

14 l. "School facility" means and includes any structure, building or  
15 facility used wholly or in part for academic purposes by a district, but  
16 shall exclude athletic stadiums, grandstands, and any structure,  
17 building or facility used solely for school administration.

18 m. "Refunding bonds" means bonds, notes, or other obligations  
19 issued to refinance bonds previously issued by the authority pursuant  
20 to P.L.1981, c.120 (C.52:18A-78.1 et seq.).  
21 (cf: P.L.1992, c.174, s.1)

22  
23 50. Section 3 of P.L.1981, c.120 (C.52:18A-78.3) is amended to  
24 read as follows:

25 3. The Legislature finds and declares the following:

26 a. That for many years the functions of the State Government have  
27 grown and that during this period of rapid expansion no definite  
28 program has been adopted for the housing and carrying out of the  
29 operations of the many State agencies.

30 b. That many State agencies have their offices in privately owned  
31 or inadequate State owned buildings and that these buildings are  
32 inadequate to meet the needs of these State agencies and the needs of  
33 the people of the State.

34 c. That it is to the economic benefit and general welfare of the  
35 citizens of the State to provide sufficient office space and related  
36 facilities for these State agencies and thus provide for a more efficient  
37 and economic operation of State Government.

38 d. That projects for the construction of correctional facilities are  
39 required because of a critical public need and a legal constraint.

40 e. That in order to provide for office space and related facilities at  
41 a cost that these State agencies can afford, it is necessary to create and  
42 establish a building authority for the purposes of constructing,  
43 operating, selling and leasing office buildings and related facilities to  
44 meet the needs of State agencies.

45 f. It is necessary and in the public interest that this building  
46 authority have the necessary funds to provide for predevelopment



1 cost, temporary financing, land development expenses, construction  
2 and operation of office buildings and related facilities for the use of,  
3 and sale or rental to, State agencies.

4 g. That the renovation and preservation of historic public buildings  
5 contribute to the preservation of the State's heritage, the promotion of  
6 the cultural life of our people, and the development and redevelopment  
7 of our municipalities.

8 h. For these purposes, there should be created a corporate  
9 governmental agency to be known as the "New Jersey Building  
10 Authority" which, through issuance of bonds and notes to the private,  
11 investing public may provide or obtain the capital resources necessary  
12 to acquire, construct, reconstruct, rehabilitate, renovate, preserve or  
13 improve these office buildings and related facilities necessary or  
14 convenient to the operation of any State agency, or historic public  
15 buildings, as the case may be.

16 i. That the acquisition, construction, reconstruction, rehabilitation,  
17 renovation, preservation or improvement of these office buildings and  
18 related facilities necessary or convenient to the operation of any State  
19 agency, and historic public buildings are public uses and public  
20 purposes for which public money may be loaned and private property  
21 may be acquired and tax exemptions granted, and that the powers and  
22 duties of the New Jersey Building Authority as set forth in this act are  
23 necessary and proper for the purpose of achieving the ends here  
24 recited.

25 j. That the construction, reconstruction, rehabilitation, renovation,  
26 preservation and improvement activities of the authority will provide  
27 a much needed stimulus for the construction industry, and related  
28 industries and professions, particularly in urban areas.

29 k. That the highest priority for the New Jersey Building shall be the  
30 renovation and preservation of the following facilities in the State  
31 Capital: the State House, the Old Barracks, the War Memorial, the  
32 Kelsey Building, and the townhouses adjacent to the Kelsey Building.

33 The Legislature further finds and declares that:

34 l. It is essential that this and future generations of young people be  
35 given the fullest opportunity to learn and develop their intellectual  
36 capacities; that institutions of public elementary and secondary  
37 education within the State be provided with the appropriate additional  
38 means required to assist these young citizens in achieving the required  
39 levels of learning and the complete development of their intellectual  
40 abilities; and that the resources of the State be employed to meet the  
41 tremendous demand for public elementary and secondary educational  
42 opportunities.

43 m. Public elementary and secondary educational facilities are an  
44 integral part of the effort in this State to provide educational  
45 opportunities; it is the purpose of P.L. , c. (C. ) (now pending  
46 before the Legislature as this bill) to provide a measure of assistance

1 and an alternative method of financing to enable school districts to  
2 provide the facilities which are so critically needed; the inventory of  
3 public elementary and secondary school buildings and the equipment  
4 and capital resources currently available are aging, both  
5 chronologically and technologically; and the current funding at the  
6 federal, State, and local levels and the current mechanisms for  
7 construction of these capital projects is inadequate to meet the  
8 demonstrated need for school facilities and these inadequacies  
9 necessitate additional sources of funding and the coordination of  
10 construction activities at the State level to meet those needs.

11 n. While the credit status of New Jersey's school districts is sound,  
12 it can be economically more reasonable to finance the costs of  
13 developing the educational infrastructure of the State's public  
14 elementary and secondary schools, by providing for the funding of  
15 capital projects through the issuance of bonds, notes or other  
16 obligations by the New Jersey Educational Facilities Authority, to be  
17 retired through annual payments made by the State subject to  
18 appropriation by the State Legislature, and to provide for the use of  
19 the proceeds of those bonds, notes or other obligations to pay for  
20 educational infrastructure projects; and such a structure would  
21 substantially reduce the costs of financing and provide for a more  
22 efficient use of the funds available for the development of the  
23 educational infrastructure.

24 o. The New Jersey Building Authority has substantial and significant  
25 experience in undertaking major capital construction projects, has a  
26 system of internal controls and procedures to ensure the integrity of  
27 construction activities, and is therefore the appropriate entity to  
28 undertake the planning, design, construction, and operation of  
29 educational infrastructure projects; and by authorizing the New Jersey  
30 Building Authority and the New Jersey Educational Facilities  
31 Authority to undertake these activities, there will be achieved  
32 economies of scale, better coordination of resources, effective  
33 financial management and control and increased monitoring and quality  
34 control of school district construction.

35 (cf: P.L.1992, c.174, s.2)

36

37 51. Section 4 of P.L.1981, c.120 (C.52:18A-78.4) is amended to  
38 read as follows:

39 4. a. There is established in the Department of the Treasury a  
40 public body corporate and politic, with corporate succession, to be  
41 known as the "New Jersey Building Authority." The authority is  
42 constituted an instrumentality of the State exercising public and  
43 essential governmental functions, and the exercise by the authority  
44 thereof of the powers conferred by this act shall be deemed and held  
45 to be an essential governmental function of the State.

46 b. The membership of the authority shall consist of [12] 13

1 directors as follows: the State Treasurer, [the Comptroller of the  
2 Treasury,] the Chairman of the Commission on Capital Budgeting  
3 and Planning and the Commissioner of Education who shall be  
4 members ex officio; two persons appointed by the Governor upon the  
5 recommendation of the President of the Senate and two persons  
6 appointed by the Governor upon the recommendation of the Speaker  
7 of the General Assembly, of whom no more than one of each group  
8 of two shall be of the same political party, and who shall serve during  
9 the 2-year legislative term in which they are appointed and until their  
10 successors shall have been appointed and qualified; and [~~five~~] six  
11 directors appointed by the Governor [with the advice and consent of  
12 the Senate] for terms of 4 years no more than [~~three~~] four of whom  
13 shall be of the same political party. [The directors of the authority  
14 first appointed by the Governor shall serve for terms of 1 year, 2  
15 years, 3 years and two for 4 years, respectively, and thereafter  
16 directors shall be appointed by the Governor for terms of 4 years.]  
17 Each such director shall hold office for the term of his appointment  
18 and until his successor shall have been appointed and qualified. A  
19 director shall be eligible for reappointment. Any vacancy on the board  
20 of directors occurring other than by expiration of term shall be filled  
21 in the same manner as the original appointment but for the unexpired  
22 term only.

23 The terms of office of the directors of the authority appointed by  
24 the Governor who are serving on the effective date of P.L. , c.  
25 (C. ) (now pending before the Legislature as this bill) shall expire  
26 upon the appointment by the Governor of ten directors pursuant to  
27 this section. The ten directors appointed by the Governor pursuant to  
28 the provisions of this section shall be as follows: two persons upon the  
29 recommendation of the President of the Senate and two persons upon  
30 the recommendation of the Speaker of the General Assembly, who  
31 shall serve during the two-year legislative term in which they are  
32 appointed; and six persons, one of whom shall serve for a term of one  
33 year, two for terms of two years, two for terms of three years, and  
34 one for a term on four years.

35 c. Each director appointed by the Governor, except those  
36 appointed upon recommendation of the President of the Senate and  
37 Speaker of the General Assembly, may be removed from office by the  
38 Governor for cause, after a public hearing, and may be suspended by  
39 the Governor pending the completion of the hearing. Each director  
40 before entering upon his duties shall take and subscribe an oath to  
41 perform the duties of his office faithfully, impartially and justly to the  
42 best of his ability. A record of the oaths shall be filed in the office of  
43 the Secretary of State.

44 d. The authority shall not be deemed to be constituted and shall not  
45 take action or adopt motions or resolutions until all original authorized  
46 members shall have been appointed and qualified in the manner

1 provided in this section. A chairman shall be appointed by the  
2 Governor with the advice and consent of the Senate from the  
3 directors of the authority other than the ex officio directors, and the  
4 directors of the authority shall annually elect one of their number as  
5 vice chairman thereof. The directors shall elect a secretary and a  
6 treasurer who need not be directors, and the same person may be  
7 elected to serve both as secretary and treasurer. The powers of the  
8 authority shall be vested in the directors thereof in office from time to  
9 time and seven directors of the authority shall constitute a quorum at  
10 any meeting thereof. Action may be taken and motions and  
11 resolutions adopted by the authority at any meeting thereof by the  
12 affirmative vote of at least seven directors of the authority. No  
13 vacancy on the board of directors of the authority shall impair the right  
14 of a quorum of the directors to exercise all the powers and perform all  
15 the duties of the authority.

16 e. Each director and the treasurer of the authority shall execute a  
17 bond to be conditioned upon the faithful performance of the duties of  
18 the director or treasurer, as the case may be, in such form and amount  
19 as may be prescribed by the Comptroller of the Treasury. Bonds shall  
20 be filed in the office of the Secretary of State. At all times thereafter,  
21 the directors and treasurer of the authority shall maintain these bonds  
22 in full effect. All costs of the bonds shall be borne by the authority.

23 f. The directors of the authority shall serve without compensation,  
24 but the authority shall reimburse its directors for actual expenses  
25 necessarily incurred in the discharge of their duties. Notwithstanding  
26 the provisions of any other law, no officer or employee of the State  
27 shall be deemed to have forfeited or shall forfeit his office or  
28 employment or any benefits or emoluments thereof by reason of his  
29 acceptance of the office of ex officio director of the authority or his  
30 services therein.

31 g. The State Treasurer [and the Comptroller of the Treasury of the  
32 State], as an ex officio [directors] director of the authority, may  
33 [each] designate an officer or employee of the Department of the  
34 Treasury to represent him at meetings of the authority, and the  
35 Chairman of the Commission on Capital Budgeting and Planning, as  
36 ex officio director of the authority, may designate a member or the  
37 executive director of the Commission on Capital Budgeting and  
38 Planning to represent him at meetings of the authority and the  
39 Commissioner of Education, as an ex officio director of the authority,  
40 may designate an officer or employee of the Department of Education  
41 to represent him at meetings of the authority. Each designee may  
42 lawfully vote and otherwise act on behalf of the director for whom he  
43 constitutes the designee. The designation shall be in writing delivered  
44 to the authority and shall continue in effect until revoked or amended  
45 in writing delivered to the authority.

46 h. The authority may be dissolved by act of the Legislature on

1 condition that the authority has no debts or obligations outstanding or  
2 that provision has been made for the payment or retirement of these  
3 debts or obligations. Upon any dissolution of the authority all  
4 property, funds and assets thereof shall be vested in the State. In  
5 addition, subject to any property rights of a person, firm, partnership  
6 [or], corporation or local unit resulting from the sale or leasing of a  
7 project or a school facilities project by the authority to the person,  
8 firm, partnership [or], corporation or local unit, any project or school  
9 facilities project shall be vested in the State upon the payment or  
10 retirement of all debts or obligations for the project or school  
11 facilities project or upon the assumption by the State of liability for  
12 any outstanding debts or obligations for the project or school facilities  
13 project.

14 i. A true copy of the minutes of every meeting of the authority shall  
15 be forthwith delivered by and under the certification of the secretary  
16 thereof to the Governor and the presiding officers of both houses of  
17 the Legislature. No action taken at any meeting by the authority shall  
18 have effect until 15 days after a copy of the minutes has been so  
19 delivered unless during the 15-day period the Governor shall approve  
20 the same in which case the action shall become effective upon the  
21 approval. If, in the 15-day period, the Governor returns the copy of  
22 the minutes with veto of any action taken by the authority or any  
23 member thereof at that meeting, the action shall be of no effect. The  
24 powers conferred in this subsection upon the Governor shall be  
25 exercised with due regard for the rights of the holders of bonds and  
26 notes of the authority at any time outstanding; and nothing in, or  
27 done pursuant to, this subsection shall in any way limit, restrict or  
28 alter the obligation or powers of the authority or any representative  
29 or officer of the authority to carry out and perform in every detail  
30 each and every covenant, agreement or contract at any time made or  
31 entered into by or on behalf of the authority with respect to its bonds  
32 or notes or for the benefit, protection or security of the holders  
33 thereof.

34 (cf: P.L.1983, c.138, s.3)

35

36 52. Section 5 of P.L.1981, c.120 (C.52:18A-78.5) is amended to  
37 read as follows:

38 5. Except as otherwise limited by this act, the authority shall have  
39 power:

40 a. To make and alter bylaws for its organization and internal  
41 management and, subject to agreements with noteholders and  
42 bondholders, to make rules and regulations with respect to its projects,  
43 its school facilities projects, operations, properties and facilities.

44 b. To adopt an official seal and alter the same at pleasure.

45 c. To sue and be sued.

46 d. To make and enter into all contracts and agreements necessary

1 or incidental to the performance of its duties and the exercise of its  
2 powers under [this act] P.L.1981, c.120 (C.52:18A-78.1 et seq.) and  
3 P.L. , c. (C. )(now pending before the Legislature as this bill).

4 e. To enter into agreements or other transactions with and accept  
5 grants and the cooperation of the United States or any agency thereof  
6 or any State agency in furtherance of the purposes of this act,  
7 including but not limited to the development, maintenance, operation  
8 and financing of any project or school facilities project, and to do any  
9 and all things necessary in order to avail itself of this aid and  
10 cooperation.

11 f. To receive and accept aid or contributions from any source of  
12 money, property, labor or other things of value, to be held, used and  
13 applied to carry out the purposes of [this act] P.L.1981, c.120  
14 (C.52:18A-78.1 et seq. and P.L. , c. (C. )(now pending before the  
15 Legislature as this bill) subject to such conditions upon which this aid  
16 and these contributions may be made, including but not limited to,  
17 gifts or grants from any department or agency of the United States or  
18 any State agency for any purpose consistent with [this act] P.L.1981,  
19 c.120 (C.52:18A-78.1 et seq. and P.L. , c. (C. )(now pending before  
20 the Legislature as this bill).

21 g. To acquire, own, hold, sell, assign, exchange, lease, mortgage  
22 or otherwise dispose of real and personal property or any interest  
23 therein in the exercise of its powers and the performance of its duties  
24 under [this act] P.L.1981, c.120 (C.52:18A-78.1 et seq.) and P.L. ,  
25 c. (C. )(now pending before the Legislature as this bill).

26 h. To appoint an executive director and such other officers,  
27 employees and agents as it may require for the performance of its  
28 duties, and to fix their compensation, promote and discharge them, all  
29 without regard to the provisions of Title 11 of the Revised Statutes.

30 i. To acquire, construct, reconstruct, rehabilitate, renovate,  
31 preserve, improve, alter or repair or provide for the demolition,  
32 construction, reconstruction, improvement, alteration or repair of any  
33 project or school facilities project and let, award and enter into  
34 construction contracts, purchase orders and other contracts with  
35 respect thereto in such manner as the authority shall determine.

36 j. To arrange or contract with a county or municipality and any  
37 relevant utility for the planning, replanning, opening, grading or  
38 closing of streets, roads, roadways, alleys or other places, or for the  
39 furnishing of facilities or for the acquisition by a county or  
40 municipality of property or property rights or for the furnishing of  
41 property or services, in connection with a project or school facilities  
42 project.

43 k. To sell, lease, assign, transfer, convey, exchange, mortgage or  
44 otherwise dispose of or encumber any project or school facilities  
45 project or other property no longer needed to carry out the public  
46 purposes of the authority and, in the case of the sale of any project or

1 school facilities project or property, to accept a purchase money  
2 mortgage in connection therewith; and to lease, repurchase or  
3 otherwise acquire and hold any project or school facilities project or  
4 property which the authority has theretofore sold, leased or otherwise  
5 conveyed, transferred or disposed of.

6 l. To grant options to purchase any project or school facilities  
7 project or to renew any leases entered into by it in connection with any  
8 of its projects or school facilities project, on such terms and conditions  
9 as it deems advisable.

10 m. To acquire by purchase, lease or otherwise, on such terms and  
11 conditions and in such manner as it may deem proper, or by the  
12 exercise of the power of eminent domain, except with respect to lands  
13 owned by the State or any public lands reserved for recreation and  
14 conservation purposes, any land and other property, including railroad  
15 lands and land under water, which it may determine is reasonably  
16 necessary for any of its projects or school facilities project or for the  
17 relocation or reconstruction of any highway by the authority and any  
18 and all rights, title and interest in that land and other property,  
19 including public lands, highways or parkways, owned by or in which  
20 a State agency or local governmental agency has any right, title or  
21 interest, or parts thereof or rights therein and any fee simple absolute  
22 or any lesser interest in private property, and any fee simple absolute  
23 in, easements upon or the benefit of restrictions upon, abutting  
24 property to preserve and protect any project or school facilities  
25 project.

26 n. To prepare or cause to be prepared plans, specifications,  
27 designs and estimates of costs for the construction, reconstruction,  
28 rehabilitation, improvement, alteration or repair of any project or  
29 school facilities project, and from time to time to modify these plans,  
30 specifications, designs or estimates.

31 o. To sell, lease, rent, sublease or otherwise dispose of any project  
32 or any space embraced in any project to any State agency or to any  
33 person, firm, partnership or corporation for sale, leasing, rental or  
34 subleasing to any State agency, and, where applicable, to establish and  
35 revise the purchase price, rents or other charges therefor; provided,  
36 however, that the incurrence of any liabilities by a State agency under  
37 any agreement entered into with the authority pursuant to the  
38 aforesaid authorization, including, without limitation, the payment of  
39 any and all rentals or other amounts required to be paid by the agency  
40 thereunder, shall be subject to and dependent upon appropriations  
41 being made from time to time by the Legislature for that purpose and  
42 approval by the presiding officers, or such other officers as may be  
43 provided by law, of both houses of any such lease.

44 p. To sell, lease, rent, sublease or otherwise dispose of, to any  
45 person, firm, partnership or corporation, any surplus space in any  
46 project over and above that sold, leased, rented, subleased or

- 1 otherwise disposed of to State agencies and to establish and revise the  
2 purchase price, rents or charges therefor.
- 3 q. To approve of the selection of any tenant not a State agency  
4 under a lease or sublease agreement for the use or occupation of any  
5 portion of a building in which a project is located.
- 6 r. To manage or operate any project or school facilities project or  
7 real or personal property related thereto whether owned or leased by  
8 the authority or any State agency or any person, firm, partnership or  
9 corporation, and to enter into agreements with any State agency, or  
10 any local governmental agency, or local unit or with any person, firm,  
11 association, partnership or corporation, either public or private, for the  
12 purpose of causing any project or school facilities project or related  
13 property to be managed.
- 14 s. To provide advisory, consultative, training and educational  
15 services, technical assistance and advice to any person, firm,  
16 association, partnership or corporation, either public or private, in  
17 order to carry out the purposes of [this act] P.L.1981, c.120  
18 (C.52:18A-78.1 et seq.) and P.L. , c. (C. )(now pending before  
19 the Legislature as this bill).
- 20 t. Subject to the provisions of any contract with noteholders or  
21 bondholders to consent to any modification, amendment or revision of  
22 any kind of any contract, lease or agreement of any kind to which the  
23 authority is a party.
- 24 u. To determine, after holding a public hearing in the municipality  
25 in which the project is to be located, except as otherwise provided in  
26 section 6 of [this act]P.L.1981, c.120 (C.52:18A-78.6), and at any  
27 time, with respect to a school facilities project, the location, type and  
28 character of the project or school facilities project or any part thereof  
29 and all other matters in connection with all or any part of the project  
30 or school facilities project notwithstanding any land use plan, zoning  
31 regulation, [building code] or similar regulation heretofore or hereafter  
32 adopted by any municipality, county, public body corporate and  
33 politic, or any other political subdivision of the State.
- 34 v. To borrow money and to issue its bonds and notes and to secure  
35 the same and provide for the rights of the holders thereof as provided  
36 in this act.
- 37 w. Subject to any agreement with bondholders or noteholders, to  
38 invest moneys of the authority not required for immediate use,  
39 including proceeds from the sale of any bonds or notes, in those  
40 obligations, securities and other investments as the authority shall  
41 deem prudent.
- 42 x. To procure insurance against any loss in connection with its  
43 property and other assets and operations in such amounts and from  
44 such insurers as it deems desirable.
- 45 y. To engage the services of architects, engineers, attorneys,  
46 accountants, building contractors, urban planners, landscape architects



1 and financial experts and such other advisors, consultants and agents  
2 as may be necessary in its judgment and to fix their compensation.

3 z. To enter into agreements or contracts, execute instruments, and  
4 do and perform all acts or things necessary, convenient or desirable for  
5 the purposes of the authority or to carry out any power expressly  
6 provided pursuant to P.L.1981, c.120 (C.52:18A-78.1 et. seq.) and  
7 P.L. , c. (C. )(now pending before the Legislature as this bill).

8 aa. To enter into agreements with the State Treasurer, the  
9 Commissioner of Education, districts, community redevelopment  
10 entities, the educational facilities authority and any other entity which  
11 may be required in order to carry out the provisions of P.L. , c.  
12 (C. )(now pending before the Legislature as this bill).

13 bb. Notwithstanding any provision of law to the contrary, upon  
14 resolution of a municipal governing body, following a determination  
15 by the Urban Coordinating Council designating the authority as the  
16 community redevelopment entity which shall undertake a community  
17 development school project pursuant to paragraph (c) of subsection  
18 a. of section 6 of P.L. , c. (C. )(now pending before the  
19 Legislature as this bill), to act as the redevelopment entity of that  
20 municipality pursuant to the "Local Redevelopment and Housing  
21 Law," P.L.1992, c.79 (C.40A:12A-1 et seq.).

22 cc. To do any act necessary or convenient to the exercise of the  
23 foregoing powers or reasonably implied therefrom.  
24 (cf: P.L.1992, c.174, s.10)

25

26 53. Section 10 of P.L.1981, c.120 (C.52:18A-78.10) is amended  
27 to read as follows:

28 10. a. No municipality shall modify or change the drawings, plans  
29 or specifications for the construction, reconstruction, rehabilitation,  
30 alteration or improvement of any project or school facilities project  
31 of the authority, or the construction, plumbing, heating, lighting or  
32 other mechanical branch of work necessary to complete the work in  
33 question, nor to require that any person, firm or corporation employed  
34 on any such work shall perform the work in any other or different  
35 manner than that provided by the drawings, plans and specifications,  
36 nor to require that any person, firm or corporation obtain any other  
37 or additional authority, approval, permit or certificate from the  
38 municipality in relation to the work being done, and the doing of the  
39 work by any person, firm or corporation in accordance with the terms  
40 of the drawings, plans, specifications or contracts shall not subject the  
41 person, firm or corporation to any liability or penalty, civil or  
42 criminal, other than as may be stated in the contracts or incidental to  
43 the proper enforcement thereof; nor shall any municipality require the  
44 authority or any State agency which leases or purchases the project,  
45 or any person, firm, partnership or corporation which leases or  
46 purchases the project for lease or purchase to a State agency, to

1 obtain any other or additional authority, approval, permit, certificate  
2 or certificate of occupancy from the municipality as a condition of  
3 owning, using, maintaining, operating or occupying any project  
4 acquired, constructed, reconstructed, rehabilitated, altered or  
5 improved by the authority or by any subsidiary thereof. The  
6 foregoing provisions shall not preclude any municipality from  
7 exercising the right of inspection for the purpose of requiring  
8 compliance by any project with local requirements for operation and  
9 maintenance, affecting the health, safety and welfare of the occupants  
10 thereof, provided that the compliance does not require changes,  
11 modifications or additions to the original construction of the project.

12 b. Each municipality in which any project or school facilities  
13 project of the authority is located shall provide for the project or  
14 school facilities project , whether then owned by the authority, any  
15 subsidiary, any State agency or any person, firm, partnership or  
16 corporation, police, fire, sanitation, health protection and other  
17 municipal services of the same character and to the same extent as  
18 those provided for other residents of the municipality.

19 c. In carrying out any project or school facilities project, the  
20 authority may enter into contractual agreements with local  
21 governmental agencies with respect to the furnishing of any  
22 community, municipal or public facilities or services necessary or  
23 desirable for the project or school facilities project , and any local  
24 governmental agency may enter into these contractual agreements with  
25 the authority and do all things necessary to carry out its obligations  
26 under the same.

27 (cf: P.L.1983, c.138, s.7)

28

29 54. Section 11 of P.L.1981, c.120 (C.52:18A-78.11) is amended  
30 to read as follows:

31 11. a. The authority, in the exercise of its authority to make and  
32 enter into contracts and agreements necessary or incidental to the  
33 performance of its duties and the execution of its powers, shall adopt  
34 standing rules and procedures providing that no contract on behalf of  
35 the authority shall be entered into for the doing of any work, or for the  
36 hiring of equipment or vehicles, where the sum to be expended  
37 exceeds the sum of \$7,500.00 unless the authority shall first publicly  
38 advertise for bids therefor, and shall award the contract to the lowest  
39 responsible bidder. Advertising shall not be required where the  
40 contract to be entered into is one for the furnishing or performing of  
41 services of a professional nature or for the supplying of any product  
42 or the rendering of any service by a public utility subject to the  
43 jurisdiction of the Board of Public Utilities and tariffs and schedules  
44 of the charges made, charged, or exacted by the public utility for any  
45 products to be supplied or services to be rendered are filed with the  
46 board. This section shall not prevent the authority from having any  
47 work done by its own employees, nor shall it apply to repairs, or to

1 the furnishing of materials, supplies or labor, or the hiring of  
2 equipment or vehicles, when the safety or protection of its or other  
3 public property or the public convenience requires, or the exigency of  
4 the accomplishment of the projects or school facilities projects will not  
5 allow advertisement. In that case, the board of directors of the  
6 authority shall, by resolution, declare the exigency or emergency to  
7 exist, and set forth in the resolution the nature thereof and the  
8 approximate amount to be so expended.

9 b. (1) In undertaking any project or school facilities project where  
10 the cost of construction, reconstruction, rehabilitation or improvement  
11 will exceed \$25,000.00, the authority shall be subject to the rules and  
12 regulations of the Division of Building and Construction concerning  
13 procedural requirements for the making, negotiating or awarding of  
14 purchases, contracts or agreements; and the authority, with the  
15 assistance of the division, may prepare, or cause to be prepared,  
16 separate plans and specifications for:

17 (a) The plumbing and gas fitting and all work and materials kindred  
18 thereto,

19 (b) The steam and hot water heating and ventilating apparatus,  
20 steam power plants and all work and materials kindred thereto,

21 (c) The electrical work,

22 (d) Structural steel and ornamental iron work and materials, and

23 (e) General construction, which shall include all other work and  
24 materials required to complete the building.

25 (2) The authority shall receive (a) separate bids for each of the  
26 branches of work specified in paragraph (1) of this subsection; or (b)  
27 bids for all the work and materials required to complete the project or  
28 school facilities projects to be included in a single overall contract, in  
29 which case there shall be set forth in the bid the name or names of all  
30 subcontractors to whom the bidder will subcontract for the furnishing  
31 of any of the work and materials specified in branches (a) through (d)  
32 in paragraph (1) of this subsection; or (c) both.

33 (3) Contracts shall be awarded to the lowest responsible bidder in  
34 each branch of work in the case of separate bids and to the single  
35 lowest responsible bidder in the case of single bids. In the event that  
36 a contract is advertised in accordance with subparagraph (c) of  
37 paragraph (2) of this subsection, the contract shall be awarded in the  
38 following manner: If the sum total of the amounts bid by the lowest  
39 responsible bidder for each branch is less than the amount bid by the  
40 lowest responsible bidder for all of the work and materials, the  
41 authority shall award separate contracts for each of branches to the  
42 lowest responsible bidder therefor, but if the sum total of the amount  
43 bid by the lowest responsible bidder for each branch is not less than  
44 the amount bid by the lowest responsible bidder for all the work and  
45 materials, the authority shall award a single over-all contract to the  
46 lowest responsible bidder for all of the work and materials.

1 Whenever a contract is awarded under subparagraph (b) or (c) of  
2 paragraph (2) of this subsection, all payments required to be made by  
3 the authority under the contract for work and materials supplied by a  
4 subcontractor may, upon the certification of the contractor of the  
5 amount due to the subcontractor, be paid directly to the  
6 subcontractor. Payments to a subcontractor for work and materials  
7 supplied in connection with the contract shall be made within 10  
8 calendar days of the receipt of payment for that work or the delivery  
9 of those materials by the subcontractor in accordance with the  
10 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any  
11 regulations promulgated thereunder.

12 (4) All construction, reconstruction, rehabilitation or improvement  
13 undertaken by the authority pursuant to this act shall be subject during  
14 such undertaking to the supervision of the Division of Building and  
15 Construction to the same extent as any project undertaken by the  
16 State.

17 c. With respect to the lease or sale of any project or portion thereof  
18 to any person, firm, partnership or corporation, for subsequent lease  
19 to or purchase by a State agency, no agreement for that lease or sale  
20 shall be entered into, unless the authority shall first publicly advertise  
21 for bids therefor. The authority shall employ a person, firm,  
22 partnership or corporation, independent from any other aspect or  
23 component of the financing of or any ownership or leasehold interest  
24 in that project, to assist in the bid procedure and evaluation.

25 (cf: P.L.1999, c.280, s.2)

26

27 55. Section 12 of P.L.1981, c.120 (C.52:18A-78.12) is amended  
28 to read as follows:

29 12. a. If the authority shall find it necessary in connection with the  
30 undertaking of any of its projects or school facilities projects to  
31 change the location of any portion of any public highway, or road, it  
32 may contract with any government agency, or public or private  
33 corporation which may have jurisdiction over the public highway or  
34 road to cause the public highway or road to be constructed at such  
35 location as the authority shall deem most favorable. The cost of the  
36 reconstruction and any damage incurred in changing the location of  
37 the highway shall be ascertained and paid by the authority as a part of  
38 the cost of the project or school facilities project. Any public highway  
39 affected by the construction of any project or school facilities project  
40 may be vacated or relocated by the authority in the manner now  
41 provided by law for the vacation or relocation of public roads, and  
42 any damages awarded on account thereof shall be paid by the  
43 authority as a part of the cost of the project or school facilities project.

44 In all undertakings authorized by the subsection, the authority shall  
45 consult and obtain the approval of the Commissioner of  
46 Transportation.

1       b. In addition to the foregoing powers, the authority and its  
2 authorized agents and employees may enter upon any lands, waters  
3 and premises for the purpose of making surveys, soundings, drillings  
4 and examinations as it may deem necessary or convenient for the  
5 purposes of this act, all in accordance with due process of law, and  
6 this entry shall not be deemed a trespass nor shall an entry for this  
7 purpose be deemed an entry under any condemnation proceedings  
8 which may be then pending. The authority shall make reimbursement  
9 for any actual damages resulting to the lands, waters and premises as  
10 a result of these activities.

11       c. The authority shall also have power to make reasonable  
12 regulations for the installation, construction, maintenance, repair,  
13 renewal, relocation and removal of tracks, pipes, mains, conduits,  
14 cables, wires, towers, poles and other equipment and appliances,  
15 herein called "public utility facilities", or any public utility as defined  
16 in R.S.48:2-13, in, on, along, over or under any project or school  
17 facilities project. Whenever the authority shall determine that it is  
18 necessary that any public utility facilities which now are, or hereafter  
19 may be, located in, on, along, over or under any project or school  
20 facilities project shall be relocated in the project or school facilities  
21 project, or should be removed from the project or school facilities  
22 project, the public utility owning or operating the facilities shall  
23 relocate or remove the same in accordance with the order of the  
24 authority. The cost and expenses of the relocation or removal,  
25 including the cost of installing the facilities in a new location, or new  
26 locations, and the cost of any lands, or any rights or interests in lands,  
27 and any other rights, acquired to accomplish the relocation or  
28 removal, shall be ascertained and paid by the authority as a part of the  
29 cost of the project or school facilities project. In case of any  
30 relocation or removal of facilities, as aforesaid, the public utility  
31 owning or operating the same, its successors or assigns, may maintain  
32 and operate the facilities, with the necessary appurtenances, in the  
33 new location or new locations, for as long a period, and upon the  
34 same terms and conditions, as it had the right to maintain and operate  
35 the facilities in their former location or locations. In all undertakings  
36 authorized by this subsection the authority shall consult and obtain the  
37 approval of the Board of Public Utilities.

38 (cf: P.L.1981, c.120, s.12)

39

40       56. Section 28 of P.L.1981, c.120 (C.52:18A-78.28) is amended  
41 to read as follows:

42       28. a. The authority shall adopt rules and regulations to establish  
43 an affirmative action program for the hiring of minority workers  
44 employed in the performance of construction contracts undertaken in  
45 connection with any of its projects and school facilities projects, and  
46 to expand the business opportunities of socially and economically

1 disadvantaged contractors and vendors seeking to provide materials  
2 and services for those contracts, consistent with the provisions of the  
3 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).  
4 The authority shall provide for the proper enforcement and  
5 administration of these rules and regulations.

6 b. Within 180 days of the effective date of this act, but before  
7 adoption of its rules and regulations concerning its affirmative action  
8 program, the authority shall submit the proposed rules and regulations  
9 to the presiding officers and the standing committees on state  
10 government of both houses of the Legislature for their review.

11 (cf: P.L.1981, c.120, s.28)

12

13 57. Section 29 of P.L.1981, c.120 (C.52:18A-78.29) is amended  
14 to read as follows:

15 29. The authority shall adopt rules and regulations requiring that  
16 not less than the prevailing wage rate be paid to workers employed in  
17 the performance of construction contracts undertaken in connection  
18 with any of its projects or school facilities projects. The prevailing  
19 wage rate shall be the rate determined by the Commissioner of Labor  
20 and Industry pursuant to the provisions of P.L.1963, c.150  
21 (C.34:11-56.25 et seq.).

22 (cf: P.L.1981, c.120, s.29)

23

24 58. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to  
25 read as follows:

26 22. a. Whenever the planning board shall have adopted any portion  
27 of the master plan, the governing body or other public agency having  
28 jurisdiction over the subject matter, before taking action necessitating  
29 the expenditure of any public funds, incidental to the location,  
30 character or extent of such project, shall refer the action involving  
31 such specific project to the planning board for review and  
32 recommendation in conjunction with such master plan and shall not act  
33 thereon, without such recommendation or until 45 days have elapsed  
34 after such reference without receiving such recommendation. This  
35 requirement shall apply to action by a housing, parking, highway,  
36 special district, or other authority, redevelopment agency, school  
37 board or other similar public agency, State, county or municipal.

38 b. The planning board shall review and make recommendations  
39 concerning any long-range facilities plan submitted to the board  
40 pursuant to the "Educational Facilities Construction and Financing  
41 Act," P.L. , c. (C. ) (now pending before the Legislature  
42 as this bill), for the purpose of review of the extent to which the long-  
43 range facilities plan is informed by, and consistent with, the land use  
44 and development proposals contained within the municipal master plan  
45 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and  
46 the anticipated impact of individual school facilities projects contained

1 in the plan on community development and redevelopment efforts and  
2 plans in the municipality. Upon receipt of a long-range facilities plan  
3 to be reviewed for this purpose, the planning board shall notify in  
4 writing the Urban Coordinating Council established pursuant to  
5 section 45 of P.L.1996, c.62 (C.55:19-60) and each public or private  
6 development corporation and each community redevelopment entity  
7 which is authorized to undertake projects in the municipality. The  
8 planning board shall devote at least one full meeting of the board to  
9 presentation and review of the long-range facilities plan prior to  
10 adoption of a resolution setting forth the board's findings pursuant to  
11 the "Educational Facilities Construction and Financing Act," P.L. ,  
12 c. (C. ) (now pending before the Legislature as this bill).  
13 (cf: P.L.1975, c.291, s.22)

14

15 59. Section 46 of P.L.1996, c.62 (C.55:19-61) is amended to read  
16 as follows:

17 46. The Urban Coordinating Council shall:

18 a. Ensure that State agencies coordinate responses and provide  
19 assistance to projects and programs outlined in neighborhood  
20 empowerment plans developed pursuant to section 49 of P.L.1996,  
21 c.62 (C.55:19-64), and projects and programs established by the New  
22 Jersey Redevelopment Authority, the New Jersey Economic  
23 Development Authority, and development initiatives proposed by  
24 municipal and county governments, including making available the  
25 resources of the departments of the State in implementing those  
26 programs;

27 b. Supervise and control the Office of Neighborhood Empowerment  
28 created pursuant to section 48 of P.L.1996, c.62 (C.55:19-63);

29 c. Make available the resources of its member agencies to assist  
30 local sponsors in implementing neighborhood empowerment plans;

31 d. Form interagency teams of State representatives. The  
32 membership of each interagency team shall be determined by the needs  
33 outlined in the neighborhood empowerment plan. Each interagency  
34 team shall serve as the primary link between the neighborhood and  
35 State government in responding to programming needs, shall be  
36 co-chaired by a case manager from the Office of Neighborhood  
37 Empowerment established pursuant to section 48 of P.L.1996, c.62  
38 (C.55:19-63); and by the community director, and shall include at least  
39 one representative of the council;

40 e. Have authority to adopt, amend and repeal rules relating to the  
41 exercise by the council and the Office of Neighborhood Empowerment  
42 established pursuant to section 48 of P.L.1996, c.62 (C.55:19-63), of  
43 their respective functions and duties pursuant to this act;

44 f. Publish an annual report on the status of redevelopment activity  
45 which shall describe the progress toward achieving the goals of this  
46 act; [and]

1 g. Assist in coordinating the activities of the New Jersey  
2 Redevelopment Authority, municipalities, counties, public or private  
3 county and municipal development agencies, district management  
4 corporations created pursuant to section 4 of P.L.1972, c.134  
5 (C.40:56-68), and community action boards established pursuant to  
6 section 4 of P.L.1991, c.51 (C.52:27D-398) that have developed  
7 neighborhood empowerment plans pursuant to section 49 of P.L.1996,  
8 c.62 (C.55:19-64) or comprehensive community development plans;

9 h. Review and make determinations regarding resolutions of  
10 municipal planning boards adopted pursuant to the "Educational  
11 Facilities Construction and Financing Act," P.L. , c. (C. )  
12 (now pending before the Legislature as this bill.);

13 i. Provide assistance to municipal planning boards in urban  
14 development municipalities and in Level II districts pursuant to  
15 P.L. , c. (C. ) in their review of long-range facilities plans of  
16 school districts;

17 j. Compile information and provide technical assistance to  
18 municipal planning boards and community redevelopment entities in  
19 urban development municipalities and in Level II districts respecting  
20 State projects and programs which are of consequence for the planning  
21 and financing of community development school projects in urban  
22 development municipalities and in Level II districts ; and

23 k. Designate community development school projects pursuant to  
24 P.L. , c. (C. ) and adopt rules and regulations necessary for  
25 the execution of the council's duties under that act.

26 (cf: P.L.1996, c.62, s.46.)

27

28 60. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
29 read as follows:

30 4. Notwithstanding the provisions of any other law to the contrary,  
31 commencing July 1, 1998: after the deposit required pursuant to  
32 section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000  
33 of revenue collected annually from the cigarette tax imposed pursuant  
34 to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of  
35 revenue collected annually from the "Tobacco Products Wholesale  
36 Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be  
37 deposited in to the Health Care Subsidy Fund established pursuant to  
38 section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next  
39 \$50,000,000 of revenue collected annually from the cigarette tax  
40 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be  
41 [deposited in the School Construction and Renovation Fund as shall  
42 be established by law] appropriated annually to the New Jersey  
43 Education Facilities Authority for payment of debt service incurred by  
44 the authority for school facilities construction purposes.

45 (cf: P.L.1997, c.264, s.4)



1 61. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read  
 2 as follows:

3 4. Tax bracket schedule. a. For the purpose of adding and  
 4 collecting the tax imposed by this act, or an amount equal as nearly as  
 5 possible or practicable to the average equivalent thereof, to be  
 6 reimbursed to the vendor by the purchaser, the following formula shall  
 7 be in force and effect:

8	Amount of Sale	Amount of Tax
9	\$0.01 to \$0.10 .....	No Tax
10	0.11 to 0.22 .....	\$0.01
11	0.23 to 0.38 .....	0.02
12	0.39 to 0.56 .....	0.03
13	0.57 to 0.72 .....	0.04
14	0.73 to 0.88 .....	0.05
15	0.89 to 1.10 .....	0.06

16

17 In addition to a tax of \$0.06 on each full dollar, a tax shall be  
 18 collected on each part of a dollar in excess of a full dollar, in  
 19 accordance with the above formula.

20 b. For charges paid by inserting coins into a coin operated  
 21 telecommunications device available to the public the tax shall be  
 22 computed to the nearest multiple of five cents of the tax otherwise due  
 23 pursuant to subsection a. of this section, except that, if the amount of  
 24 the tax is midway between multiples of five cents, the next higher  
 25 multiple shall apply.

26 c. For the purpose of adding and collecting the sales and use tax at  
 27 the rate imposed pursuant to section 63 of P.L. , c. (C. )  
 28 (now pending before the Legislature as this bill) on and after August  
 29 1 of a fiscal year in which a certification is made to the Director of the  
 30 Division of Taxation pursuant to subsection b. of that section 63 of  
 31 P.L. , c. (C. ) (now pending before the Legislature as this  
 32 bill), or an amount equal as nearly as possible or practicable to the  
 33 average equivalent thereof, the director shall promulgate tax collection  
 34 formulas for the purpose of collecting the tax for the rate established  
 35 pursuant to that section 63 of P.L. , c. (C. ) (now pending  
 36 before the Legislature as this bill).

37 (cf: P.L.1993, c.10, s.2)

38

39 62. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended to  
 40 read as follows:

41 31. Receipts from sales of tangible personal property and services  
 42 taxable under any municipal ordinance which was adopted pursuant to  
 43 P.L.1947, c.71 (C.40:48-8.15 et seq.) and was in effect on April 27,

1 1966 are exempt from the tax imposed under the Sales and Use Tax  
2 Act, subject to the following conditions:

3 a. To the extent that the tax that is or would be imposed under  
4 section 3 of P.L.1966, c.30 (C.54:32B-3) is greater than the tax  
5 imposed by such ordinance, such sales shall not be exempt under this  
6 section; and

7 b. Irrespective of the rate of tax imposed by such ordinance, such  
8 sales shall be exempt only to the extent that the rate of taxation  
9 imposed by the ordinance exceeds 6%, except that the combined rate  
10 of taxation imposed under the ordinance and under this section shall  
11 not exceed ~~[12%]~~ 11% on and after August 1 and through June 30 of  
12 a fiscal year in which a certification is made to the Director of the  
13 Division of Taxation pursuant to subsection b. of section 63 of P.L. ,  
14 c. (C. ) (now pending before the Legislature as this bill).  
15 (cf: P.L.1992, c.11, s.5)

16

17 63. (New section) a. The annual appropriations act for each State  
18 fiscal year commencing with fiscal year 2001 shall appropriate and  
19 distribute during the fiscal year the amount determined by the  
20 Department of Education to be the amount of State debt service aid  
21 determined pursuant to section 9 and 10 of P.L. , c. (C. )  
22 (now pending before the Legislature as this bill) for the purposes of  
23 those sections.

24 b. If the provisions of subsection a. of this section are not met on  
25 the effective date of an annual appropriations act for the State fiscal  
26 year, or if an amendment or supplement to an annual appropriations  
27 act for the State fiscal year should violate the provisions of subsection  
28 a. of this section, the Director of the Division of Budget and  
29 Accounting in the Department of the Treasury shall, not later than five  
30 days after the enactment of the annual appropriations act, or an  
31 amendment or supplement thereto, that violates the provisions of  
32 subsection a. of this section, certify to the Director of the Division of  
33 Taxation that the requirements of subsection a. of this section have not  
34 been met.

35 c. Upon certification to the Director of the Division of Taxation  
36 pursuant to subsection b. of this section, then, notwithstanding the rate  
37 of tax of 6% provided in section 3 of P.L.1966, c.30 (C.54:32B-3) and  
38 section 6 of P.L.1966, c.30 (C.54:32B-6), or any other provision of  
39 law to the contrary, the rate of tax imposed or paid on receipts from  
40 sales or use within this State on or after August 1 of that fiscal year  
41 through June 30 of that fiscal year shall be 5%.

42 d. The Director of the Division of Taxation, within 5 days of  
43 receipt of a certification made pursuant to subsection b. of this section,  
44 shall take such action as is necessary to notify all vendors of the rate  
45 of tax on or after August 1 of that fiscal year through June 30 of that  
46 fiscal year.

1 e. Any sales and use tax erroneously collected or paid at a rate of  
2 6% instead of at a rate of 5% on receipts from sales or use within this  
3 State on or after August 1 of that fiscal year through June 30 of that  
4 fiscal year shall be subject to refund in the manner provided in section  
5 20 of P.L.1966, c.30 (C.54:32B-20).

6  
7 64. (New section) The Director of the Division of Taxation shall  
8 promulgate regulations on or before August 1 of a fiscal year in which  
9 a certification is made to the Director of the Division of Taxation  
10 pursuant to subsection b. of that section 63 of P.L. , c. (C. )  
11 (now pending before the Legislature as this bill) to provide tax rate  
12 transitional provisions for the imposition of the appropriate rate of tax  
13 for: sales made and property delivered or services performed,  
14 occupancies pursuant to prior contracts, leases or other arrangements,  
15 admission charges made for admissions, certain sales made pursuant  
16 to certain contracts either of a fixed price not subject to change or  
17 modification, or entered into pursuant to the obligation of a formal  
18 written bid which cannot be altered or withdrawn; which involve dates  
19 over periods both before and after August 1 of such a fiscal year.

20  
21 65. This act shall take effect immediately.

22  
23  
24 STATEMENT

25  
26 This bill establishes a school facilities construction and financing  
27 program. The program will be operated through the coordinated  
28 efforts of the Department of Education, the New Jersey Building  
29 Authority, and the New Jersey Educational Facilities Authority.

30 The school construction program is intended, not only to address  
31 the facilities needs in the Abbott districts as directed by the New  
32 Jersey Supreme Court, but also to provide a mechanism for the  
33 funding and construction of school facilities throughout the State.  
34 Through this coordinated effort, the Commissioner of Education will  
35 be charged with reviewing the need for the facility and ensuring that  
36 State funding is provided in accordance with that need, while the New  
37 Jersey Educational Facilities Authority will provide the funding  
38 mechanism for the construction of the facility through the issuance of  
39 its bonds. The facilities authority has extensive experience in financing  
40 the projects of institutions of higher education and under this bill  
41 would expand its mission to include the funding of K-12 facilities. The  
42 New Jersey Building Authority will provide construction management  
43 and project oversight services for certain school districts which are  
44 required under the bill to utilize the building authority to construct  
45 their projects. The services of the building authority would also be  
46 available to other school districts which want to take advantage of the

1 building authority's construction expertise and realize the economies  
2 which the bulk construction activities of the building authority may  
3 offer the district.

4 Under the bill's provisions, any district which wants to undertake a  
5 school construction project would be required to apply to the  
6 commissioner for approval of that project. The commissioner would  
7 review the proposed project to determine if: a. it is consistent with  
8 the district's long range facilities plan (required under a separate  
9 section of the bill); and, b. it is consistent with the facilities efficiency  
10 standards and area allowances per student derived from those  
11 standards.

12 If the commissioner determines that the proposed project does  
13 comply with both of the above, the commissioner calculates the  
14 preliminary eligible costs of the project which are the costs on which  
15 the district will be aided. The preliminary eligible costs for all school  
16 construction projects, whether constructed by the building authority  
17 or the district, will include State support of "soft costs" including site  
18 acquisition, site development, issuance costs, legal fees, and fees for  
19 professional services. The commissioner does have the option of  
20 approving area allowances in excess of those derived from the facilities  
21 efficiency standards if the board of education demonstrates that  
22 required programs cannot be addressed within the standards and that  
23 all other proposed spaces are consistent with those standards. One  
24 exception to this procedure is in the case of county special services  
25 school districts and county vocational school districts. For those  
26 districts the preliminary eligible costs will equal the amount  
27 determined by the district's board of school estimate and approved by  
28 the board of chosen freeholders. This exception recognizes the fact  
29 that these districts often require unique classrooms to accommodate  
30 the populations they serve and the programs they offer. Also the bill  
31 requires the commissioner to approve area allowances in excess of  
32 those derived from the facilities efficiency standards if the additional  
33 allowances are necessary to accommodate centralized facilities to be  
34 shared among two or more school buildings in the district and the  
35 centralized facilities represent a more cost effective alternative.

36 If the commissioner determines that the project is not consistent  
37 with both the area allowances and facilities efficiency standards and  
38 does not approve any additions to those factors, then he will notify the  
39 district of that fact. The district then has the choice of either  
40 modifying its project so that it meets the facilities efficiency standards  
41 or paying for the excess cost of the project on its own.

42 Following the approval of the project and the determination of  
43 preliminary eligible costs, the bill outlines the finance and construction  
44 options for the project depending on the type of school district.

45 The bill also includes provisions to ensure that in certain urban  
46 communities, the construction and renovation of school facilities is

1 coordinated with the local redevelopment efforts which may be  
2 occurring within the community. The bill establishes a mechanism  
3 whereby a redevelopment project undertaken by a local redevelopment  
4 entity which contains a school facilities project may be designated a  
5 community development school project and the school could then be  
6 constructed as part of the larger redevelopment project by a  
7 community redevelopment entity. The procedures for the approval of  
8 community development school projects would incorporate some of  
9 the elements described above for the approval of school facilities  
10 projects; however there would be some additions to those procedures  
11 as well.

12

### 13 **Community Development School Projects**

14

15 Any school district located in an urban municipality which qualifies  
16 for assistance from the Urban Coordinating Council or any district  
17 which is in Level II monitoring on the bill's effective date will be  
18 required to submit its long-range facilities plan to the planning board  
19 of the municipality for the board's review and recommendations on  
20 the community development impact of individual school facilities  
21 projects contained within the plan. The municipal planning board will  
22 have 90 days to conduct its review. The Commissioner of Education  
23 may not approve the district's long-range facilities plan unless the plan  
24 includes a resolution of the municipal planning board reviewed by the  
25 Urban Coordinating Council which contains the board's findings on the  
26 impact of the school facilities projects included in the plan on the  
27 community development and redevelopment efforts of the municipality  
28 and the recommendations of the board for undertaking a school  
29 facilities project as a community development school project as part  
30 of those efforts. The commissioner may, however, approve a long-  
31 range facilities plan if the 90-day period for planning board review has  
32 expired and the planning board has failed to adopt the required  
33 resolution.

34 On the first business day following adoption of the required  
35 resolution, the planning board must transmit copies of the long-range  
36 facilities plan and the resolution to the Urban Coordinating Council  
37 and to the commissioner. The council is currently composed of the  
38 chief officers of each department of the executive branch, including  
39 the Commissioner of Education, as well as the executive directors of  
40 the State authorities engaged in planning and redevelopment efforts.

41 A school district and municipality may request that the council  
42 designate as a community development school project a school  
43 facilities project contained in its long-range facilities plan for which the  
44 planning board adopted a resolution. The request must set forth: (1)  
45 a project plan for carrying out the redevelopment project as a whole,  
46 including the construction of the school facility; (2) the name of the

1 community redevelopment entity to undertake the project; and (3) a  
2 description of how the project fits into a redevelopment plan adopted  
3 or to be adopted by the municipal governing body.

4 The bill establishes criteria to be used by the Urban Coordinating  
5 Council to designate a community development school project and  
6 provides that such designation will entitle the municipality to higher  
7 priority for receipt of State assistance for the project such as  
8 demolition grants or loans and financing assistance from State agencies  
9 or authorities. With the agreement of the district and the municipality,  
10 the council may designate the building authority as the redevelopment  
11 entity to undertake the community development school project. This  
12 designation would be made if the council determines that neither the  
13 community redevelopment entity proposed by the district and  
14 municipality or any other redevelopment entity authorized to  
15 undertake redevelopment projects in the municipality is financially  
16 capable to undertake the community development school project, or  
17 possesses appropriate experience in undertaking similar projects. In  
18 the event that the building authority is so designated, the bill  
19 authorizes the authority to operate under the "Local Redevelopment  
20 and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.).

21 The facilities authority would provide funding for the State's share  
22 of the final eligible costs of the community development school  
23 project to the community redevelopment entity. Prior to the provision  
24 of funding, the building authority would review the preliminary eligible  
25 costs of the school facilities project and certify to the commissioner  
26 and to the Urban Coordinating Council any increase or other  
27 adjustment necessary to permit the school facilities project to be  
28 constructed in a manner conducive to the success of the project.  
29 Funding would be provided to the community redevelopment entity  
30 pursuant to an agreement among the facilities authority, the  
31 community redevelopment entity, and the State Treasurer which would  
32 set forth the terms for disbursement of the State share of the project  
33 and provide for the monitoring of construction by the State.

34 Also, a community development school project may make a request  
35 to the council for inclusion in the final eligible costs of the school  
36 facilities project of all or any portion of the cost of any community  
37 design features which are to be used in common by the students of the  
38 district and the residents of the community. The council would  
39 approve that request if it found that the additional funding would be  
40 conducive to the usefulness and success of the project for both  
41 students and residents of the community.

42 Under the bill's provisions, districts other than urban development  
43 municipalities and Level II districts may also submit their long-range  
44 facilities plans to the municipal planning board, although they are not  
45 required to do so, and may have school facilities projects designated  
46 as community development school projects.

1 **Abbott Districts, Level II Districts, and Districts with a State Aid**  
2 **Percentage of 50% or Greater**

3  
4 Abbott districts will be required to use the building authority,  
5 except as described above, for the construction of school facilities  
6 projects and will have 100% of their approved costs paid by the State  
7 through facilities authority financing. Districts in level II monitoring  
8 and districts which have a State support ratio equal to or greater than  
9 50%, except as described above, will also be required to use the  
10 building authority for the construction of school facilities projects.  
11 The State will fund an amount of the approved project costs equal to  
12 115% of the district's State support ratio through the issuance of  
13 facilities authority bonds.

14 For these groups of districts, once the commissioner determines the  
15 project's preliminary eligible costs as previously described, the  
16 commissioner submits to the building authority a preliminary project  
17 report which describes the project, its preliminary eligible costs, and  
18 its priority ranking. Upon review of the report, and in consultation  
19 with the district, the building authority will prepare plans and  
20 specifications which contain its estimate of the cost to complete the  
21 project. The building authority then transmits to the commissioner its  
22 recommendation on whether the project can be completed within the  
23 preliminary eligible costs.

24 If the authority determines that the project can be completed within  
25 the preliminary eligible costs, then the commissioner calculates the  
26 project's final eligible costs and issues a final project report to the  
27 building authority. If the building authority determines that the project  
28 cannot be completed within the preliminary eligible costs, then prior  
29 to making its recommendation to the commissioner, and in  
30 consultation with the district, the building authority determines if  
31 changes can be made to the project which will result in a reduction in  
32 cost while still meeting the school facilities efficiency standards. If  
33 that reduction is possible, then the building authority notifies the  
34 commissioner of that fact and the commissioner calculates the final  
35 eligible costs of the project to include the recommended changes and  
36 issues a final project report to the building authority. If the building  
37 authority determines that it is not possible to make such changes to the  
38 project either because the additional costs are outside of the control  
39 of the district or the additional costs are required to meet the facilities  
40 efficiency standards, then the building authority will recommend to the  
41 commissioner that the cost of the project be increased. The  
42 commissioner will calculate the final eligible project costs to include  
43 the additional costs recommended by the building authority and will  
44 issue a final project report to the building authority.

45 If the building authority determines that the additional costs are the  
46 result of factors which are within the control of the district or are the

1 result of design factors which are not required to meet the facilities  
2 efficiency standards, the building authority will recommend to the  
3 commissioner that the preliminary eligible costs be accepted. The  
4 commissioner will then calculate the project's final eligible costs and  
5 the project report which he issues will detail any excess costs which  
6 are to be borne by the district. The bill does stipulate, however, that  
7 despite the building authority's recommendation, the commissioner  
8 may approve final eligible costs which are in excess of preliminary  
9 eligible costs if the commissioner believes that approval is necessary  
10 to meet the educational needs of the district.

11 For any project constructed by the building authority, the building  
12 authority will be responsible for any costs of construction which  
13 exceed the amount originally projected and approved for financing if  
14 the excess is the result of an underestimate of labor and materials. The  
15 district will be responsible only for the costs associated with changes,  
16 if any, made at the request of the district to the scope of the school  
17 facilities project.

18

19 **Districts with a State Aid Percentage of Less Than 50%**

20

21 A district which has a State support ratio of less than 50% has the  
22 option of constructing the project on its own or using the services of  
23 the New Jersey Building Authority to construct the project and the  
24 New Jersey Educational Facilities Authority to finance the project. If  
25 the district determines to handle the project on its own, then the  
26 district will receive debt service aid on the preliminary eligible costs of  
27 the project as determined by the commissioner. The debt service aid  
28 will be calculated using the product of the district's State support ratio  
29 (the percentage of its T&E budget which is supported by core  
30 curriculum standards aid) and 1.15 as of the date of the commissioner's  
31 determination of the preliminary eligible costs; however, even districts  
32 which do not qualify for core curriculum standards aid will be aided at  
33 a minimum of 10% of approved costs. The calculation of State  
34 support at a fixed point in time differs from the current debt service  
35 aid formula in which the State support ratio is recalculated annually  
36 based on the level of core curriculum standards aid support in each  
37 budget year.

38 In the case of a district which is building a school facilities project  
39 on its own, the district may appeal to the commissioner for an increase  
40 in the preliminary eligible costs if the detailed plans and specifications  
41 completed by a design professional for the project indicate that the  
42 cost of constructing that portion of the project which is consistent  
43 with the facilities efficiency standards and does not exceed the area  
44 allowances per FTE student exceeds the preliminary eligible costs as  
45 determined by the commissioner by 10% or more. The district must  
46 file its appeal within 30 days of the preparation of the plans and



1 specifications. The appeal must outline the reasons why the  
2 preliminary eligible costs calculated for the project are inadequate and  
3 estimate the amount of the adjustment which needs to be made to the  
4 preliminary eligible costs. The commissioner is to forward the appeal  
5 information to the building authority for its review and  
6 recommendation. If the additional costs are the result of factors that  
7 are within the control of the district or are the result of design factors  
8 not required to meet the facilities efficiency standards, the building  
9 authority will recommend to the commissioner that the preliminary  
10 eligible costs be accepted as the final eligible costs. If the building  
11 authority determines that the additional costs are not within the  
12 control of the district or are the result of design factors required to  
13 meet the facilities efficiency standards, the building authority is to  
14 recommend to the commissioner a final eligible cost based on its  
15 experience with districts of similar characteristics. The commissioner  
16 must make his determination on the appeal within 30 days of its  
17 receipt. If the commissioner does not approve an adjustment to the  
18 project's preliminary eligible costs, the commissioner must issue his  
19 findings in writing on the reasons for the denial and on why the  
20 preliminary eligible costs as originally calculated are sufficient.

21 The debt service aid for districts which construct projects on their  
22 own will be subject to reduction if the district fails to meet the  
23 maintenance requirements outlined in the bill (maintenance  
24 requirements for a district which uses the building authority to  
25 construct the project will be established in a contract between the  
26 district and the building authority). To receive aid for an improvement  
27 or addition to an existing facility, a district will be required, beginning  
28 ten years following the bill's enactment, to demonstrate a net  
29 investment in maintenance over the ten years preceding the issuance  
30 of the financing for the improvement or addition of 2% of what the  
31 facility's replacement cost was ten years prior. Also, in order to  
32 continue to be eligible for full debt service aid for bonds issued for  
33 projects approved following the bill's effective date, a district will be  
34 required to demonstrate, beginning in the fourth year after occupancy  
35 of the facility, an annual investment in maintenance of at least two-  
36 tenths of 1% of the facility's replacement cost. The bill establishes a  
37 sliding scale reduction in aid for lesser investments.

38 The bill also includes a provision which authorizes a district with a  
39 State aid percentage of less than 50% to enter into an agreement with  
40 a county, municipality, other political entity, or public agency  
41 authorized to construct a school facilities project to undertake the  
42 design, planning, and construction of a school facilities project,  
43 provided that the entity is subject to the "Local Public Contracts Law,"  
44 the "Local Redevelopment and Housing Law," or the "Public School  
45 Contracts Law."

46 In order to ensure that the debt service aid provided under the bill

1 is fully funded each year, the bill specifies that if the annual  
2 appropriations act does not appropriate the amount determined to be  
3 sufficient, the sales tax rate will be reduced from 6% to 5%. This  
4 provision is a strong disincentive to underfund debt service aid  
5 because the reduction in State sales tax revenue would be greater than  
6 the cost of the debt service aid.

7  
8 **School Facilities Project Revolving Loan Fund**

9  
10 A district with a State share percentage of less than 50% also has  
11 the option of financing a school facilities project through the School  
12 Facilities Project Revolving Loan Fund established under the bill. The  
13 New Jersey Educational Facilities Authority will issue \$1 billion in  
14 bonds to finance the fund and the bond proceeds will be used to  
15 provide loans only to such districts. The amount of loans that may be  
16 made in the first fiscal year may not exceed \$400,000,000, in the  
17 second fiscal year, \$300,000,000, and in the third fiscal year,  
18 \$200,000,000. A 2% loan rate will be available on loans up to the  
19 amount of the final eligible costs of the project as approved by the  
20 commissioner. The loan will be secured by local unit obligations. In  
21 the event that the dollar value of loan applications in any fiscal year  
22 exceeds the amount of loan funds available, the facilities authority may  
23 apportion the loan funds among eligible school facilities projects to  
24 finance such percentage of each project's final eligible costs as  
25 determined by the State Treasurer, and the district will be eligible to  
26 receive State debt service aid on that portion of the school facilities  
27 project's final eligible costs for which loan funds are not available.  
28 Districts will be eligible to receive more than one loan. The bill  
29 establishes a priority ranking for receipt of loan funds based on the  
30 critical need for the project.

31  
32 **Refinancing of Existing Debt**

33  
34 In addition to the loans authorized to be made from the School  
35 Facilities Project Revolving Loan Fund, the bill authorizes the  
36 facilities authority to make loans to local units to finance all or a  
37 portion of the cost of a school facilities project. Loans could also be  
38 made to refund obligations of a local unit which were previously  
39 issued to provide funds to pay for the cost of a school facilities  
40 project. These loans will be made pursuant to terms and conditions  
41 determined by the facilities authority and will be secured by local unit  
42 obligations.

43  
44 **State Aid for Projects Approved Prior to the Bill's Effective Date**

45  
46 The debt service costs for each issuance of bonds or lease purchase

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1 arrangements for projects approved by the commissioner prior to the  
2 bill's effective date will be supported by the State at the district's State  
3 support ratio. That ratio will be recalculated for each budget year  
4 during the life of the issuance as is currently the case.