

CHAPTER 235

AN ACT concerning school district monitoring and amending, supplementing and repealing parts of the statutory law.

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

1. Section 3 of P.L.1975, c.212 (C.18A:7A-3) is amended to read as follows:

C.18A:7A-3 Definitions.

3. For the purposes of this act, unless the context clearly requires a different meaning:

"Administrative order" means a written directive ordering specific corrective action by a district which has shown insufficient compliance with the quality performance indicators.

"Highly skilled professional" means a designee of the commissioner deemed to have the skills and experience necessary to assist a school district in improving its effectiveness or to provide oversight in a school district in one or more of the five key components of school district effectiveness.

"Joint Committee on the Public Schools" means the committee created pursuant to P.L.1975, c.16 (C.52:9R-1 et seq.).

"Targeted assistance" means the assistance provided to a school district in a specific area to support the teaching and learning process and overall district effectiveness.

"Technical assistance" means guidance and support provided to a school district to enable the district to meet State and federal policy and regulatory requirements and to ensure the provision of a thorough and efficient education.

2. Section 10 of P.L.1975, c.212 (C.18A:7A-10) is amended to read as follows:

C.18A:7A-10 New Jersey Quality Single Accountability Continuum for evaluating school performance.

10. For the purpose of evaluating the thoroughness and efficiency of all the public schools of the State, the commissioner, with the approval of the State board and after review by the Joint Committee on the Public Schools, shall develop and administer the New Jersey Quality Single Accountability Continuum for evaluating the performance of each school. The goal of the New Jersey Quality Single Accountability Continuum shall be to ensure that all districts are operating at a high level of performance. The system shall be based on an assessment of the degree to which the thoroughness and efficiency standards established pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4) are being achieved and an evaluation of school district capacity in the following five key components of school district effectiveness: instruction and program; personnel; fiscal management; operations; and governance. A school district's capacity and effectiveness shall be determined using quality performance indicators comprised of standards for each of the five key components of school district effectiveness. The quality performance indicators shall take into consideration a school district's performance over time, to the extent feasible. Based on a district's compliance with the indicators, the commissioner shall assess district capacity and effectiveness and place the district on a performance continuum that will determine the type and level of oversight and technical assistance and support the district receives.

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

C.18A:7A-11 Annual report by school districts, commissioner.

11. Each school district and county vocational school district shall make an annual report of its progress in complying with the quality performance indicators adopted pursuant to section 10 of P.L.1975, c.212 (C.18A:7A-10).

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

4. Section 14 of P.L.1975, c.212 (C.18A:7A-14) is amended to read as follows:

C.18A:7A-14 Review, evaluation of reports, performance continuum placement, procedure.

14. a. (1) The commissioner shall review the results of the report submitted pursuant to sections 10 and 11 of P.L.1975, c.212 (C.18A:7A-10 and 18A:7A-11) and after examination of all relevant data, including student assessment data, determine where on the performance continuum the district shall be placed. The commissioner, through collaboration, shall establish a mechanism for parent, school employee and community resident input into the review process. If the commissioner finds that a school district or county vocational school district satisfies 80 percent to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner shall issue to the district a letter of recognition designating the district as a high performing district, provided that the district has submitted to the department a statement of assurance which attests that the contents of the report are valid. The commissioner shall recommend that the State board certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

b. If a school district satisfies 50 percent to 79 percent of the quality performance indicators, the district shall be considered a moderate performing district. The commissioner shall require the district to develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to and approved by the commissioner. In accordance with the improvement plan, the commissioner shall provide targeted assistance, technical assistance, or both, to the district. If necessary, the commissioner may authorize an in-depth examination of the district to determine the causes for the district's noncompliance with the quality performance indicators.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. If the commissioner finds, based on those reviews, that after two years the district has not satisfied 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner shall require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

If a district effectively implements its improvement plan and is able to satisfy 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness through the interventions set forth in this subsection, the commissioner shall issue the district a letter of recognition designating the district as a high performing district. The commissioner shall recommend that the State board certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators. If the district has not effectively implemented its improvement plan and has not satisfied 80 to 100 percent of the quality performance indicators in each of the five key components of school district effectiveness through the interventions set forth in this subsection, the commissioner shall issue the district a letter detailing the areas in which the district remains deficient.

c. (1) If a school district satisfies less than 50 percent of the quality performance indicators in four or fewer of the five key components of school district effectiveness, the commissioner shall authorize an in-depth evaluation of the district's performance and capacity. Based on the findings and recommendations of that evaluation, the district, in cooperation with the department, shall develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to the commissioner for approval. Upon approval, the commissioner shall provide the district with the technical assistance outlined in the plan and shall assure that the district's budget provides the resources necessary to implement the improvement plan.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. The reviews shall include an on-site visit. If the commissioner

finds, based on those reviews, that after two years the district has not satisfied at least 50% of the quality performance indicators in one or more of the key components of school district effectiveness, the commissioner shall require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

Nothing in this paragraph shall be construed to prohibit the commissioner or the State board, as applicable, from directing the district to enter partial State intervention prior to the expiration of the two-year period.

(2) The district's improvement plan may include the appointment by the commissioner of one or more highly skilled professionals to provide technical assistance to the district in the areas in which it has failed to satisfy the quality performance indicators. Each highly skilled professional shall work collaboratively with the district to increase local capacity in the areas of need identified in the improvement plan. The cost for the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost of these salaries and the school district being responsible for one-half of the costs.

(3) If the district satisfies less than 50% of the quality performance indicators in one of the five key components of school district effectiveness, the commissioner may also order the district to enter partial State intervention. The board of education which is directed to enter partial State intervention may appeal that decision to the State Board of Education. The State board may refer the hearing of that appeal to a committee of not less than three of its members, which committee shall hear the appeal and report thereon, recommending its conclusions, to the board and the board shall decide the appeal by resolution in open meeting. A determination of the appeal by the State board shall be considered final.

(4) If the district satisfies less than 50% of the quality performance indicators in two to four of the five key components of school district effectiveness, the commissioner may also order the district board of education to show cause why an administrative order placing the district under partial State intervention should not be implemented. The plenary hearing before a judge of the Office of Administrative Law pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause, shall be conducted on an expedited basis and in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes. In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, the commissioner shall have the power to order necessary budgetary changes within the district or other measures the commissioner deems appropriate to establish a thorough and efficient system of education.

If the board fails to show cause why an administrative order placing the district under partial State intervention should not be implemented, the commissioner shall recommend to the State board that it issue an order placing the district under partial State intervention. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may place the district under partial State intervention. Nothing herein shall limit the right of any party to appeal the State board's order to the Superior Court.

(5) If the position of superintendent of schools is vacant in a district under partial State intervention, the commissioner may appoint a superintendent who shall serve for a period not to exceed two years.

(6) In addition to the highly skilled professionals appointed pursuant to paragraph (2) of this subsection to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the local board of education, may appoint one or more highly skilled professionals in a district under partial State intervention to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professional shall have authority in the areas of oversight that the commissioner designates. The highly skilled professional shall work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan. The cost for the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the costs of these salaries and the school district being

responsible for one-half of the costs.

(7) The commissioner may appoint up to three additional members to the board of education of a district under partial State intervention. If the commissioner appoints three additional members pursuant to this paragraph, the commissioner shall appoint one of these additional members from a list of three candidates provided by the local governing body of the municipality in which the school district is located. The commissioner shall make every effort to appoint residents of the district. A board member appointed by the commissioner shall be a nonvoting member of the board and shall have all the other rights, powers and privileges of a member of the board. A board member appointed by the commissioner shall report to the commissioner on the activities of the board of education and shall provide assistance to the board of education on such matters as deemed appropriate by the commissioner, including, but not limited to, the applicable laws and regulations governing specific school board action. A member appointed by the commissioner shall serve for a term of two years. The commissioner shall obtain approval of the State board for any extension of the two-year term. Any vacancy in the membership appointed by the commissioner shall be filled in the same manner as the original appointment.

If a board of education is subject to additional appointments pursuant to section 67 of P.L.2002, c.43 (C.52:27BBB-63), then the provisions of this paragraph shall not be applicable during the period in which the board is subject to those appointments.

Six months following the district being placed under partial State intervention, the commissioner shall determine, pursuant to criteria promulgated by the State Board of Education, whether or not the board members he has appointed shall become voting members of the board of education. If the commissioner determines that the board members he has appointed shall become voting members, the school district shall have 30 days to appeal the commissioner's determination to the State Board of Education.

(8) Based on the district's success in implementing its improvement plan, the commissioner shall make a determination to withdraw from intervention in one or more of the areas that have been under State intervention, to leave one or more areas under State intervention or to recommend to the State Board of Education that the district be placed under full State intervention.

If the commissioner determines that the district has successfully implemented the improvement plan, the commissioner shall issue a letter of recognition to the district designating the district as a high performing district and the State shall withdraw from intervention in the district. The commissioner shall recommend that the State board certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

d. (Deleted by amendment, P.L.2005, c.235.)

e. (1) If a school district satisfies less than 50 percent of the quality performance indicators in each of the five key components of school district effectiveness, the commissioner shall authorize an in-depth evaluation of the district's performance and capacity. Based on the findings and recommendations of that evaluation, the district, in cooperation with the department, shall develop an improvement plan to address the quality performance indicators with which the district has not complied and to increase district capacity through the provision of technical assistance and other measures designed to meet the district's needs. The improvement plan shall be submitted to the commissioner for approval. Upon approval, the commissioner shall provide the district with the technical assistance outlined in the plan and shall assure that the district's budget provides the resources necessary to implement the improvement plan.

The commissioner shall review the district's progress in implementing the improvement plan not less than every six months. The reviews shall include an on-site visit. If the commissioner finds, based on those reviews, that after two years the district has not satisfied at least 50% of the quality performance indicators in one or more of the key components of school district effectiveness, the commissioner shall require the district to amend the improvement plan. The amended plan shall be submitted to the commissioner for approval.

Nothing in this paragraph shall be construed to prohibit the State board from directing the district to enter full State intervention prior to the expiration of the two-year period.

(2) The district's improvement plan may include the appointment by the commissioner

of one or more highly skilled professionals to provide technical assistance to the district in the areas in which it has failed to satisfy the quality performance indicators. Each highly skilled professional shall work collaboratively with the district to increase local capacity in the areas of need identified in the improvement plan. The cost for the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the cost of these salaries and the school district being responsible for one-half of the costs.

5. Section 15 of P.L.1975, c.212 (C.18A:7A-15) is amended to read as follows:

C.18A:7A-15 Hearing on State intervention, corrective action; full State intervention; withdrawal.

15. a. In addition to procedures established pursuant to subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), the commissioner may order the local board to show cause why an administrative order placing the district under full State intervention should not be implemented. The plenary hearing before a judge of the Office of Administrative Law, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), upon said order to show cause, shall be conducted on an expedited basis and in the manner prescribed by subdivision B of article 2 of chapter 6 of Title 18A of the New Jersey Statutes. In the proceeding the State shall have the burden of showing that the recommended administrative order is not arbitrary, unreasonable or capricious.

If, after a plenary hearing, the commissioner determines that it is necessary to take corrective action, the commissioner shall have the power to order necessary budgetary changes within the district or other measures the commissioner deems appropriate to establish a thorough and efficient system of education.

If the board fails to show cause why an administrative order placing the district under full State intervention should not be implemented, the commissioner shall recommend to the State board that it issue an order placing the district under full State intervention. Notwithstanding any other provision of law to the contrary and upon its determining that the school district is not providing a thorough and efficient system of education, the State board may place the district under full State intervention. Nothing herein shall limit the right of any party to appeal the State board's order to the Superior Court.

b. In districts under full State intervention the State board, upon the recommendation of the commissioner, may appoint a State district superintendent to serve for a period not to exceed three years.

c. In addition to the highly skilled professionals appointed pursuant to paragraph (2) of subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), to provide technical assistance to the district in implementing its improvement plan, the commissioner, in consultation with the local board of education, may appoint one or more highly skilled professionals in a district under full State intervention to provide direct oversight in the district regarding the quality performance indicators with which the district has failed to comply. The highly skilled professional shall have authority in the areas of oversight that the commissioner designates. The highly skilled professional shall work collaboratively with the superintendent, the board of education and the employees of the district working in the area of the oversight to address areas identified in the improvement plan. The cost for the salaries of the highly skilled professionals shall be a shared expense of the school district and the State, with the State assuming one-half of the costs of these salaries and the school district being responsible for one-half of the costs.

d. If the district has successfully implemented the improvement plan, the commissioner shall issue a letter of recognition to the district designating the district as a high performing district and the State shall withdraw from intervention in the district in accordance with the provisions of section 16 of P.L.1987, c.399 (C.18A:7A-49). The commissioner shall recommend that the State board certify the school district for a period of seven years as providing a thorough and efficient system of education, contingent on continued progress in meeting the quality performance indicators.

6. Section 5 of P.L.1987, c.398 (C.18A:7A-15.1) is amended to read as follows:

C.18A:7A-15.1 Authority of State board.

5. Pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the State board, upon the recommendation of the commissioner, shall have authority to:

- a. approve the appointment by the commissioner of up to three additional members to the school board;
- b. create a school district under full State intervention; and
- c. appoint, upon recommendation of the commissioner, a State district superintendent of schools to direct the operations of the district in accordance with the improvement plan established pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14).

7. Section 3 of P.L.1987, c.400 (C.18A:7A-31.2) is amended to read as follows:

C.18A:7A-31.2 Report on order to establish school district under full State intervention.

3. Whenever the State Board of Education issues an administrative order establishing a school district under full State intervention pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15), the commissioner shall immediately inform the Joint Committee on the Public Schools of that administrative order, and shall advise the committee as to the causes of the district's failure to achieve the requisite compliance with the quality performance indicators.

8. Section 4 of P.L.1987, c.400 (C.18A:7A-31.3) is amended to read as follows:

C.18A:7A-31.3 Improvement plan; report on progress; monitoring.

4. a. Within six months following the establishment of a school district under full State intervention, the commissioner shall present to the Joint Committee on the Public Schools the improvement plan developed by the district.

b. On an annual basis the commissioner shall provide a report to the committee on the progress made in the implementation of the improvement plan and the prospects for the State's withdrawal from intervention.

c. The Joint Committee on the Public Schools, in cooperation with the commissioner, may develop a plan for monitoring the administration of a school district under full State intervention and the implementation of the improvement plan. The plan developed by the committee shall include provisions for independent documentation and assessment.

9. Section 1 of P.L.1987, c.399 (C.18A:7A-34) is amended to read as follows:

C.18A:7A-34 Creation of school district under full State intervention.

1. Whenever the Commissioner of Education shall determine after the issuance of an administrative order that a local school district has failed to assure a thorough and efficient system of education, the State Board of Education may issue an administrative order as set forth in section 15 of P.L.1975, c.212 (C.18A:7A-15) which shall create a school district under full State intervention. The school district under full State intervention shall become effective immediately upon issuance of the administrative order by the State board.

10. Section 2 of P.L.1987, c.399 (C.18A:7A-35) is amended to read as follows:

C.18A:7A-35 State district superintendent.

2. a. The schools of a school district under full State intervention may be conducted by and under the supervision of a State district superintendent of schools appointed by the State board upon recommendation of the commissioner. The individual selected shall be qualified by training and experience for the particular district and shall work collaboratively with any highly skilled professionals appointed by the commissioner, in consultation with the local board of education.

The State board may, upon the recommendation of the commissioner, choose to retain the person who holds the position of superintendent of schools in the school district at the time the State board issues the administrative order pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15). If the State board chooses to retain the superintendent of schools, the person shall comply with the directives of the commissioner or his designee, including any highly skilled professional appointed by the commissioner.

b. If the State board appoints a State district superintendent the appointment shall be for an original term not to exceed three years. Notwithstanding any other provision of law, no person so appointed shall acquire tenure nor shall the commissioner, with approval of the State board, be precluded from terminating the superintendent's services pursuant to the terms of the superintendent's individual contract of employment. For the purpose of the New Jersey Tort Claims Act, N.J.S.59:1-1 et seq., the State district superintendent shall be considered a State officer.

c. The salary of the State district superintendent shall be fixed by the commissioner and adjusted from time to time as the commissioner deems appropriate. The cost for said salary and for the salaries of all persons appointed pursuant to this amendatory and supplementary act, except the highly skilled professionals, shall be an expense of the local school district.

d. The State district superintendent shall perform such duties and possess such powers as deemed appropriate by the commissioner.

e. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent shall have the power to perform all acts and do all things that the commissioner deems necessary for the proper conduct, maintenance and supervision of the schools in the district.

f. The State district superintendent may, if deemed appropriate by the commissioner, make, amend and repeal district rules, policies and guidelines, not inconsistent with law for the proper conduct, maintenance and supervision of the schools in the district.

g. The State district superintendent shall provide in each school a mechanism for parent, teacher and community involvement. In addition, the State district superintendent shall provide for at least one public meeting in both the fall and the spring semesters to advise parents and members of the community on the activities within the district and to provide an opportunity for those parents, teachers and community members who wish to be heard. The meetings shall be at such times and places as to ensure maximum public participation.

h. The State district superintendent, or such other person as the commissioner shall designate, shall ensure that the district is in compliance with all federal and State laws, rules and regulations relating to equal employment opportunities, affirmative action and minority business opportunities.

11. Section 4 of P.L.1987, c.399 (C.18A:7A-37) is amended to read as follows:

C.18A:7A-37 Corporate entity.

4. A school district placed under full or partial State intervention shall remain a corporate entity.

12. Section 5 of P.L.1987, c.399 (C.18A:7A-38) is amended to read as follows:

C.18A:7A-38 Powers of superintendent.

5. Except as otherwise provided in this amendatory and supplementary act, the State district superintendent in a school district under full State intervention or any other person designated by the commissioner may be given the power to:

a. Enforce the rules of the State board; and

b. Perform all acts and do all things, consistent with law and the rules of the State board, necessary for the lawful and proper conduct, equipment and maintenance of the public schools of the district.

13. Section 6 of P.L.1987, c.399 (C.18A:7A-39) is amended to read as follows:

C.18A:7A-39 Authority of superintendent person designated by commissioner.

6. a. The State district superintendent or any other person designated by the commissioner may in a school district under full State intervention:

(1) Sue in the district's corporate name and likewise submit to arbitration and determination disputes and controversies in the manner provided by law;

(2) Cause a report of the condition of the public schools and the public school property and an itemized account of the condition of the finances of the district to be printed and

published as soon as practicable after the close of each school year; and

(3) Cause an exact census to be taken annually of all children residing in the district between the ages of five and 18 years, including such other information as he or she may deem necessary or proper and appoint, for the purpose of taking that census, as many suitable persons as may be necessary to act as enumerators and fix their compensation, which compensation shall be paid as a current expense.

b. A school district under full State intervention may be sued under its corporate name.

c. School districts under full State intervention may join with local boards of education for the purpose of affording the districts those benefits which may accrue pursuant to P.L.1983, c.108 (C.18A:18B-1 et seq.).

d. A school district under full State intervention shall be subject to all provisions of chapter 19 of Title 18A of the New Jersey Statutes except that all warrants for claims or expenditures approvable by a district board of education or any action required of a district board of education pursuant to chapter 19 may be authorized by the State district superintendent or any other person designated by the commissioner.

e. Authority for the implementation of any provision of chapter 20 of Title 18A of the New Jersey Statutes relative to the acquisition and disposition of property which requires action by a district board of education may, in a school district under full State intervention, be exercised by the State district superintendent or any other person designated by the commissioner.

f. The authority vested in boards of education by chapter 21 of Title 18A of the New Jersey Statutes may in a school district under full State intervention be vested in the State district superintendent or any other person designated by the commissioner.

g. School districts under full State intervention shall be subject to all requirements set forth in chapter 18A of Title 18A of the New Jersey Statutes except that such determination as may be required of a district board of education by the provisions of said law may be rendered by the State district superintendent or any other person designated by the commissioner.

14. Section 7 of P.L.1987, c.399 (C.18A:7A-40) is amended as to read follows:

C.18A:7A-40 Collective bargaining agreements.

7. a. When a district under full State intervention is established, pursuant to section 1 of P.L.1987, c.399 (C.18A:7A-34), or when the State withdraws from intervention, pursuant to section 16 of P.L.1987, c.399 (C.18A:7A-49), collective bargaining agreements entered into by the school district shall remain in force, except where otherwise expressly provided in P.L.1987, c.399 (C.18A:7A-34 et seq.).

b. Except where otherwise expressly provided in P.L.1987, c.399 (C.18A:7A-34 et seq.), all teaching staff members and other employees of a district under full State intervention shall retain and continue to acquire all rights and privileges acquired pursuant to Title 18A of the New Jersey Statutes. After the State withdraws from intervention, the board shall preserve and recognize all rights and privileges acquired prior to and during the State intervention in the district.

15. Section 8 of P.L.1987, c.399 (C.18A:7A-41) is amended to read as follows:

C.18A:7A-41 Internal audit team.

8. There may be established within a school district under full State intervention an internal audit team which shall monitor the business functions of the district and report its findings to the commissioner and any district personnel deemed appropriate by the commissioner. The cost of providing this internal audit function shall be borne by the State.

16. Section 9 of P.L.1987, c.399 (C.18A:7A-42) is amended to read as follows:

C.18A:7A-42 Officers, employees consultants.

9. a. In a school district under full State intervention, all officers, employees and consultants, professional and nonprofessional, certified and noncertified, shall be employed or retained, transferred and removed in accordance with the improvement plan which has been approved by the commissioner. In accordance with that plan:

(1) The State district superintendent or any other person designated by the commissioner may appoint, transfer and remove clerks, pursuant to the provisions of Title 11A (Civil Service) of the New Jersey Statutes and the provisions of N.J.S.18A:17-1 et seq.

(2) The State district superintendent or any other person designated by the commissioner, subject to the approval of the commissioner, shall appoint and set the salaries of such State assistant superintendents as the superintendent shall deem necessary and assign to them their duties and responsibilities. No State assistant superintendent shall acquire tenure, notwithstanding any other provision of law.

(3) The State district superintendent of schools or any other person designated by the commissioner shall, subject to the approval of the commissioner or his designee, make all personnel determinations relative to employment, transfer and removal of all officers and employees, professional and nonprofessional, except that the services of the district auditor or auditors and attorney or attorneys shall be immediately terminated by creation of a school district under full State intervention.

b. The State district superintendent or any other person designated by the commissioner may delegate to subordinate officers or employees in the district any of his powers and duties as he may deem desirable to be exercised under his supervision and direction.

17. Section 10 of P.L.1987, c.399 (C.18A:7A-43) is amended to read as follows:

C.18A:7A-43 Tenure rights.

10. Except as otherwise provided in this amendatory and supplementary act, any person serving under tenure or permanent civil service status shall retain all tenure rights and may continue to serve in the district pursuant to the provisions of this section. However, they shall perform only such duties as prescribed in the improvement plan which has been approved by the commissioner and those duties for which they may be appropriately certified.

18. Section 11 of P.L.1987, c.399 (C.18A:7A-44) is amended to read as follows:

C.18A:7A-44 Abolition of administrative positions; reorganization.

11. a. Notwithstanding any other provision of law or contract, the positions of the district's chief school administrator and those executive administrators responsible for curriculum, business and finance, and personnel may be abolished upon creation of the school district under full State intervention. The affected individuals shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Any individual whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the individual may be entitled by virtue of tenure or seniority within the district. No individual whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

b. Within 180 days of the establishment of the school district under full State intervention, the State district superintendent or any other person designated by the commissioner may prepare a reorganization of the district's central administrative and supervisory staff and may evaluate all individuals employed in central administrative and supervisory staff positions. The State district superintendent or any other person designated by the commissioner may implement the reorganization on the July 1 next following its preparation, unless otherwise directed by the commissioner. The State district superintendent or any other person designated by the commissioner shall retain the authority to prepare a reorganization and to evaluate all employed individuals after the expiration of the 180-day period.

c. Notwithstanding any other provision of law or contract, the positions of the central administrative and supervisory staff, instructional and noninstructional, other than those positions abolished pursuant to subsection a. of this section, may be abolished upon the reorganization of the staff of the school district under full State intervention. The State district superintendent or any other person designated by the commissioner may hire an individual whose position is so abolished, based upon the evaluation of the individual and the staffing needs of the reorganized district staff. These individuals shall be hired with tenure if they had tenure in their

prior position. If they did not have tenure in their prior position, they may obtain tenure pursuant to the provisions of N.J.S.18A:28-6. Individuals hired as State assistant superintendents shall not be hired with tenure and shall not acquire tenure. Employees or officers not hired for the reorganized staff shall be given 60 days' notice of termination or 60 days' pay. The notice or payment shall be in lieu of any other claim or recourse against the employing board or the school district based on law or contract. Notwithstanding this limitation, nothing herein shall preclude an individual from asserting upon separation from service any legal contractual right to health care coverage, annuities, accrued vacation days, accrued sick leave, insurance and approved tuition costs. Any employee whose position is abolished by operation of this subsection shall be entitled to assert a claim to any position or to placement upon a preferred eligibility list for any position to which the employee may be entitled by virtue of tenure or seniority within the district. No employee whose position is abolished by operation of this subsection shall retain any right to tenure or seniority in the positions abolished herein.

19. Section 12 of P.L.1987, c.399 (C.18A:7A-45) is amended to read as follows:

C.18A:7A-45 Evaluations of principals, vice-principals.

12. a. The Commissioner of Education shall adopt criteria for the evaluation of building principals and vice-principals in a school district under full State intervention.

b. Upon appointment, the State district superintendent or other person designated by the commissioner may establish an assessment unit to conduct on-site evaluations of each building principal and vice-principal in accordance with the criteria established by the commissioner and render evaluation reports to the State district superintendent or any other person designated by the commissioner. No less than three evaluations shall be performed for each building principal and vice-principal within 18 months following the establishment of the school district under full State intervention. All personnel records for building principals and vice-principals prepared before the establishment of the district under full State intervention shall be sealed upon issuance of the State Board of Education order establishing the school district under full State intervention.

c. Notwithstanding any other provision of law or contract, the State district superintendent or any other person designated by the commissioner, after completion of an assessment cycle of not less than 12 months, may dismiss any tenured building principal or vice-principal for inefficiency, incapacity, unbecoming conduct or other just cause as defined by the criteria for principal or vice-principal performance in districts under full State intervention established by the commissioner pursuant to subsection a. of this section. Nothing herein shall preclude the dismissal of a tenured building principal or vice-principal prior to the completion of an assessment cycle of not less than 12 months if the basis for the dismissal is incapacity or unbecoming conduct. All dismissals of tenured building principals or vice-principals shall be conducted in accordance with the procedures set forth in sections 10, 11, 13, 14, 16 and 17 of chapter 6 of Title 18A of the New Jersey Statutes, except that the State district superintendent or any other person designated by the commissioner shall act as the board of education in all respects.

d. The commissioner and the Office of Administrative Law are empowered and directed to take any necessary action to expedite hearings for dismissal of tenured principals or vice-principals, including relaxation of any time requirements established by law or practice. In no event shall a hearing commence later than 45 days after certification of charges. Hearings shall be completed within 45 days of commencement. In no event shall a final decision be issued later than 120 days following the certification of charges.

e. Evaluations of building principals or vice-principals conducted by district personnel prior to the establishment of the school district under full State intervention shall not be admissible in a tenure hearing for any building principal or vice-principal except in the following circumstances:

(1) Evaluations of building principals or vice-principals performed by members of the central administrative and supervisory staff who are hired to fill one of the positions in the reorganized central office of the district under full State intervention shall be admissible;

(2) Evaluations of building principals or vice-principals made by individuals who were no longer employed by the school district as of the date it became a school district under full State intervention shall be admissible only if the evaluation was performed more than five years

preceding the date of the establishment of the district under full State intervention.

20. Section 13 of P.L.1987, c.399 (C.18A:7A-46) is amended to read as follows:

C.18A:7A-46 Procedure for creation, conduct.

13. a. School districts under full State intervention shall be created only as provided pursuant to section 15 of P.L.1975, c.212 (C.18A:7A-15).

b. School districts under full State intervention may be conducted by and under the supervision of a State district superintendent appointed by the State Board of Education upon recommendation of the commissioner.

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

C.18A:7A-46.1 Capital Project Central Board.

1. a. In any school district under full State intervention created pursuant to the provisions of P.L.1975, c.212 (C.18A:7A-1 et seq.) there may be established a Capital Project Control Board, hereinafter the board, to be responsible for the review of any capital project proposed by the State district superintendent or a person designated by the commissioner, provided that the State district superintendent or person designated by the commissioner proposes that the capital project be financed in whole or in part by school bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board shall also be responsible for the certification to the State district superintendent of schools or person designated by the Commissioner of Education and the commissioner of the necessity for the capital project and the certification of the appropriation to be made by the governing body of the municipality.

b. The board shall consist of five voting members. One member shall be appointed by the Commissioner of Education and two members shall be appointed by the chief executive officer with the consent of a majority of the full membership of the local governing body of the municipality or municipalities in which the school district is located. If the school district is comprised of two municipalities, each municipality shall be entitled to one member, appointed by the executive officer with the consent of the governing body. If the school district is comprised of more than two municipalities, each of the two municipalities with the largest population according to the most recent federal decennial census shall be entitled to one member, appointed by the executive officer with the consent of the governing body. However, if a local governing body fails to agree upon the selection of either board member appointed by an executive officer, then the Commissioner of Education shall make the appointment. One member shall be appointed by the Director of the Division of Local Government Services in the Department of Community Affairs who shall have experience in the area of local finance and capital projects. The fifth member shall be the State district superintendent of schools or any other person designated by the commissioner who shall serve ex-officio and shall act as chairperson of the board. The board members, except for the State district superintendent or the person designated by the commissioner, shall each serve for a term of one year commencing on July 1 of each year and expiring on June 30 of the following year. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided by the original appointment. Members of the board may be employees of the State or any subdivision thereof. All members of the board shall serve without compensation.

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

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

C.18A:7A-46.2 Board to hear recommendations concerning proposed capital projects.

2. In the event that a capital projects review board is established pursuant to section 1 of

P.L.1991, c.139 (C.18A:7A-46.1) the board shall hear the recommendation of the State district superintendent or the person designated by the commissioner concerning any proposed capital project, which is to be financed in whole or in part by school bonds or notes, or through a lease purchase agreement pursuant to subsection f. of N.J.S.18A:20-4.2, and shall undertake all actions necessary to review the proposed capital project to determine whether the project will assist the school district under full State intervention in providing a thorough and efficient system of education in that district. In making this determination it may take into consideration factors such as the conditions in the school district, any applicable educational goals, the objectives and standards established by the State, the need for the capital project, the reasonableness of the amount to be expended for the capital project, the estimated time for the undertaking and completion of the capital project, and any other factors which the board may deem necessary including the relationship of the capital project to the long-term capital budget or plan of the school district and the fiscal implications thereof.

Following its review and within 60 days of the date on which the State district superintendent or the person designated by the commissioner submits the recommendation to the board, the board shall adopt a resolution as to whether the school district under full State intervention should undertake the capital project and providing its reasons therefor. The board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary to be raised locally for the capital project. If the board fails to act within 60 days of the submission date, the State district superintendent or the person designated by the commissioner shall submit the recommendation to the commissioner who shall approve or disapprove the capital project. If the board makes a decision which is contrary to the recommendation of the superintendent or the person designated by the commissioner, the superintendent or the person designated by the commissioner may, within 30 days from the date of the board's action, submit the matter to the commissioner for final decision. If the commissioner determines that a capital project should be undertaken, the commissioner shall so notify the board and shall indicate the amount necessary to be raised locally for the capital project. Upon notification, the board shall adopt a resolution indicating the necessity for the capital project and shall also fix and determine by resolution the amount necessary for the capital project as indicated by the commissioner. Certified copies of any resolution requesting the authorization and issuance of bonds and notes or the authorization of a lease purchase agreement shall be delivered to the State district superintendent or the person designated by the Commissioner of Education, the Commissioner of Education, the Director of the Division of Local Government Services in the Department of Community Affairs and the governing body of the municipality or municipalities in which the school district is located. The board shall not approve or recommend any capital project which is inconsistent with the provisions of N.J.S.18A:21-1.

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

C.18A:7A-46.3 Capital projects financed by issuance of bonds, notes.

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

24. Section 4 of P.L.1991, c.139 (C.18A:7A-46.4) is amended to read as follows:

C.18A:7A-46.4 Issuance of authorization of notes, bonds.

4. Any authorization of notes or bonds effective prior to the date of the appointment of the State district superintendent or the person designated by the commissioner shall be issued in the

manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).

25. Section 6 of P.L.1991, c.139 (C.18A:7A-46.6) is amended to read as follows:

C.18A:7A-46.6 Debt service part of municipal budget.

6. The debt service on bonds, notes and other obligations authorized pursuant to P.L.1991, c.139 (C.18A:7A-46.1 et seq.) shall be appropriated and made part of the municipal budget and raised through the annual municipal tax levy. However, all debt service payments shall be included in the budget of the school district under full State intervention as the sum necessary for interest and debt redemption charges and shall be eligible for State education aid in the year in which the appropriation and expenditure are made.

26. Section 14 of P.L.1987, c.399 (C.18A:7A-47) is amended to read as follows:

C.18A:7A-47 Board of Education.

14. a. The State board shall retain the board of education in place at the time that the State board issues the administrative order creating the school district under full State intervention. With the State board's approval the commissioner may appoint up to three additional nonvoting members to the board of education. If the commissioner appoints three additional members pursuant to this subsection, the commissioner shall appoint one of these additional members from a list of three candidates provided by the local governing body of the municipality in which the school district is located. The commissioner shall make every effort to appoint residents of the district. The board of education shall have only those rights, powers and privileges of an advisory board. The members appointed by the commissioner shall serve for a term of two years. The commissioner shall obtain approval of the State board for any extension of the two-year term. Any vacancy in the membership appointed by the commissioner shall be filled in the same manner as the original appointment.

Six months following the district being placed under full State intervention, the commissioner shall determine, pursuant to criteria promulgated by the State Board of Education, whether or not the board members he has appointed shall become voting members of the advisory board of education. If the commissioner determines that the board members he has appointed shall become voting members, the school district shall have 30 days to appeal the commissioner's determination to the State Board of Education.

b. The State district superintendent or the person designated by the commissioner may meet with the board as frequently as necessary for the effective operation of the school district. The meetings of the board shall be convened and scheduled at the direction of the State district superintendent or the person designated by the commissioner, and the State district superintendent or the person designated by the commissioner shall determine the agenda. At the meetings, the State district superintendent or the person designated by the commissioner shall report to the board on all actions taken and on pending actions in a timely fashion, and provide an opportunity for a full discussion by the board and by the public of those actions. Meetings shall be conducted pursuant to the provisions of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.). On a regular basis, but no less than twice each year, the board of education shall report in writing directly to the State district superintendent or the person designated by the commissioner concerning its assessment of the progress of the district. Copies of the report shall be forwarded to the commissioner and the State board. The State district superintendent or the person designated by the commissioner shall make such clerical and other resources available as are necessary for the effective operation of the board of education.

c. The commissioner, in consultation with the New Jersey School Boards Association, shall provide the members of the board of education with appropriate in-service training in school matters.

27. Section 16 of P.L.1987, c.399 (C.18A:7A-49) is amended to read as follows:

C.18A:7A-49 Reports of progress under full State intervention.

16. a. A school district under full State intervention shall make an annual report of its progress in complying with the quality performance indicators adopted pursuant to section 10

of P.L.1975, c.212 (C.18A:7A-10). The commissioner shall formally report to the State board and to the Governor and the Legislature on the district's progress.

b. Based upon the annual report of progress, but not sooner than three years after the establishment of the school district under full State intervention, the commissioner may recommend that the State board place the school district under partial State intervention or elsewhere on the performance continuum. If the State board so determines, the school district shall be placed under partial State intervention or designated as a high performing or moderate performing district effective on the July 1 next ensuing.

c. In the event that the State board, upon the recommendation of the commissioner, has appointed a State district superintendent in a district under full State intervention and if the district is placed under partial State intervention or is designated as a high performing or moderate performing district, then the board of education shall be permitted to extend the contract of the superintendent who holds the position at the time that the district is placed under partial State intervention or is designated a high performing or moderate performing district, provide 18-months notice to the superintendent to modify the contract, or allow the contract in effect to expire with the appropriate statutory notice pursuant to subsection b. of section 4 of P.L.1991, c.267 (C.18A:17-20.1).

d. Not more than one year following the placement of the district under partial State intervention or designation as a high performing or moderate performing district, the board shall call a special election for purposes of placing the question of classification status before the voters of the district, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

e. If the voters of the district shall elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

f. If the voters of the district shall so select that the district shall become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

g. If the commissioner cannot recommend that the school district under full State intervention be placed under partial State intervention within three years, then the commissioner shall provide a comprehensive report to the State board and to the Governor and the Legislature, including a detailed analysis of the causes for the failure of the district to comply with the quality performance indicators and an assessment of the amount of time necessary for the continuation of the school district under full State intervention. On the basis of that report the State board shall determine whether to continue the school district under full State intervention or return the district to partial State intervention.

28. Section 17 of P.L.1987, c.399 (C.18A:7A-50) is amended to read as follows:

C.18A:7A-50 Budget development presentation.

17. The State district superintendent or the person designated by the commissioner in a school district under full State intervention shall develop a budget on or before March 22 and shall present this budget to the board of education to elicit the board's comments and recommendations. This budget shall conform in all respects with the requirements of chapter 22 of Title 18A of the New Jersey Statutes and shall be subject to the limitations on spending by local school districts otherwise required by P.L.1996, c.138 (C.18A:7F-1 et al.).

29. Section 18 of P.L.1987, c.399 (C.18A:7A-51) is amended to read as follows:

C.18A:7A-51 Public hearing.

18. Upon the preparation of its budget, the State district superintendent or the person designated by the commissioner shall fix a date, place and time for the holding of a public

hearing upon the budget and the amounts of money necessary to be appropriated for the use of the public schools for the ensuing school year, and the various items and purposes for which the same are to be appropriated, which hearing shall be held between March 22 and March 29. Notice of the hearing, contents of the notice and the format and purpose of the hearing shall be as provided in N.J.S.18A:22-11, N.J.S.18A:22-12 and N.J.S.18A:22-13.

30. Section 19 of P.L.1987, c.399 (C.18A:7A-52) is amended to read as follows:

C.18A:7A-52 Determination of amount of appropriation for following school year.

19. a. After the public hearing provided for by section 18 of P.L.1987, c.399 (C.18A:7A-51) but not later than April 8, the State district superintendent or the person designated by the commissioner shall fix and determine the amount of money necessary to be appropriated for the ensuing school year and shall certify the amounts to be raised by special district tax for school purposes as well as the sum necessary for interest and debt redemption, if any, to the county board of taxation and the amount or amounts so certified shall be included in the taxes assessed, levied and collected in the municipality or municipalities comprising the district. The State district superintendent or the person designated by the commissioner shall follow the procedures established pursuant to section 5 of P.L.1996, c.138 (C.18A:7F-5).

b. (Deleted by amendment, P.L.1996, c.138).

c. (Deleted by amendment, P.L.1996, c.138).

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

C.18A:7G-3 Definitions relative to construction, financing of public school facilities.

3. As used in sections 1 through 30 and 57 through 71 of this act, unless the context clearly requires a different meaning:

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

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be as established in the biennial Report on the Cost of Providing a Thorough and Efficient Education and inflated by an appropriate cost index for the second year to which the report applies. The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

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

"Community provider" means a private entity which has contracted to provide early childhood education programs for an ECPA district and which (a) is licensed by the Department of Human Services to provide day care services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.); and (b) is a tax exempt nonprofit organization;

"Community early childhood education facilities project" means a school facilities project consisting of facilities in which early childhood education programs are provided to 3 or 4-year old children under contract with the ECPA district but which are owned and operated by a community provider;

"Commissioner" means the Commissioner of Education;

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

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

"Debt service" means and includes payments of principal and interest upon school bonds issued to finance the acquisition of school sites and the purchase or construction of school facilities, additions to school facilities, or the reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and the costs of issuance of such obligations and shall include payments of

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

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of this act;

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

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

"ECPA district" means a district that qualifies for early childhood program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16);

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

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of this act;

"Final eligible costs" means for school facilities projects to be constructed by the authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the authority, pursuant to section 5 of this act; for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the authority which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the authority and approved by the State Treasurer pursuant to section 6 of this act; and for districts whose district aid percentage is less than 55% and which elect not to have the authority construct a school facilities project, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of this act;

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

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional

capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of this act for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of this act and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

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

"Local share" means, in the case of a school facilities project to be constructed by the authority, the total costs less the State share as determined pursuant to section 5 of this act; in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of this act; and in the case of a school facilities project not to be constructed by the authority, but which shall be financed pursuant to section 15 of this act, the total costs less the State share as determined pursuant to that section;

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

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

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of this act;

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of this act;

"Other allowable costs" means the costs of site development, acquisition of land or other real property interests necessary to effectuate the school facilities project, fees for the services of design professionals, including architects, engineers, construction managers and other design professionals, legal fees, financing costs and the administrative costs of the authority or the district incurred in connection with the school facilities project;

"Preliminary eligible costs" means the initial eligible costs of a school facilities project as calculated pursuant to the formulas set forth in section 7 of this act which shall be deemed to include the costs of construction and other allowable costs;

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

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

"School bonds" means, in the case of a school facilities project which is to be constructed by the authority, a redevelopment entity, or a district under section 15 of this act, bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the authority or a redevelopment entity, or financed under section 15 of this act, bonds, notes or other obligations issued by a district to finance the total costs;

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

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

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

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

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

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

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

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

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the authority as determined pursuant to section 5 of this act; in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of this act; and in the case of a school facilities project to be financed pursuant to section 15 of this act, the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the authority or a redevelopment entity or financed pursuant to section 15 of this act, the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the authority or a redevelopment entity or financed pursuant to section 15 of this act, the total cost of the project as determined by the district.

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

C.18A:7G-5 Financing, construction of school facilities in certain districts by authority.

5. a. The authority shall construct and finance the school facilities projects of Abbott districts, districts in level II monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with a district aid percentage equal to or greater than 55%.

b. Any district whose district aid percentage is less than 55% may elect to have the authority undertake the construction of a school facilities project in the district and the State share shall

be determined pursuant to this section. In the event that the district elects not to have the authority undertake the construction of the project, State support for the project shall be determined pursuant to section 9 or section 15 of this act, as applicable.

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in this act; provided that any district whose district aid percentage is less than 55%, which elects not to have the authority or a redevelopment entity undertake the construction of the project, shall also be required to comply with the provisions of N.J.S.18A:18A-16.

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

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards. The commissioner shall make a decision on a district's application within 90 days from the date he determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, he shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

f. If the commissioner determines that the school facilities project complies with the facilities efficiency standards and the district's long-range facilities plan and does not exceed the area allowance per FTE student derived from those standards, the commissioner shall calculate the preliminary eligible costs of the project pursuant to the formulas set forth in section 7 of this act; except that in the case of a county special services school district or a county vocational school district, the commissioner shall calculate the preliminary eligible costs to equal the amount determined by the board of school estimate and approved by the board of chosen freeholders pursuant to section 14 of P.L.1971, c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate.

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

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

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

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the projected total district school enrollment if the proposed administrative offices will be housed

in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative space will continue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of this act.

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

(4) The commissioner shall approve spaces in excess of, or inconsistent with, the facilities efficiency standards, hereinafter referred to as nonconforming spaces, upon a determination by the district that the spaces are necessary to comply with State or federal law concerning individuals with disabilities. A district may apply for additional State aid for nonconforming spaces that will permit pupils with disabilities to be educated to the greatest extent possible in the same buildings or classes with their nondisabled peers. The nonconforming spaces may: (a) allow for the return of pupils with disabilities from private facilities; (b) permit the retention of pupils with disabilities who would otherwise be placed in private facilities; (c) provide space for regional programs in a host school building that houses both disabled and nondisabled pupils; and (d) provide space for the coordination of regional programs by a county special services school district, educational services commission, jointure commission, or other agency authorized by law to provide regional educational services in a school building that houses both disabled and nondisabled pupils. A district's State support ratio shall be adjusted to equal the lesser of the sum of its district aid percentage as defined in section 3 of this act plus 0.25, or 100% for any nonconforming spaces approved by the commissioner pursuant to this paragraph.

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

(1) In the case of a district whose district aid percentage is less than 55% and which has elected not to have the authority undertake the construction of the school facilities project, the commissioner shall notify the district whether the school facilities project is approved and, if so approved, the preliminary eligible costs and the excess costs, if any. Following the determination of preliminary eligible costs and the notification of project approval, the district may appeal to the commissioner for an increase in those costs if the detailed plans and specifications completed by a design professional for the school facilities project indicate that the cost of constructing that portion of the project which is consistent with the facilities efficiency standards and does not exceed the area allowances per FTE student exceeds the preliminary eligible costs as determined by the commissioner for the project by 10% or more. The district shall file its appeal within 30 days of the preparation of the plans and specifications. If the district chooses not to file an appeal, then the final eligible costs shall equal the preliminary eligible costs.

The appeal shall outline the reasons why the preliminary eligible costs calculated for the project are inadequate and estimate the amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10% of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial

and on why the preliminary eligible costs as originally calculated are sufficient.

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

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

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

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

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

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

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

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

at the request of the district to the scope of the school facilities project.

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

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

If any district which is included in district factor group A or B, other than an Abbott district, is having difficulty financing the local share of a school facilities project, the district may apply to the commissioner to receive 100% State support for the project and the commissioner may request the approval of the Legislature to increase the State share of the project to 100%.

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

m. The commissioner shall establish, in consultation with the Abbott districts, a priority ranking of all school facilities projects in the Abbott districts based upon his determination of critical need, and shall establish priority categories for all school facilities projects in non-Abbott districts. The commissioner shall rank projects from Tier I to Tier IV in terms of critical need according to the following prioritization:

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

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

Tier III: technology projects; regionalization or consolidation projects;

Tier IV: other local objectives.

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

o. In the event that a district whose district aid percentage is less than 55% elects not to have the authority undertake construction of a school facilities project, any proceeds of school bonds issued by the district for the purpose of funding the project which remain unspent upon completion of the project shall be used by the district to reduce the outstanding principal amount of the school bonds.

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

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

r. In the event that a district has engaged architectural services to prepare the documents required for initial proposal of a school facilities project, the district shall, if permitted by the terms of the district's contract for architectural services, and at the option of the authority assign the contract for architectural services to the authority if the authority determines that the assignment would be in the best interest of the school facilities project.

s. Notwithstanding anything to the contrary contained in P.L.2000, c.72 (C.18A:7G-1 et al.), an ECPA district, at its option, may provide in its long-range facilities plan submitted pursuant to section 4 of this act, for one or more community early childhood education facilities projects. If the district has requested designation of a demonstration project pursuant to section 6 of this act and is eligible to submit a plan for a community early childhood education facilities project pursuant to this section, the district shall be permitted to include the community early

childhood education facilities project as part of the demonstration project.

(1) An ECPA district seeking to initiate a community early childhood education facilities project shall apply to the commissioner for approval of the project. The application shall, at a minimum, contain the following information: the name of the community provider; evidence that the community provider is licensed by the Department of Human Services pursuant to P.L.1983, c.492 (C.30:5B-1 et seq.) and is a tax exempt nonprofit organization; evidence that the community provider is or shall provide early childhood education programs for the district; a description of the community early childhood education facilities project; a schematic drawing of the project, or at the option of the district, preliminary plans and specifications; a delineation and description of each of the functional components of the project; identification of those portions of the proposed project which shall be devoted in whole or in part to the provision of early childhood education programs to 3 or 4-year old children from the ECPA district; the estimated cost to complete the project as determined by the district in consultation with the community provider; and whether the facility provides services other than early childhood education programs for 3 and 4-year old children, pursuant to a contract with the ECPA district.

(2) The commissioner shall review the proposed early childhood education facilities project to determine whether it is consistent with the district's long-range facilities plan, whether it will provide a facility which is structurally adequate and safe and capable of providing a program which will enable preschool children being served pursuant to the ECPA district's approved early childhood education operational plan to meet the standards for early childhood education programs established by the department and whether there is a need for increased capacity or to rehabilitate existing space to meet these standards. Only those facilities which are used for 3 or 4-year old children pursuant to a contract with the ECPA district shall be eligible for approval, provided that facilities which are jointly used by 3 or 4-year old children from the ECPA district and from other districts shall also be eligible for approval.

(3) If the commissioner approves the project, the commissioner shall determine, in consultation with the authority, the cost to complete the approved project, which shall be the reasonable, estimated cost of the renovation or new construction necessary to provide a facility which is structurally adequate and safe and capable of providing a program which will enable preschool children being served pursuant to the ECPA district's approved early childhood education operation plan to meet the standards for early childhood education programs established by the department. For projects initiated by an Abbott district, the State support shall be 100% of such reasonable, estimated cost. For projects initiated by an ECPA district that is not an Abbott district, the State support shall be an amount equal to 115% of the district aid percentage of that ECPA district, of such reasonable, estimated cost, except that the State support shall not be less than 40% of such reasonable, estimated cost. The commissioner shall issue a final project report to the authority which shall contain a complete description of the project, the actual location of the project, the total square footage of the project together with a breakdown of total square footage by functional component; any other factors to be considered by the authority in undertaking the project; the names and addresses of the people to contact from the district and the community provider; the amount of State support for the project; and the amount of local support required from the community provider to pay for costs, if any, of the project which have not been approved by the commissioner for State support.

(4) Upon submission to the authority of a final project report, the authority shall undertake the financing, acquisition, construction and all other appropriate actions necessary to complete the community early childhood education facilities project, provided, that if there is local support required for the project, such actions shall not commence until the authority receives the local support from the community provider. The authority may, in its discretion, and upon consultation with the commissioner, authorize a community provider to undertake the acquisition, construction and all other appropriate action necessary to complete the project, in which case the authority shall not provide State support until the community provider provides the local support, if any.

(5) In order to implement the arrangements established for community early childhood education facilities projects, the authority shall enter into an agreement with the district, the commissioner and the community provider containing the terms and conditions determined by the parties to be necessary to effectuate the project.

(6) The authority shall require as a condition of providing State support for any

community early childhood education facilities project that the State support must be repaid by the community provider in the event that (a) the commissioner determines that the project is no longer being used for the purposes for which it was intended; or (b) the project is sold, leased or otherwise conveyed to an individual or organization that does not have tax exempt nonprofit or government status.

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

C.18A:7G-14 Powers of authority concerning financing.

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

a. The authority shall have the power, pursuant to the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18 and 19 of this act for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the authority to undertake the financing, design, construction and maintenance of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of this act; and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of this act. The aggregate principal amount of the bonds, notes or other obligations issued by the facilities authority shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. This limitation shall not include any bonds, notes or other obligations issued for refunding purposes.

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

b. The authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of this act and P.L.1974, c.80 (C.34:1B-1 et seq.); provided that notwithstanding any other law to the contrary, no resolution adopted by the authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the authority and the State Treasurer. The authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of this act, or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of this act for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the authority for the purposes set forth in this act may be paid by the authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of this act. The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section.

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

(1) Pledge of the revenues and other receipts to be derived from the payment of local

unit obligations and any other payment made to the authority pursuant to agreements with any local unit, or a pledge or assignment of any local unit obligations, and the rights and interest of the authority therein;

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

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

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

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

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

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

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

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

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

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

g. The State hereby pledges and covenants with the holders of any bonds or refunding bonds issued pursuant to this act that it will not limit or alter the rights or powers vested in the authority by this act, nor limit or alter the rights or powers of the State Treasurer in any manner which would jeopardize the interest of the holders or any trustee of the holders, or inhibit or

prevent performance or fulfillment by the authority or the State Treasurer with respect to the terms of any agreement made with the holders of the bonds or refunding bonds or agreements made pursuant to subsection d. of this section; except that the failure of the Legislature to appropriate moneys for any purpose of this act shall not be deemed a violation of this section.

h. The authority may charge to and collect from local units, districts, the State and any other person, any fees and charges in connection with the authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the authority's administrative, organization, insurance, operating and other expenses incident to the financing, planning, design, construction management, acquisition, construction, completion and placing into service and maintenance of school facilities projects. Notwithstanding any provision of this act to the contrary, no district in Level II monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), or a district whose district aid percentage is greater than or equal to 55% but less than 100% shall be responsible for the payment of any fees and charges related to the authority's operating expenses.

34. Section 2 of P.L.1979, c.294 (C.18A:22-8.1) is amended to read as follows:

C.18A:22-8.1 Transfer of funds, conditions.

2. Except as otherwise provided pursuant to this section, whenever a school district desires to transfer amounts among line items and program categories, the transfers shall be by resolution of the board of education approved by a two-thirds affirmative vote of the authorized membership of the board; however, a board may, by resolution, designate the chief school administrator to approve such transfers as are necessary between meetings of the board. Transfers approved by the chief school administrator shall be reported to the board, ratified and duly recorded in the minutes at a subsequent meeting of the board, but not less than monthly. Transfers of surplus amounts or any other unbudgeted or underbudgeted revenue to line items and program categories shall require the approval of the Commissioner of Education and shall only be approved between April 1 and June 30 for line items and program categories necessary to achieve the thoroughness standards established pursuant to subsection a. of section 4 of P.L.1996, c.138 (C.18A:7F-4); except that upon a two-thirds affirmative vote of the authorized membership of a board of education, the board may petition the commissioner for authority to transfer such revenue prior to April 1 due to an emergent circumstance and the commissioner may authorize the transfer if he determines that the transfer is necessary to meet such emergency. Transfers from any general fund appropriation account that, on a cumulative basis, exceed 10% of the amount of the account included in the school district's budget as certified for taxes shall require the approval of the commissioner. In a school district wherein the Commissioner of Education has directed an in-depth evaluation pursuant to subsection e. of section 14 of P.L.1975, c.212 (C.18A:7A-14), the board of education shall obtain the written approval of the county superintendent of schools prior to implementing any board authorized transfer of funds.

35. Section 67 of P.L.2002, c.43 (C.52:27BBB-63) is amended to read as follows:

C.52:27BBB-63 Membership of board of education in qualified municipality increased; appointments; terms.

67. a. The membership of the board of education serving in a school district which is contiguous with a qualified municipality and which is subject to level II monitoring or level III monitoring pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) prior to the effective date of P.L.2005, c.235 shall be increased as set forth in this section in order to ensure the State's and the municipality's ability to participate in the activities of the board. The membership of the board of education serving in a school district which is contiguous with a qualified municipality so designated after the effective date of P.L.2005, c.235 and which is directed to enter partial State intervention pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) shall be increased as set forth in this section in order to ensure the State's and the municipality's ability to participate in the activities of the board. Board members appointed by the Governor or mayor shall be voting members of the board and shall have all the rights, powers and privileges of a member of the board. Members appointed by the Governor or mayor shall serve at the pleasure of the Governor or mayor, as appropriate. Any vacancy in the membership appointed by the

Governor or mayor shall be filled in the same manner as the original appointment, but for the unexpired term only. The first members appointed by the Governor shall serve for a term commencing upon appointment and qualification and ending three years from the date that the number of members of the board returns to the number on the board prior to the designation of the qualified municipality. Members appointed thereafter shall serve for a term of three years as provided in this section.

In order to ensure substantial local representation on any such board, in no case shall the number of the positions appointed by the mayor and elected by the voters, combined, constitute less than a majority of the total positions on the board. This section shall not apply to State-operated school districts established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.) prior to the effective date of P.L.2005, c.235 or a district under full State intervention established pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.) after the effective date of P.L.2005, c.235.

b. The membership of a type I board of education in a qualified municipality consisting of five members shall be temporarily increased to include two additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years, as set forth in subsection a. of this section. The first two positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to five members. The Governor shall continue to make appointments to fill the positions held by the gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

c. The membership of a type I board of education in a qualified municipality consisting of seven members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years, as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to seven members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

d. The membership of a type I board of education in a qualified municipality consisting of nine members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled by mayoral appointments so that the total membership of the board returns to nine members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees, when their terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term, or for any other reason, in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

e. The membership of a type II board of education in a qualified municipality consisting of three members shall be temporarily increased to include one additional member to be appointed

by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to three members. The Governor shall continue to make appointments to fill the position held by a gubernatorial appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The second position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancy shall be filled by a mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at three. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the position held by a mayoral appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

f. The membership of a type II board of education in a qualified municipality consisting of five members shall be temporarily increased to include two additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first two positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to five members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The third position on the board, the term of which expires after the designation of a qualified municipality, shall be abolished upon expiration of its term and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancy shall be filled by a mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at five. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the position held by a mayoral appointee when the term expires or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, a vacancy resulting from the expiration of the term in the position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

g. The membership of a type II board of education in a qualified municipality consisting of seven members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to seven members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees when

the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The fourth and fifth positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancies shall be filled by mayoral appointments as described in subsection a. of this section so that the total membership of the board remains at seven. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the positions held by mayoral appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

h. The membership of a type II board of education in a qualified municipality consisting of nine members shall be temporarily increased to include three additional members to be appointed by the Governor upon receipt of notification by the Commissioner of Education pursuant to section 4 of P.L.2002, c.43 (C.52:27BBB-4) for a term of three years as set forth in subsection a. of this section. The first three positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality so that the total membership of the board returns to nine members. The Governor shall continue to make appointments to fill the positions held by gubernatorial appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by gubernatorial appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

The fourth, fifth and sixth positions on the board, the terms of which expire after the designation of a qualified municipality, shall be abolished upon expiration of their terms and shall not be filled in the same manner as provided before the designation of the qualified municipality. Instead, the vacancies shall be filled by mayoral appointment as described in subsection a. of this section so that the total membership of the board remains at nine. Mayoral appointees shall serve for a term of three years. The mayor shall continue to make appointments to fill the positions held by mayoral appointees when the terms expire or when a vacancy occurs, until after the tenth year following the designation of the qualified municipality. Beginning in the first year following the tenth year after the designation of the qualified municipality, vacancies resulting from the expiration of a term in any position on the board filled by mayoral appointment shall be filled in the same manner as provided before the designation of the qualified municipality.

i. At all times the board of education and its membership shall comply with the requirements of the "Open Public Meetings Act," P.L.1975, c.231 (C.10:4-6 et seq.) and the "School Ethics Act," P.L.1991, c.393 (C.18A:12-21 et seq.), and meet the requirements and qualifications for board membership established pursuant to chapter 12 of Title 18A of the New Jersey Statutes.

C.18A:7A-15.2 Designation of person to exercise powers of superintendent.

36. If the State board, upon the recommendation of the commissioner, decides not to appoint a State district superintendent in a school district under full State intervention, then the commissioner shall designate a person who may exercise the powers and authorities set forth in chapter 7A of Title 18A of the New Jersey Statutes in accordance with the improvement plan.

C.18A:7A-53 Evaluation of Level I district, Level II or III districts, methodology.

37. a. A district which has been certified as a Level I district by the State Board of Education as of the effective date of this act, shall, in accordance with a schedule established by the commissioner, be evaluated by the commissioner in the five key components of school

district effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-10). Based on a district's compliance with the quality performance indicators, the commissioner shall assess district effectiveness and place the district on the performance continuum.

b. A State-operated district or a district which has been certified as a Level II or a Level III district by the State Board of Education as of the effective date of this act, shall be evaluated by a team of highly skilled professionals in the five key components of school district effectiveness as set forth in section 10 of P.L.1975, c.212 (C.18A:7A-10). The evaluation shall be completed within 45 days of the date on which rules promulgated by the State Board of Education pursuant to section 39 of this act become effective. The commissioner shall establish a process for the receipt of comments from the public during the evaluation. The commissioner shall provide a report of the evaluation to the district within 15 days of the completion of the evaluation. The report shall contain the commissioner's determination of the district's placement on the performance continuum. The district shall have 30 days from the date of receipt of the report to appeal the placement decision to the commissioner. The commissioner shall make a recommendation to the State Board of Education if the recommendation is to place the district under partial or full State intervention. The commissioner and State board shall take whatever action is appropriate based on the district's placement on the performance continuum.

c. If a State-operated school district evaluated pursuant to subsection b. of this section successfully meets the quality performance indicators for the governance component of school district effectiveness, then three years following the State's withdrawal from intervention, the board of education shall call a special election for purposes of placing the question of classification status before the voters of the district, which election shall be conducted in accordance with the provisions of Title 19 of the Revised Statutes concerning school elections.

If the voters of the district elect to become a type I district, it shall be governed by the provisions of chapter 9 of Title 18A of the New Jersey Statutes relating to type I districts after January 31 next ensuing, unless the district is established in a city of the first class, in which case it shall be governed after June 30 next ensuing. The members of the district board of education at the time of said election shall continue in office until expiration of their respective terms and the qualification in office of their successors.

If the voters of the district elect to become a type II district, it shall be governed by the provisions of chapter 9 of Title 18A relating to type II districts and the members of the board of education at the time of said election shall remain and continue in office until the expiration of their respective terms and the qualification of their respective successors.

d. The board of education of a State-operated school district that successfully meets the quality performance indicators for the governance component of school district effectiveness shall be permitted to extend the contract of the superintendent who holds the position at the time of the evaluation conducted pursuant to subsection b. of this section, provide 18-months notice to the superintendent to modify the contract, or allow the contract in effect to expire with the appropriate statutory notice pursuant to subsection b. of section 4 of P.L.1991, c.267 (C.18A:17-20.1).

38. Within one year of the effective date of P.L.2005, c.235, the Commissioner of Education shall submit a report to the Joint Committee on the Public Schools concerning the Department of Education's progress in implementing the New Jersey Quality Single Accountability Continuum and the capacity of the Department of Education to provide the necessary technical assistance and support to school districts in implementing required improvement plans. The report shall outline the needs of the department for any additional resources that may be required based on the department's experience in implementing the accountability system.

39. The State Board of Education shall promulgate rules pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the provisions of this act.

Repealer.

40. The following sections are hereby repealed:
Section 1 of P.L.1991, c.3 (C.18A:7A-14.1);
P.L.1997, c.432 (C.18A:7A-14.3 et seq.);

Section 2 of P.L.1987, c.400 (C.18A:7A-31.1);

Section 5 of P.L.1987, c.400 (C.18A:7A-31.4);

Section 15 of P.L.1987, c.399 (C.18A:7A-48).

41. This act shall take effect immediately.

Approved September 26, 2005.