

[First Reprint]

SENATE, No. 2796

STATE OF NEW JERSEY
212th LEGISLATURE

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Sponsored by:

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District 31 (Hudson)

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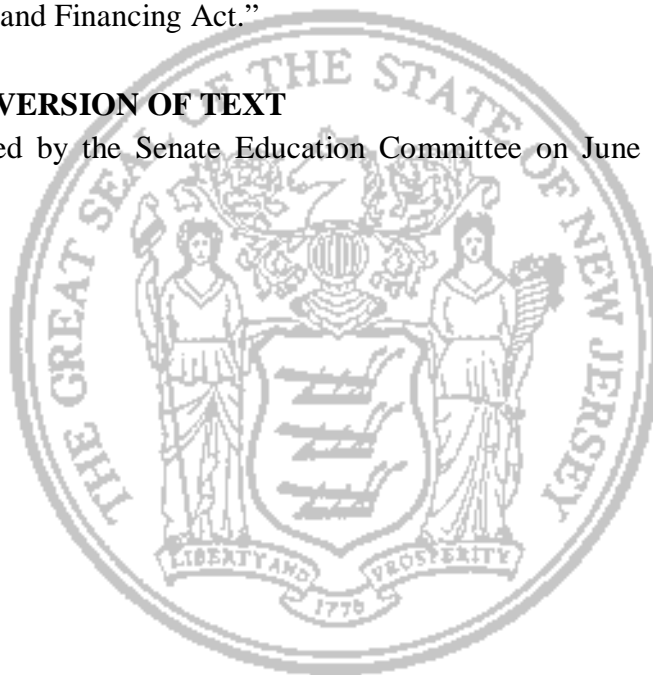
Senators Girgenti and Sweeney

SYNOPSIS

Establishes the New Jersey Schools Development Authority and revises the school construction program established under the “Educational Facilities Construction and Financing Act.”

CURRENT VERSION OF TEXT

As reported by the Senate Education Committee on June 21, 2007, with amendments.



(Sponsorship Updated As Of: 6/22/2007)

1 AN ACT concerning the construction and financing of public school
2 facilities and revising parts of the statutory law.

3

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

6

7 1. (New section) The Legislature finds and declares that:

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

14 b. Inadequacies in the quality, utility, and safety of educational
15 facilities among school districts of this State, and particularly in
16 Abbott districts, led to the enactment of the “Educational Facilities
17 Construction and Financing Act,” P.L.2000, c.72. That law
18 authorized the New Jersey Economic Development Authority to
19 undertake a comprehensive school construction and financing
20 program, including the funding, designing, and constructing of
21 school facilities for the Abbott districts and certain other types of
22 districts.

23 c. The New Jersey Schools Construction Corporation was
24 created in August 2002 as a subsidiary of the New Jersey Economic
25 Development Authority pursuant to the provisions of section 16 of
26 P.L.1997, c.150 (C.34:1B-159) and Executive Order No. 24 of 2002
27 to, among other things, focus, coordinate, and centralize the efforts
28 to design and construct school facilities in the Abbott districts and
29 certain other types of districts.

30 d. In February 2005, an investigation of the activities of the New
31 Jersey Schools Construction Corporation was undertaken by the
32 Inspector General. The Inspector General found that structural and
33 operational problems at the corporation were impeding the progress
34 of the school construction program and made recommendations for
35 actions to improve the program.

36 e. The corporation initiated reform efforts to implement the
37 recommendations of the Inspector General. While undertaking
38 these reform efforts and continuing to undertake the design and
39 construction of school facilities projects, it was determined that
40 there would be insufficient funding available under the
41 “Educational Facilities Construction and Financing Act” to
42 complete all the school facilities projects in the Abbott districts. A
43 joint effort by the New Jersey Schools Construction Corporation
44 and the Department of Education resulted in a prioritization of
45 projects to be completed with remaining funds.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SED committee amendments adopted June 21, 2007.

1 f. Governor Jon S. Corzine issued Executive Order No. 3 of
2 2006 in February 2006 which created an Interagency Working
3 Group on School Construction to study management reforms and
4 legislative action necessary to improve the school construction
5 program.

6 g. The Interagency Working Group on School Construction
7 recommended statutory changes including the creation of a new
8 school construction authority with a specific focus on Abbott
9 district construction, a governance structure tailored to its mission,
10 project implementation requirements to ensure that projects are
11 undertaken consistent with educational priorities, land acquisition
12 and procurement reforms to improve efficiencies, provide
13 flexibility, and control costs, and a greater role and responsibility
14 given to the Abbott districts in managing certain types of projects.

15 h. The initiatives provided herein implement the
16 recommendations of the Interagency Working Group on School
17 Construction with regard to the creation of a new school
18 construction authority and the undertaking of projects for and by
19 Abbott districts so as to ensure that the agency undertaking the
20 school construction program has adequate internal controls,
21 processes, and procedures to undertake additional school facilities
22 projects ¹; and the initiatives also provide opportunities for the
23 Abbott districts, the public, and stakeholders to provide input
24 during the various phases of the construction of school facilities
25 projects¹.

26
27 2. (New section) As used in sections 1 through 13 of
28 P.L. , c. (C.) (pending before the Legislature as this bill), unless
29 a different meaning appears from the context:

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

34 "Development authority" means the New Jersey Schools
35 Development Authority, established pursuant section 3 of
36 P.L. , c. (C.) (pending before the Legislature as this bill);

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

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

1 "Other facilities" means athletic stadiums, swimming pools, any
2 associated structures or related equipment tied to such facilities
3 including, but not limited to, grandstands and night field lights,
4 greenhouses, facilities used for non-instructional or non-educational
5 purposes, and any structure, building or facility used solely for
6 school administration;

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

17 "School facility" means and includes any structure, building or
18 facility used wholly or in part for educational purposes by a district
19 and facilities that physically support such structures, buildings and
20 facilities, such as district wastewater treatment facilities, power
21 generating facilities, and steam generating facilities, but shall
22 exclude other facilities.

23

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

33 b. The development authority shall consist of the
34 Commissioner of Education, the Commissioner of the Department
35 of Community Affairs, the executive director of the Economic
36 Development Authority, and the State Treasurer, who shall serve as
37 ex officio members; and 11 public members appointed by the
38 Governor with the advice and consent of the Senate. At least one of
39 the public members shall have knowledge or expertise in the area of
40 law enforcement and the remaining public members shall have
41 knowledge or expertise in real estate development, construction
42 management, finance, architectural or building design, or any other
43 related field.

44 c. Each public member shall serve for a term of five years and
45 shall hold office for the term of the member's appointment and until
46 the member's successor shall have been appointed and qualified. A
47 member shall be eligible for reappointment. Any vacancy in the
48 membership occurring other than by expiration of term shall be

1 filled in the same manner as the original appointment but for the
2 unexpired term only.

3 In the case of the first 11 public members appointed, three shall
4 serve for a term of two years, three shall serve for a term of three
5 years, three shall serve for a term of four years, and two shall serve
6 for a term of five years.

7 d. Each member appointed by the Governor may be removed
8 from office by the Governor, for cause, after a public hearing, and
9 may be suspended by the Governor pending the completion of such
10 hearing. Each member before entering upon his duties shall take
11 and subscribe an oath to perform the duties of the office faithfully,
12 impartially and justly to the best of his ability. A record of such
13 oath shall be filed in the Office of the Secretary of State.

14 e. A chairperson shall be appointed by the Governor from the
15 public members. The members of the development authority shall
16 elect from their remaining number a vice-chairperson, a secretary,
17 and a treasurer thereof. The development authority shall employ an
18 executive director who shall be its chief executive officer. The
19 powers of the development authority shall be vested in the members
20 thereof in office from time to time and eight members of the
21 development authority shall constitute a quorum at any meeting
22 thereof. Action may be taken and motions and resolutions adopted
23 by the development authority at any meeting thereof by the
24 affirmative vote of at least eight members of the development
25 authority. No vacancy in the membership of the development
26 authority shall impair the right of a quorum of the members to
27 exercise all the powers and perform all the duties of the
28 development authority.

29 f. Each member of the development authority shall execute a
30 bond to be conditioned upon the faithful performance of the duties
31 of such member in such form and amount as may be prescribed by
32 the Director of the Division of Budget and Accounting in the
33 Department of the Treasury. Such bonds shall be filed in the Office
34 of the Secretary of State. At all times thereafter the members and
35 treasurer of the development authority shall maintain such bonds in
36 full force and effect. All costs of such bonds shall be borne by the
37 development authority.

38 g. The members of the development authority shall serve
39 without compensation, but the development authority may
40 reimburse its members for actual expenses necessarily incurred in
41 the discharge of their duties. Notwithstanding the provisions of any
42 other law to the contrary, no officer or employee of the State shall
43 be deemed to have forfeited or shall forfeit any office or
44 employment or any benefits or emoluments thereof by reason of the
45 acceptance of the office of ex officio member of the development
46 authority or any services therein.

47 h. Each ex officio member of the development authority may
48 designate an officer or employee of the member's department to

1 represent the member at meetings of the development authority, and
2 each such designee may lawfully vote and otherwise act on behalf
3 of the member for whom the person constitutes the designee. Any
4 such designation shall be in writing delivered to the development
5 authority and shall continue in effect until revoked or amended by
6 writing delivered to the development authority.

7 i. The development authority shall appoint from among its
8 members an audit committee and such other committees as it deems
9 necessary or conducive to the efficient management and operation
10 of the development authority.

11 j. The development authority may be dissolved by act of the
12 Legislature on condition that the development authority has no
13 debts or obligations outstanding or that provision has been made for
14 the payment or retirement of such debts or obligations. Upon any
15 such dissolution of the development authority, all property, funds
16 and assets thereof shall be vested in the State.

17 k. A true copy of the minutes of every meeting of the
18 development authority shall be forthwith delivered by and under the
19 certification of the secretary thereof to the Governor. No action
20 taken at the meeting by the development authority shall have force
21 or effect until 10 days, Saturdays, Sundays, and public holidays
22 excepted, after the copy of the minutes shall have been so delivered,
23 unless during such 10-day period the Governor shall approve the
24 same in which case the action shall become effective upon such
25 approval. If, in that 10-day period, the Governor returns a copy of
26 the minutes with veto of any action taken by the development
27 authority or any member thereof at the meeting, the action shall be
28 null and void and of no effect.

29 l. The development authority shall cause an audit of its books
30 and accounts to be made at least once in each year by certified
31 public accountants and cause a copy thereof to be filed with the
32 Secretary of State ¹[and] ² the Director of the Division of Budget
33 and Accounting in the Department of the Treasury ¹ and the State
34 Auditor¹.

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

39 n. The Director of the Division of Budget and Accounting in
40 the Department of the Treasury and the director's legally authorized
41 representatives are authorized and empowered from time to time to
42 examine the accounts, books and records of the development
43 authority including its receipts, disbursements, contracts, funds,
44 investments and any other matters relating thereto and to its
45 financial standing.

46 o. No member, officer, employee or agent of the development
47 authority shall be interested, either directly or indirectly, in any
48 school facilities project, or in any contract, sale, purchase, lease or

1 transfer of real or personal property to which the development
2 authority is a party.

3

4 4. (New section) The development authority shall have the
5 following powers:

6 a. To adopt bylaws for the regulation of its affairs and the
7 conduct of its business;

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

9 c. To sue and be sued;

10 d. To acquire in the name of the development authority by
11 purchase or otherwise, on such terms and conditions and such
12 manner as it may deem proper, or by the exercise of the power of
13 eminent domain in the manner provided by the "Eminent Domain
14 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or
15 interests therein or other property which it may determine is
16 reasonably necessary for any school facilities project;

17 e. To enter into contracts with a person upon such terms and
18 conditions as the development authority shall determine to be
19 reasonable, including, but not limited to, for the planning, design,
20 construction, reconstruction, improvement, equipping, furnishing,
21 operation and maintenance of a school facilities project and the
22 reimbursement thereof, and to pay or compromise any claims
23 arising therefrom;

24 f. To sell, convey or lease to any person all or any portion of its
25 property, for such consideration and upon such terms as the
26 development authority may determine to be reasonable;

27 g. To mortgage, pledge or assign or otherwise encumber all or
28 any portion of any property or revenues, whenever it shall find such
29 action to be in furtherance of the purposes of P.L.2000, c.72
30 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
31 Legislature as this bill);

32 h. To grant options to purchase or renew a lease for any of its
33 property on such terms as the development authority may determine
34 to be reasonable;

35 i. To contract for and to accept any gifts or grants or loans of
36 funds or property or financial or other aid in any form from the
37 United States of America or any agency or instrumentality thereof,
38 or from the State or any agency, instrumentality or political
39 subdivision thereof, or from any other source and to comply,
40 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
41 P.L. , c. (C.) (pending before the Legislature as this bill), with
42 the terms and conditions thereof;

43 j. In connection with any application for assistance under
44 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L. , c. (C.) (pending
45 before the Legislature as this bill) or commitments therefor, to
46 require and collect such fees and charges as the development
47 authority shall determine to be reasonable;

- 1 k. To adopt, amend and repeal regulations to carry out the
2 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
3 P.L. , c. (C.) (pending before the Legislature as this bill);
- 4 l. To acquire, purchase, manage and operate, hold and dispose of
5 real and personal property or interests therein, take assignments of
6 rentals and leases and make and enter into all contracts, leases,
7 agreements and arrangements necessary or incidental to the
8 performance of its duties;
- 9 m. To purchase, acquire and take assignments of notes,
10 mortgages and other forms of security and evidences of
11 indebtedness;
- 12 n. To purchase, acquire, attach, seize, accept or take title to any
13 property by conveyance or by foreclosure, and sell, lease, manage
14 or operate any property for a use specified in P.L.2000, c.72
15 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
16 Legislature as this bill);
- 17 o. To employ consulting engineers, architects, attorneys, real
18 estate counselors, appraisers, and such other consultants and
19 employees as may be required in the judgment of the development
20 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1
21 et al.) and P.L. , c. (C.) (pending before the Legislature as this
22 bill) and to fix and pay their compensation from funds available to
23 the development authority therefor, all without regard to the
24 provisions of Title 11A of the New Jersey Statutes;
- 25 p. To do and perform any acts and things authorized by
26 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending
27 before the Legislature as this bill) under, through or by means of its
28 own officers, agents and employees, or by contract with any person;
- 29 q. To procure insurance against any losses in connection with
30 its property, operations or assets in such amounts and from such
31 insurers as it deems desirable;
- 32 r. To do any and all things necessary or convenient to carry out
33 its purposes and exercise the powers given and granted in P.L.2000,
34 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
35 Legislature as this bill);
- 36 s. To construct, reconstruct, rehabilitate, improve, alter, equip,
37 maintain or repair or provide for the construction, reconstruction,
38 improvement, alteration, equipping or maintenance or repair of any
39 property and lot, award and enter into construction contracts,
40 purchase orders and other contracts with respect thereto, upon such
41 terms and conditions as the development authority shall determine
42 to be reasonable, including, but not limited to, reimbursement for
43 the planning, designing, construction, reconstruction, improvement,
44 equipping, furnishing, operation and maintenance of any such
45 property and the settlement of any claims arising therefrom;
- 46 t. To undertake school facilities projects and to enter into
47 agreements or contracts, execute instruments, and do and perform
48 all acts or things necessary, convenient or desirable for the purposes

1 of the development authority to carry out any power expressly
2 provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 including, but not limited to, entering into contracts with the State
5 Treasurer, the New Jersey Economic Development Authority, the
6 Commissioner of Education, districts, and any other entity which
7 may be required in order to carry out the provisions of P.L.2000,
8 c.72 (C.18A:7G-1 et al.) or P.L. , c. (C.) (pending before the
9 Legislature as this bill);

10 u. To enter into leases, rentals or other disposition of a real
11 property interest in and of any school facilities project to or from
12 any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
13 P.L. , c. (C.) (pending before the Legislature as this bill);

14 v. To make and contract to make loans or leases to local units to
15 finance the cost of school facilities projects and to acquire and
16 contract to acquire bonds, notes or other obligations issued or to be
17 issued by local units to evidence the loans or leases, all in
18 accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et
19 al.) and P.L. , c. (C.) (pending before the Legislature as this
20 bill);

21 w. To charge to and collect from local units, the State, and any
22 other person, any fees and charges in connection with the
23 development authority's actions undertaken with respect to school
24 facilities projects including, but not limited to, fees and charges for
25 the development authority's administrative, organization, insurance,
26 operating and other expenses incident to the planning, design,
27 construction and placing into service and maintenance of school
28 facilities projects.

29

30 5. (New section) a. The development authority shall adopt
31 rules and regulations pursuant to the "Administrative Procedure
32 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to require that not less
33 than the prevailing wage rate be paid to workers employed in the
34 performance of any construction contract undertaken in connection
35 with any of its school facilities projects. The development authority
36 shall provide for the proper enforcement and administration of these
37 rules and regulations.

38 b. A violation of the rules and regulations adopted pursuant to
39 this section shall be deemed to be a violation of P.L.1963, c. 150
40 (C.34:11-56.25 et seq.). The Commissioner of Labor and
41 Workforce Development and any worker shall have the same
42 powers of enforcement against violations of such rules and
43 regulations as are provided by sections 11 through 16, inclusive, of
44 P.L.1963, c.150 (C.34:11-56.35 - 34:11-56.40).

45 c. The rules and regulations concerning the prevailing wage rate
46 in connection with school facilities projects which have been
47 adopted by the New Jersey Schools Construction Corporation
48 pursuant to the provisions of P.L.2000, c. 72 (C.18A:7G-1 et al.)

1 shall remain in full force and effect unless subsequently revised by
2 the development authority following the enactment of
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4
5 6. (New section) a. The development authority shall adopt rules
6 and regulations pursuant to the "Administrative Procedure Act,"
7 P.L.1968, c.410 (C.52:14B-1 et seq.), to establish an affirmative
8 action program for the hiring of minority workers employed in the
9 performance of construction contracts undertaken in connection
10 with any of its school facilities projects, and to expand the business
11 opportunities of socially and economically disadvantaged
12 contractors and vendors seeking to provide materials and services
13 for those contracts, consistent with the provisions of the "Law
14 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.). The
15 development authority shall provide for the proper enforcement and
16 administration of these rules and regulations.

17 b. The development authority may allocate up to one-half of one
18 percent of the annual value of its construction program to the
19 financing of minority and women worker outreach and training
20 programs pertinent to school facilities project construction.

21 c. The rules and regulations establishing an affirmative action
22 program adopted by the New Jersey Schools Construction
23 Corporation pursuant to the provisions of P.L.2000, c. 72
24 (C.18A:7G-1 et al.) shall remain in full force and effect unless
25 subsequently revised by the development authority following the
26 enactment of P.L. , c. (C.) (pending before the Legislature as
27 this bill).

28
29 7. (New section) In the exercise of powers granted by P.L.2000,
30 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
31 Legislature as this bill) in connection with any school facilities
32 project, any and all claims, damages, losses, liabilities or costs that
33 the development authority may incur shall be payable only from the
34 amounts made available to the development authority pursuant to
35 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending
36 before the Legislature as this bill). In connection with any
37 agreement or contract entered into by the development authority
38 relating to any school facilities project, there shall be no recovery
39 against the development authority for punitive or consequential
40 damages arising out of contract nor shall there be any recovery
41 against the development authority for claims based upon implied
42 warranties or upon contracts implied in law.

43
44 8. (New section) a. No municipality shall modify or change the
45 drawings, plans or specifications for the construction,
46 reconstruction, rehabilitation, alteration or improvement of any
47 school facilities project of the development authority, or the
48 construction, plumbing, heating, lighting or other mechanical

1 branch of work necessary to complete the work in question, nor to
2 require that any person, firm or corporation employed on any such
3 work shall perform the work in any other or different manner than
4 that provided by the drawings, plans and specifications, nor to
5 require that any person, firm or corporation obtain any other or
6 additional authority, approval, permit or certificate from the
7 municipality in relation to the work being done, and the doing of
8 the work by any person, firm or corporation in accordance with the
9 terms of the drawings, plans, specifications or contracts shall not
10 subject the person, firm or corporation to any liability or penalty,
11 civil or criminal, other than as may be stated in the contracts or
12 incidental to the proper enforcement thereof; nor shall any
13 municipality require the development authority or any person, firm,
14 partnership or corporation which leases or purchases the school
15 facilities project for lease or purchase to a State agency, to obtain
16 any other or additional authority, approval, permit, certificate or
17 certificate of occupancy from the municipality as a condition of
18 owning, using, maintaining, operating or occupying any school
19 facilities project acquired, constructed, reconstructed, rehabilitated,
20 altered or improved by the development authority or by any
21 subsidiary thereof. The foregoing provisions shall not preclude any
22 municipality from exercising the right of inspection for the purpose
23 of requiring compliance by any school facilities project with local
24 requirements for operation and maintenance affecting the health,
25 safety and welfare of the occupants thereof, provided that the
26 compliance does not require changes, modifications or additions to
27 the original construction of the school facilities project.

28 b. Each municipality in which any school facilities project of
29 the development authority is located shall provide for the school
30 facilities project, whether then owned by the development authority,
31 any subsidiary, any State agency, or any person, firm, partnership or
32 corporation, police, fire, sanitation, health protection and other
33 municipal services of the same character and to the same extent as
34 those provided for other residents of the municipality.

35 c. Notwithstanding the provisions of any law, rule or regulation
36 to the contrary and except as otherwise provided by any federal law,
37 the development authority shall be exempt from all connection,
38 tapping, maintenance or capital improvement fees or charges in
39 respect to each connection of any school facility project with a
40 water or sewerage system operated by a political subdivision or
41 agency of the State.

42 d. In carrying out any school facilities project, the development
43 authority may enter into contractual agreements with local
44 government agencies with respect to the furnishing of any
45 community, municipal, or public facilities or services necessary or
46 desirable for the school facilities project, and any local government
47 agency may enter into these contractual agreements with the
48 authority and do all things necessary to carry out its obligations.

1 9. (New section) a. In undertaking any school facilities projects
2 where the cost of construction, reconstruction, rehabilitation or
3 improvement will exceed \$25,000, the development authority may
4 prepare, or cause to be prepared, separate plans and specifications
5 for: (1) the plumbing and gas fitting and all work and materials
6 kindred thereto, (2) the steam and hot water heating and ventilating
7 apparatus, steam power plants and all work and materials kindred
8 thereto, (3) the electrical work, (4) structural steel and
9 miscellaneous iron work and materials, and (5) all general
10 construction, which shall include all other work and materials
11 required to complete the building.

12 Commencing in the fifth year after the year in which P.L. , c.
13 (C.) (pending before the Legislature as this bill) takes effect, and
14 every five years thereafter, the Governor, in consultation with the
15 Department of the Treasury, shall adjust the amount set forth in this
16 subsection or the amount resulting from any adjustment under this
17 subsection in direct proportion to the rise or fall of the index rate as
18 defined in this subsection, and shall round the adjustment to the
19 nearest \$1,000. The Governor shall, no later than June 1 of every
20 fifth year, notify the development authority of the adjustment. The
21 adjustment shall become effective on July 1 of the year in which it
22 is made.

23 For the purposes of this subsection, “index rate” means the rate
24 of annual percentage increase, rounded to the nearest half-percent,
25 in the Implicit Price Deflator for State and Local Government
26 Purchases of Goods and Services, computed and published quarterly
27 by the United States Department of Commerce, Bureau of
28 Economic Analysis.

29 b. The development authority shall advertise and receive (1)
30 separate bids for each of the branches of work specified in
31 subsection a. of this section; or (2) bids for all the work and
32 materials required to complete the school facilities project to be
33 included in a single overall contract, in which case there shall be set
34 forth in the bid the name or names of all subcontractors to whom
35 the bidder will subcontract for the furnishing of any of the work and
36 materials specified in branches (1) through (4) in subsection a. of
37 this section; or (3) both.

38 c. Contracts shall be awarded as follows: (1) if bids are
39 received in accordance with paragraph (1) of subsection b. of this
40 section, the development authority shall determine the responsible
41 bidder for each branch whose bid, conforming to the invitation for
42 bids, will be most advantageous to the development authority, price
43 and other factors considered; (2) if bids are received in accordance
44 with paragraph (2) of subsection b. of this section, the development
45 authority shall determine the responsible bidder for the single
46 overall contract whose bid, conforming to the invitation for bids,
47 will be the most advantageous to the development authority, price
48 and other factors considered; or (3) if bids are received in

1 accordance with paragraph (3) of subsection b. of this section, the
2 development authority shall award separate contracts for each
3 branch of work specified in subsection a. of this section if the sum
4 total of the amounts bid by the responsible bidders for each branch,
5 as determined pursuant to paragraph (1) of this subsection, is less
6 than the amount bid by the responsible bidder for all of the work
7 and materials, as determined pursuant to paragraph (2) of this
8 subsection; but if the sum total of the amounts bid by the
9 responsible bidder for each branch, as determined pursuant to
10 paragraph (1) of this subsection is not less than the amount bid by
11 the responsible bidder for all of the work and materials, as
12 determined pursuant to paragraph (2) of this subsection, the
13 development authority shall award a single over-all contract to the
14 responsible bidder for all of the work and materials as determined
15 pursuant to paragraph (2) of this subsection.

16 d. For the purposes of this section, "other factors" means the
17 evaluation by the development authority of the ability of the single
18 contractor or the abilities of the multiple contractors to complete the
19 contract in accordance with its requirements and includes
20 requirements relating to the experience and qualifications of the
21 contractor or contractors and their key personnel in projects of
22 similar type and complexity; the performance of the contractor or
23 contractors on prior contracts with the development authority, the
24 State, or districts; the experience and capability of the contractor or
25 contractors and their key personnel in respect to any special
26 technologies, techniques or expertise that the project may require;
27 the contractor's understanding of the means and methods needed to
28 complete the project on time and within budget; the timetable to
29 complete the project; the contractor's plan for quality assurance and
30 control; the contractor's demonstrated experience in regard to
31 affirmative action; and other similar types of factors. The "other
32 factors" to be considered in evaluating bids and the weights
33 assigned to price and these "other factors" shall be determined by
34 the development authority prior to the advertisement for bids for
35 school facilities projects. In its evaluation of bids, the consideration
36 given to price by the development authority shall be at least equal to
37 the consideration given to the combination of all "other factors."

38 e. The development authority shall require from all contractors
39 to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-
40 1 et al.) and P.L. , c. (C.) (pending before the Legislature as
41 this bill), the delivery of a payment and performance bond issued in
42 accordance with N.J.S.2A:44-143 et seq.

43 f. The development authority shall adopt regulations to
44 implement this section which shall include, but not be limited to,
45 the procedural requirements for: (1) the evaluation and weighting of
46 price and "other factors" in the awarding of contracts; and (2) the
47 appealing of a prequalification classification and rating, a bid
48 rejection, and a contract award recommendation.

1 The rules and regulations promulgated by the New Jersey
2 Schools Construction Corporation pursuant to the provisions of
3 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and
4 effect unless subsequently revised by the development authority
5 following the enactment of P.L. , c. (C.) (pending before the
6 Legislature as this bill).

7 g. Each evaluation committee selected by the development
8 authority to review and evaluate bids shall, at a minimum, contain a
9 representative from the district in which the school facilities project
10 is located if the district elects to participate.

11 h. All advertisements for bids shall be published in a legal
12 newspaper and be posted on the development authority's website
13 sufficiently in advance of the date fixed for receiving the bids to
14 promote competitive bidding but in no event less than ¹[7] 10¹
15 days prior to such date. Notice of revisions or addenda to
16 advertisements or bid documents relating to bids shall be advertised
17 on the development authority's website to best give notice to
18 bidders no later than seven days, Saturdays, Sundays and holidays
19 excepted, prior to the bid due date. The notice shall be provided to
20 any person who has submitted a bid, in one of the following ways:
21 (a) in writing by certified mail or (b) by certified facsimile
22 transmission, meaning that the sender's facsimile machine produces
23 a receipt showing date and time of transmission and that the
24 transmission was successful or (c) by a delivery service that
25 provides certification of delivery to the sender. Failure to advertise
26 or provide proper notification of revisions or addenda to
27 advertisements or bid documents related to bids as prescribed by
28 this section shall prevent the acceptance of bids and require the
29 readvertisement for bids. Failure to obtain a receipt when good
30 faith notice is sent or delivered to the address or telephone facsimile
31 number on file with the development authority shall not be
32 considered failure by the development authority to provide notice.

33 i. Any purchase, contract, or agreement may be made,
34 negotiated, or awarded by the development authority without public
35 bid or advertising when the public exigency so requires.

36 j. Any purchase, contract, or agreement may be made,
37 negotiated, or awarded by the development authority without public
38 bid or advertising when the authority has advertised for bids on two
39 occasions and has received no bids on both occasions in response to
40 its advertisements. Any purchase, contract, or agreement may be
41 negotiated by the development authority after public bid or
42 advertising when the authority receives only a single responsive
43 bid, provided however that negotiation with that single responsive
44 bidder shall be limited to price.

45
46 10. (New section) a. If the development authority shall find it
47 necessary in connection with the undertaking of any school
48 facilities project to change the location of any portion of any public

1 highway or road, it may contract with any government agency, or
2 public or private corporation which may have jurisdiction over the
3 public highway or road to cause the public highway or road to be
4 constructed at such locations as the authority shall deem most
5 favorable. The cost of the reconstruction and any damage incurred
6 in changing the location of the highway shall be ascertained and
7 paid by the development authority as part of the cost of the school
8 facilities project. Any public highway affected by the construction
9 of any school facilities project may be vacated or relocated by the
10 development authority in the manner now provided by law for the
11 vacation or relocation of public roads, and any damages awarded on
12 account thereof shall be paid by the development authority as a part
13 of the cost of the school facilities project. In all undertakings
14 authorized by this subsection, the development authority shall
15 consult and obtain the approval of the Commissioner of the
16 Department of Transportation.

17 b. The development authority and its authorized agents and
18 employees may enter upon any lands, waters, and premises for the
19 purpose of making surveys, soundings, drillings, and examinations
20 as it may deem necessary or convenient for the purposes of this act,
21 all in accordance with due process of law, and this entry shall not be
22 deemed a trespass nor shall an entry for this purpose be deemed an
23 entry under any condemnation proceedings which may be then
24 pending. The development authority shall make reimbursement for
25 any actual damages resulting to the lands, waters and premises as a
26 result of these activities.

27 c. The development authority shall have the power to make
28 reasonable regulations for the installation, construction,
29 maintenance, repair, renewal, relocation, and removal of tracks,
30 pipes, mains, conduits, cables, wires, towers, poles, and other
31 equipment and appliances, herein called "public utility facilities," or
32 any public utility as defined in R.S.48:2-13, in, on, along, over or
33 under any school facilities project. Whenever the development
34 authority shall determine that it is necessary that any public utility
35 facilities which now are, or hereafter may be, located in, on, along,
36 over, or under any school facilities project shall be relocated in the
37 school facilities project, or should be removed from the school
38 facilities project, the public utility owning or operating the facilities
39 shall relocate or remove them in accordance with the order of the
40 development authority. The cost and expenses of the relocation or
41 removal, including the cost of installing the facilities in a new
42 location or new locations, and the cost of any lands, or any rights or
43 interests in lands, and any other rights, acquired to accomplish the
44 relocation or removal, shall be ascertained and paid by the
45 development authority as a part of the cost of the school facilities
46 project. In case of any relocation or removal of facilities, the public
47 utility owning or operating them, its successors or assigns, may
48 maintain and operate the facilities, with the necessary

1 appurtenances, in the new location or new locations, for as long a
2 period, and upon the same terms and conditions, as it had the right
3 to maintain and operate the facilities in their former location or
4 locations. In all undertakings authorized by this subsection the
5 development authority shall consult and obtain the approval of the
6 Board of Public Utilities.

7
8 11. (New section) The exercise of the powers granted by
9 P.L. , c. (C.) (pending before the Legislature as this bill) and
10 P.L.2000, c.72 (C.18A:7G-1 et al.) shall constitute the performance
11 of an essential governmental function and the development
12 authority shall not be required to pay any taxes or assessments upon
13 or in respect of a school facilities project, or any property or
14 moneys of the development authority, and the development
15 authority, its school facilities projects, property, and moneys and
16 any bonds and notes issued under the provisions of
17 P.L. , c. (C.) (pending before the Legislature as this bill) and
18 P.L.2000, c.72 (C.18A:7G-1 et al.), their transfer and the income
19 therefrom, including any profit made on the sale thereof, shall at all
20 times be free from taxation of every kind by the State except for
21 transfer, inheritance and estate taxes and by any political
22 subdivision of the State.

23
24 12. (New section) All property of the development authority
25 shall be exempt from levy and sale by virtue of an execution and no
26 execution or other judicial process shall issue against the same nor
27 shall any judgment against the development authority be a charge or
28 lien upon its property.

29
30 13. (New section) a. The New Jersey Schools Construction
31 Corporation established pursuant to section 16 of P.L.1997, c.150
32 (C.34:1B-159) and Executive Order No. 24 of 2002 is abolished and
33 all its functions, powers, duties, and employees are transferred to
34 the New Jersey Schools Development Authority in, but not of, the
35 Department of the Treasury.

36 b. Whenever, in any law, rule, regulation, order, contract,
37 document, judicial or administrative proceeding or otherwise,
38 reference is made to the New Jersey Schools Construction
39 Corporation, the same shall mean and refer to the New Jersey
40 Schools Development Authority in, but not of, the Department of
41 the Treasury.

42 c. This transfer shall be subject to the provisions of the "State
43 Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et seq.).

44
45 14. (New section) a. In the event that the development authority
46 funds 100% of the cost of the acquisition of land for the
47 construction of a school facilities project and as a result of the
48 construction of that project a school building located in the district

1 and the land upon which the school building is situate are no longer
2 necessary for educational purposes, title to the land together with
3 the school building on the land shall be conveyed to and shall vest
4 in the New Jersey Schools Development Authority established
5 pursuant to section 3 of P.L. , c. (C.) (pending before the
6 Legislature as this bill) when it is determined by the development
7 authority that such conveyance is in the best interest of the
8 development authority. The district shall execute any documents
9 including, but not limited to, a deed of conveyance necessary to
10 accomplish the transfer of title.

11 b. The development authority may retain or sell the land and
12 buildings on that land acquired pursuant to subsection a. of this
13 section. In the event the development authority elects to sell, it
14 shall use a competitive process. The proceeds of that sale shall be
15 applied to the costs of school facilities projects of the district.

16 c. The transfer of title pursuant to subsection a. of this section
17 shall occur in accordance with a schedule determined by the
18 development authority. The schedule may provide that the transfer
19 occur prior to the completion of the construction of the new school
20 facilities project if the development authority deems it necessary in
21 order to complete additional school facilities projects within the
22 district.

23

24 15. (New section) If land is necessary to be acquired in
25 connection with a school facilities project in an Abbott district, the
26 board of education of the district and the governing body of the
27 municipality in which the district is situate shall jointly submit to
28 the commissioner and to the development authority a complete
29 inventory of all district- and municipal-owned land located in the
30 municipality. The inventory shall include a map of the district
31 showing the location of each of the identified parcels of land. The
32 board of education and the governing body of the municipality shall
33 provide an analysis of why any district- or municipal-owned land is
34 not suitable as a site for a school facilities project identified in the
35 district's long range facilities plan. The inventory shall be updated
36 as needed in connection with any subsequent school facilities
37 projects for which it is necessary to acquire land.

38

39 16. (New section) a. Whenever the board of education of an
40 Abbott district submits to the New Jersey Schools Development
41 Authority established pursuant to P.L. , c. (C.) (pending
42 before the Legislature as this bill) information on a proposed
43 preferred site for the construction of a school facilities project, the
44 development authority shall file a copy of a map, plan or report
45 indicating the proposed preferred site with the county clerk of the
46 county within which the site is located and with the municipal clerk,
47 planning board, and building inspector of the municipality within
48 which the site is located.

1 b. Whenever a map, plan, or report indicating a proposed
2 preferred site for the construction of an Abbott district school
3 facilities project is filed by the development authority pursuant to
4 subsection a. of this section, any municipal approving authority
5 before granting any site plan approval, building permit, or approval
6 of a subdivision plat, or exercising any other approval power with
7 respect to the development or improvement of any lot, tract, or
8 parcel of land which is located wholly or partially within the
9 proposed preferred site shall refer the site plan, application for a
10 building permit or subdivision plat or any other application for
11 proposed development or improvement to the development
12 authority for review and recommendation as to the effect of the
13 proposed development or improvement upon the construction of the
14 school facilities project.

15 c. A municipal approving authority shall not issue any site plan
16 approval or building permit or approve a subdivision plat or
17 exercise any other approval power with respect to the development
18 or improvement of the lot, tract, or parcel of land without the
19 recommendation of the development authority until 45 days
20 following referral to the development authority pursuant to
21 subsection b. of this section. Within that 45-day period, the
22 development authority may:

23 (1) give notice to the municipal approving authority and to the
24 owner of the lot, tract, or parcel of land of probable intention to
25 acquire the whole or any part thereof, and no further action shall be
26 taken by the approving authority for a further period of 180 days
27 following receipt of notice from the development authority. If
28 within the 180-day period the development authority has not
29 acquired, agreed to acquire, or commenced an action to condemn
30 the property, the municipal approving authority shall be free to act
31 upon the pending application in such manner as may be provided by
32 law; or

33 (2) give notice to the municipal approving authority and to the
34 owner of the lot, tract, or parcel of land that the development
35 authority has no objection to the granting of the permit or approval
36 for which application has been made. Upon receipt of the notice the
37 municipal approving authority shall be free to act upon the pending
38 application in such manner as may be provided by law.

39

40 17. (New section) Notwithstanding any provision of P.L. , c.
41 (C.) (pending before the Legislature as this bill) to the contrary,
42 a school facilities project of a **'[nonAbbott]'** district ' , other than
43 an Abbott district.'¹ with a district aid percentage equal to or greater
44 than 55% or of a **'[nonAbbott]'** district ' , other than an Abbott
45 district.'¹ with a district aid percentage of less than 55% that had
46 been approved by the Commissioner of Education and the New
47 Jersey Schools Construction Corporation prior to the effective date
48 of P.L. , c. (C.) (pending before the Legislature as this bill) to

1 be constructed by the corporation, shall be constructed and financed
2 in accordance with the provisions of P.L. 2000, c.72 (C.18A:7G-1
3 et al.) as the same read before the effective date of P.L. , c.
4 (C.) (pending before the Legislature as this bill).

5
6 18. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to
7 read as follows:

8 3. As used in sections 1 through 30 and 57 through 71 of **[this**
9 **act]** P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17
10 of P.L. , c. (C.) (pending before the Legislature as this bill),
11 unless the context clearly requires a different meaning:

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

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

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

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

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

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

42 "Commissioner" means the Commissioner of Education;

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

46 "Cost index" means the average annual increase, expressed as a
47 decimal, in actual construction cost factors for the New York City
48 and Philadelphia areas during the second fiscal year preceding the

1 budget year as determined pursuant to regulations promulgated by
2 the development authority pursuant to section 26 of this act;

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

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

19 "Development authority" means the New Jersey Schools
20 Development Authority established pursuant to section 3 of P.L. ,
21 c. (C.) (pending before the Legislature as this bill);

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

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

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

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

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

4 "Final eligible costs" means for school facilities projects to be
5 constructed by the development authority, the final eligible costs of
6 the school facilities project as determined by the commissioner, in
7 consultation with the development authority, pursuant to section 5
8 of this act; for demonstration projects, the final eligible costs of the
9 project as determined by the commissioner and reviewed by the
10 development authority which may include the cost of community
11 design features determined by the commissioner to be an integral
12 part of the school facility and which do not exceed the facilities
13 efficiency standards, and which were reviewed by the development
14 authority and approved by the State Treasurer pursuant to section 6
15 of this act; and for 'nonAbbott' districts [whose district aid
16 percentage is less than 55% and which elect not to have the
17 authority construct a school facilities project] 'other than Abbott
18 districts', final eligible costs as determined pursuant to paragraph
19 (1) of subsection h. of section 5 of this act;

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

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

46 "Functional capacity" means the number of students that can be
47 housed in a building in order to have sufficient space for it to be
48 educationally adequate for the delivery of programs and services

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

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

29 "Local share" means, in the case of a school facilities project to
30 be constructed by the development authority, the total costs less the
31 State share as determined pursuant to section 5 of this act; in the
32 case of a demonstration project, the total costs less the State share
33 as determined pursuant to sections 5 and 6 of this act; and in the
34 case of a school facilities project **[not to be constructed by the**
35 **authority, but]** which shall be financed pursuant to section 15 of
36 this act, the total costs less the State share as determined pursuant to
37 that section;

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

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

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

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

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

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

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

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

44 ["Report on the Cost of Providing a Thorough and Efficient
45 Education" or "Report" means the report issued by the
46 commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-
47 4);]

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

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

15 "School facility" means and includes any structure, building or
16 facility used wholly or in part for **[academic]** educational purposes
17 by a district and facilities that physically support such structures,
18 buildings and facilities, such as district wastewater treatment
19 facilities, power generating facilities, and steam generating
20 facilities, but shall exclude **[athletic stadiums, grandstands, and any**
21 **structure, building or facility used solely for school administration]**
22 other facilities;

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

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

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

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

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

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

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

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

26 (cf: P.L.2006, c.47, s.90)

27
28 19. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to
29 read as follows:

30 4. a. **【Beginning in the 1999-2000 school year and in every**
31 **school year thereafter ending with a "0" or a "5"】** By December 15,
32 2000 and by October 1, 2005, each district shall prepare and submit
33 to the commissioner a long-range facilities plan that details the
34 district's school facilities needs and the district's plan to address
35 those needs for the ensuing five years. Following the approval of
36 the 2005 long-range facilities plan, each district shall amend its
37 long-range facilities plan at least once every five years to update
38 enrollment projections, building capacities, and health and safety
39 conditions. The long-range facilities plan shall incorporate the
40 facilities efficiency standards and shall be filed with the
41 commissioner **【no later than December 15, 2000 and no later than**
42 **October 1 of the other filing years】** for approval in accordance with
43 those standards. For those Abbott districts that have submitted
44 long-range facilities plans to the commissioner prior to the effective
45 date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not
46 be read to require an additional filing by October 1, 2000.

47 b. Notwithstanding any other law or regulation to the contrary,
48 an application for a school facilities project pursuant to section 5 of

1 this act shall not be approved unless the district has filed a long-
2 range facilities plan that is consistent with the application and the
3 plan has been approved by the commissioner; except that prior to
4 October 1, 2000, the commissioner may approve an application if
5 the project is necessary to protect the health or safety of occupants
6 of the school facility, or is related to required early childhood
7 education programs, or is related to a school facility in which the
8 functional capacity is less than 90% of the facilities efficiency
9 standards based on current school enrollment, or the district
10 received bids on the school facilities project prior to the effective
11 date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district
12 demonstrates that further delay will negatively affect the cost of the
13 project.

14 c. An amendment to a long-range facilities plan may be
15 submitted at any time to the commissioner for review and
16 **【approval】** determination on the approval or disapproval of the
17 amendment.

18 d. Each long-range facilities plan shall include a cohort
19 survival methodology or other methodology approved by the
20 commissioner, accompanied by a certification by a qualified
21 demographer retained by the district that serves as the basis for
22 identifying the capacity and program needs detailed in the long-
23 range facilities plan.

24 e. The long-range facilities plan shall include an educational
25 adequacy inventory of all existing school facilities in the district
26 including the adequacy of school facilities to educate within the
27 district the existing and projected number of pupils with disabilities,
28 the identification of all deficiencies in the district's current
29 inventory of school facilities, which includes the identification of
30 those deficiencies that involve emergent health and safety concerns,
31 and the district's proposed plan for future construction and
32 renovation. The long-range facilities plan submissions shall
33 conform to the guidelines, criteria and format prescribed by the
34 commissioner.

35 f. Each district shall determine the number of "unhoused
36 students" for the ensuing five-year period calculated pursuant to the
37 provisions of section 8 of this act.

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

44 h. The commissioner shall develop, for the March 2002 Report
45 on the Cost of Providing a Thorough and Efficient Education **【and**
46 **for subsequent reports】** issued by the commissioner pursuant to
47 section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency
48 standards for elementary, middle, and high schools consistent with

1 the core curriculum school delivery assumptions in the report and
2 sufficient for the achievement of the core curriculum content
3 standards, including the provision of required programs in Abbott
4 districts and early childhood education programs in the districts in
5 which these programs are required by the State. The area
6 allowances per FTE student in each class of the district shall be
7 derived from these facilities efficiency standards. The
8 commissioner shall revise the facilities efficiency standards in
9 accordance with such schedule as the commissioner deems
10 necessary. The commissioner shall publish the revised facilities
11 efficiency standards in the New Jersey Register and, within a
12 reasonable period of time after 30 days following publication, shall
13 file the revised facilities efficiency standards with the Office of
14 Administrative Law for publication in the New Jersey Register and
15 those standards shall become effective immediately upon filing.
16 During the 30-day period the commissioner shall provide an
17 opportunity for public comment on the proposed facilities
18 efficiency standards.

19 The facilities efficiency standards developed by the
20 commissioner shall not be construction design standards but rather
21 shall represent the instructional spaces, specialized instructional
22 areas, and administrative spaces that are determined by the
23 commissioner to be educationally adequate to support the
24 achievement of the core curriculum content standards including the
25 provision of required programs in Abbott districts and early
26 childhood education programs in the districts in which these
27 programs are required by the State. A district may design, at its
28 discretion, the educational and other spaces to be included within
29 the school facilities project. The design of the project may
30 eliminate spaces in the facilities efficiency standards, include
31 spaces not in the facilities efficiency standards, or size spaces
32 differently than in the facilities efficiency standards upon a
33 demonstration of the adequacy of the school facilities project to
34 deliver the core curriculum content standards pursuant to paragraph
35 (2) of subsection g. of section 5 of this act.

36 Within a reasonable period of time after the effective date of
37 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
38 the facilities efficiency standards developed for the 2000-2001,
39 2001-2002, and 2002-2003 school years in the New Jersey Register.
40 Within a reasonable period of time after 30 days after publication in
41 the New Jersey Register, the commissioner shall file the facilities
42 efficiency standards with the Office of Administrative Law and
43 those standards shall become effective immediately upon filing with
44 the Office of Administrative Law. During the 30-day period the
45 commissioner shall provide an opportunity for public comment on
46 the proposed facilities efficiency standards.

47 i. Within 90 days of the commissioner's receipt of a long-range
48 facilities plan for review, the commissioner shall determine whether

1 the plan is fully and accurately completed and whether all
2 information necessary for a decision on the plan has been filed by
3 the district. If the commissioner determines that the plan is
4 complete, the commissioner shall promptly notify the district in
5 writing and shall have 60 days from the date of that notification to
6 determine whether to approve the plan or not. If the commissioner
7 determines that the plan is not complete, the commissioner shall
8 notify the district in writing. The district shall provide to the
9 commissioner whatever information the commissioner determines is
10 necessary to make the plan accurate and complete. The district
11 shall submit that information to the commissioner, and the
12 commissioner shall have 60 days from the date of receipt of
13 accurate and complete information to determine whether to approve
14 the plan or not.

15 j. Notwithstanding any provision in subsection i. of this
16 section, if at any time the number of long-range facilities plans filed
17 by school districts with the commissioner and pending review
18 exceeds 20% of the number of school districts in New Jersey, the
19 commissioner may extend by 60 days the deadline for reviewing
20 each plan pending at that time.

21 k. By March 1, 2002 and every five years thereafter, the
22 commissioner shall recommend to the Legislature criteria to be used
23 in the designation of districts as Abbott districts. The criteria may
24 include, but not be limited to: the number of residents per 1,000
25 within the municipality or municipalities in which the district is
26 situate who receive TANF; the district's equalized valuation per
27 resident pupil as equalized valuation is defined in section 3 of
28 P.L.1996, c.138 (C.18A:7F-3); the district's income per resident
29 pupil as district income is defined in section 3 of P.L.1996, c.138
30 (C.18A:7F-3); the population per square mile of the municipality or
31 municipalities in which the district is situate; and the municipal
32 overburden of the municipality or municipalities in which the
33 district is situate as that term is defined by the New Jersey Supreme
34 Court in *Abbott v. Burke*.

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

42 m. By July 1, 2001, the commissioner shall study the Safe
43 Schools Design Guidelines, prepared by the Florida Center for
44 Community Design and Research, which address the issues of
45 school safety and security through the design of school facilities.
46 Based upon the commissioner's study, the commissioner shall issue
47 recommendations to districts on the appropriateness of including

1 the Safe Schools Design Guidelines in the design and construction
2 of school facilities projects.

3 (cf: P.L.2000, c.72, s.4)

4

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

7 5. a. The development authority shall **construct** undertake and
8 the financing authority shall finance the school facilities projects of
9 Abbott districts**,** districts in level II monitoring pursuant to section
10 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of
11 P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with a district aid
12 percentage equal to or greater than 55% **].**

13 b. **[**Any district whose district aid percentage is less than 55%
14 may elect to have the authority undertake the construction of a
15 school facilities project in the district and the State share shall be
16 determined pursuant to this section. In the event that the district
17 elects not to have the authority undertake the construction of the
18 project **]** In the case of a '[nonAbbott]' district 'other than an
19 Abbott district', State support for the project shall be determined
20 pursuant to section 9 or section 15 of this act, as applicable.

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

29 d. (1) Any district seeking to initiate a school facilities project
30 shall apply to the commissioner for approval of the project. The
31 application **[**shall, at a minimum, contain the following
32 information **]** may include, but not be limited to: a description of the
33 school facilities project; a schematic drawing of the project or, at
34 the option of the district, preliminary plans and specifications; a
35 delineation and description of each of the functional components of
36 the project; educational specifications detailing the programmatic
37 needs of each proposed space; the number of unhoused students to
38 be housed in the project; the area allowances per FTE student as
39 calculated pursuant to section 8 of this act; and the estimated cost to
40 complete the project as determined by the district.

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

1 remediation, demolition, and acquisition of temporary facilities.
2 Upon receipt of the authorization, the development authority may
3 initiate the preconstruction activities required to prepare the
4 application for commissioner approval of the school facilities
5 project.

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

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

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

47 (1) The commissioner shall approve area allowances in excess
48 of the area allowances per FTE student derived from the facilities

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

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

19 (3) To house the district's central administration, a district may
20 request an adjustment to the approved areas for unhoused students
21 of 2.17 square feet for each FTE student in the projected total
22 district school enrollment if the proposed administrative offices will
23 be housed in a school facility and the district demonstrates either
24 that the existing central administrative offices are obsolete or that it
25 is more practical to convert those offices to instructional space. To
26 the extent that existing administrative space will continue to be used
27 for administrative purposes, the space shall be included in the
28 formulas set forth in section 7 of this act.

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

39 (4) The commissioner shall approve spaces in excess of, or
40 inconsistent with, the facilities efficiency standards, hereinafter
41 referred to as nonconforming spaces, upon a determination by the
42 district that the spaces are necessary to comply with State or federal
43 law concerning individuals with disabilities, including that the
44 spaces are necessary to provide in-district programs and services for
45 current disabled pupils who are being served in out-of-district
46 placements or in-district programs and services for the projected
47 disabled pupil population. A district may apply for additional State
48 aid for nonconforming spaces that will permit pupils with

1 disabilities to be educated to the greatest extent possible in the same
2 buildings or classes with their nondisabled peers. The
3 nonconforming spaces may: (a) allow for the return of pupils with
4 disabilities from private facilities; (b) permit the retention of pupils
5 with disabilities who would otherwise be placed in private facilities;
6 (c) provide space for regional programs in a host school building
7 that houses both disabled and nondisabled pupils; and (d) provide
8 space for the coordination of regional programs by a county special
9 services school district, educational services commission, jointure
10 commission, or other agency authorized by law to provide regional
11 educational services in a school building that houses both disabled
12 and nondisabled pupils. A district's State support ratio shall be
13 adjusted to equal the lesser of the sum of its district aid percentage
14 as defined in section 3 of this act plus 0.25, or 100% for any
15 nonconforming spaces approved by the commissioner pursuant to
16 this paragraph.

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

19 (1) In the case of a 'nonAbbott' district [whose district aid
20 percentage is less than 55% and which has elected not to have the
21 authority undertake the construction of the] 'other than an Abbott
22 district', the commissioner shall notify the district whether the
23 school facilities project is approved and, if so approved, the
24 preliminary eligible costs and the excess costs, if any. Following the
25 determination of preliminary eligible costs and the notification of
26 project approval, the district may appeal to the commissioner for an
27 increase in those costs if the detailed plans and specifications
28 completed by a design professional for the school facilities project
29 indicate that the cost of constructing that portion of the project
30 which is consistent with the facilities efficiency standards and does
31 not exceed the area allowances per FTE student exceeds the
32 preliminary eligible costs as determined by the commissioner for
33 the project by 10% or more. The district shall file its appeal within
34 30 days of the preparation of the plans and specifications. If the
35 district chooses not to file an appeal, then the final eligible costs
36 shall equal the preliminary eligible costs.

37 The appeal shall outline the reasons why the preliminary eligible
38 costs calculated for the project are inadequate and estimate the
39 amount of the adjustment which needs to be made to the
40 preliminary eligible costs. The commissioner shall forward the
41 appeal information to the development authority for its review and
42 recommendation. If the additional costs are the result of factors
43 that are within the control of the district or are the result of design
44 factors that are not required to meet the facilities efficiency
45 standards, the development authority shall recommend to the
46 commissioner that the preliminary eligible costs be accepted as the
47 final eligible costs. If the development authority determines the
48 additional costs are not within the control of the district or are the

1 result of design factors required to meet the facilities efficiency
2 standards, the development authority shall recommend to the
3 commissioner a final eligible cost based on its experience for
4 districts with similar characteristics, provided that, notwithstanding
5 anything to the contrary, the commissioner shall not approve an
6 adjustment to the preliminary eligible costs which exceeds 10% of
7 the preliminary eligible costs. The commissioner shall make a
8 determination on the appeal within 30 days of its receipt. If the
9 commissioner does not approve an adjustment to the school
10 facilities project's preliminary eligible costs, the commissioner shall
11 issue his findings in writing on the reasons for the denial and on
12 why the preliminary eligible costs as originally calculated are
13 sufficient.

14 (2) In **[all other cases]** the case of an Abbott district, the
15 commissioner shall promptly prepare and submit to the
16 development authority a preliminary project report which shall
17 consist, at a minimum, of the following information: a complete
18 description of the school facilities project; the actual location of the
19 project; the total square footage of the project together with a
20 breakdown of total square footage by functional component; the
21 preliminary eligible costs of the project; the project's priority
22 ranking determined pursuant to subsection m. of this section; any
23 other factors to be considered by the development authority in
24 undertaking the project; and the name and address of the person
25 from the district to contact in regard to the project.

26 i. Upon receipt by the development authority of the
27 preliminary project report, the development authority, upon
28 consultation with the district, shall prepare detailed plans and
29 specifications and schedules which contain the development
30 authority's estimated cost and schedule to complete the school
31 facilities project. The development authority shall transmit to the
32 commissioner **[the authority's]** its recommendations in regard to
33 the project which shall, at a minimum, contain the detailed plans
34 and specifications; whether the school facilities project can be
35 completed within the preliminary eligible costs; and any other
36 factors which the development authority determines should be
37 considered by the commissioner.

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

45 (2) In the event that the development authority determines that
46 the school facilities project cannot be completed within the
47 preliminary eligible costs, prior to the submission of **[the**
48 **authority's]** its recommendations to the commissioner, the

1 development authority shall, in consultation with the district and the
2 commissioner, determine whether changes can be made in the
3 project which will result in a reduction in costs while at the same
4 time meeting the facilities efficiency standards approved by the
5 commissioner.

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

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

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

42 (d) For a school facilities project **【constructed】** undertaken by
43 the development authority, the development authority shall be
44 responsible for any costs of construction, but only from the
45 proceeds of bonds issued by the financing authority pursuant to
46 **【this act】** P.L.2000, c.72 (C.18A:7G-1 et al. and P.L. , c. (C.)
47 (pending before the Legislature as this bill), which exceed the
48 amount originally projected by the development authority and

1 approved for financing by the development authority, provided that
2 the excess is the result of an underestimate of labor or materials
3 costs by the development authority. After receipt by the
4 development authority of the final project report, the district shall
5 be responsible only for the costs associated with changes, if any,
6 made at the request of the district to the scope of the school
7 facilities project.

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

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

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

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

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

38 Tier I: health and safety, including electrical system upgrades;
39 required early childhood education programs; unhoused
40 students/class size reduction as required to meet the standards of the
41 "Comprehensive Educational Improvement and Financing Act of
42 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

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

47 Tier III: technology projects; regionalization or consolidation
48 projects;

1 Tier IV: other local objectives] (1) Within 90 days of the
2 effective date of P.L. , c. (C.) (pending before the
3 Legislature as this bill), the commissioner shall develop an
4 educational facilities needs assessment for each Abbott district.
5 The assessment shall be updated periodically by the commissioner
6 in accordance with the schedule the commissioner deems
7 appropriate for the district; except that each assessment shall at a
8 minimum be updated within five years of the development of
9 district's most recent prior educational needs assessment. The
10 assessment shall be transmitted to the development authority to be
11 used to initiate the planning activities required prior to the
12 establishment of the educational priority ranking of school facilities
13 projects pursuant to paragraph (2) of this subsection.

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

29 (3) Upon the commissioner's determination of the educational
30 priority ranking of school facilities projects in Abbott districts
31 pursuant to paragraph (2) of this subsection, the development
32 authority, in consultation with the commissioner, the Abbott
33 districts, and the governing bodies of the municipalities in which
34 the Abbott districts are situate, shall establish a Statewide strategic
35 plan to be used in the sequencing of Abbott district school facilities
36 projects based upon the projects' educational priority rankings and
37 issues which impact the development authority's ability to complete
38 the projects including, but not limited to, the construction schedule
39 and other appropriate factors. The development authority shall
40 revise the Statewide strategic plan and the sequencing of Abbott
41 district school facilities projects in accordance with that plan no less
42 than once every five years.

43 ¹Any amendment to an Abbott district's long-range facilities
44 plan that is submitted to the commissioner in the period between the
45 five-year updates of the long-range facilities plan shall be
46 considered by the development authority, in consultation with the
47 commissioner, for incorporation into the Statewide strategic plan.
48 In making a determination on whether or not to amend the

1 Statewide strategic plan, the development authority shall consider
2 the cost of the amendment, the impact of the amendment upon the
3 school development plans for other districts, and other appropriate
4 factors.¹

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

10 o. In the ~~event that a district whose district aid percentage is~~
11 ~~less than 55% elects not to have the authority undertake~~
12 ~~construction of a school facilities project~~ case of a ~~'[nonAbbott~~
13 ~~district]'~~ school facilities project ¹of a district other than an Abbott
14 district¹, any proceeds of school bonds issued by the district for the
15 purpose of funding the project which remain unspent upon
16 completion of the project shall be used by the district to reduce the
17 outstanding principal amount of the school bonds.

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

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

27 r. ~~【In the event that a district has engaged architectural~~
28 ~~services to prepare the documents required for initial proposal of a~~
29 ~~school facilities project, the district shall, if permitted by the terms~~
30 ~~of the district's contract for architectural services, and at the option~~
31 ~~of the authority assign the contract for architectural services to the~~
32 ~~authority if the authority determines that the assignment would be~~
33 ~~in the best interest of the school facilities project.】 Deleted by~~
34 ~~amendment, P.L. , c. (pending before the Legislature as this bill)~~

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

45 (1) An ECPA district seeking to initiate a community early
46 childhood education facilities project shall apply to the
47 commissioner for approval of the project. The application shall, at

1 a minimum, contain the following information: the name of the
2 community provider; evidence that the community provider is
3 licensed by the Department of Children and Families pursuant to
4 P.L.1983, c.492 (C.30:5B-1 et seq.) and is a tax exempt nonprofit
5 organization; evidence that the community provider is or shall
6 provide early childhood education programs for the district; a
7 description of the community early childhood education facilities
8 project; a schematic drawing of the project, or at the option of the
9 district, preliminary plans and specifications; a delineation and
10 description of each of the functional components of the project;
11 identification of those portions of the proposed project which shall
12 be devoted in whole or in part to the provision of early childhood
13 education programs to 3 or 4-year old children from the ECPA
14 district; the estimated cost to complete the project as determined by
15 the district in consultation with the community provider; and
16 whether the facility provides services other than early childhood
17 education programs for 3 and 4-year old children, pursuant to a
18 contract with the ECPA district.

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

33 (3) If the commissioner approves the project, the commissioner
34 shall determine, in consultation with the authority, the cost to
35 complete the approved project, which shall be the reasonable,
36 estimated cost of the renovation or new construction necessary to
37 provide a facility which is structurally adequate and safe and
38 capable of providing a program which will enable preschool
39 children being served pursuant to the ECPA district's approved
40 early childhood education operation plan to meet the standards for
41 early childhood education programs established by the department.
42 For projects initiated by an Abbott district, the State support shall
43 be 100% of such reasonable, estimated cost. For projects initiated
44 by an ECPA district that is not an Abbott district, the State support
45 shall be an amount equal to 115% of the district aid percentage of
46 that ECPA district, of such reasonable, estimated cost, except that
47 the State support shall not be less than 40% of such reasonable,
48 estimated cost. The commissioner shall issue a final project report

1 to the authority which shall contain a complete description of the
2 project, the actual location of the project, the total square footage of
3 the project together with a breakdown of total square footage by
4 functional component; any other factors to be considered by the
5 authority in undertaking the project; the names and addresses of the
6 people to contact from the district and the community provider; the
7 amount of State support for the project; and the amount of local
8 support required from the community provider to pay for costs, if
9 any, of the project which have not been approved by the
10 commissioner for State support.

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

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

29 (6) The authority shall require as a condition of providing State
30 support for any community early childhood education facilities
31 project that the State support must be repaid by the community
32 provider in the event that (a) the commissioner determines that the
33 project is no longer being used for the purposes for which it was
34 intended; or (b) the project is sold, leased or otherwise conveyed to
35 an individual or organization that does not have tax exempt
36 nonprofit or government status. ~~Deleted by amendment, P.L. , c.~~
37 ~~(pending before the Legislature as this bill)~~
38 (cf: P.L.2006, c.47, s.91)

39

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

42 6. The provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5)
43 shall pertain to school facilities projects designated to be
44 demonstration projects except as otherwise provided in this section.

45 a. For the initial three full fiscal years following the effective
46 date of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al.), the State
47 Treasurer may designate up to six school facilities projects which
48 the State Treasurer determines to be in the best interests of the State

1 and of the districts to be demonstration projects pursuant to the
2 provisions of this section. As used in this section, “authority”
3 means the New Jersey Economic Development Authority which
4 was designated as both the financing and construction agency for
5 school facilities projects prior to the enactment of
6 P.L. , c. (C.) (pending before the Legislature as this bill);
7 except that in the event that any actions required to be taken
8 pursuant to this section by the New Jersey Economic Development
9 Authority or its subsidiary, the New Jersey Schools Construction
10 Corporation, have not been taken prior to the effective date of
11 P.L. , c. (C.) (pending before the Legislature as this bill),
12 authority shall mean the New Jersey Schools Development
13 Authority.

14 b. A district and municipality may apply to the authority for the
15 designation of a school facilities project contained in a long-range
16 facilities plan submitted to the commissioner pursuant to section 4
17 of P.L.2000, c.72 (C.18A:7G-4) to be a demonstration project to
18 provide for the coordination of local economic development,
19 redevelopment or community development with a school facilities
20 project. The application shall be accompanied by resolutions
21 requesting the designation adopted by the board of education of the
22 district and the governing body of the municipality. The
23 application shall set forth:

24 (1) a plan for carrying out the redevelopment project as a whole,
25 including the construction of the school facilities project;

26 (2) the name of the redevelopment entity to undertake the
27 project under the "Local Redevelopment and Housing Law"
28 P.L.1992, c.79 (C.40A:12A-1 et seq.);

29 (3) a description of how the project fits into a redevelopment
30 plan adopted or to be adopted by the municipal governing body
31 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7); and

32 (4) a description of the community design features to be
33 included in the school facilities project.

34 c. The authority shall evaluate the request to determine
35 whether the school facilities project is suitable for designation as a
36 demonstration project and whether the proposed redevelopment
37 entity is suitable for designation as the entity to construct the
38 demonstration project based upon consideration of the following
39 factors:

40 (1) whether the demonstration project furthers definite local
41 objectives as to appropriate land uses, density of population, and
42 improved traffic and public transportation, public utilities,
43 recreational and community facilities and other public
44 improvements;

45 (2) whether the demonstration project provides significant social
46 and economic benefits to the municipality, its neighborhoods and
47 residents;

1 (3) whether the development of the school facilities project is
2 consistent with the local development plan;

3 (4) the extent to which the school facilities project contains
4 community design features which can be used by the community;

5 (5) whether the redevelopment entity has the current capacity to
6 construct the demonstration project;

7 (6) whether the redevelopment entity has the appropriate prior
8 experience in developing similar types of projects; and

9 (7) whether there exist donations from private entities for the
10 purpose of the demonstration project.

11 d. The authority's review of the proposed school facilities
12 project for designation as a demonstration project under this section
13 shall commence upon approval by the commissioner of the school
14 facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-
15 5). Upon approval by the commissioner of the school facilities
16 project, and recommendation by the authority that the school
17 facilities project be a demonstration project, the recommendation of
18 the authority shall be forwarded to the State Treasurer who shall
19 determine whether the school facilities project should be designated
20 as a demonstration project. At the same time as the authority
21 forwards its recommendation to the State Treasurer, the authority
22 shall forward its recommendation to the Urban Coordinating
23 Council for review pursuant to subsection i. of this section.

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

43 f. The cost of the community design features approved by the
44 commissioner shall be reviewed by the authority. The district shall
45 submit the documentation required by the authority for the authority
46 to make its determination. The authority shall, in its
47 recommendation to the commissioner pursuant to section 5 of this
48 act, include its recommendation with respect to the cost of the

1 community design features. The commissioner shall make the final
2 determination with respect to the inclusion of the cost of
3 community design features in the final eligible costs.

4 g. The authority shall provide funding for the State's share of
5 the final eligible costs of a school facilities project to be constructed
6 as part of a demonstration project pursuant to an agreement among
7 the authority, the redevelopment entity and the district which shall,
8 in addition to any other terms and conditions, set forth the terms for
9 disbursement of the State share and provide for the monitoring of
10 construction by the authority.

11 h. Upon completion of a demonstration project by a
12 redevelopment entity, the district shall submit to the commissioner
13 a plan to provide for the maintenance of the project and shall enter
14 into a contract which provides for that maintenance.

15 i. The Urban Coordinating Council shall review the
16 recommendations of the authority with respect to the demonstration
17 projects and shall advise the authority, redevelopment entity and the
18 district regarding the potential availability of funding for the
19 demonstration project, including, but not limited to, sources of
20 funds for acquisition, clearance, site remediation, and assemblage
21 of land and the development, redevelopment, construction or
22 rehabilitation of any structure or improvement included in the
23 project.

24 j. Any district may consult with the Urban Coordinating
25 Council with respect to the potential availability of funding for
26 aspects of the school facilities project, including, but not limited to,
27 sources of funds for acquisition, clearance, site remediation, and
28 assemblage of land and the development, redevelopment,
29 construction or rehabilitation of any structure or improvement
30 included in the project.

31 (cf: P.L.2000, c.72, s.6)

32

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

35 9. a. State debt service aid for capital investment in school
36 facilities for a 'nonAbbott' district **【whose district aid percentage**
37 **is less than 55% and】** 'other than an Abbott district' which elects
38 not to **【have the authority construct a school facilities project or to】**
39 finance the project under section 15 of this act, shall be distributed
40 upon a determination of preliminary eligible costs by the
41 commissioner, according to the following formula:

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

45 where

46 $A = B \times AC/P \times (DAP \times 1.15) \times M$, with $AC/P = 1$

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

48 and where:

1 B is the district's debt service for the individual issuance for the
2 fiscal year;

3 AC is the preliminary eligible costs determined pursuant to
4 section 7 of this act;

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

7 DAP is the district's district aid percentage as defined pursuant to
8 section 3 of this act and where (DAP x 1.15) shall not be less than
9 40%; and

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

13 For county special services school districts, DAP shall be that of
14 the county vocational school district in the same county.
15 **【Notwithstanding any provision of this subsection to the contrary,**
16 **State debt service aid shall not be less than 40% of the preliminary**
17 **eligible costs.】**

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

21 (1) Effective ten years from the date of the enactment of
22 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid
23 for reconstruction, remodeling, alteration, modernization,
24 renovation or repair, or for an addition to a school facility, shall be
25 zero for all school facilities projects for which the district fails to
26 demonstrate over the ten years preceding issuance a net investment
27 in maintenance of the related school facility of at least 2% of the
28 replacement cost of the school facility, determined pursuant to
29 subsection b. of section 7 of this act using the area cost allowance
30 of the year ten years preceding the year in which the school bonds
31 are issued.

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

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

47 (3) Within one year of the enactment of P.L.2000, c.72
48 (C.18A:7G-1 et al.), the commissioner shall promulgate rules

1 requiring districts to develop a long-range maintenance plan and
2 specifying the expenditures that qualify as an appropriate
3 investment in maintenance for the purposes of this subsection.

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

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

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

26 (cf: P.L.2000, c.72, s.9)

27

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

30 12. A district, other than a **[State-operated school]** district under
31 full State intervention, that sought approval pursuant to section 11
32 of this act of a school facilities project without excess costs but
33 failed to receive that approval, and within the three years prior to
34 that, sought and failed to receive approval of that school facilities
35 project with or without excess costs, may submit the project to the
36 commissioner and request that the commissioner approve the
37 project and authorize the issuance of school bonds for the local
38 share of the project. Upon receipt of the request, the commissioner
39 shall review the school facilities project and determine whether the
40 project is necessary for the provision of a thorough and efficient
41 system of education in the district. If the commissioner concludes
42 that the project is necessary, the commissioner may approve the
43 project without excess costs and authorize the issuance of school
44 bonds to fund the local share. In addition to the amount of taxes
45 determined by the legal voters of the district at the annual school
46 election, the secretary of the board of education shall certify the
47 amount required for the repayment of the interest and principal of
48 the bonds required to fund the local share amount approved by the

1 commissioner in the same manner required for interest and debt
2 redemption charges pursuant to N.J.S.18A:22-33, and the amount so
3 certified shall be included in the taxes assessed, levied and collected
4 in the municipality or municipalities comprising the school district
5 for those purposes.

6 Any school facilities project authorized pursuant to this section
7 shall be **[constructed]** undertaken by the development authority in
8 accordance with an agreement between the development authority
9 and the district. Nothing in this section shall preclude a **[State-**
10 **operated]** school district under full State intervention from using
11 the process established pursuant to section 2 of P.L.1991, c.139
12 (C.18A:7A-46.2) to obtain the approval of the commissioner to
13 undertake a school facilities project.
14 (cf: P.L.2000, c.72, s.12)
15

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

18 13. a. The financing authority shall be responsible for the
19 **[financing,]** issuance of bonds pursuant to section 14 of P.L.2000,
20 c.72 (C.18A:7G-14) and the development authority shall be
21 responsible for the planning, design, construction management,
22 acquisition, construction, and completion of school facilities
23 projects. **[Upon submission to the authority of a final project**
24 **report, the authority shall undertake the acquisition, construction,**
25 **and all other appropriate actions necessary to complete the project.**
26 **When the final eligible costs of a school facilities project are less**
27 **than or equal to \$500,000]** In the case of a capital maintenance
28 project, the development authority may, in its discretion, authorize
29 **[a]** an Abbott district to undertake the design, acquisition,
30 construction and all other appropriate actions necessary to complete
31 the capital maintenance project and shall enter into a grant
32 agreement with the district for the payment of the State share. The
33 development authority may also authorize an Abbott district to
34 undertake the design, acquisition, construction and all other
35 appropriate actions necessary to complete any other school facilities
36 project in accordance with the procedures established pursuant to
37 subsection e. of this section.

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

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

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

21 e. (1) Within one year of the effective date of
22 P.L. , c. (C.) (pending before the Legislature as this bill), the
23 commissioner, in consultation with the development authority, shall
24 adopt pursuant to the “Administrative Procedure Act,” P.L.1968,
25 c.410 (C.52:14B-1 et seq.), rules and regulations by which the
26 commissioner shall determine whether an Abbott district is eligible
27 to be considered by the development authority to manage a school
28 facilities project or projects. In making the determination, the
29 commissioner shall consider the district’s fiscal integrity and
30 operations, the district’s performance in each of the five key
31 components of school district effectiveness under the New Jersey
32 Quality Single Accountability Continuum (NJQSAC) in accordance
33 with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other
34 relevant factors.

35 (2) Within one year of the effective date of P.L. , c. (C.)
36 (pending before the Legislature as this bill), the development
37 authority, in consultation with the commissioner, shall adopt
38 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410
39 (C.52:14B-1 et seq.), rules and regulations by which the
40 development authority shall determine the capacity of an Abbott
41 district, deemed eligible by the commissioner pursuant to paragraph
42 (1) of this subsection, to manage a school facilities project or
43 projects identified by the development authority. In making the
44 determination, the development authority shall consider the
45 experience of the Abbott district, the size, complexity, and cost of
46 the project, time constraints, and other relevant factors.

47 (3) The development authority, in consultation with the
48 commissioner, shall develop and implement training programs,

1 seminars, or symposia to provide technical assistance to Abbott
2 districts deemed to lack the capacity to manage a school facility
3 project or projects; except that nothing herein shall be construed to
4 require the development authority or the commissioner to authorize
5 an Abbott district to hire additional staff in order to achieve
6 capacity.

7 (4) If the development authority determines to delegate a school
8 facilities project to an Abbott district in accordance with paragraph
9 (2) of this subsection, the development authority, the commissioner,
10 and the district shall enter into a grant agreement.

11 (cf: P.L. 2004, c.73, s.4)

12

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

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

16 a. The financing authority shall have the power, pursuant to the
17 provisions of this act **【and】** , P.L.1974, c.80 (C.34:1B-1 et seq.) and
18 P.L. , c. (C.) (pending before the Legislature as this bill), to
19 issue bonds and refunding bonds, incur indebtedness and borrow
20 money secured, in whole or in part, by moneys received pursuant to
21 sections 17, 18 and 19 of this act for the purposes of: financing all
22 or a portion of the costs of school facilities projects and any costs
23 related to the issuance thereof, including, but not limited to, the
24 administrative, insurance, operating and other expenses of the
25 **【facilities】** financing authority to undertake the financing, and the
26 development authority to undertake the planning, design, and
27 construction **【and maintenance】** of school facilities projects;
28 lending moneys to local units to pay the costs of all or a portion of
29 school facilities projects and any costs related to the issuance
30 thereof; funding the grants to be made pursuant to section 15 of this
31 act; and financing the acquisition of school facilities projects to
32 permit the refinancing of debt by the district pursuant to section 16
33 of this act. The aggregate principal amount of the bonds, notes or
34 other obligations issued by the **【facilities】** financing authority shall
35 not exceed: \$100,000,000 for the State share of costs for county
36 vocational school district school facilities projects; \$6,000,000,000
37 for the State share of costs for Abbott district school facilities
38 projects; and \$2,500,000,000 for the State share of costs for school
39 facilities projects in all other districts. This limitation shall not
40 include any bonds, notes or other obligations issued for refunding
41 purposes.

42 The financing authority may establish reserve funds to further
43 secure bonds and refunding bonds issued pursuant to this section
44 and may issue bonds to pay for the administrative, insurance and
45 operating costs of the financing authority and the development
46 authority in carrying out the provisions of this act. In addition to its
47 bonds and refunding bonds, the financing authority shall have the
48 power to issue subordinated indebtedness, which shall be

1 subordinate in lien to the lien of any or all of its bonds or refunding
2 bonds as the financing authority may determine.

3 b. The financing authority shall issue the bonds or refunding
4 bonds in such manner as it shall determine in accordance with the
5 provisions of this act ~~[and]~~, P.L.1974, c.80 (C.34:1B-1 et seq.) and
6 P.L. , c. (C.) (pending before the Legislature as this bill);
7 provided that notwithstanding any other law to the contrary, no
8 resolution adopted by the financing authority authorizing the
9 issuance of bonds or refunding bonds pursuant to this section shall
10 be adopted or otherwise made effective without the approval in
11 writing of the State Treasurer; and refunding bonds issued to
12 refund bonds issued pursuant to this section shall be issued on such
13 terms and conditions as may be determined by the financing
14 authority and the State Treasurer. The financing authority may, in
15 any resolution authorizing the issuance of bonds or refunding bonds
16 issued pursuant to this section, pledge the contract with the State
17 Treasurer provided for pursuant to section 18 of this act, or any part
18 thereof, or may pledge all or any part of the repayments of loans
19 made to local units pursuant to section 19 of this act for the
20 payment or redemption of the bonds or refunding bonds, and
21 covenant as to the use and disposition of money available to the
22 financing authority for payment of the bonds and refunding bonds.
23 All costs associated with the issuance of bonds and refunding bonds
24 by the financing authority for the purposes set forth in this act may
25 be paid by the financing authority from amounts it receives from the
26 proceeds of the bonds or refunding bonds, and from amounts it
27 receives pursuant to sections 17, 18, and 19 of this act. The costs
28 may include, but shall not be limited to, any costs relating to the
29 issuance of the bonds or refunding bonds, administrative costs of
30 the financing authority attributable to the making and administering
31 of loans and grants to fund school facilities projects, and costs
32 attributable to the agreements entered into pursuant to subsection d.
33 of this section.

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

40 (1) Pledge of the revenues and other receipts to be derived from
41 the payment of local unit obligations and any other payment made
42 to the financing authority pursuant to agreements with any local
43 unit, or a pledge or assignment of any local unit obligations, and the
44 rights and interest of the financing authority therein;

45 (2) Pledge of rentals, receipts and other revenues to be derived
46 from leases or other contractual arrangements with any person or
47 entity, public or private, including one or more local units, or a
48 pledge or assignment of those leases or other contractual

1 arrangements and the rights and interests of the financing authority
2 therein;

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

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

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

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

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

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

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

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

47 f. Bonds and refunding bonds issued by the financing authority
48 pursuant to this section shall be special and limited obligations of

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

20 g. The State hereby pledges and covenants with the holders of
21 any bonds or refunding bonds issued pursuant to this act that it will
22 not limit or alter the rights or powers vested in the financing
23 authority by this act, nor limit or alter the rights or powers of the
24 State Treasurer in any manner which would jeopardize the interest
25 of the holders or any trustee of the holders, or inhibit or prevent
26 performance or fulfillment by the financing authority or the State
27 Treasurer with respect to the terms of any agreement made with the
28 holders of the bonds or refunding bonds or agreements made
29 pursuant to subsection d. of this section; except that the failure of
30 the Legislature to appropriate moneys for any purpose of this act
31 shall not be deemed a violation of this section.

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

1 and charges related to the development authority's operating
2 expenses.

3 i. Upon the issuance by the financing authority of bonds
4 pursuant to this section, other than refunding bonds, the net
5 proceeds of the bonds shall be transferred to the development
6 authority.

7 (cf: P.L.2005, c.235, s.33)

8

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

11 5. In the case of a 'nonAbbott' district **[whose district aid**
12 **percentage is less than 55% and which elects not to have the**
13 **authority undertake the construction of the school facilities project]**
14 **'other than an Abbott district'**, for any project approved by the
15 commissioner after the effective date of this act, the district may
16 elect to receive a one-time grant for the State share of the project
17 rather than annual debt service aid under section 9 of this act. The
18 State share payable to the district shall equal the product of the
19 project's final eligible costs and 115% of the district aid percentage
20 or 40%, whichever is greater. The development authority shall
21 provide grant funding for the State's share of the final eligible costs
22 of a school facilities project pursuant to an agreement between the
23 district and the development authority which shall, in addition to
24 other terms and conditions, set forth the terms of disbursement of
25 the State share. The funding of the State share shall not commence
26 until the district secures financing for the local share.

27 (cf: P.L.2000, c.72, s.15)

28

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

31 16. In addition to the other powers and duties which have been
32 granted to the financing authority, whenever any local unit finances
33 the construction or acquisition of a school facilities project which
34 would otherwise qualify under this act except that the debt was
35 issued prior to the effective date of this act, the financing authority
36 may refinance the debt issued by the local unit through the issuance
37 of bonds secured by repayments of loans made to the local units and
38 may purchase the work or improvement and lease the same to the
39 district, subject to the approval of the State Treasurer; except that
40 the amount of the purchase price for a school facilities project shall
41 not exceed the original cost. Each loan to a local unit pursuant to
42 this section shall be evidenced by local unit obligations and shall be
43 authorized and issued as provided by law. Notwithstanding the
44 provisions of any law to the contrary, the local unit obligations may
45 be sold at private sale to the financing authority at any price,
46 whether or not less than par value, and shall be subject to
47 redemption prior to maturity at any times and at any prices as the
48 financing authority and the local unit may agree. All powers, rights,

1 obligations and duties granted to or imposed upon the financing
2 authority, districts, State departments and agencies or others by this
3 act in respect to school facilities projects shall apply to the same
4 extent with respect to any refinance of debt pursuant to this section;
5 except that any action otherwise required to be taken at a particular
6 time in the implementation of a school facilities project may, when
7 the circumstances require in connection with a refinance of debt
8 pursuant to this section, be taken with the same effect as if taken at
9 that particular time. Upon repayment of the bonds or provision for
10 repayment of bonds issued by the financing authority to refinance
11 the debt of the local unit, the school facilities project shall be
12 transferred to the district.

13 (cf: P.L.2000, c.72, s.16)

14

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

17 17. In each fiscal year the State Treasurer shall pay from the
18 General Fund to the financing authority, in accordance with a
19 contract between the State Treasurer and the financing authority as
20 authorized pursuant to section 18 of this act, an amount equal to the
21 debt service amount due to be paid in the State fiscal year on the
22 bonds or refunding bonds of the financing authority issued or
23 incurred pursuant to section 14 of this act and any additional costs
24 authorized pursuant to that section; provided that all such payments
25 from the General Fund shall be subject to and dependent upon
26 appropriations being made from time to time by the Legislature for
27 those purposes, and provided further that all payments shall be used
28 only to pay for the costs of school facilities projects and the costs of
29 financing those projects.

30 (cf: P.L.2000, c.72, s.17)

31

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

34 18. The State Treasurer and the financing authority are
35 authorized to enter into one or more contracts to implement the
36 payment arrangement provided for in section 17 of this act. The
37 contract shall provide for payment by the State Treasurer of the
38 amounts required pursuant to section 17 of this act and shall set
39 forth the procedure for the transfer of moneys for the purpose of
40 that payment. The contract shall contain terms and conditions as
41 determined by the parties and shall, where appropriate, contain
42 terms and conditions necessary and desirable to secure any bonds or
43 refunding bonds of the financing authority issued or incurred
44 pursuant to this act; provided that notwithstanding any other
45 provision of law or regulation of the financing authority to the
46 contrary, the financing authority shall be paid only such funds as
47 shall be determined by the contract, and the incurrence of any
48 obligation of the State under the contract, including any payments

1 to be made thereunder from the General Fund, shall be subject to
2 and dependent upon appropriations being made from time to time
3 by the Legislature for the purposes of this act.

4 (cf: P.L.2000, c.72, s.18)

5

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

8 19. a. The financing authority may make and contract to make
9 loans to local units in accordance with and subject to the provisions
10 of this act to finance all or any portion of the cost of a school
11 facilities project which the local unit may lawfully undertake or
12 acquire and for which the local unit is authorized by law to borrow
13 money; or to refund obligations of the local unit which were issued
14 to provide funds to pay for the cost of a school facilities project.
15 The loans may be made subject to the terms and conditions the
16 financing authority determines to be consistent with the purposes of
17 this act. Each loan by the financing authority and the terms and
18 conditions thereof shall be subject to approval by the State
19 Treasurer.

20 b. Each loan to a local unit shall be evidenced by local unit
21 obligations and shall be authorized and issued as provided by law.
22 Notwithstanding the provisions of any other law to the contrary, the
23 local unit obligations may be sold at private sale to the financing
24 authority at any price, whether or not less than par value, and shall
25 be subject to redemption prior to maturity at any times and at any
26 prices as the financing authority and the local unit may agree. Each
27 loan to a local unit and the local unit obligations issued to evidence
28 the loan shall bear interest at a rate or rates per annum, including
29 zero interest, and shall be repaid in whole or in part, as the
30 financing authority and the local unit may agree, with the approval
31 of the State Treasurer.

32 (cf: P.L.2000, c.72, s.19)

33

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

36 20. A local unit may purchase, lease, rent, sublease or otherwise
37 acquire any school facilities project or any space within a project
38 and pay the amounts as may be agreed upon between the local unit
39 and the development authority as the purchase price, rent or other
40 charge therefor; provided that the terms and conditions of the
41 agreement between the development authority and the local unit
42 relating to the purchase, lease, rental or sublease shall be subject to
43 the approval of the State Treasurer.

44 (cf: P.L.2000, c.72, s.20)

45

46 32. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to
47 read as follows:

1 21. a. In the event that a local unit has failed or is unable to pay
2 to the financing authority or the development authority in full when
3 due any local unit obligations issued by the local unit to the
4 financing authority, including, but not limited to, any lease or
5 sublease obligations, or any other moneys owed by the district to
6 the financing authority, to assure the continued operation and
7 solvency of the authority, the State Treasurer shall pay directly to
8 the financing authority an amount sufficient to satisfy the
9 deficiency from State aid payable to the local unit; provided that if
10 the local unit is a school district, the State aid shall not include any
11 State aid which may otherwise be restricted pursuant to the
12 provisions of P.L.1996, c.138 (C.18A:7F-1 et seq.). As used in this
13 section, local unit obligations include the principal or interest on
14 local unit obligations or payment pursuant to a lease or sublease of
15 a school facilities project to a local unit, including the subrogation
16 of the financing authority to the right of the holders of those
17 obligations, any fees or charges payable to the financing authority,
18 and any amounts payable by a local unit under a service contract or
19 other contractual arrangement the payments under which are
20 pledged to secure any local unit obligations issued to the financing
21 authority by another local unit.

22 b. If the financing authority requires, and if there has been a
23 failure or inability of a local unit to pay its local unit obligations to
24 the financing authority for a period of 30 days, the chairman or the
25 executive director of the financing authority shall certify to the
26 State Treasurer, with written notice to the fiscal officer of the local
27 unit, the amount remaining unpaid, and the State Treasurer shall
28 pay that amount to the financing authority; or if the right to receive
29 those payments has been pledged or assigned to a trustee for the
30 benefit of the holders of bonds or refunding bonds of the financing
31 authority, to that trustee, out of the State aid payable to the local
32 unit, until the amount so certified has been paid. Notwithstanding
33 any provision of this act to the contrary, the State Treasurer's
34 obligation to pay the financing authority pursuant to this section
35 shall not extend beyond the amount of State aid payable to the local
36 unit.

37 c. The amount paid to the financing authority pursuant to this
38 section shall be deducted from the appropriation or apportionment
39 of State aid payable to the local unit and shall not obligate the State
40 to make, nor entitle the local unit to receive, any additional
41 appropriation or apportionment. The obligation of the State
42 Treasurer to make payments to the financing authority or trustee
43 and the right of the financing authority or trustee to receive those
44 payments shall be subject and subordinate to the rights of holders of
45 qualified bonds issued prior to the effective date of this act pursuant
46 to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39
47 (C.18A:24-85 et seq.).
48 (cf: P.L.2000, c.72 , s.21)

1 33. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to
2 read as follows:

3 22. a. The financing authority and the development authority
4 shall have the power to accept and use any funds appropriated and
5 paid by the State to the financing authority and the development
6 authority for the purposes for which the appropriations are made.
7 The financing authority and the development authority shall have
8 the power to apply for and receive and accept appropriations or
9 grants of property, money, services or reimbursements for money
10 previously spent and other assistance offered or made available to it
11 by or from any person, government agency, public authority or any
12 public or private entity whatever for any lawful corporate purpose
13 of the financing authority or the development authority, including,
14 without limitation, grants, appropriations or reimbursements from
15 the federal government, and to apply and negotiate for the same
16 upon such terms and conditions as may be required by any person,
17 government agency, authority or entity as the financing authority or
18 the development authority may determine to be necessary,
19 convenient or desirable.

20 b. The development authority **[shall]** and the State Treasurer
21 may establish a financial incentive program for the purpose of
22 promoting donations to school facilities projects. Any entity which
23 makes a donation approved by the State Treasurer to the
24 preliminary eligible costs of a school facilities project shall receive
25 an incentive payment pursuant to the provisions of this subsection.
26 The amount of the incentive payment shall equal 50% of the fair
27 market value of the donation but shall not in any one year exceed
28 one-half of the amount of taxes paid or otherwise due from the
29 donor pursuant to the provisions of the "New Jersey Gross Income
30 Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation
31 Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as
32 applicable, for the tax year in which the donation is made. The fair
33 market value of a non-cash donation shall be determined by the
34 State Treasurer. The carry-forward for incentive payments shall not
35 be inconsistent with that allowed by P.L.1976, c.47 (C.54A:1-1 et
36 seq.) in the case of a donation by an individual, or P.L.1945, c.162
37 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

38 All incentive payments made pursuant to this section shall be
39 funded by and shall be subject to annual appropriations **[to the**
40 **authority]** for this purpose, and shall in no way rely upon funds
41 raised by the issuance of bonds for school facilities projects.

42 (cf: P.L.2000, c.72, s.22)

43

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

46 23. a. Not less than the prevailing wage rate determined by the
47 Commissioner of Labor pursuant to the provisions of P.L.1963,
48 c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in

1 the performance of construction contracts in connection with any
2 school facilities project that is undertaken by the development
3 authority, a redevelopment entity, or a district and any contractor
4 who violates the provisions of this subsection shall be prohibited
5 from subsequently bidding on any State or district contract.

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

11 (cf: P.L.2000, c.72, s.23)

12

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

15 24. The **[commissioner]** development authority, in consultation
16 with the State Treasurer, the financing authority, and the
17 commissioner, shall **[annually]** biannually submit to the Governor,
18 the Joint Budget Oversight Committee, the President of the Senate
19 and the Speaker of the General Assembly a report on the school
20 facilities construction program established pursuant to the
21 provisions of this act. The report shall be submitted no later than
22 **[August 1]** ¹**[January 15 and July 15]** June 1 and December 1¹ of
23 each year and shall include, but not be limited to, the following
24 information for the prior **[fiscal year]** six-month period: the number
25 of school facilities projects approved by the commissioner pursuant
26 to section 5 of this act; the number of projects **[constructed]**
27 undertaken and funded by the development authority **[and the**
28 **amount of time that it has taken the authority to complete those**
29 **projects]**; the aggregate principal amount of bonds, notes or other
30 obligations issued by the financing authority for the State share of
31 construction and renovation of school facilities and whether there is
32 a need to adjust the aggregate principal amount of bonds, notes or
33 other obligations authorized for issuance pursuant to subsection a.
34 of section 14 of this act; **[the number of projects constructed by**
35 **districts; the number of demonstration projects approved;]** the
36 number of approved projects which exceeded the facilities
37 efficiency standards, the components of those projects which
38 exceeded the standards, and the amount of construction by
39 individual districts and Statewide estimated to have exceeded the
40 standards; and recommendations for changes in the school facilities
41 construction program established pursuant to this act which have
42 been formulated as a result of its experience with the program or
43 through collaboration with program stakeholders.

44 ¹In addition, the biannual report shall include a comparison of
45 the costs of school facilities projects undertaken and funded by the
46 development authority to similar school facilities projects
47 constructed in the New York City Metropolitan Statistical Area and

1 the Philadelphia Metropolitan Statistical Area as defined by the
2 United States Department of Labor. The development authority
3 shall include in the report an explanation of the methodology used
4 in making the comparison.¹

5 (cf: P.L.2000, c.72, s.24)

6
7 36. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to
8 read as follows:

9 26. a. The commissioner shall adopt, pursuant to the
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
11 seq.), rules and regulations necessary to implement the provisions
12 of sections 1 through 12 and 57 and 58 and 64 of **[this act]**
13 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.)
14 (pending before the Legislature as this bill); except that
15 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et
16 seq.) to the contrary, the commissioner may adopt, immediately
17 upon filing with the Office of Administrative Law, such rules and
18 regulations as the commissioner deems necessary to implement the
19 provisions of sections 1 through 12 and 57 and 58 and 64 of this act
20 which shall be effective for a period not to exceed 12 months.
21 Determinations made by the commissioner pursuant to this act and
22 the rules and regulations adopted by the commissioner to implement
23 this act shall be considered to be final agency action and appeal of
24 that action shall be directly to the Appellate Division of the
25 Superior Court. The regulations shall thereafter be amended,
26 adopted or re-adopted by the State Board of Education in
27 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et
28 seq.).

29 b. The development authority shall adopt, pursuant to the
30 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
31 seq.), rules and regulations necessary to implement the provisions
32 of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al) and
33 P.L. , c. (C.) (pending before the Legislature as this bill) that
34 apply to the development authority; except that notwithstanding any
35 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
36 the development authority may adopt immediately upon filing with
37 the Office of Administrative Law, such rules and regulations as the
38 development authority deems necessary which shall be effective for
39 a period not to exceed 12 months and shall thereafter be amended,
40 adopted or re-adopted by the authority, in accordance with the
41 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

42 The rules and regulations promulgated by the New Jersey
43 Schools Construction Corporation pursuant to the provisions of
44 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and
45 effect unless subsequently revised by the development authority
46 following the enactment of P.L. , c. (C.) (pending before the
47 Legislature as this bill).

1 c. Any regulations adopted to implement this act shall include
2 provisions to ensure that all programs necessary to comply with
3 Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V), are approved.
4 (cf: P.L.2000, c.72, s.26)

5
6 37. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to
7 read as follows:

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

19 (cf: P.L.2000, c.72, s.27)

20
21 38. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to
22 read as follows:

23 59. The development authority shall establish a process for the
24 prequalification of contractors that desire to bid on school facilities
25 projects. A contractor shall not be permitted to bid on such a school
26 facilities project unless the contractor has been prequalified
27 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

28 The prequalification process shall apply to general contractors,
29 construction managers, and contractors including those in the
30 following areas:

31 (1) plumbing and gas fitting and all work and materials kindred
32 thereto;

33 (2) steam and hot water heating and ventilating apparatus, steam
34 power plants and all work and materials kindred thereto;

35 (3) electrical work; and

36 (4) structural steel and miscellaneous iron work and materials.

37 The prequalification process established by the New Jersey
38 Schools Construction Corporation pursuant to the provisions of
39 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and
40 effect unless subsequently revised by the development authority
41 following the enactment of P.L. , c. (C.) (pending before the
42 Legislature as this bill).

43 (cf: P.L.2000, c.72, s.59)

44
45 39. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to
46 read as follows:

47 60. a. The prequalification process shall include a requirement
48 that the contractor proposing to submit bids on a school facilities

1 project submit a statement under oath on a form designated by the
2 development authority. The form shall fully describe and establish
3 the financial ability, responsibility, plant and equipment,
4 organization, ownership, relationships and prior experience of the
5 prospective bidder and any other pertinent and material facts as may
6 be deemed necessary by the development authority. The submission
7 shall include:

8 (1) A certified, audited financial statement or compilation of
9 financial statements or other documentation of financial status
10 acceptable to the development authority;

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

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

20 (4) A list of the names and titles of all individuals who own
21 10% or more of any class of stock in the corporation or are a 10%
22 or more partner in the firm. If any of the aforementioned
23 stockholders or partners is itself a corporation, or a partnership, that
24 entity shall also provide the information specified herein;

25 (5) Disclosure of any judgments, convictions or criminal
26 indictments for any conduct constituting a crime under local, State
27 or federal law;

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

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

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

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

42 (10) A statement as to past performance, which shall give an
43 accurate and complete record of work completed in the past five
44 years by the contractor giving the names of the projects, type of
45 work, location, contract price, bid and final contract amount paid
46 and the names of the owner and of the architect or engineer in
47 charge for the owner. This statement shall also disclose any labor
48 problems experienced, any failure to complete a contract on

1 schedule, any penalties, judgments, orders or liens imposed by
2 reason of any contract undertaken within the five-year period and
3 whether the contractor has been defaulted for cause on any project
4 as determined by an unappealed or nonappealable decision. This
5 statement shall also indicate the status of any litigation pending
6 against the potential bidder. The contractor shall be required to
7 attach to this statement all performance evaluations in his
8 possession for any work performed by the contractor on any public
9 or private projects;

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

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

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

19 b. After the receipt of the submission provided for in
20 subsection a. of this section, the development authority may verify
21 information provided in the contractor's submission, including
22 applicable license and certificate requirements, federal or State
23 debarments and violations of law. The development authority may
24 also conduct random inquiries or surveys of the contractor's prior
25 customers.

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

30 (1) a trade or work classification; and

31 (2) an aggregate rating limit.

32 To effectuate these requirements of the prequalification process,
33 the development authority shall develop rules and regulations for
34 assigning classifications and aggregate limits.

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

38 e. The development authority shall establish procedures to
39 permit contractors to challenge a classification made pursuant to
40 this section.

41 f. The prequalification submission shall include an affidavit
42 which acknowledges receipt of information regarding the
43 appropriate federal Bureau of Apprenticeship and Training
44 apprenticeship laws and regulations as adopted by the State and
45 information regarding the county apprenticeship coordinators and
46 the federal Bureau of Apprenticeship and Training.

47 g. The development authority shall maintain a registry of all
48 contractors prequalified to bid on school facilities projects. The

1 registry shall include the classification of the bidder and aggregate
2 building limit.

3 (cf: P.L.2000, c.72, s.60)

4

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

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

10 b. Any material changes relevant to the prequalification
11 process shall be reported by the contractor to the development
12 authority in writing within 10 days. Based on the information
13 provided, the development authority may change the classification
14 or revoke prequalification for cause.

15 (cf: P.L.2000, c.72, s.61)

16

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

19 62. a. A mandatory uniform performance evaluation shall be
20 conducted on all school facilities projects undertaken by the
21 development authority. The evaluation shall, at a minimum, include
22 cost, schedule adherence and quality.

23 b. A contractor shall be notified of a performance evaluation.
24 The contractor shall be afforded an opportunity to respond to an
25 adverse evaluation.

26 c. The contractor performance evaluations shall be utilized in
27 reviewing bid submissions.

28 (cf: P.L.2000, c.72, s.62)

29

30 42. Section 66 of P.L.2000, c.72 (C.18A:7G-40) is amended to
31 read as follows:

32 66. A contractor who has been prequalified as a bidder on school
33 facilities projects in accordance with the process established by the
34 development authority pursuant to section 59 of this act shall not be
35 required to undergo any other prequalification process to bid on a
36 school facilities project.

37 (cf: P.L.2000, c.72, s.66)

38

39 43. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to
40 read as follows:

41 71. a. In the case of any school facilities project which has a
42 State share of 100%, the development authority may require the use
43 of wrap-up insurance coverage for the project and shall establish the
44 terms and requirements for any such coverage.

45 b. For any school facilities project which has a State share of
46 less than 100% **],** the authority, in the case of a project being
47 constructed by the authority, may require the use of, or the district,
48 in the case of a project being constructed by the district **],** the

1 district may elect to purchase **[,]** wrap-up insurance coverage for
2 the school facilities project. A district may purchase the coverage
3 on its own or may enter into a joint purchasing agreement with one
4 or more other districts to purchase coverage.

5 c. As used in this section, "wrap-up insurance coverage" means
6 a single insurance and loss control program for all parties involved
7 in the school facilities project, including the owners, administrators,
8 contractors and all tiers of subcontractors, which is controlled and
9 authorized by the owner or financing administrator and applicable
10 to defined construction work sites. Wrap-up insurance coverage
11 may include, but not be limited to, workers' compensation and
12 employers' liability, commercial general liability, umbrella/excess
13 liability, builder's risk, architects' and engineers' errors and
14 omissions, liability, environmental liability, and force majeure.
15 (cf: P.L.2000, c.72, s.71)

16

17 44. N.J.S.18A:20-5 is amended to read as follows:

18 18A:20-5. **[The]** Except as otherwise provided pursuant to
19 section 14 of P.L. , c. (C.) (pending before the Legislature
20 as this bill), the board of education of any district by a recorded roll
21 call majority vote of its full membership may dispose, by sale or
22 otherwise, in the manner prescribed in this chapter, of any lands or
23 any rights or interest therein, owned by it, which cease to be
24 suitable or convenient for the use for which they were acquired or
25 which are no longer needed for school purposes, whether acquired
26 by purchase or through condemnation proceedings and the
27 purchaser thereof shall acquire title thereto free from any use or
28 purpose for which it may have been acquired by the board.

29 (cf: N.J.S.18A:20-5)

30

31 45. N.J.S.18A:20-8 is amended to read as follows:

32 18A:20-8. **[The]** Except as otherwise provided pursuant to
33 section 14 of P.L. , c. (C.) (pending before the Legislature
34 as this bill), the board of education of any school district, by a
35 recorded roll call majority vote of its full membership, may
36 exchange any lands owned by it and not needed for school purposes
37 for lands located in the school district and at least equal in value to
38 the lands conveyed by the board in such exchange.

39 (cf: N.J.S.18A:20-8)

40

41 46. Section 1 of P.L.1970, c.106 (C.18A:20-8.1) is amended to
42 read as follows:

43 1. **[The]** Except as otherwise provided pursuant to section 14 of
44 P.L. , c. (C.) (pending before the Legislature as this bill), the
45 board of education of any school district or regional school district
46 may, by resolution, transfer land to the board of education of a
47 county vocational school district for the purpose of constructing a

1 vocational school on such land.

2 (cf: P.L.1970, c.106, s.1)

3

4 47. Section 1 of P.L.1978, c.91 (C.18A:20-8.2) is amended to
5 read as follows:

6 1. a. **【Whenever】** Except as otherwise provided pursuant to
7 section 14 of P.L. , c. (C.) (pending before the Legislature as
8 this bill), whenever any board of education shall by resolution
9 determine that any tract of land, whether there is a building thereon
10 or not, or part or all of a school building, is not necessary for school
11 purposes, but which it does not desire to dispose of for reason that
12 the property may, at some future time, again be required for school
13 purposes, it may authorize the lease thereof for a term extending
14 beyond the official life of the board; provided that the
15 noneducational uses of such building or tract of land are compatible
16 with the establishment and operation of a school, as determined by
17 the Commissioner of Education, if joint occupancy of such site is
18 considered. The lease shall be binding upon the successor board as
19 follows:

20 (1) After advertisement of the request for bids to lease to the
21 highest bidder in a newspaper published in the school district, or, if
22 none is published therein, then in a newspaper circulating in the
23 district in which the same is situate, at least once a week for two
24 weeks prior to the date fixed for the receipt and opening of bids,
25 unless:

26 (2) The same is leased to the federal government, State, a
27 political subdivision thereof, another school district, any board,
28 body or commission of a municipality within the school district, any
29 volunteer fire company or rescue squad actively engaged in the
30 protection of life and property and duly incorporated under the laws
31 of the State of New Jersey, or to any American Legion post,
32 Veterans of Foreign Wars, or other recognized veterans'
33 organization of the United States of America, located in the
34 municipality or the county, as a meeting place for such
35 organization, or to a nonprofit child care service organization duly
36 incorporated under the laws of the State of New Jersey, or to a
37 nonprofit hospital duly licensed under the laws of the State of New
38 Jersey, or to a nonprofit organization duly licensed under the laws
39 of the State of New Jersey to provide emergency shelter for the
40 homeless, or to a nonprofit senior citizen organization, or to a
41 nonprofit historic preservation organization duly incorporated under
42 the laws of the State of New Jersey, in which case the same may be
43 leased by private agreement for a nominal fee without
44 advertisement for bids.

45 b. Any lease in excess of five years shall be approved by the
46 Commissioner of Education.

47 (cf: P.L.1991, c.172, s.1)

1 48. N.J.S.18A:20-9 is amended to read as follows:

2 18A:20-9. **【Whenever】** Except as other wise provided pursuant
3 to section 14 of P.L. (C.) (pending before the Legislature as
4 this bill, whenever any board of education shall by resolution
5 determine that any tract of land is no longer desirable or necessary
6 for school purposes it may authorize the conveyance thereof,
7 whether there is a building thereon or not, for a nominal
8 consideration, to the municipality or any board, body or
9 commission thereof, or to any volunteer fire company or rescue
10 squad actively engaged in the protection of life and property and
11 duly incorporated under the laws of the State of New Jersey, or to
12 any American Legion post, Veterans of Foreign Wars, or other
13 recognized veterans' organization of the United States of America,
14 located in the municipality or the county, as a meeting place for
15 such organization, or to a nonprofit child care service organization
16 duly incorporated under the laws of the State of New Jersey, to a
17 nonprofit hospital duly licensed under the laws of the State, or to a
18 nonprofit organization duly licensed under the laws of the State of
19 New Jersey to provide emergency shelter for the homeless, or to a
20 nonprofit historic preservation organization duly incorporated under
21 the laws of the State of New Jersey to provide a place for
22 educational, cultural and musical functions. The president and
23 secretary of the board shall be authorized to execute and deliver a
24 conveyance for the same in the name and under the seal of the
25 board, which conveyance may, in the discretion of the board, be
26 made subject to a condition or limitation that said land shall be used
27 by such municipality, board, body or commission thereof for public
28 purposes and by any such fire company for fire company purposes
29 or by such rescue squad for rescue squad purposes or to any
30 veterans' organization, or to any child care service organization, or
31 to any nonprofit hospital, or to any provider of emergency shelter
32 for the homeless, or to any nonprofit historic preservation
33 organization, and in the event that the property shall cease to be
34 used for any of the purposes contemplated by this section, such
35 property shall thereupon revert to and the title thereof shall vest in
36 the board of education making the conveyance thereof hereunder.

37 (cf: P.L.1995, c.29)

38

39 49. Section 1 of P.L.1990, c.35 (C.18A:20-9.2) is amended to
40 read as follows:

41 1. **【Whenever】** Except as otherwise provided pursuant to section
42 14 of P.L. , c. (C.) (pending before the Legislature as this
43 bill), whenever, any board of education shall by resolution
44 determine that any tract of land is no longer desirable or necessary
45 for public school purposes it may authorize the conveyance thereof,
46 at no less than the fair market price, whether there is a building
47 thereon or not, to a nonprofit private school for the handicapped
48 duly incorporated under the laws of the State of New Jersey. As

1 used in this section, market price shall equal the median of two or
2 more appraisals conducted by qualified real estate appraisers. The
3 president and secretary of the board shall be authorized to execute
4 and deliver a conveyance for the same in the name and under the
5 seal of the board, which conveyance may, in the discretion of the
6 board, be made subject to a condition or limitation that said land
7 shall be used by such nonprofit private school for the handicapped
8 and in the event that the property shall cease to be used for the
9 purposes contemplated by this section, such property shall first be
10 offered for resale to the board of education making the conveyance
11 thereof hereunder at the market price current at the time of resale.

12 (cf: P.L.1990, c.35, s.1)

13

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

15 18A:22-39. Whenever the undertaking of any capital project or
16 projects to be paid for from the proceeds of an issue or issue of
17 bonds is submitted to the voters of a type II district at an annual or
18 special school election for their approval or disapproval, the board
19 shall frame and adopt by a recorded roll call majority vote of its full
20 membership the question or questions to be submitted so that each
21 project is submitted in a separate question, or all or any number of
22 them are submitted in one question, which shall state the project or
23 projects so submitted and the amounts to be raised for each of the
24 projects so separately submitted or for each or for all of the projects
25 so jointly submitted, as the case may be, but any proposal for the
26 purchase of land shall be sufficient to authorize the taking and
27 condemning of such land. If the project is to be constructed by the
28 New Jersey **【Economic】** Schools Development Authority or a
29 redevelopment entity or by the district with a grant pursuant to
30 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,
31 when framed as a single question, request approval for the local
32 share and shall disclose the final eligible costs of the project as
33 approved by the commissioner pursuant to section 5 of P.L.2000,
34 c.72 (C.18A:7G-5) and in the case of a demonstration project
35 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and
36 C.18A:7G-6), and, if applicable, the amount of any costs of the
37 project which are in addition to the final eligible costs. If the school
38 facilities project is not to be constructed by the New Jersey
39 **【Economic】** Schools Development Authority or a redevelopment
40 entity or by the district with a grant pursuant to section 15 of
41 P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed
42 as a single question, request approval for the total costs of the
43 project, shall disclose State debt service aid for the project and, if
44 applicable, the amount of any costs of the project which are in
45 addition to the final eligible costs of the project. When a project is
46 framed in more than one question, a summary shall be included in
47 the explanatory statement which accompanies the questions that
48 includes the total costs of the project, total State debt service aid,

1 and, if applicable, the amount of the costs of the project which are
2 in addition to the final eligible costs of the project, and any
3 individual question containing costs in addition to the final eligible
4 costs shall include the amount of those additional costs.

5 The statement of additional costs in any ballot question and in
6 any explanatory statement that accompanies a ballot question shall
7 describe the additional costs as follows: "This project includes
8 \$(insert amount) for school facility construction elements in
9 addition to the facilities efficiency standards developed by the
10 Commissioner of Education."

11 (cf: P.L. 2000, c.72, s.42)

12
13 51. Section 2 of P.L.1974, c.80 (C.34:1B-2) is amended to read
14 as follows:

15 2. The Legislature hereby finds and determines that:

16 a. Department of Labor statistics of recent years indicate a
17 continuing decline in manufacturing employment within the State,
18 which is a contributing factor to the drastic unemployment existing
19 within the State, which far exceeds the national average, thus
20 adversely affecting the economy of the State and the prosperity,
21 safety, health and general welfare of its inhabitants and their
22 standard of living; that there is an urgent need to protect and
23 enhance the quality of the natural environment and to reduce, abate
24 and prevent environmental pollution derived from the operation of
25 industry, utilities and commerce within the State; and that the
26 availability of financial assistance and suitable facilities are
27 important inducements to new and varied employment promoting
28 enterprises to locate in the State, to existing enterprises to remain
29 and expand in the State, and to industry, utilities and commerce to
30 reduce, abate and prevent environmental pollution.

31 b. The provision of buildings, structures and other facilities to
32 increase opportunity for employment in manufacturing, industrial,
33 commercial, recreational, retail and service enterprises in the State
34 is in the public interest and it is a public purpose for the State to
35 induce and to accelerate opportunity for employment in such
36 enterprises.

37 c. In order to aid in supplying these needs and to assist in the
38 immediate reduction of unemployment and to provide sufficient
39 employment for the citizens of the State in the future, it is necessary
40 and in the public interest to aid and encourage the immediate
41 commencement of new construction projects of all types, to induce
42 and facilitate the acquisition and installation at an accelerated rate
43 of such devices, equipment and facilities as may be required to
44 reduce, abate and prevent environmental pollution by industry,
45 utilities and commerce.

46 d. The availability of financial assistance by the State will
47 reduce present unemployment and improve future employment
48 opportunities by encouraging and inducing the undertaking of such

1 construction projects, the location, retaining or expanding of
2 employment promoting enterprises within the State, and the
3 accelerated acquisition and installation of energy saving
4 improvements and pollution control devices, equipment and
5 facilities.

6 e. In many municipalities in our State substantial and persistent
7 unemployment exists; and many existing residential, industrial,
8 commercial and manufacturing facilities within such municipalities
9 are either obsolete, inefficient, dilapidated or are located without
10 regard to the master plans of such municipalities; and the
11 obsolescence and abandonment of existing facilities will increase
12 with further technological advances, the provision of modern,
13 efficient facilities in other states and the difficulty which many
14 municipalities have in attracting new facilities; and that many
15 existing and planned employment promoting facilities are far from
16 or not easily accessible to the places of residence of substantial
17 numbers of unemployed and underemployed persons.

18 f. By virtue of their architectural and cultural heritage, their
19 positions as principal centers of communication and transportation
20 and their concentration of productive and energy efficient facilities,
21 many municipalities are capable of ameliorating the conditions of
22 deterioration which impede sound community growth and
23 development; and that building a proper balance of housing,
24 industrial and commercial facilities and increasing the
25 attractiveness of such municipalities to persons of all income levels
26 is essential to restoring such municipalities as desirable places to
27 live, work, shop and enjoy life's amenities; that the accomplishment
28 of these objectives is beyond remedy solely by the regulatory
29 process in the exercise of the police power and cannot be dealt with
30 effectively by the ordinary operations of private enterprise without
31 the powers provided herein, and that the exercise of the powers
32 herein provided is critical to continuing the process of revitalizing
33 such municipalities and will serve an urgent public use and purpose.

34 The Legislature further determines that in order to aid in
35 remedying the aforesaid conditions and to further and implement
36 the purposes of this act, that there shall be created a body politic
37 and corporate having the powers, duties and functions provided in
38 this act; and that the authority and powers conferred under this act,
39 and the expenditure of moneys pursuant thereto constitute a serving
40 of a valid public purpose; and that the enactment of the provisions
41 hereinafter set forth is in the public interest and for the public
42 benefit and good, and is hereby so declared to be as a matter of
43 express legislative determination.

44 The Legislature further finds and determines that:

45 g. It is essential that this and future generations of young
46 people be given the fullest opportunity to learn and develop their
47 intellectual capacities; that institutions of public elementary and
48 secondary education within the State be provided with the

1 appropriate additional means required to assist these young citizens
2 in achieving the required levels of learning and the complete
3 development of their intellectual abilities; and that the resources of
4 the State be employed to meet the tremendous demand for public
5 elementary and secondary educational opportunities.

6 h. Public elementary and secondary educational facilities are an
7 integral part of the effort in this State to provide educational
8 opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et
9 al.) and P.L. , c. (C.) (pending before the Legislature as this
10 bill) to provide a measure of assistance and an alternative method of
11 financing to enable school districts to provide the facilities which
12 are so critically needed; the inventory of public elementary and
13 secondary school buildings and the equipment and capital resources
14 currently available are aging, both chronologically and
15 technologically; and the current funding at the federal, State, and
16 local levels and the current mechanisms for construction of these
17 capital projects are inadequate to meet the demonstrated need for
18 school facilities, and these inadequacies necessitate additional
19 sources of funding and the coordination of construction activities at
20 the State level to meet those needs.

21 i. While the credit status of New Jersey's school districts is
22 sound, it can be economically more reasonable to finance the costs
23 of developing the educational infrastructure of the State's public
24 elementary and secondary schools by providing for the funding of
25 capital projects through the issuance of bonds, notes or other
26 obligations by the New Jersey Economic Development Authority, to
27 be retired through annual payments made by the State subject to
28 appropriation by the State Legislature, and to provide for the use of
29 the proceeds of those bonds, notes or other obligations to pay for
30 educational infrastructure projects; and such a structure would
31 substantially reduce the costs of financing and provide for a more
32 efficient use of the funds available for the development of the
33 educational infrastructure.

34 j. **【The New Jersey Economic Development Authority has**
35 **substantial and significant experience in undertaking major capital**
36 **construction projects, has a system of internal controls and**
37 **procedures to ensure the integrity of construction activities, and is**
38 **therefore the appropriate entity to undertake the planning, design,**
39 **construction, and operation of educational infrastructure projects;**
40 **and by authorizing the New Jersey Economic Development**
41 **Authority to undertake these activities, there will be achieved**
42 **economies of scale, better coordination of resources, more effective**
43 **financial management and control and increased monitoring and**
44 **quality control of school district construction.】 (Deleted by**
45 amendment, P.L. , c.) (pending before the Legislature as this
46 bill)

47 (cf: P.L.2000, c.72, s.43)

1 52. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read
2 as follows:

3 3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et
4 seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54
5 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505
6 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),
7 P.L.1992, c.16 (C.34:1B-7.10 et seq.) **[and]** , section 6 of P.L.2001,
8 c.401 (C.34:1B-4.1), and P.L. , c. (C.) (pending before the
9 Legislature as this bill), unless a different meaning clearly appears
10 from the context:

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

13 "Bonds" means bonds or other obligations issued by the authority
14 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic
15 Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16
16 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and
17 refunding bonds issued by the authority pursuant to P.L.2000, c.72
18 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
19 Legislature as this bill).

20 "Cost" means the cost of the acquisition, construction,
21 reconstruction, repair, alteration, improvement and extension of any
22 building, structure, facility including water transmission facilities,
23 or other improvement; the cost of machinery and equipment; the
24 cost of acquisition, construction, reconstruction, repair, alteration,
25 improvement and extension of energy saving improvements or
26 pollution control devices, equipment or facilities; the cost of lands,
27 rights-in-lands, easements, privileges, agreements, franchises,
28 utility extensions, disposal facilities, access roads and site
29 development deemed by the authority to be necessary or useful and
30 convenient for any project or school facilities project or in
31 connection therewith; discount on bonds; cost of issuance of bonds;
32 engineering and inspection costs; costs of financial, legal,
33 professional and other estimates and advice; organization,
34 administrative, insurance, operating and other expenses of the
35 authority or any person prior to and during any acquisition or
36 construction, and all such expenses as may be necessary or incident
37 to the financing, acquisition, construction or completion of any
38 project or school facilities project or part thereof, and also such
39 provision for reserves for payment or security of principal of or
40 interest on bonds during or after such acquisition or construction as
41 the authority may determine.

42 "County" means any county of any class.

43 "County solid waste facility" means a solid waste facility that is
44 designated by a public authority or county in its adopted district
45 solid waste management plan as approved by the department prior
46 to November 10, 1997 as the in-county facility to which solid waste
47 generated within the boundaries of the county is transported for
48 final disposal, or transfer for transportation to an offsite solid waste

1 facility or designated out-of-district disposal site for disposal, as
2 appropriate, pursuant to interdistrict or intradistrict waste flow
3 orders issued by the department, regardless of whether the county
4 solid waste facility was acquired, constructed, operated, abandoned
5 or canceled.

6 "Department" means the Department of Environmental
7 Protection.

8 "Development property" means any real or personal property,
9 interest therein, improvements thereon, appurtenances thereto and
10 air or other rights in connection therewith, including land,
11 buildings, plants, structures, systems, works, machinery and
12 equipment acquired or to be acquired by purchase, gift or otherwise
13 by the authority within an urban growth zone.

14 "Person" means any person, including individuals, firms,
15 partnerships, associations, societies, trusts, public or private
16 corporations, or other legal entities, including public or
17 governmental bodies, as well as natural persons. "Person" shall
18 include the plural as well as the singular.

19 "Pollution control project" means any device, equipment,
20 improvement, structure or facility, or any land and any building,
21 structure, facility or other improvement thereon, or any combination
22 thereof, whether or not in existence or under construction, or the
23 refinancing thereof in order to facilitate improvements or additions
24 thereto or upgrading thereof, and all real and personal property
25 deemed necessary thereto, having to do with or the end purpose of
26 which is the control, abatement or prevention of land, sewer, water,
27 air, noise or general environmental pollution, including, but not
28 limited to, any air pollution control facility, noise abatement
29 facility, water management facility, thermal pollution control
30 facility, radiation contamination control facility, wastewater
31 collection system, wastewater treatment works, sewage treatment
32 works system, sewage treatment system or solid waste facility or
33 site; provided that the authority shall have received from the
34 Commissioner of the State Department of Environmental Protection
35 or the commissioner's duly authorized representative a certificate
36 stating the opinion that, based upon information, facts and
37 circumstances available to the State Department of Environmental
38 Protection and any other pertinent data, (1) the pollution control
39 facilities do not conflict with, overlap or duplicate any other
40 planned or existing pollution control facilities undertaken or
41 planned by another public agency or authority within any political
42 subdivision, and (2) the facilities, as designed, will be a pollution
43 control project as defined in the provisions of P.L.1974, c.80
44 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating
45 or controlling pollution.

46 "Project" means: (1) (a) acquisition, construction, reconstruction,
47 repair, alteration, improvement and extension of any building,
48 structure, facility, including water transmission facilities or other

1 improvement, whether or not in existence or under construction, (b)
2 purchase and installation of equipment and machinery, (c)
3 acquisition and improvement of real estate and the extension or
4 provision of utilities, access roads and other appurtenant facilities;
5 and (2) (a) the acquisition, financing, or refinancing of inventory,
6 raw materials, supplies, work in process, or stock in trade, or (b) the
7 financing, refinancing or consolidation of secured or unsecured
8 debt, borrowings, or obligations, or (c) the provision of financing
9 for any other expense incurred in the ordinary course of business;
10 all of which are to be used or occupied by any person in any
11 enterprise promoting employment, either for the manufacturing,
12 processing or assembly of materials or products, or for research or
13 office purposes, including, but not limited to, medical and other
14 professional facilities, or for industrial, recreational, hotel or motel
15 facilities, public utility and warehousing, or for commercial and
16 service purposes, including, but not limited to, retail outlets, retail
17 shopping centers, restaurant and retail food outlets, and any and all
18 other employment promoting enterprises, including, but not limited
19 to, motion picture and television studios and facilities and
20 commercial fishing facilities, commercial facilities for recreational
21 fishermen, fishing vessels, aquaculture facilities and marketing
22 facilities for fish and fish products and (d) acquisition of an equity
23 interest in, including capital stock of, any corporation; or any
24 combination of the above, which the authority determines will: (i)
25 tend to maintain or provide gainful employment opportunities
26 within and for the people of the State, or (ii) aid, assist and
27 encourage the economic development or redevelopment of any
28 political subdivision of the State, or (iii) maintain or increase the
29 tax base of the State or of any political subdivision of the State, or
30 (iv) maintain or diversify and expand employment promoting
31 enterprises within the State; and (3) the cost of acquisition,
32 construction, reconstruction, repair, alteration, improvement and
33 extension of an energy saving improvement or pollution control
34 project which the authority determines will tend to reduce the
35 consumption in a building devoted to industrial or commercial
36 purposes, or in an office building, of nonrenewable sources of
37 energy or to reduce, abate or prevent environmental pollution
38 within the State; and (4) the acquisition, construction,
39 reconstruction, repair, alteration, improvement, extension,
40 development, financing or refinancing of infrastructure and
41 transportation facilities or improvements related to economic
42 development and of cultural, recreational and tourism facilities or
43 improvements related to economic development and of capital
44 facilities for primary and secondary schools and of mixed use
45 projects consisting of housing and commercial development; and
46 (5) the establishment, acquisition, construction, rehabilitation,
47 improvement, and ownership of port facilities as defined in section
48 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i)

1 reimbursement to any person for costs in connection with any
2 project, or the refinancing of any project or portion thereof, if
3 determined by the authority as necessary and in the public interest
4 to maintain employment and the tax base of any political
5 subdivision and will facilitate improvements thereto or the
6 completion thereof, and (ii) development property and any
7 construction, reconstruction, improvement, alteration, equipment or
8 maintenance or repair, or planning and designing in connection
9 therewith. For the purpose of carrying out mixed use projects
10 consisting of both housing and commercial development, the
11 authority may enter into agreements with the New Jersey Housing
12 and Mortgage Finance Agency for loan guarantees for any such
13 project in accordance with the provisions of P.L.1995, c.359
14 (C.55:14K-64 et al.), and for that purpose shall allocate to the New
15 Jersey Housing and Mortgage Finance Agency, under such
16 agreements, funding available pursuant to subsection a. of section 4
17 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school
18 facilities project.

19 "Public authority" means a municipal or county utilities authority
20 created pursuant to the "municipal and county utilities authorities
21 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement
22 authority created pursuant to the "county improvement authorities
23 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control
24 financing authority created pursuant to the "New Jersey Pollution
25 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that
26 has issued solid waste facility bonds or that has been designated by
27 the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21)
28 to supervise the implementation of the district solid waste
29 management plan.

30 "Revenues" means receipts, fees, rentals or other payments to be
31 received on account of lease, mortgage, conditional sale, or sale,
32 and payments and any other income derived from the lease, sale or
33 other disposition of a project, moneys in such reserve and insurance
34 funds or accounts or other funds and accounts, and income from the
35 investment thereof, established in connection with the issuance of
36 bonds or notes for a project or projects, and fees, charges or other
37 moneys to be received by the authority in respect of projects or
38 school facilities projects and contracts with persons.

39 "Resolution" means any resolution adopted or trust agreement
40 executed by the authority, pursuant to which bonds of the authority
41 are authorized to be issued.

42 "Solid waste" means garbage, refuse, and other discarded
43 materials resulting from industrial, commercial and agricultural
44 operations, and from domestic and community activities, and shall
45 include all other waste materials including liquids, except for source
46 separated recyclable materials or source separated food waste
47 collected by livestock producers approved by the State Department

1 of Agriculture to collect, prepare and feed such wastes to livestock
2 on their own farms.

3 "Solid waste disposal" means the storage, treatment, utilization,
4 processing, or final disposal of solid waste.

5 "Solid waste facility bonds" means the bonds, notes or other
6 evidences of financial indebtedness issued by, or on behalf of, any
7 public authority or county related to the planning, design,
8 acquisition, construction, renovation, installation, operation or
9 management of a county solid waste facility.

10 "Solid waste facilities" means, and includes, the plants,
11 structures and other real and personal property acquired,
12 constructed or operated by, or on behalf of, any county or public
13 authority pursuant to the provisions of the "Solid Waste
14 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other
15 act, including transfer stations, incinerators, resource recovery
16 facilities, including co-composting facilities, sanitary landfill
17 facilities or other plants for the disposal of solid waste, and all
18 vehicles, equipment and other real and personal property and rights
19 therein and appurtenances necessary or useful and convenient for
20 the collection or disposal of solid waste in a sanitary manner.

21 "Energy saving improvement" means the construction, purchase
22 and installation in a building devoted to industrial or commercial
23 purposes of any of the following, designed to reduce the amount of
24 energy from nonrenewable sources needed for heating and cooling
25 that building: insulation, replacement burners, replacement high
26 efficiency heating and air conditioning units, including modular
27 boilers and furnaces, water heaters, central air conditioners with or
28 without heat recovery to make hot water for industrial or
29 commercial purposes or in office buildings, and any solar heating or
30 cooling system improvement, including any system which captures
31 solar radiation to heat a fluid which passes over or through the
32 collector element of that system and then transfers that fluid to a
33 point within the system where the heat is withdrawn from the fluid
34 for direct usage or storage. These systems shall include, but not
35 necessarily be limited to, systems incorporating flat plate, evacuated
36 tube or focusing solar collectors.

37 The foregoing list shall not be construed to be exhaustive, and
38 shall not serve to exclude other improvements consistent with the
39 legislative intent of the provisions of P.L.1983, c.282.

40 "Urban growth zone" means any area within a municipality
41 receiving State aid pursuant to the provisions of P.L.1978, c.14
42 (C.52:27D-178 et seq.) or a municipality certified by the
43 Commissioner of Community Affairs to qualify under such law in
44 every respect except population, which area has been so designated
45 pursuant to an ordinance of the governing body of such
46 municipality.

47 "District" means a local or regional school district established
48 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey

1 Statutes, a county special services school district established
2 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey
3 Statutes, a county vocational school district established pursuant to
4 article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and
5 a **[State-operated]** school district under full State intervention
6 **[established]** pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

7 "Local unit" means a county, municipality, board of education or
8 any other political entity authorized to construct, operate and
9 maintain a school facilities project and to borrow money for those
10 purposes pursuant to law.

11 "Other facilities" means athletic stadiums, swimming pools, any
12 associated structures or related equipment tied to such facilities
13 including, but not limited to, grandstands and night field lights,
14 greenhouses, facilities used for non-instructional or non-educational
15 purposes, and any structure, building, or facility used solely for
16 school administration.

17 "Refunding bonds" means bonds, notes or other obligations
18 issued to refinance bonds previously issued by the authority
19 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) **[and]**, P.L.2000,
20 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
21 Legislature as this bill).

22 "School facilities project" means the planning, acquisition,
23 demolition, construction, improvement, **[repair,]** alteration,
24 modernization, renovation, reconstruction or capital maintenance of
25 all or any part of a school facility or of any other personal property
26 necessary for, or ancillary to, any school facility, and shall include
27 fixtures, furnishings and equipment, and shall also include, but is
28 not limited to, site acquisition, site development, the services of
29 design professionals, such as engineers and architects, construction
30 management, legal services, financing costs and administrative
31 costs and expenses incurred in connection with the project.

32 "School facility" means and includes any structure, building or
33 facility used wholly or in part for **[academic]** educational purposes
34 by a district and facilities that physically support such structures,
35 buildings, and facilities such as district wastewater treatment
36 facilities, power generating facilities, and steam generating
37 facilities, but shall exclude **[athletic stadiums, grandstands, and any**
38 **structure, building or facility used solely for school administration]**
39 other facilities.

40 (cf: P.L.2001, c.401, s.1)

41

42 53. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
43 as follows:

44 5. The authority shall have the following powers:

45 a. To adopt bylaws for the regulation of its affairs and the
46 conduct of its business;

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

- 1 c. To sue and be sued;
- 2 d. To acquire in the name of the authority by purchase or
3 otherwise, on such terms and conditions and such manner as it may
4 deem proper, or by the exercise of the power of eminent domain in
5 the manner provided by the "Eminent Domain Act of 1971,"
6 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or
7 other property which it may determine is reasonably necessary for
8 any project **[or school facilities project]**; provided, however, that
9 the authority in connection with any project shall not take by
10 exercise of the power of eminent domain any real property except
11 upon consent thereto given by resolution of the governing body of
12 the municipality in which such real property is located; and
13 provided further that the authority shall be limited in its exercise of
14 the power of eminent domain in connection with any project to
15 municipalities receiving State aid under the provisions of P.L.1978,
16 c.14 (C.52:27D-178 et seq.), or to municipalities which had a
17 population, according to the latest federal decennial census, in
18 excess of 10,000;
- 19 e. To enter into contracts with a person upon such terms and
20 conditions as the authority shall determine to be reasonable,
21 including, but not limited to, reimbursement for the planning,
22 designing, financing, construction, reconstruction, improvement,
23 equipping, furnishing, operation and maintenance of the project **[or**
24 **the school facilities project]** and to pay or compromise any claims
25 arising therefrom;
- 26 f. To establish and maintain reserve and insurance funds with
27 respect to the financing of the project or the school facilities project
28 and any project financed pursuant to the "Municipal Rehabilitation
29 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et
30 al.);
- 31 g. To sell, convey or lease to any person all or any portion of a
32 project **[or school facilities project,]** for such consideration and
33 upon such terms as the authority may determine to be reasonable;
- 34 h. To mortgage, pledge or assign or otherwise encumber all or
35 any portion of a project, **[school facilities project]** or revenues,
36 whenever it shall find such action to be in furtherance of the
37 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the
38 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
39 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C.) (pending before
40 the Legislature as this bill);
- 41 i. To grant options to purchase or renew a lease for any of its
42 projects **[or school facilities projects]** on such terms as the
43 authority may determine to be reasonable;
- 44 j. To contract for and to accept any gifts or grants or loans of
45 funds or property or financial or other aid in any form from the
46 United States of America or any agency or instrumentality thereof,
47 or from the State or any agency, instrumentality or political

1 subdivision thereof, or from any other source and to comply,
2 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),
3 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72
4 (C.18A:7G-1 et al.), **[and]** the "Municipal Rehabilitation and
5 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),
6 and P.L. , c. (C.) (pending before the Legislature as this bill),
7 with the terms and conditions thereof;

8 k. In connection with any application for assistance under
9 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
10 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) **[or]**, the
11 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
12 c.43 (C.52:27BBB-1 et al.), or P.L. , c. (C.) (pending before
13 the Legislature as this bill) or commitments therefor, to require and
14 collect such fees and charges as the authority shall determine to be
15 reasonable;

16 l. To adopt, amend and repeal regulations to carry out the
17 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of
18 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),
19 **[and]** the "Municipal Rehabilitation and Economic Recovery Act,"
20 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C.)
21 (pending before the Legislature as this bill);

22 m. To acquire, purchase, manage and operate, hold and dispose
23 of real and personal property or interests therein, take assignments
24 of rentals and leases and make and enter into all contracts, leases,
25 agreements and arrangements necessary or incidental to the
26 performance of its duties;

27 n. To purchase, acquire and take assignments of notes,
28 mortgages and other forms of security and evidences of
29 indebtedness;

30 o. To purchase, acquire, attach, seize, accept or take title to any
31 project or school facilities project by conveyance or by foreclosure,
32 and sell, lease, manage or operate any project or school facilities
33 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1
34 et al.), **[and]** the "Municipal Rehabilitation and Economic
35 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and
36 P.L. , c. (C.) (pending before the Legislature as this bill);

37 p. To borrow money and to issue bonds of the authority and to
38 provide for the rights of the holders thereof, as provided in
39 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
40 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the
41 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
42 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C.) (pending before
43 the Legislature as this bill);

44 q. To extend credit or make loans to any person for the
45 planning, designing, acquiring, constructing, reconstructing,
46 improving, equipping and furnishing of a project or school facilities
47 project, which credits or loans may be secured by loan and security

1 agreements, mortgages, leases and any other instruments, upon such
2 terms and conditions as the authority shall deem reasonable,
3 including provision for the establishment and maintenance of
4 reserve and insurance funds, and to require the inclusion in any
5 mortgage, lease, contract, loan and security agreement or other
6 instrument, such provisions for the construction, use, operation and
7 maintenance and financing of a project or school facilities project as
8 the authority may deem necessary or desirable;

9 r. To guarantee up to 90% of the amount of a loan to a person,
10 if the proceeds of the loan are to be applied to the purchase and
11 installation, in a building devoted to industrial or commercial
12 purposes, or in an office building, of an energy improvement
13 system;

14 s. To employ consulting engineers, architects, attorneys, real
15 estate counselors, appraisers, and such other consultants and
16 employees as may be required in the judgment of the authority to
17 carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section
18 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et
19 al.), **[and]** the "Municipal Rehabilitation and Economic Recovery
20 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L. , c. (C.)
21 (pending before the Legislature as this bill), and to fix and pay their
22 compensation from funds available to the authority therefor, all
23 without regard to the provisions of Title 11A of the New Jersey
24 Statutes;

25 t. To do and perform any acts and things authorized by
26 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401
27 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the
28 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,
29 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C.) (pending before
30 the Legislature as this bill), under, through or by means of its own
31 officers, agents and employees, or by contract with any person;

32 u. To procure insurance against any losses in connection with
33 its property, operations or assets in such amounts and from such
34 insurers as it deems desirable;

35 v. To do any and all things necessary or convenient to carry out
36 its purposes and exercise the powers given and granted in P.L.1974,
37 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-
38 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the "Municipal
39 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
40 (C.52:27BBB-1 et al.), and P.L. , c. (C.) (pending before the
41 Legislature as this bill);

42 w. To construct, reconstruct, rehabilitate, improve, alter, equip,
43 maintain or repair or provide for the construction, reconstruction,
44 improvement, alteration, equipping or maintenance or repair of any
45 development property and lot, award and enter into construction
46 contracts, purchase orders and other contracts with respect thereto,
47 upon such terms and conditions as the authority shall determine to
48 be reasonable, including, but not limited to, reimbursement for the

- 1 planning, designing, financing, construction, reconstruction,
2 improvement, equipping, furnishing, operation and maintenance of
3 any such development property and the settlement of any claims
4 arising therefrom and the establishment and maintenance of reserve
5 funds with respect to the financing of such development property;
- 6 x. When authorized by the governing body of a municipality
7 exercising jurisdiction over an urban growth zone, to construct,
8 cause to be constructed or to provide financial assistance to projects
9 in an urban growth zone which shall be exempt from the terms and
10 requirements of the land use ordinances and regulations, including,
11 but not limited to, the master plan and zoning ordinances, of such
12 municipality;
- 13 y. To enter into business employment incentive agreements as
14 provided in the "Business Employment Incentive Program Act,"
15 P.L.1996, c.26 (C.34:1B-124 et al.);
- 16 z. To **【undertake school facilities projects and to】** enter into
17 agreements or contracts, execute instruments, and do and perform
18 all acts or things necessary, convenient or desirable for the purposes
19 of the authority to carry out any power expressly provided pursuant
20 to P.L.1974, c.80 (C.34:1B-1 et seq.) **【and】**, P.L.2000, c.72
21 (C.18A:7G-1 et al.), and P.L. , c. (C.) (pending before the
22 Legislature as this bill), including, but not limited to, entering into
23 contracts with the State Treasurer, the Commissioner of Education,
24 districts, the New Jersey Schools Development Authority, and any
25 other entity which may be required in order to carry out the
26 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and
27 P.L. , c. (C.) (pending before the Legislature as this bill);
- 28 aa. **【To enter into leases, rentals or other disposition of a real**
29 **property interest in and of any school facilities project to or from**
30 **any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.)】**
31 **(Deleted by amendment, P.L. , c.) (pending before the**
32 **Legislature as this bill);**
- 33 bb. To make and contract to make loans **【or leases and to make**
34 **grants】** to local units to finance the cost of school facilities projects
35 and to acquire and contract to acquire bonds, notes or other
36 obligations issued or to be issued by local units to evidence the
37 loans **【or leases】**, all in accordance with the provisions of P.L.2000,
38 c.72 (C.18A:7G-1 et al.), and P.L. , c. (C.) (pending before the
39 Legislature as this bill);
- 40 cc. Subject to any agreement with holders of its bonds issued to
41 finance a project or school facilities project, obtain as security or to
42 provide liquidity for payment of all or any part of the principal of
43 and interest and premium on the bonds of the authority or for the
44 purchase upon tender or otherwise of the bonds, lines of credit,
45 letters of credit, reimbursement agreements, interest rate exchange
46 agreements, currency exchange agreements, interest rate floors or
47 caps, options, puts or calls to hedge payment, currency, rate, spread

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

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

15 ee. To make loans to refinance solid waste facility bonds
16 through the issuance of bonds or other obligations and the execution
17 of any agreements with counties or public authorities to effect the
18 refunding or rescheduling of solid waste facility bonds, or otherwise
19 provide for the payment of all or a portion of any series of solid
20 waste facility bonds. Any county or public authority refunding or
21 rescheduling its solid waste facility bonds pursuant to this
22 subsection shall provide for the payment of not less than fifty
23 percent of the aggregate debt service for the refunded or
24 rescheduled debt of the particular county or public authority for the
25 duration of the loan; except that, whenever the solid waste facility
26 bonds to be refinanced were issued by a public authority and the
27 county solid waste facility was utilized as a regional county solid
28 waste facility, as designated in the respective adopted district solid
29 waste management plans of the participating counties as approved
30 by the department prior to November 10, 1997, and the utilization
31 of the facility was established pursuant to tonnage obligations set
32 forth in their respective interdistrict agreements, the public
33 authority refunding or rescheduling its solid waste facility bonds
34 pursuant to this subsection shall provide for the payment of a
35 percentage of the aggregate debt service for the refunded or
36 rescheduled debt of the public authority not to exceed the
37 percentage of the specified tonnage obligation of the host county for
38 the duration of the loan. Whenever the solid waste facility bonds
39 are the obligation of a public authority, the relevant county shall
40 execute a deficiency agreement with the authority, which shall
41 provide that the county pledges to cover any shortfall and to pay
42 deficiencies in scheduled repayment obligations of the public
43 authority. All costs associated with the issuance of bonds pursuant
44 to this subsection may be paid by the authority from the proceeds of
45 these bonds. Any county or public authority is hereby authorized to
46 enter into any agreement with the authority necessary, desirable or
47 convenient to effectuate the provisions of this subsection.

1 The authority shall not issue bonds or other obligations to effect
2 the refunding or rescheduling of solid waste facility bonds after
3 December 31, 2002. The authority may refund its own bonds issued
4 for the purposes herein at any time;

5 ff. To pool loans for any local government units that are
6 refunding bonds and do and perform any and all acts or things
7 necessary, convenient or desirable for the purpose of the authority
8 to achieve more favorable interest rates and terms for those local
9 governmental units;

10 gg. To finance projects approved by the board, provide staff
11 support to the board, oversee and monitor progress on the part of
12 the board in carrying out the revitalization, economic development
13 and restoration projects authorized pursuant to the "Municipal
14 Rehabilitation and Economic Recovery Act," P.L.2002, c.43
15 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities
16 pursuant thereto; and

17 hh. To offer financial assistance to qualified film production
18 companies as provided in the "New Jersey Film Production
19 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.).
20 (cf: P.L.2003, c.182, s.8)

21
22 54. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to
23 read as follows:

24 1. The New Jersey Economic Development Authority shall
25 adopt rules and regulations requiring that not less than the
26 prevailing wage rate be paid to workers employed in the
27 performance of any construction contract undertaken in connection
28 with any of its projects, those projects which it undertakes pursuant
29 to P.L.2002, c.43 (C.52:27BBB-1 et al.) **【**or school facilities
30 projects**】**, or undertaken to fulfill any condition of receiving
31 authority financial assistance. The prevailing wage rate shall be the
32 rate determined by the Commissioner of Labor pursuant to the
33 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the
34 purposes of this section, "authority financial assistance" means any
35 loan, loan guarantee, grant, incentive, tax exemption or other
36 financial assistance approved, funded, authorized, administered or
37 provided by the authority to any entity, including but not limited to,
38 all authority financial assistance received by the entity pursuant to
39 P.L.1996, c.26 (C.34:1B-124 et seq.) that enables the entity to
40 engage in a construction contract, but this shall not be construed as
41 requiring the payment of the prevailing wage for construction
42 commencing more than two years after the assistance is received.
43 (cf: P.L.2002, c.78, s.1)

44
45 55. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to
46 read as follows:

47 4. a. The New Jersey Economic Development Authority shall
48 adopt rules and regulations to establish an affirmative action

1 program for the hiring of minority workers employed in the
2 performance of construction contracts undertaken in connection
3 with any of its projects **[and school facilities projects]**, and to
4 expand the business opportunities of socially and economically
5 disadvantaged contractors and vendors seeking to provide materials
6 and services for those contracts, consistent with the provisions of
7 the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et
8 seq.) and the authority shall provide for the proper enforcement and
9 administration of such rules and regulations.

10 b. **[Within 180 days of the effective date of P.L.2000, c.72**
11 **(C.18A:7G-1 et al.), but before adoption of its rules and regulations**
12 **concerning its affirmative action program, the authority shall**
13 **submit the proposed rules and regulations to the presiding officers**
14 **and the standing committees on State government of both houses of**
15 **the Legislature for their review.]** (Deleted by amendment,
16 P.L. , c.) (pending before the Legislature as this bill)
17 (cf: P.L.2000, c.72, s.48)

18
19 56. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to
20 read as follows:

21 50. In the exercise of powers granted by P.L.2000, c.72
22 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
23 Legislature as this bill) in connection with any school facilities
24 project, any and all claims, damages, losses, liabilities or costs that
25 the authority may incur shall be payable only from the amounts
26 made available to the authority pursuant to **[that act]** P.L.2000,
27 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C.) (pending before the
28 Legislature as this bill). In connection with any agreement or
29 contract entered into by the authority relating to any school
30 facilities project, there shall be no recovery against the authority for
31 punitive or consequential damages arising out of contract nor shall
32 there be any recovery against the authority for claims based upon
33 implied warranties or upon contracts implied in law.
34 (cf: P.L.2000, c.72, s.50)

35
36 57. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to
37 read as follows:

38 54. Notwithstanding the provisions of any law to the contrary,
39 any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or
40 P.L. , c. (C.) (pending before the Legislature as this bill) shall
41 be fully negotiable within the meaning and for all purposes of Title
42 12A of the New Jersey Statutes, and each holder or owner of such a
43 bond or other obligation, or of any coupon appurtenant thereto, by
44 accepting the bond or coupon shall be conclusively deemed to have
45 agreed that the bond or coupon is and shall be fully negotiable
46 within the meaning and for all purposes of Title 12A.
47 (cf: P.L.2000, c.72, s.54)

1 58. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to
2 read as follows:

3 15. The exercise of the powers granted by this act **[and]**,
4 P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L. , c. (C.) (pending
5 before the Legislature as this bill) shall constitute the performance
6 of an essential governmental function and the authority shall not be
7 required to pay any taxes or assessments upon or in respect of a
8 project or school facilities project, or any property or moneys of the
9 authority, and the authority, its projects and school facilities
10 projects, property and moneys and any bonds and notes issued
11 under the provisions of this act **[and]**, P.L.2000, c.72 (C.18A:7G-1
12 et al.), and P.L. , c. (C.) (pending before the Legislature as this
13 bill), their transfer and the income therefrom, including any profit
14 made on the sale thereof, shall at all times be free from taxation of
15 every kind by the State except for transfer, inheritance and estate
16 taxes and by any political subdivision of the State; provided, that
17 any person occupying a project whether as lessee, vendee or
18 otherwise shall, as long as title thereto shall remain in the authority,
19 pay to the political subdivision in which such project is located a
20 payment in lieu of taxes which shall equal the taxes on real and
21 personal property, including water and sewer service charges or
22 assessments, which such person would have been required to pay
23 had it been the owner of such property during the period for which
24 such payment is made and neither the authority nor its projects,
25 properties, money or bonds and notes shall be obligated, liable or
26 subject to lien of any kind for the enforcement, collection or
27 payment thereof. If and to the extent the proceedings under which
28 the bonds authorized to be issued under the provisions of this act so
29 provide, the authority may agree to cooperate with such person
30 occupying a project, in connection with any administrative or
31 judicial proceedings for determining the validity or amount of such
32 payments and may agree to appoint or designate and reserve the
33 right in and for such person to take all action which the authority
34 may lawfully take in respect of such payments and all matters
35 relating thereto, provided such person shall bear and pay all costs
36 and expenses of the authority thereby incurred at the request of such
37 person or by reason of any such action taken by such person in
38 behalf of the authority. If such person occupying a project has paid
39 the amounts in lieu of taxes required by this section to be paid such
40 person shall not be required to pay any such taxes as to which a
41 payment in lieu thereof has been made to the State or to any
42 political subdivision, any other statute to the contrary
43 notwithstanding.

44 (cf: P.L.2000, c.72, s.49)

45

46 59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to
47 read as follows:

48 19. Preparation; contents; modification.

1 a. The planning board may prepare and, after public hearing,
2 adopt or amend a master plan or component parts thereof, to guide
3 the use of lands within the municipality in a manner which protects
4 public health and safety and promotes the general welfare.

5 b. The master plan shall generally comprise a report or
6 statement and land use and development proposals, with maps,
7 diagrams and text, presenting, at least the following elements (1)
8 and (2) and, where appropriate, the following elements (3) through
9 (14):

10 (1) A statement of objectives, principles, assumptions, policies
11 and standards upon which the constituent proposals for the physical,
12 economic and social development of the municipality are based;

13 (2) A land use plan element (a) taking into account and stating
14 its relationship to the statement provided for in paragraph (1)
15 hereof, and other master plan elements provided for in paragraphs
16 (3) through (14) hereof and natural conditions, including, but not
17 necessarily limited to, topography, soil conditions, water supply,
18 drainage, flood plain areas, marshes, and woodlands; (b) showing
19 the existing and proposed location, extent and intensity of
20 development of land to be used in the future for varying types of
21 residential, commercial, industrial, agricultural, recreational,
22 educational and other public and private purposes or combination of
23 purposes; and stating the relationship thereof to the existing and any
24 proposed zone plan and zoning ordinance; and (c) showing the
25 existing and proposed location of any airports and the boundaries of
26 any airport safety zones delineated pursuant to the "Air Safety and
27 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)
28 including a statement of the standards of population density and
29 development intensity recommended for the municipality;

30 (3) A housing plan element pursuant to section 10 of P.L.1985,
31 c.222 (C.52:27D-310), including, but not limited to, residential
32 standards and proposals for the construction and improvement of
33 housing;

34 (4) A circulation plan element showing the location and types of
35 facilities for all modes of transportation required for the efficient
36 movement of people and goods into, about, and through the
37 municipality, taking into account the functional highway
38 classification system of the Federal Highway Administration and
39 the types, locations, conditions and availability of existing and
40 proposed transportation facilities, including air, water, road and rail;

41 (5) A utility service plan element analyzing the need for and
42 showing the future general location of water supply and distribution
43 facilities, drainage and flood control facilities, sewerage and waste
44 treatment, solid waste disposal and provision for other related
45 utilities, and including any storm water management plan required
46 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).
47 If a municipality prepares a utility service plan element as a
48 condition for adopting a development transfer ordinance pursuant to

1 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan
2 element shall address the provision of utilities in the receiving zone
3 as provided thereunder;

4 (6) A community facilities plan element showing the existing
5 and proposed location and type of educational or cultural facilities,
6 historic sites, libraries, hospitals, firehouses, police stations and
7 other related facilities, including their relation to the surrounding
8 areas;

9 (7) A recreation plan element showing a comprehensive system
10 of areas and public sites for recreation;

11 (8) A conservation plan element providing for the preservation,
12 conservation, and utilization of natural resources, including, to the
13 extent appropriate, energy, open space, water supply, forests, soil,
14 marshes, wetlands, harbors, rivers and other waters, fisheries,
15 endangered or threatened species wildlife and other resources, and
16 which systemically analyzes the impact of each other component
17 and element of the master plan on the present and future
18 preservation, conservation and utilization of those resources;

19 (9) An economic plan element considering all aspects of
20 economic development and sustained economic vitality, including
21 (a) a comparison of the types of employment expected to be
22 provided by the economic development to be promoted with the
23 characteristics of the labor pool resident in the municipality and
24 nearby areas and (b) an analysis of the stability and diversity of the
25 economic development to be promoted;

26 (10) A historic preservation plan element: (a) indicating the
27 location and significance of historic sites and historic districts; (b)
28 identifying the standards used to assess worthiness for historic site
29 or district identification; and (c) analyzing the impact of each
30 component and element of the master plan on the preservation of
31 historic sites and districts;

32 (11) Appendices or separate reports containing the technical
33 foundation for the master plan and its constituent elements;

34 (12) A recycling plan element which incorporates the State
35 Recycling Plan goals, including provisions for the collection,
36 disposition and recycling of recyclable materials designated in the
37 municipal recycling ordinance, and for the collection, disposition
38 and recycling of recyclable materials within any development
39 proposal for the construction of 50 or more units of single-family
40 residential housing or 25 or more units of multi-family residential
41 housing and any commercial or industrial development proposal for
42 the utilization of 1,000 square feet or more of land;

43 (13) A farmland preservation plan element, which shall include:
44 an inventory of farm properties and a map illustrating significant
45 areas of agricultural land; a statement showing that municipal
46 ordinances support and promote agriculture as a business; and a
47 plan for preserving as much farmland as possible in the short term
48 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-

1 1 et al.) through a variety of mechanisms including, but not limited
2 to, utilizing option agreements, installment purchases, and
3 encouraging donations of permanent development easements; **[and]**

4 (14) A development transfer plan element which sets forth the
5 public purposes, the locations of sending and receiving zones and
6 the technical details of a development transfer program based on the
7 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

8 (15) An educational facilities plan element which incorporates
9 the purposes and goals of the "long-range facilities plan" required to
10 be submitted to the Commissioner of Education by a school district
11 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4).

12 c. The master plan and its plan elements may be divided into
13 subplans and subplan elements projected according to periods of
14 time or staging sequences.

15 d. The master plan shall include a specific policy statement
16 indicating the relationship of the proposed development of the
17 municipality, as developed in the master plan to (1) the master plans
18 of contiguous municipalities, (2) the master plan of the county in
19 which the municipality is located, (3) the State Development and
20 Redevelopment Plan adopted pursuant to the "State Planning Act,"
21 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)
22 and (4) the district solid waste management plan required pursuant
23 to the provisions of the "Solid Waste Management Act," P.L.1970,
24 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is
25 located.

26 In the case of a municipality situated within the Highlands
27 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the
28 master plan shall include a specific policy statement indicating the
29 relationship of the proposed development of the municipality, as
30 developed in the master plan, to the Highlands regional master plan
31 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

32 (cf: P.L.2004, c.120, s.60)

33

34 60. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to
35 read as follows:

36 57. Powers. The board of adjustment shall have the power to:

37 a. Hear and decide appeals where it is alleged by the appellant
38 that there is error in any order, requirement, decision or refusal
39 made by an administrative officer based on or made in the
40 enforcement of the zoning ordinance;

41 b. Hear and decide requests for interpretation of the zoning map
42 or ordinance or for decisions upon other special questions upon
43 which such board is authorized to pass by any zoning or official
44 map ordinance, in accordance with this act;

45 c. (1) Where: (a) by reason of exceptional narrowness,
46 shallowness or shape of a specific piece of property, or (b) by
47 reason of exceptional topographic conditions or physical features
48 uniquely affecting a specific piece of property, or (c) by reason of

1 an extraordinary and exceptional situation uniquely affecting a
2 specific piece of property or the structures lawfully existing
3 thereon, the strict application of any regulation pursuant to article 8
4 of this act would result in peculiar and exceptional practical
5 difficulties to, or exceptional and undue hardship upon, the
6 developer of such property, grant, upon an application or an appeal
7 relating to such property, a variance from such strict application of
8 such regulation so as to relieve such difficulties or hardship; (2)
9 where in an application or appeal relating to a specific piece of
10 property the purposes of this act or the purposes of the "Educational
11 Facilities Construction and Financing Act," P.L.2000, c.72
12 (C.18A:7G-1 et al.), would be advanced by a deviation from the
13 zoning ordinance requirements and the benefits of the deviation
14 would substantially outweigh any detriment, grant a variance to
15 allow departure from regulations pursuant to article 8 of this act;
16 provided, however, that the fact that a proposed use is an inherently
17 beneficial use shall not be dispositive of a decision on a variance
18 under this subsection and provided that no variance from those
19 departures enumerated in subsection d. of this section shall be
20 granted under this subsection; and provided further that the
21 proposed development does not require approval by the planning
22 board of a subdivision, site plan or conditional use, in conjunction
23 with which the planning board has power to review a request for a
24 variance pursuant to subsection a. of section 47 of this act; and

25 d. In particular cases for special reasons, grant a variance to
26 allow departure from regulations pursuant to article 8 of this act to
27 permit: (1) a use or principal structure in a district restricted against
28 such use or principal structure, (2) an expansion of a
29 nonconforming use, (3) deviation from a specification or standard
30 pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining
31 solely to a conditional use, (4) an increase in the permitted floor
32 area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-
33 4), (5) an increase in the permitted density as defined in section 3.1
34 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required
35 lot area for a lot or lots for detached one or two dwelling unit
36 buildings, which lot or lots either an isolated undersized lot or lots
37 resulting from a minor subdivision or (6) a height of a principal
38 structure which exceeds by 10 feet or 10% the maximum height
39 permitted in the district for a principal structure. A variance under
40 this subsection shall be granted only by affirmative vote of at least
41 five members, in the case of a municipal board, or two-thirds of the
42 full authorized membership, in the case of a regional board,
43 pursuant to article 10 of this act.

44 If an application development requests one or more variances but
45 not a variance for a purpose enumerated in subsection d. of this
46 section, the decision on the requested variance or variances shall be
47 rendered under subsection c. of this section.

1 No variance or other relief may be granted under the terms of
2 this section, including a variance or other relief involving an
3 inherently beneficial use, without a showing that such variance or
4 other relief can be granted without substantial detriment to the
5 public good and will not substantially impair the intent and the
6 purpose of the zone plan and zoning ordinance. In respect to any
7 airport safety zones delineated under the "Air Safety and Zoning
8 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or
9 other relief may be granted under the terms of this section,
10 permitting the creation or establishment of a nonconforming use
11 which would be prohibited under standards promulgated pursuant to
12 that act, except upon issuance of a permit by the Commissioner of
13 Transportation. An application under this section may be referred
14 to any appropriate person or agency for its report; provided that
15 such reference shall not extend the period of time within which the
16 zoning board of adjustment shall act.

17 (cf: P.L.1997, c.145, s.1)

18

19 61. The following sections are repealed:

20 Sections 51, 52, and 53 of P.L.2000, c.72 (C.34:1B-5.6, 34:1B-
21 5.7, and 34:1B-5.8).

22

23 62. This act shall take effect immediately.