

# SENATE, No. 859

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Senator O'Scanlon**

**SYNOPSIS**

Eliminates NJ Schools Development Authority and transfers its school construction responsibilities to EDA.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 10/8/2020)**

1 **AN ACT** concerning the construction of school facilities projects,  
2 revising various parts of the statutory law, and supplementing  
3 Title 34 of the Revised Statutes.

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

7  
8 1. Section 21 of P.L.2007, c.21 (C.18A:7F-63) is amended to  
9 read as follows:

10 21. a. Notwithstanding any provision of P.L.2000, c.72  
11 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) to the  
12 contrary, an SDA district as defined in section 3 of P.L.2000, c.72  
13 (C.18A:7G-3) may include in its annual capital outlay budget and  
14 construct one or more school facilities projects if the commissioner,  
15 in consultation with the New Jersey **【Schools】** Economic  
16 Development Authority, approves the inclusion of the project upon  
17 a demonstration by the district that its budget includes sufficient  
18 funds to finance the project. The commissioner's approval of the  
19 inclusion of the school facilities project in the district's annual  
20 capital outlay budget may also contain specific conditions  
21 including, but not limited to, a requirement that the district follow  
22 the design requirements and materials and system standards  
23 established by the **【development】** authority. A district may also  
24 withdraw funds from a capital reserve account for such purpose  
25 with the approval of the commissioner.

26 b. A school facilities project that is not financed and  
27 constructed pursuant to subsection a. of this section, shall continue  
28 to be financed and constructed in accordance with the provisions of  
29 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-  
30 235 et al.).  
31 (cf: P.L.2015, c.257, s.1)

32  
33 2. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to  
34 read as follows:

35 3. As used in sections 1 through 30 and 57 through 71 of  
36 P.L.2000, c.72 (C.18A:7G-1 et al.) and sections 14 through 17 of  
37 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), unless the  
38 context clearly requires a different meaning:

39 "Area cost allowance" means \$138 per square foot for the school  
40 year 2000-2001 and shall be inflated by an appropriate cost index  
41 for the 2001-2002 school year. For the 2002-2003 school year and  
42 subsequent school years, the area cost allowance shall be  
43 established by the commissioner pursuant to subsection h. of  
44 section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance  
45 used in determining preliminary eligible costs of school facilities

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

Matter underlined thus is new matter.

1 projects shall be that of the year of application for approval of the  
2 project;

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

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

10 "Commissioner" means the Commissioner of Education;

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

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

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

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

36 **["Development authority" means the New Jersey Schools**  
37 **Development Authority established pursuant to section 3 of**  
38 **P.L.2007, c.137 (C.52:18A-237);]**

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

47 "District aid percentage" means the number expressed as a  
48 percentage derived from dividing the district's equalization aid

1 calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53)  
2 as of the date of the commissioner's determination of preliminary  
3 eligible costs by the district's adequacy budget calculated pursuant  
4 to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the  
5 commissioner's determination of preliminary eligible costs;

6 "Excess costs" means the additional costs, if any, which shall be  
7 borne by the district, of a school facilities project which result from  
8 design factors that are not required to meet the facilities efficiency  
9 standards and not approved pursuant to paragraph (1) of subsection  
10 g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized  
11 as community design features included in final eligible costs  
12 pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-  
13 6);

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

17 "Final eligible costs" means for school facilities projects to be  
18 constructed by the **【development】** authority, the final eligible costs  
19 of the school facilities project as determined by the commissioner,  
20 in consultation with the **【development】** authority, pursuant to  
21 section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration  
22 projects, the final eligible costs of the project as determined by the  
23 commissioner and reviewed by the **【development】** authority which  
24 may include the cost of community design features determined by  
25 the commissioner to be an integral part of the school facility and  
26 which do not exceed the facilities efficiency standards, and which  
27 were reviewed by the **【development】** authority and approved by the  
28 State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-  
29 6); and for districts other than SDA districts, final eligible costs as  
30 determined pursuant to paragraph (1) of subsection h. of section 5  
31 of P.L.2000, c.72 (C.18A:7G-5);

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

35 "FTE" means a full-time equivalent student which shall be  
36 calculated as follows: each student in grades 1 through 12 shall be  
37 counted at 100% of the actual count of students, in the case of  
38 districts which operate a half-day kindergarten program each  
39 kindergarten student shall be counted at 50% of the actual count of  
40 kindergarten students, in the case of districts which operate a full-  
41 day kindergarten program or which currently operate a half-day  
42 kindergarten program but propose to build facilities to house a full-  
43 day kindergarten program each kindergarten student shall be  
44 counted at 100% of the actual count of kindergarten students, and  
45 each preschool student who is enrolled in a full-day preschool  
46 program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54)  
47 shall be counted at 100% of the actual count of preschool students.

1 In addition, each preschool disabled child who is entitled to receive  
2 a full-time program pursuant to N.J.S.18A:46-6 shall be counted at  
3 100% of the actual count of these students in the district;

4 "Functional capacity" means the number of students that can be  
5 housed in a building in order to have sufficient space for it to be  
6 educationally adequate for the delivery of programs and services  
7 necessary for student achievement of the core curriculum content  
8 standards. Functional capacity is determined by dividing the  
9 existing gross square footage of a school building by the minimum  
10 area allowance per FTE student pursuant to subsection b. of section  
11 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students  
12 contained therein. The difference between the projected enrollment  
13 determined pursuant to subsection a. of section 8 of P.L.2000, c.72  
14 (C.18A:7G-8) and the functional capacity is the unhoused students  
15 that are the basis upon which the additional costs of space to  
16 provide educationally adequate facilities for the entire projected  
17 enrollment are determined. The existing gross square footage for  
18 the purposes of defining functional capacity is exclusive of existing  
19 spaces that are not contained in the facilities efficiency standards  
20 but which are used to deliver programs and services aligned to the  
21 core curriculum content standards, used to provide support services  
22 directly to students, or other existing spaces that the district can  
23 demonstrate would be structurally or fiscally impractical to convert  
24 to other uses contained in the facilities efficiency standards;

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

35 "Local share" means, in the case of a school facilities project to  
36 be constructed by the **development** authority, the total costs less  
37 the State share as determined pursuant to section 5 of P.L.2000,  
38 c.72 (C.18A:7G-5); in the case of a demonstration project, the total  
39 costs less the State share as determined pursuant to sections 5 and 6  
40 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of  
41 a school facilities project which shall be financed pursuant to  
42 section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the  
43 State share as determined pursuant to that section;

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

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

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

9 "Maintenance" means expenditures which are approved for  
10 repairs and replacements for the purpose of keeping a school  
11 facility open and safe for use or in its original condition, including  
12 repairs and replacements to a school facility's heating, lighting,  
13 ventilation, security and other fixtures to keep the facility or  
14 fixtures in effective working condition. Maintenance shall not  
15 include capital maintenance or contracted custodial or janitorial  
16 services, expenditures for the cleaning of a school facility or its  
17 fixtures, the care and upkeep of grounds or parking lots, and the  
18 cleaning of, or repairs and replacements to, movable furnishings or  
19 equipment, or other expenditures which are not required to maintain  
20 the original condition over the school facility's useful life.  
21 Approved maintenance expenditures shall be as determined by the  
22 commissioner pursuant to regulations to be adopted by the  
23 commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-  
24 26);

25 "Other allowable costs" means the costs of temporary facilities,  
26 site development, acquisition of land or other real property interests  
27 necessary to effectuate the school facilities project, fees for the  
28 services of design professionals, including architects, engineers,  
29 construction managers and other design professionals, legal fees,  
30 financing costs and the administrative costs of the **【development**  
31 **authority and the financing】** authority or the district incurred in  
32 connection with the school facilities project;

33 "Other facilities" means athletic stadiums, swimming pools, any  
34 associated structures or related equipment tied to such facilities  
35 including, but not limited to, grandstands and night field lights,  
36 greenhouses, facilities used for non-instructional or non-educational  
37 purposes, and any structure, building, or facility used solely for  
38 school administration;

39 "Preliminary eligible costs" means the initial eligible costs of a  
40 school facilities project as calculated pursuant to the formulas set  
41 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7) or as otherwise  
42 provided pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) and  
43 which shall be deemed to include the costs of construction and other  
44 allowable costs;

45 "Redevelopment entity" means a redevelopment entity  
46 authorized by a municipal governing body to implement plans and  
47 carry out redevelopment projects in the municipality pursuant to the

1 "Local Redevelopment and Housing Law," P.L.1992, c.79  
2 (C.40A:12A-1 et al.);

3 "School bonds" means, in the case of a school facilities project  
4 which is to be constructed by the **【development】** authority, a  
5 redevelopment entity, or a district under section 15 of P.L.2000,  
6 c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a  
7 district to finance the local share; and, in the case of a school  
8 facilities project which is not to be constructed by the  
9 **【development】** authority or a redevelopment entity, or financed  
10 under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or  
11 other obligations issued by a district to finance the total costs;

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

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 "School facilities project" means the planning, acquisition,  
24 demolition, construction, improvement, alteration, modernization,  
25 renovation, reconstruction or capital maintenance of all or any part  
26 of a school facility or of any other personal property necessary for,  
27 or ancillary to, any school facility, and shall include fixtures,  
28 furnishings and equipment, and shall also include, but is not limited  
29 to, site acquisition, site development, the services of design  
30 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 "SDA district" is a district that received education opportunity  
34 aid or preschool expansion aid in the 2007-2008 school year;

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

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

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

1 determined pursuant to section 10 of P.L.2000, c.72 (C.18A:7G-  
2 10);

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

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

11 "State share" means the State's proportionate share of the final  
12 eligible costs of a school facilities project to be constructed by the  
13 **【development】** authority as determined pursuant to section 5 of  
14 P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration  
15 project, the State's proportionate share of the final eligible costs of  
16 the project as determined pursuant to sections 5 and 6 of P.L.2000,  
17 c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school  
18 facilities project to be financed pursuant to section 15 of P.L.2000,  
19 c.72 (C.18A:7G-15), the State share as determined pursuant to that  
20 section;

21 "Total costs" means, in the case of a school facilities project  
22 which is to be constructed by the **【development】** authority or a  
23 redevelopment entity or financed pursuant to section 15 of  
24 P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess  
25 costs if any; and in the case of a school facilities project which is  
26 not to be constructed by the **【development】** authority or a  
27 redevelopment entity or financed pursuant to section 15 of  
28 P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as  
29 determined by the district.  
30 (cf: P.L.2007, c.260, s.39)

31

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

34 5. a. The **【development】** authority shall **【undertake and the**  
35 **financing authority shall】** construct and finance the school facilities  
36 projects of SDA districts.

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

41 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
42 contrary, the procedures for obtaining approval of a school facilities  
43 project shall be as set forth in this act; provided that any district  
44 whose school facilities project is not constructed by the  
45 **【development】** authority shall also be required to comply with the  
46 provisions of N.J.S.18A:18A-16.

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

13       (2) In the case of an SDA district school facilities project, based  
14 upon its educational priority ranking and the Statewide strategic  
15 plan established pursuant to subsection m. of this section, the  
16 commissioner may authorize the **【development】** authority to  
17 undertake preconstruction activities which may include, but need  
18 not be limited to, site identification, investigation, and acquisition,  
19 feasibility studies, land-related design work, design work, site  
20 remediation, demolition, and acquisition of temporary facilities.  
21 Upon receipt of the authorization, the **【development】** authority may  
22 initiate the preconstruction activities required to prepare the  
23 application for commissioner approval of the school facilities  
24 project.

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

1 by using the proposed square footage of the building as the  
2 approved area for unhoused students.

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

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

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

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

42 (3) To house the district's central administration, a district may  
43 request an adjustment to the approved areas for unhoused students  
44 of 2.17 square feet for each FTE student in the projected total  
45 district school enrollment if the proposed administrative offices will  
46 be housed in a school facility and the district demonstrates either  
47 that the existing central administrative offices are obsolete or that it  
48 is more practical to convert those offices to instructional space. To

1 the extent that existing administrative space will continue to be used  
2 for administrative purposes, the space shall be included in the  
3 formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

4 If the commissioner approves excess facilities efficiency  
5 standards or additional area allowances pursuant to paragraph (1),  
6 (2), or (3) of this subsection, the commissioner shall calculate the  
7 preliminary eligible costs based upon the additional area allowances  
8 or excess facilities efficiency standards pursuant to the formulas set  
9 forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that  
10 the commissioner does not approve the excess facilities efficiency  
11 standards or additional area allowances, the district may either:  
12 modify its submission so that the school facilities project meets the  
13 facilities efficiency standards; or pay for the excess costs.

14 (4) The commissioner shall approve spaces in excess of, or  
15 inconsistent with, the facilities efficiency standards, hereinafter  
16 referred to as nonconforming spaces, upon a determination by the  
17 district that the spaces are necessary to comply with State or federal  
18 law concerning individuals with disabilities, including that the  
19 spaces are necessary to provide in-district programs and services for  
20 current disabled pupils who are being served in out-of-district  
21 placements or in-district programs and services for the projected  
22 disabled pupil population. A district may apply for additional State  
23 aid for nonconforming spaces that will permit pupils with  
24 disabilities to be educated to the greatest extent possible in the same  
25 buildings or classes with their nondisabled peers. The  
26 nonconforming spaces may: (a) allow for the return of pupils with  
27 disabilities from private facilities; (b) permit the retention of pupils  
28 with disabilities who would otherwise be placed in private facilities;  
29 (c) provide space for regional programs in a host school building  
30 that houses both disabled and nondisabled pupils; and (d) provide  
31 space for the coordination of regional programs by a county special  
32 services school district, educational services commission, jointure  
33 commission, or other agency authorized by law to provide regional  
34 educational services in a school building that houses both disabled  
35 and nondisabled pupils. A district's State support ratio shall be  
36 adjusted to equal the lesser of the sum of its district aid percentage  
37 as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or  
38 100% for any nonconforming spaces approved by the commissioner  
39 pursuant to this paragraph.

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

42 (1) In the case of a district other than an SDA district, the  
43 commissioner shall notify the district whether the school facilities  
44 project is approved and, if so approved, the preliminary eligible  
45 costs and the excess costs, if any. Following the determination of  
46 preliminary eligible costs and the notification of project approval,  
47 the district may appeal to the commissioner for an increase in those  
48 costs if the detailed plans and specifications completed by a design

1 professional for the school facilities project indicate that the cost of  
2 constructing that portion of the project which is consistent with the  
3 facilities efficiency standards and does not exceed the area  
4 allowances per FTE student exceeds the preliminary eligible costs  
5 as determined by the commissioner for the project by 10% or more.  
6 The district shall file its appeal within 30 days of the preparation of  
7 the plans and specifications. If the district chooses not to file an  
8 appeal, then the final eligible costs shall equal the preliminary  
9 eligible costs.

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

35 (2) In the case of an SDA district, the commissioner shall  
36 promptly prepare and submit to the **【development】** authority a  
37 preliminary project report which shall consist, at a minimum, of the  
38 following information: a complete description of the school  
39 facilities project; the actual location of the project; the total square  
40 footage of the project together with a breakdown of total square  
41 footage by functional component; the preliminary eligible costs of  
42 the project; the project's priority ranking determined pursuant to  
43 subsection m. of this section; any other factors to be considered by  
44 the **【development】** authority in undertaking the project; and the  
45 name and address of the person from the district to contact in regard  
46 to the project.

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

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

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

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

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

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

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

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

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

43 k. For the SDA districts, the State share shall be 100% of the  
44 final eligible costs. Except as otherwise provided pursuant to  
45 section 9 of P.L.2000, c.72 (C.18A:7G-9) , for all other districts, the  
46 State share shall be an amount equal to the district aid percentage;

1 except that the State share shall not be less than 40% of the final  
2 eligible costs.

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

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

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

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

39 (3) Upon the commissioner's determination of the educational  
40 priority ranking of school facilities projects in SDA districts  
41 pursuant to paragraph (2) of this subsection, the **【development】**  
42 authority, in consultation with the commissioner, the SDA districts,  
43 and the governing bodies of the municipalities in which the SDA  
44 districts are situate, shall establish a Statewide strategic plan to be  
45 used in the sequencing of SDA district school facilities projects  
46 based upon the projects' educational priority rankings and issues  
47 which impact the **【development】** authority's ability to complete the  
48 projects including, but not limited to, the construction schedule and

1 other appropriate factors. The **【development】** authority shall revise  
2 the Statewide strategic plan and the sequencing of SDA district  
3 school facilities projects in accordance with that plan no less than  
4 once every five years.

5 Any amendment to an SDA district's long-range facilities plan  
6 that is submitted to the commissioner in the period between the  
7 five-year updates of the long-range facilities plan shall be  
8 considered by the **【development】** authority, in consultation with the  
9 commissioner, for incorporation into the Statewide strategic plan.  
10 In making a determination on whether or not to amend the  
11 Statewide strategic plan, the **【development】** authority shall consider  
12 the cost of the amendment, the impact of the amendment upon the  
13 school development plans for other districts, and other appropriate  
14 factors.

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

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

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

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

44 q. The **【development】** authority shall determine the cause of  
45 any costs of construction which exceed the amount originally  
46 projected by the **【development】** authority and approved for  
47 financing by the **【financing】** authority.

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

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

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

4

5 4. Section 1 of P.L.2015, c.68 (C.18A:7G-5a) is amended to  
6 read as follows:

7 1. a. Notwithstanding the provisions of P.L.2000, c.72  
8 (C.18A:7G-1 et al.) or any other section of law to the contrary, the  
9 board of education of a county vocational school district may  
10 request a county improvement authority to construct a county  
11 vocational school district school facilities project and to issue its  
12 bonds to finance the local share of a project that is to be financed  
13 under section 15 of P.L.2000, c.72 (C.18A:7G-15), or to finance the  
14 total costs of a project that is not to be financed under section 15 of  
15 P.L.2000, c.72 (C.18A:7G-15). The bonds of a county  
16 improvement authority issued to finance the total costs of a county  
17 vocational school district school facilities project that is not to be  
18 financed under section 15 of P.L.2000, c.72 (C.18A:7F-15) shall be  
19 eligible for State debt service aid in accordance with the formula  
20 established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

21 b. A county vocational school district may lease its lands or  
22 facilities to the county improvement authority which may construct  
23 the school facilities project through a design-build contract.  
24 Whenever a school facilities project is constructed by a county  
25 improvement authority through a design-build contract: (1) The  
26 county improvement authority shall follow the procedures  
27 established by the rules and regulations of the New Jersey  
28 **【Schools】** Economic Development Authority for the procurement  
29 of design-build contracts; (2) The county improvement authority  
30 shall follow the design requirements and materials and system  
31 standards established by the **【development】** authority; (3) The  
32 provisions of the "Public School Contracts Law," (N.J.S.18A:18A-1  
33 et seq.), and the "Local Public Contracts Law," P.L.1971, c.198  
34 (C.40A:11-1 et seq.), shall not apply; and (4) A county vocational  
35 school district shall comply with the procedures for obtaining  
36 approval of the project under P.L.2000, c.72 (C.18A:7G-1 et al.),  
37 but shall not be required to comply with the provisions of  
38 N.J.S.18A:18A-16.

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

1       d. The county lease payments made to the county improvement  
2 authority pursuant to subsection c. of this section shall not be  
3 subject to any cap on appropriations or on spending or to any tax  
4 levy cap. The county lease payments shall be sufficient to pay debt  
5 service on the county improvement authority bonds issued to fund  
6 the county vocational school district school facilities project or on  
7 any refunding bonds, that remains after the application of any State  
8 debt service aid paid on those bonds pursuant to section 9 of  
9 P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be  
10 payable over the life of the bonds.

11       e. When the bonds issued by a county improvement authority  
12 are no longer outstanding, the leases and liens of the county and the  
13 county improvement authority shall expire and the county  
14 vocational school district school facilities project shall be solely  
15 vested in the county vocational school district. The county  
16 vocational school district shall be responsible for the operation,  
17 maintenance, and improvement of the school facility upon the  
18 completion of the school facilities project.  
19 (cf: P.L.2015, c.68, s.1)  
20

21       5. Section 1 of P.L.2016, c.79 (C.18A:7G-5.2) is amended to  
22 read as follows:

23       1. a. In the case of new school construction undertaken by a  
24 district or the **【development】** authority, in addition to the Best  
25 Practices Standards for Schools under Construction or Being  
26 Planned for Construction set forth by the Department of Community  
27 Affairs, the district or the **【development】** authority, as applicable,  
28 shall provide in the architectural design for the new construction  
29 that:

30       (1) wherever possible, a building site shall be chosen with  
31 adequate space to accommodate bus and vehicular traffic separately  
32 and permit additional space for the proper evacuation of occupants;

33       (2) wherever possible, bus drop-off/pick-up areas shall be  
34 separated from other vehicular drop-off/pick-up areas;

35       (3) wherever possible, pedestrian routes shall be separated from  
36 vehicular routes, and crossing of the two shall be minimized;

37       (4) the number of anterior doors shall be kept to a minimum as  
38 necessary to satisfy operational considerations and meet code  
39 requirements, and wherever possible exterior door hardware shall  
40 be eliminated from doors that are intended only for emergency  
41 egress;

42       (5) there is a single public entrance to be used during the school  
43 day which shall be equipped with a security vestibule with interior  
44 doors that must be released by school security or other staff. The  
45 district or **【development】** authority shall give consideration to  
46 providing bullet resistant glazing in the interior vestibule doors and  
47 windows;

- 1 (6) all marked entrances shall conform to a uniform numbering
- 2 system in order to assist emergency responders in locating
- 3 particular areas. The principal's office shall have a secondary exit;
- 4 (7) interior door locks on spaces that will serve as safe havens
- 5 during lockdowns shall have a keyless locking mechanism;
- 6 (8) new school buildings shall be provided with access control
- 7 systems which allow for remote locking and unlocking of all
- 8 building access doors; and
- 9 (9) new school buildings shall be designed and built in such a
- 10 manner that areas intended for public use may be separated and
- 11 secured from all other areas.
- 12 b. In the case of new school construction undertaken by a
- 13 district or the **【development】** authority, and in the case of existing
- 14 school buildings, a district or the **【development】** authority, as
- 15 applicable, shall:
- 16 (1) employ the Crime Prevention through Environmental Design
- 17 principles;
- 18 (2) require security personnel to be in uniform;
- 19 (3) make driveways one way, if possible, that lead to a clearly
- 20 marked visitor parking area. STOP signs and other traffic calming
- 21 devices shall be used to keep vehicles at a reasonable speed;
- 22 (4) place bollards along the roadway or curb line in front of the
- 23 school to prevent vehicles from gaining access to exterior walls,
- 24 windows, and doors, or in areas of the property where vehicles are
- 25 prohibited;
- 26 (5) clearly mark the school's main entrance and make it easily
- 27 visible and recognizable;
- 28 (6) limit the number of doors for access by staff;
- 29 (7) lock exterior doors, and when they are in use for a large
- 30 entry/exit provide that they are staffed and monitored;
- 31 (8) utilize an access control system with remote unlocking
- 32 features, an intercom, and fixed cameras at the school's main
- 33 entrance and for other entrances as funding permits;
- 34 (9) clearly mark all entrances with a numerical sequence to
- 35 allow for specific response by police, fire, and emergency medical
- 36 services responders;
- 37 (10) maintain a parking decal or tag system for all staff and
- 38 students who park on campus in order to easily identify
- 39 unauthorized vehicles on the property;
- 40 (11) locate enclosures for utilities that are outside a school
- 41 building away from the building to ensure that they do not provide
- 42 roof access;
- 43 (12) provide adequate and properly maintained lighting around
- 44 the buildings and parking lots;
- 45 (13) if funding, staffing, and site approval are possible, provide a
- 46 guard shack and gate on the school campus as an effective
- 47 perimeter control;

1 (14) where the footprint of the school allows, and if funding is  
2 available, create secure vestibules at the main entrance of the school  
3 building. The exterior door entrance to the school shall allow  
4 access by a visitor only to the vestibule and the doors to the  
5 remainder of the building shall be locked;

6 (15) adopt school district policies and procedures to clearly  
7 indicate that propping open doors is strictly prohibited, and that  
8 students and staff shall not open a door for anyone. All persons  
9 seeking entry to the building shall be directed to the main entrance;

10 (16) use surveillance cameras as a target-hardening tool;

11 (17) provide a dedicated server and generator for security  
12 systems, such as access control and surveillance cameras, in order  
13 to secure information and ensure efficient operation in an  
14 emergency;

15 (18) use ballistic or shatter resistant film for glass entrance door  
16 sidelights and other vulnerable first floor areas; and

17 (19) maintain a strict key distribution protocol that requires staff  
18 to sign for keys and return them at the end of each school year.

19 c. The commissioner, in consultation with the **development**  
20 authority, may revise the architectural design standards for new  
21 school construction established pursuant to subsection a. of this  
22 section and the standards for new school construction and existing  
23 school buildings established pursuant to subsection b. of this  
24 section, to reflect new recommendations or changes in best  
25 practices for school security.

26 (cf: P.L.2016, c.79, s.1)

27  
28 6. 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 district under full State intervention,  
31 that sought approval pursuant to section 11 of P.L.2000, c.72  
32 (C.18A:7G-11) of a school facilities project without excess costs  
33 but failed to receive that approval, and within the three years prior  
34 to 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 **【undertaken by the development】** constructed by the  
8 authority in accordance with an agreement between the  
9 **【development】** authority and the district. Nothing in this section  
10 shall preclude a school district under full State intervention from  
11 using the process established pursuant to section 2 of P.L.1991,  
12 c.139 (C.18A:7A-46.2) to obtain the approval of the commissioner  
13 to undertake a school facilities project.

14 (cf: P.L.2007, c.137, s.23)

15  
16 7. 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 issuance of bonds pursuant to section 14 of P.L.2000, c.72  
20 (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. In the case of a capital maintenance project, the  
24 **【development】** authority may, in its discretion, authorize an SDA  
25 district to undertake the design, acquisition, construction and all  
26 other appropriate actions necessary to complete the capital  
27 maintenance project and shall enter into a grant agreement with the  
28 district for the payment of the State share. The **【development】**  
29 authority may also authorize an SDA district to undertake the  
30 design, acquisition, construction and all other appropriate actions  
31 necessary to complete any other school facilities project in  
32 accordance with the procedures established pursuant to subsection  
33 e. of this section.

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

43 c. In order to implement the arrangements established for  
44 school facilities projects which are to be constructed by the  
45 **【development】** authority and financed pursuant to this section, a  
46 district shall enter into an agreement with the **【development】**

1 authority and the commissioner containing the terms and conditions  
2 determined by the parties to be necessary to effectuate the project.

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

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

31 (2) **【Within one year of the effective date of P.L.2007, c.137**  
32 **(C.52:18A-235 et al.), the development】** The authority, in  
33 consultation with the commissioner, shall adopt pursuant to the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.), rules and regulations by which the **【development】** authority  
36 shall determine the capacity of an SDA district, deemed eligible by  
37 the commissioner pursuant to paragraph (1) of this subsection, to  
38 manage a school facilities project or projects identified by the  
39 **【development】** authority. In making the determination, the  
40 **【development】** authority shall consider the experience of the SDA  
41 district, the size, complexity, and cost of the project, time  
42 constraints, and other relevant factors.

43 (3) The **【development】** authority, in consultation with the  
44 commissioner, shall develop and implement training programs,  
45 seminars, or symposia to provide technical assistance to SDA  
46 districts deemed to lack the capacity to manage a school facility  
47 project or projects; except that nothing herein shall be construed to

1 require the **【development】** authority or the commissioner to  
2 authorize an SDA district to hire additional staff in order to achieve  
3 capacity.

4 (4) If the **【development】** authority determines to delegate a  
5 school facilities project to an SDA district in accordance with  
6 paragraph (2) of this subsection, the **【development】** authority, the  
7 commissioner, and the district shall enter into a grant agreement.  
8 (cf: P.L.2007, c.260, s.44)  
9

10 8. Section 9 of P.L.2008, c.39 (C.18A:7G-13.1) is amended to  
11 read as follows:

12 9. The **【development】** authority, in consultation with the State  
13 Comptroller, shall cause an audit to be conducted of a school  
14 facilities project financed pursuant to P.L.2000, c.72 (C.18A:7G-1  
15 et al.) which has a State share that exceeds \$10,000,000. This  
16 provision shall not be construed to limit the authority of the  
17 **【development】** authority or the State Comptroller to conduct audits  
18 of other school facilities projects as provided by law.  
19 (cf: P.L.2008, c.39, s.9)  
20

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

23 14. Notwithstanding any other provisions of law to the contrary:  
24 a. The **【financing】** authority shall have the power, pursuant to  
25 the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80  
26 (C.34:1B-1 et seq.) **【and】** , P.L.2007, c.137 (C.52:18A-235 et al.) ,  
27 and P.L. , c. (C. ) (pending before the Legislature as this bill) ,  
28 to issue bonds and refunding bonds, incur indebtedness and borrow  
29 money secured, in whole or in part, by moneys received pursuant to  
30 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-  
31 18 and C.18A:7G-19) for the purposes of: financing all or a portion  
32 of the costs of school facilities projects and any costs related to the  
33 issuance thereof, including, but not limited to, the administrative,  
34 insurance, operating and other expenses of the **【financing】**  
35 authority to undertake the financing, **【and the development**  
36 **authority to undertake the】** planning, design, and construction of  
37 school facilities projects; lending moneys to local units to pay the  
38 costs of all or a portion of school facilities projects and any costs  
39 related to the issuance thereof; funding the grants to be made  
40 pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and  
41 financing the acquisition of school facilities projects to permit the  
42 refinancing of debt by the district pursuant to section 16 of  
43 P.L.2000, c.72 (C.18A:7G-16). The aggregate principal amount of  
44 the bonds, notes or other obligations issued by the **【financing】**  
45 authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et  
46 al.) shall not exceed: \$100,000,000 for the State share of costs for  
47 county vocational school district school facilities projects;

1 \$6,000,000,000 for the State share of costs for Abbott district  
2 school facilities projects; and \$2,500,000,000 for the State share of  
3 costs for school facilities projects in all other districts. The  
4 aggregate principal amount of the bonds, notes or other obligations  
5 issued by the **【financing】** authority as authorized pursuant to  
6 P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed:  
7 \$2,900,000,000 for the State share of costs of SDA district school  
8 facilities projects; and \$1,000,000,000 for the State share of costs  
9 for school facilities projects in all other districts, \$50,000,000 of  
10 which shall be allocated for the State share of costs for county  
11 vocational school district school facilities projects. This limitation  
12 shall not include any bonds, notes or other obligations issued for  
13 refunding purposes.

14 The **【financing】** authority may establish reserve funds to further  
15 secure bonds and refunding bonds issued pursuant to this section  
16 and may issue bonds to pay for the administrative, insurance and  
17 operating costs of the **【financing】** authority **【and the development**  
18 **authority】** in carrying out the provisions of this act. In addition to  
19 its bonds and refunding bonds, the **【financing】** authority shall have  
20 the power to issue subordinated indebtedness, which shall be  
21 subordinate in lien to the lien of any or all of its bonds or refunding  
22 bonds as the **【financing】** authority may determine.

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

1 the bonds or refunding bonds, and from amounts it receives  
2 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-  
3 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but  
4 shall not be limited to, any costs relating to the issuance of the  
5 bonds or refunding bonds, administrative costs of the **【financing】**  
6 authority attributable to the making and administering of loans and  
7 grants to fund school facilities projects, and costs attributable to the  
8 agreements entered into pursuant to subsection d. of this section.

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

15 (1) Pledge of the revenues and other receipts to be derived from  
16 the payment of local unit obligations and any other payment made  
17 to the **【financing】** authority pursuant to agreements with any local  
18 unit, or a pledge or assignment of any local unit obligations, and the  
19 rights and interest of the **【financing】** authority therein;

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

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

28 (4) Pledge of the receipts to be derived from payments of State  
29 aid to the **【financing】** authority pursuant to section 21 of P.L.2000,  
30 c.72 (C.18A:7G-21);

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

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

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

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

44 d. The resolution authorizing the issuance of bonds or  
45 refunding bonds pursuant to this section may also provide for the  
46 **【financing】** authority to enter into any revolving credit agreement,  
47 agreement establishing a line of credit or letter of credit,

1 reimbursement agreement, interest rate exchange agreement,  
2 currency exchange agreement, interest rate floor or cap, options,  
3 puts or calls to hedge payment, currency, rate, spread or similar  
4 exposure or similar agreements, float agreements, forward  
5 agreements, insurance contracts, surety bonds, commitments to  
6 purchase or sell bonds, purchase or sale agreements, or  
7 commitments or other contracts or agreements and other security  
8 agreements approved by the **【financing】** authority in connection  
9 with the issuance of the bonds or refunding bonds pursuant to this  
10 section. In addition, the **【financing】** authority may, in anticipation  
11 of the issuance of the bonds or the receipt of appropriations, grants,  
12 reimbursements or other funds, including, without limitation, grants  
13 from the federal government for school facilities projects, issue  
14 notes, the principal of or interest on which, or both, shall be payable  
15 out of the proceeds of notes, bonds or other obligations of the  
16 **【financing】** authority or appropriations, grants, reimbursements or  
17 other funds or revenues of the **【financing】** authority.

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

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

46 g. The State hereby pledges and covenants with the holders of  
47 any bonds or refunding bonds issued pursuant to this act that it will

1 not limit or alter the rights or powers vested in the **【financing】**  
2 authority by this act, nor limit or alter the rights or powers of the  
3 State Treasurer in any manner which would jeopardize the interest  
4 of the holders or any trustee of the holders, or inhibit or prevent  
5 performance or fulfillment by the **【financing】** authority or the State  
6 Treasurer with respect to the terms of any agreement made with the  
7 holders of the bonds or refunding bonds or agreements made  
8 pursuant to subsection d. of this section; except that the failure of  
9 the Legislature to appropriate moneys for any purpose of this act  
10 shall not be deemed a violation of this section.

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

26 i. **【Upon the issuance by the financing authority of bonds**  
27 **pursuant to this section, other than refunding bonds, the net**  
28 **proceeds of the bonds shall be transferred to the development**  
29 **authority.】** (Deleted by amendment, P.L. , c. ) (pending before  
30 the Legislature as this bill)  
31 (cf: P.L.2008, c.39, s.4)  
32

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

35 15. a. In the case of a district other than an SDA district, for any  
36 project approved by the commissioner after the effective date of this  
37 act, the district may elect to receive a one-time grant for the State  
38 share of the project in accordance with the provisions of subsection  
39 b. of this section rather than annual debt service aid under section 9  
40 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the  
41 district shall equal the product of the project's final eligible costs  
42 and the district aid percentage or 40%, whichever is greater.

43 b. The commissioner shall establish a process for the annual  
44 allocation of grant funding. Under that process, the commissioner  
45 shall annually notify districts of the date on which the  
46 commissioner shall begin to receive applications for grant funding.  
47 A district shall have 90 days from that date to submit an application

1 to the commissioner. The commissioner shall make a decision on a  
2 district's application within 90 days of the submission of all such  
3 applications and shall allocate the grant funding in accordance with  
4 the priority process established pursuant to paragraph (4) of  
5 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

6 c. The **【development】** authority shall provide grant funding for  
7 the State's share of the final eligible costs of a school facilities  
8 project pursuant to an agreement between the district and the  
9 **【development】** authority which shall, in addition to other terms and  
10 conditions, set forth the terms of disbursement of the State share.  
11 The funding of the State share shall not commence until the district  
12 secures financing for the local share.  
13 (cf: P.L.2008, c.39, s.5)

14  
15 11. Section 16 of P.L.2000, c.72 (C.18A:7G-16) is amended to  
16 read as follows:

17 16. In addition to the other powers and duties which have been  
18 granted to the **【financing】** authority, whenever any local unit  
19 finances the construction or acquisition of a school facilities project  
20 which would otherwise qualify under this act except that the debt  
21 was issued prior to the effective date of this act, the **【financing】**  
22 authority may refinance the debt issued by the local unit through the  
23 issuance of bonds secured by repayments of loans made to the local  
24 units and may purchase the work or improvement and lease the  
25 same to the district, subject to the approval of the State Treasurer;  
26 except that the amount of the purchase price for a school facilities  
27 project shall not exceed the original cost. Each loan to a local unit  
28 pursuant to this section shall be evidenced by local unit obligations  
29 and shall be authorized and issued as provided by law.  
30 Notwithstanding the provisions of any law to the contrary, the local  
31 unit obligations may be sold at private sale to the **【financing】**  
32 authority at any price, whether or not less than par value, and shall  
33 be subject to redemption prior to maturity at any times and at any  
34 prices as the **【financing】** authority and the local unit may agree. All  
35 powers, rights, obligations and duties granted to or imposed upon  
36 the **【financing】** authority, districts, State departments and agencies  
37 or others by this act in respect to school facilities projects shall  
38 apply to the same extent with respect to any refinance of debt  
39 pursuant to this section; except that any action otherwise required to  
40 be taken at a particular time in the implementation of a school  
41 facilities project may, when the circumstances require in connection  
42 with a refinance of debt pursuant to this section, be taken with the  
43 same effect as if taken at that particular time. Upon repayment of  
44 the bonds or provision for repayment of bonds issued by the  
45 **【financing】** authority to refinance the debt of the local unit, the  
46 school facilities project shall be transferred to the district.  
47 (cf: P.L.2007, c.137, s.27)

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

3       17. In each fiscal year the State Treasurer shall pay from the  
4 General Fund to the **【financing】** authority, in accordance with a  
5 contract between the State Treasurer and the **【financing】** authority  
6 as authorized pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-  
7 18), an amount equal to the debt service amount due to be paid in  
8 the State fiscal year on the bonds or refunding bonds of the  
9 **【financing】** authority issued or incurred pursuant to section 14 of  
10 P.L.2000, c.72 (C.18A:7G-14) and any additional costs authorized  
11 pursuant to that section; provided that all such payments from the  
12 General Fund shall be subject to and dependent upon appropriations  
13 being made from time to time by the Legislature for those purposes,  
14 and provided further that all payments shall be used only to pay for  
15 the costs of school facilities projects and the costs of financing  
16 those projects.

17       In regard to the increase in the amount of bonds authorized to be  
18 issued by the **【financing】** authority pursuant to P.L.2008, c.39 for  
19 the State share of costs for school facilities projects, debt service on  
20 the bonds or refunding bonds issued or incurred by the **【financing】**  
21 authority pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14)  
22 and any additional costs authorized pursuant to that section shall  
23 first be payable from revenues received from the gross income tax  
24 pursuant to the "New Jersey Gross Income Tax Act," P.L.1976, c.47  
25 (C.54A:1-1 et seq.), except for debt service and additional costs for  
26 the administrative, insurance, operating, and other expenses of the  
27 **【financing authority and the development】** authority incurred in  
28 connection with school facilities projects.  
29 (cf: P.L.2008, c.39, s.6)  
30

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

33       18. The State Treasurer and the **【financing】** authority are  
34 authorized to enter into one or more contracts to implement the  
35 payment arrangement provided for in section 17 of P.L.2000, c.72  
36 (C.18A:7G-17). The contract shall provide for payment by the  
37 State Treasurer of the amounts required pursuant to section 17 of  
38 P.L.2000, c.72 (C.18A:7G-17) and shall set forth the procedure for  
39 the transfer of moneys for the purpose of that payment. The  
40 contract shall contain terms and conditions as determined by the  
41 parties and shall, where appropriate, contain terms and conditions  
42 necessary and desirable to secure any bonds or refunding bonds of  
43 the **【financing】** authority issued or incurred pursuant to this act;  
44 provided that notwithstanding any other provision of law or  
45 regulation of the **【financing】** authority to the contrary, the  
46 **【financing】** authority shall be paid only such funds as shall be  
47 determined by the contract, and the incurrence of any obligation of

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

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

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

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

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

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

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

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

45 (cf: P.L.2007, c.137, s.31)

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

3       21. a. In the event that a local unit has failed or is unable to pay  
4 to the **【financing authority or the development】** authority in full  
5 when due any local unit obligations issued by the local unit to the  
6 **【financing】** authority, including, but not limited to, any lease or  
7 sublease obligations, or any other moneys owed by the district to  
8 the **【financing】** authority, to assure the continued operation and  
9 solvency of the authority, the State Treasurer shall pay directly to  
10 the **【financing】** authority an amount sufficient to satisfy the  
11 deficiency from State aid payable to the local unit; provided that if  
12 the local unit is a school district, the State aid shall not include any  
13 State aid which may otherwise be restricted pursuant to the  
14 provisions of P.L.2007, c.260 (C.18A:7F-43 et al.). As used in this  
15 section, local unit obligations include the principal or interest on  
16 local unit obligations or payment pursuant to a lease or sublease of  
17 a school facilities project to a local unit, including the subrogation  
18 of the **【financing】** authority to the right of the holders of those  
19 obligations, any fees or charges payable to the **【financing】**  
20 authority, and any amounts payable by a local unit under a service  
21 contract or other contractual arrangement the payments under which  
22 are pledged to secure any local unit obligations issued to the  
23 **【financing】** authority by another local unit.

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

39       c. The amount paid to the **【financing】** authority pursuant to  
40 this section shall be deducted from the appropriation or  
41 apportionment of State aid payable to the local unit and shall not  
42 obligate the State to make, nor entitle the local unit to receive, any  
43 additional appropriation or apportionment. The obligation of the  
44 State Treasurer to make payments to the **【financing】** authority or  
45 trustee and the right of the **【financing】** authority or trustee to  
46 receive those payments shall be subject and subordinate to the

1 rights of holders of qualified bonds issued prior to the effective date  
2 of this act pursuant to P.L.1976, c.38 (C.40A:3-1 et seq.) and  
3 P.L.1976, c.39 (C.18A:24-85 et seq.).  
4 (cf: P.L.2007, c.260, s.47)  
5

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

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

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

43 All incentive payments made pursuant to this section shall be  
44 funded by and shall be subject to annual appropriations for this  
45 purpose, and shall in no way rely upon funds raised by the issuance  
46 of bonds for school facilities projects.

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

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

3       23. a. Not less than the prevailing wage rate determined by the  
4 Commissioner of Labor and Workforce Development pursuant to  
5 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be  
6 paid to workers employed in the performance of construction  
7 contracts in connection with any school facilities project that is  
8 undertaken by the **【development】** authority, a redevelopment entity,  
9 or a district and any contractor who violates the provisions of this  
10 subsection shall be prohibited from subsequently bidding on any  
11 State or district contract.

12       b. Registration fees collected pursuant to P.L.1999, c.238  
13 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and  
14 administrative costs of the Division of Workplace Standards, Office  
15 of Wage and Hour Compliance, Public Contracts section and  
16 Registration section within the Department of Labor and Workforce  
17 Development.  
18 (cf: P.L.2007, c.137, s.34)  
19

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

22       24. The **【development】** authority, in consultation with the State  
23 Treasurer**【, the financing authority,】** and the commissioner, shall  
24 biannually submit to the Governor, the Joint Budget Oversight  
25 Committee, the President of the Senate and the Speaker of the  
26 General Assembly a report on the school facilities construction  
27 program established pursuant to the provisions of this act. The  
28 report shall be submitted no later than June 1 and December 1 of  
29 each year and shall include, but not be limited to, the following  
30 information for the prior six-month period: the number of school  
31 facilities projects approved by the commissioner pursuant to section  
32 5 of P.L.2000, c.72 (C.18A:7G-5); the number of projects  
33 undertaken and funded by the **【development】** authority; the  
34 information on construction contracts required to be compiled  
35 pursuant to section 1 of P.L.2010, c.96 (C.18A:7G-24.1); the  
36 aggregate principal amount of bonds, notes or other obligations  
37 issued by the **【financing】** authority for the State share of  
38 construction and renovation of school facilities and whether there is  
39 a need to adjust the aggregate principal amount of bonds, notes or  
40 other obligations authorized for issuance pursuant to subsection a.  
41 of section 14 of P.L.2000, c.72 (C.18A:7G-14); the number of  
42 approved projects which exceeded the facilities efficiency  
43 standards, the components of those projects which exceeded the  
44 standards, and the amount of construction by individual districts  
45 and Statewide estimated to have exceeded the standards; and  
46 recommendations for changes in the school facilities construction  
47 program established pursuant to this act which have been

1 formulated as a result of its experience with the program or through  
2 collaboration with program stakeholders.

3 In addition, the biannual report shall include a comparison of the  
4 costs of school facilities projects undertaken and funded by the  
5 **【development】** authority to similar school facilities projects  
6 constructed in the New York City Metropolitan Statistical Area and  
7 the Philadelphia Metropolitan Statistical Area as defined by the  
8 United States Department of Labor. The **【development】** authority  
9 shall include in the report an explanation of the methodology used  
10 in making the comparison.

11 (cf: P.L.2010, c.96, s.2)

12  
13 20. Section 1 of P.L.2010, c.96 (C.18A:7G-24.1) is amended to  
14 read as follows:

15 1. Notwithstanding any provision of law, rule, or regulation to  
16 the contrary, the **【New Jersey Schools Development Authority**  
17 **established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-**  
18 **237),】** authority shall biannually compile information for inclusion  
19 in the biannual report required to be submitted by the  
20 **【development】** authority pursuant to section 24 of P.L.2000, c.72  
21 (C.18A:7G-24) on the number of school facilities project  
22 construction contracts entered into between the **【development】**  
23 authority and minority and women contractors during the prior six-  
24 month period covered in the report. The information shall include  
25 the total value of the contracts and the percentage that those  
26 contracts represent of all school facilities project contracts entered  
27 into between the **【development】** authority and contractors in the  
28 prior six-month period.

29 (cf: P.L.2010, c.96, s.1)

30  
31 21. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to  
32 read as follows:

33 26. a. The commissioner shall adopt, pursuant to the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.), rules and regulations necessary to implement the provisions  
36 of sections 1 through 12 and 57 and 58 and 64 of P.L.2000, c.72  
37 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);  
38 except that notwithstanding any provision of P.L.1968, c.410  
39 (C.52:14B-1 et seq.) to the contrary, the commissioner may adopt,  
40 immediately upon filing with the Office of Administrative Law,  
41 such rules and regulations as the commissioner deems necessary to  
42 implement the provisions of sections 1 through 12 and 57 and 58  
43 and 64 of this act which shall be effective for a period not to exceed  
44 12 months. Determinations made by the commissioner pursuant to  
45 this act and the rules and regulations adopted by the commissioner  
46 to implement this act shall be considered to be final agency action  
47 and appeal of that action shall be directly to the Appellate Division

1 of the Superior Court. The regulations shall thereafter be amended,  
2 adopted or re-adopted by the State Board of Education in  
3 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et  
4 seq.).

5 b. The **【development】** authority shall adopt, pursuant to the  
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
7 seq.), rules and regulations necessary to implement the provisions  
8 of P.L.2000, c.72 (C.18A:7G-1 et al.) **【and】** , P.L.2007, c.137  
9 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the  
10 Legislature as this bill) that apply to the **【development】** authority;  
11 except that notwithstanding any provision of P.L.1968, c.410  
12 (C.52:14B-1 et seq.) to the contrary, the **【development】** authority  
13 may adopt immediately upon filing with the Office of  
14 Administrative Law, such rules and regulations as the  
15 **【development】** authority deems necessary which shall be effective  
16 for a period not to exceed 12 months and shall thereafter be  
17 amended, adopted or re-adopted by the authority, in accordance  
18 with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

19 The rules and regulations promulgated by the New Jersey  
20 Schools **【Construction Corporation】** Development Authority  
21 pursuant to the provisions of **【P.L.2000, c.72 (C.18A:7G-1 et al.)】**  
22 P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and  
23 effect unless subsequently revised by the **【development】** authority  
24 following the enactment of **【P.L.2007, c.137 (C.52:18A-235 et al.)】**  
25 P.L. , c. (C. ) (pending before the Legislature as this bill).

26 c. Any regulations adopted to implement this act shall include  
27 provisions to ensure that all programs necessary to comply with  
28 Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V), are approved.  
29 (cf: P.L.2007, c.137, s.36)

30

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

33 27. All property of the **【development authority and the**  
34 **financing】** authority shall be exempt from levy and sale by virtue of  
35 an execution and no execution or other judicial process shall issue  
36 against the same nor shall any judgment against the **【development**  
37 **authority or the financing】** authority be a charge or lien upon its  
38 property; provided that nothing herein contained shall apply to or  
39 limit the rights of the holder of any bonds, notes or other  
40 obligations to pursue any remedy for the enforcement of any pledge  
41 or lien given by the **【development authority or the financing】**  
42 authority on or with respect to any project, school facilities project,  
43 or any revenues or other moneys.

44 (cf: P.L.2007, c.137, s.37)

45

46 23. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to  
47 read as follows:

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

6       The prequalification process shall apply to general contractors,  
7 construction managers, and contractors including those in the  
8 following areas:

9       (1) plumbing and gas fitting and all work and materials kindred  
10 thereto;

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

13       (3) electrical work; and

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

15       The prequalification process established by the New Jersey  
16 Schools **【Construction Corporation】** Development Authority  
17 pursuant to the provisions of **【P.L.2000, c.72 (C.18A:7G-1 et al.)】**  
18 P.L.2007, c.137 (C.52:18A-235 et al.) shall remain in full force and  
19 effect unless subsequently revised by the **【development】** authority  
20 following the enactment of **【P.L.2007, c.137 (C.52:18A-235 et al.)】**  
21 P.L. , c. (C. ) (pending before the Legislature as this bill).  
22 (cf: P.L.2007, c.137, s.38)  
23

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

26       60. a. The prequalification process shall include a requirement  
27 that the contractor proposing to submit bids on a school facilities  
28 project submit a statement under oath on a form designated by the  
29 **【development】** authority. The form shall fully describe and  
30 establish the financial ability, responsibility, plant and equipment,  
31 organization, ownership, relationships and prior experience of the  
32 prospective bidder and any other pertinent and material facts as may  
33 be deemed necessary by the **【development】** authority. The  
34 submission shall include:

35       (1) A certified, audited financial statement or compilation of  
36 financial statements or other documentation of financial status  
37 acceptable to the **【development】** authority;

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

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

- 1 (4) A list of the names and titles of all individuals who own  
2 10% or more of any class of stock in the corporation or are a 10%  
3 or more partner in the firm. If any of the aforementioned  
4 stockholders or partners is itself a corporation, or a partnership, that  
5 entity shall also provide the information specified herein;
- 6 (5) Disclosure of any judgments, convictions or criminal  
7 indictments for any conduct constituting a crime under local, State  
8 or federal law;
- 9 (6) Disclosure of any unsatisfied judgments, injunctions or liens  
10 obtained by a governmental agency including, but not limited to,  
11 judgments based on taxes owed and fines and penalties assessed by  
12 any government agency;
- 13 (7) Disclosure of any determination for violations of federal,  
14 State or local laws, rules or regulations, including health laws,  
15 unemployment insurance or workers' compensation coverage or  
16 claim requirements, the "Employee Retirement Income Security Act  
17 of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
18 environmental laws, safety laws, licensing laws, tax laws and  
19 antitrust laws;
- 20 (8) Disclosure of any federal, State or local debarments, non-  
21 responsibility findings or denials of prequalification;
- 22 (9) Disclosure of any bankruptcy filings or proceedings;
- 23 (10) A statement as to past performance, which shall give an  
24 accurate and complete record of work completed in the past five  
25 years by the contractor giving the names of the projects, type of  
26 work, location, contract price, bid and final contract amount paid  
27 and the names of the owner and of the architect or engineer in  
28 charge for the owner. This statement shall also disclose any labor  
29 problems experienced, any failure to complete a contract on  
30 schedule, any penalties, judgments, orders or liens imposed by  
31 reason of any contract undertaken within the five-year period and  
32 whether the contractor has been defaulted for cause on any project  
33 as determined by an unappealed or nonappealable decision. This  
34 statement shall also indicate the status of any litigation pending  
35 against the potential bidder. The contractor shall be required to  
36 attach to this statement all performance evaluations in his  
37 possession for any work performed by the contractor on any public  
38 or private projects;
- 39 (11) A statement as to organization, which shall demonstrate the  
40 adequacy of such organization to undertake a school facilities  
41 project. This statement shall include the resumes of the  
42 management and professional staff;
- 43 (12) A statement setting forth the contractor's equipment  
44 inventory and technical resources; and
- 45 (13) A statement on staffing capabilities, including labor sources,  
46 staffing plans, turnover rates, and any use of registered  
47 apprenticeship programs and journeyman training programs.

1       b. After the receipt of the submission provided for in  
2 subsection a. of this section, the **【development】** authority may  
3 verify information provided in the contractor's submission,  
4 including applicable license and certificate requirements, federal or  
5 State debarments and violations of law. The **【development】**  
6 authority may also conduct random inquiries or surveys of the  
7 contractor's prior customers.

8       c. Based upon the submission provided for in subsection a. of  
9 this section the **【development】** authority shall assign a contractor  
10 the following classification and limits for the purpose of  
11 determining the types of projects for which a contractor is entitled  
12 to bid:

13       (1) a trade or work classification; and

14       (2) an aggregate rating limit.

15       To effectuate these requirements of the prequalification process,  
16 the **【development】** authority shall develop rules and regulations for  
17 assigning classifications and aggregate limits.

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

21       e. The **【development】** authority shall establish procedures to  
22 permit contractors to challenge a classification made pursuant to  
23 this section.

24       f. The prequalification submission shall include an affidavit  
25 which acknowledges receipt of information regarding the  
26 appropriate federal Bureau of Apprenticeship and Training  
27 apprenticeship laws and regulations as adopted by the State and  
28 information regarding the county apprenticeship coordinators and  
29 the federal Bureau of Apprenticeship and Training.

30       g. The **【development】** authority shall maintain a registry of all  
31 contractors prequalified to bid on school facilities projects. The  
32 registry shall include the classification of the bidder and aggregate  
33 building limit.

34       (cf: P.L.2007, c.137, s.39)

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

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

42       b. Any material changes relevant to the prequalification  
43 process shall be reported by the contractor to the **【development】**  
44 authority in writing within 10 days. Based on the information  
45 provided, the **【development】** authority may change the  
46 classification or revoke prequalification for cause.

47       (cf: P.L.2007, c.137, s.40)

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

3       62. a. A mandatory uniform performance evaluation shall be  
4 conducted on all school facilities projects undertaken by the  
5 **【development】** authority. The evaluation shall, at a minimum,  
6 include cost, schedule adherence and quality.

7       b. A contractor shall be notified of a performance evaluation.  
8 The contractor shall be afforded an opportunity to respond to an  
9 adverse evaluation.

10      c. The contractor performance evaluations shall be utilized in  
11 reviewing bid submissions.  
12 (cf: P.L.2007, c.137, s.41)

13

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

16      66. A contractor who has been prequalified as a bidder on school  
17 facilities projects in accordance with the process established by the  
18 **【development】** authority pursuant to section 59 of P.L.2000, c.72  
19 (C.18A:7G-33) shall not be required to undergo any other  
20 prequalification process to bid on a school facilities project.  
21 (cf: P.L.2007, c.137, s.42)

22

23      28. Section 1 of P.L.2009, c.225 (C.18A:7G-41.1) is amended to  
24 read as follows:

25      1. a. As used in this section:

26       "affiliate" means any firm or person having an overt or covert  
27 relationship such that any one of them directly or indirectly controls  
28 or has power to control another;

29       "firm" or "person" means any natural person, association,  
30 company, contractor, corporation, joint stock company, limited  
31 liability company, partnership, sole proprietorship, or other business  
32 entity, including their assignees, lessees, receivers, or trustees.

33      b. The New Jersey **【Schools】** Economic Development  
34 Authority shall not restrict the ability of a firm or person that holds  
35 a valid classification or a valid prequalification, as applicable,  
36 issued by the Division of Property Management and Construction in  
37 the Department of the Treasury from competing for contracts or  
38 other work in any of the construction categories or trades or specific  
39 professional disciplines for which the firm or person holds a  
40 classification or prequalification.

41      Nothing in this section shall be construed to prohibit the  
42 **【development】** authority from requiring the prequalification of a  
43 firm or person by the **【development】** authority in accordance with  
44 the provisions of section 59 of P.L.2000, c.72 (C.18A:7G-33).

45      c. Notwithstanding any provision of subsection b. of this  
46 section to the contrary, a firm or person or an affiliate thereof shall  
47 not serve as a general contractor or as a subcontractor or as a

1 subconsultant on an authority project for which the firm or person  
2 serves as the construction manager.

3 (cf: P.L.2009, c.225, s.1)

4  
5 29. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to  
6 read as follows:

7 71. a. In the case of any school facilities project which has a  
8 State share of 100%, the **【development】** authority may require the  
9 use of wrap-up insurance coverage for the project and shall  
10 establish the terms and requirements for any such coverage.

11 b. For any school facilities project which has a State share of  
12 less than 100%, the district may elect to purchase wrap-up  
13 insurance coverage for the school facilities project. A district may  
14 purchase the coverage on its own or may enter into a joint  
15 purchasing agreement with one or more other districts to purchase  
16 coverage.

17 c. As used in this section, "wrap-up insurance coverage" means  
18 a single insurance and loss control program for all parties involved  
19 in the school facilities project, including the owners, administrators,  
20 contractors and all tiers of subcontractors, which is controlled and  
21 authorized by the owner or financing administrator and applicable  
22 to defined construction work sites. Wrap-up insurance coverage  
23 may include, but not be limited to, workers' compensation and  
24 employers' liability, commercial general liability, umbrella/excess  
25 liability, builder's risk, architects' and engineers' errors and  
26 omissions, liability, environmental liability, and force majeure.

27 (cf: P.L.2007, c.137, s.43)

28  
29 30. Section 14 of P.L.2007, c.137 (C.18A:7G-45) is amended to  
30 read as follows:

31 14. a. In the event that the **【development】** authority funds 100%  
32 of the cost of the acquisition of land for the construction of a school  
33 facilities project and as a result of the construction of that project a  
34 school building located in the district and the land upon which the  
35 school building is situate are no longer necessary for educational  
36 purposes, title to the land together with the school building on the  
37 land shall be conveyed to and shall vest in the New Jersey  
38 **【Schools】 Economic Development Authority** **【established pursuant**  
39 **to section 3 of P.L.2007, c.137 (C.52:18A-237)】** when it is  
40 determined by the **【development】** authority that such conveyance is  
41 in the best interest of the **【development】** authority. The district  
42 shall execute any documents including, but not limited to, a deed of  
43 conveyance necessary to accomplish the transfer of title.

44 b. The **【development】** authority may retain or sell the land and  
45 buildings on that land acquired pursuant to subsection a. of this  
46 section. In the event the **【development】** authority elects to sell, it

1 shall use a competitive process. The proceeds of that sale shall be  
2 applied to the costs of school facilities projects of the district.

3 c. The transfer of title pursuant to subsection a. of this section  
4 shall occur in accordance with a schedule determined by the  
5 **【development】** authority. The schedule may provide that the  
6 transfer occur prior to the completion of the construction of the new  
7 school facilities project if the **【development】** authority deems it  
8 necessary in order to complete additional school facilities projects  
9 within the district.

10 (cf: P.L.2007, c.137, s.14)

11  
12 31. Section 15 of P.L.2007, c.137 (C.18A:7G-46) is amended to  
13 read as follows:

14 15. If land is necessary to be acquired in connection with a  
15 school facilities project in an SDA district, the board of education  
16 of the district and the governing body of the municipality in which  
17 the district is situate shall jointly submit to the commissioner and to  
18 the **【development】** authority a complete inventory of all district-  
19 and municipal-owned land located in the municipality. The  
20 inventory shall include a map of the district showing the location of  
21 each of the identified parcels of land. The board of education and  
22 the governing body of the municipality shall provide an analysis of  
23 why any district- or municipal-owned land is not suitable as a site  
24 for a school facilities project identified in the district's long-range  
25 facilities plan. The inventory shall be updated as needed in  
26 connection with any subsequent school facilities projects for which  
27 it is necessary to acquire land.

28 (cf: P.L.2007, c.260, s.48)

29  
30 32. Section 16 of P.L.2007, c.137 (C.18A:7G-47) is amended to  
31 read as follows:

32 16. a. Whenever the board of education of an SDA district  
33 submits to the New Jersey **【Schools】** Economic Development  
34 Authority **【established pursuant to P.L.2007, c.137 (C.52:18A-235**  
35 **et al.)】** information on a proposed preferred site for the construction  
36 of a school facilities project, the **【development】** authority shall file  
37 a copy of a map, plan or report indicating the proposed preferred  
38 site with the county clerk of the county within which the site is  
39 located and with the municipal clerk, planning board, and building  
40 inspector of the municipality within which the site is located.

41 b. Whenever a map, plan, or report indicating a proposed  
42 preferred site for the construction of an SDA district school  
43 facilities project is filed by the **【development】** authority pursuant to  
44 subsection a. of this section, any municipal approving authority  
45 before granting any site plan approval, building permit, or approval  
46 of a subdivision plat, or exercising any other approval power with  
47 respect to the development or improvement of any lot, tract, or

1 parcel of land which is located wholly or partially within the  
2 proposed preferred site shall refer the site plan, application for a  
3 building permit or subdivision plat or any other application for  
4 proposed development or improvement to the **【development】**  
5 authority for review and recommendation as to the effect of the  
6 proposed development or improvement upon the construction of the  
7 school facilities project.

8 c. A municipal approving authority shall not issue any site plan  
9 approval or building permit or approve a subdivision plat or  
10 exercise any other approval power with respect to the development  
11 or improvement of the lot, tract, or parcel of land without the  
12 recommendation of the **【development】** authority until 45 days  
13 following referral to the **【development】** authority pursuant to  
14 subsection b. of this section. Within that 45-day period, the  
15 **【development】** authority may:

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

26 (2) give notice to the municipal approving authority and to the  
27 owner of the lot, tract, or parcel of land that the **【development】**  
28 authority has no objection to the granting of the permit or approval  
29 for which application has been made. Upon receipt of the notice the  
30 municipal approving authority shall be free to act upon the pending  
31 application in such manner as may be provided by law.

32 (cf: P.L.2007, c.260, s.49)

33  
34 33. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to  
35 read as follows:

36 2. a. As used in this section:

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

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

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

1 "Public-private partnership agreement" means an agreement  
2 entered into by a school district and a private entity pursuant to this  
3 section for the purpose of permitting a private entity to assume full  
4 financial and administrative responsibility for the development,  
5 construction, reconstruction, repair, alteration, improvement,  
6 extension, operation, and maintenance of a school facilities project  
7 of, or for the benefit of, the school district.

8 "School district" shall have the same meaning as provided in  
9 section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local  
10 school district, regional school district, or county special services  
11 school district or county vocational school established and  
12 operating under the provisions of Title 18A of the New Jersey  
13 Statutes that can demonstrate to the satisfaction of the  
14 Commissioner of Education and the Chief Executive Officer of the  
15 **【Schools】** Economic Development Authority that a school facility  
16 is necessary due to overcrowding or is in need of replacement. The  
17 term "school district" shall include a charter school established  
18 under P.L.1995, c.426 (C.18A:36A-1 et seq.)

19 b. (1) A school district may enter into a contract with a private  
20 entity, subject to subsection f. of this section, to be referred to as a  
21 public-private partnership agreement, that permits the private entity  
22 to assume full financial and administrative responsibility for a  
23 project of, or for the benefit of, the school district, provided that the  
24 project is financed in whole by the private entity.

25 (2) A public-private partnership agreement may include an  
26 agreement under which a school district and a private entity enter  
27 into a lease of a revenue-producing public building, structure, or  
28 facility in exchange for up-front or structured financing by the  
29 private entity for the project. Under the lease agreement, the  
30 private entity shall be responsible for the management, operation,  
31 and maintenance of the building, structure, or facility. The private  
32 entity shall receive some or all, as per the agreement, of the revenue  
33 generated by the building, structure, or facility, and shall operate  
34 the building, structure, or facility in accordance with school district  
35 standards. At the end of the lease term, subsequent revenue  
36 generated by the building, structure, or facility, along with  
37 management, operation, and maintenance responsibility, shall revert  
38 to the school district. A lease agreement entered into pursuant to  
39 this section shall be limited in duration to a term of not more than  
40 30 years. A lease agreement shall be subject to all applicable  
41 provisions of current law governing leases by a school district not  
42 inconsistent with the provisions of this section.

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

44 c. (1) A private entity that assumes financial and  
45 administrative responsibility for a project pursuant to this section  
46 shall not be subject to, unless otherwise set forth herein, the  
47 procurement and contracting requirements of all statutes applicable  
48 to the school district at which the project is completed, including,

1 but not limited to, the "Public School Contracts Law,"  
2 N.J.S.18A:18A-1 et seq.

3 (2) For the purposes of facilitating the financing of a project  
4 pursuant to this section, a public entity may become the owner or  
5 lessee of the project or the lessee of the land, or both, may become  
6 the lessee of a building, structure, or facility to which the school  
7 district holds title, may issue indebtedness in accordance with the  
8 public entity's enabling legislation and, notwithstanding any  
9 provision of law to the contrary, shall be empowered to enter into  
10 contracts with a private entity and its affiliates without being  
11 subject to the procurement and contracting requirements of any  
12 statute applicable to the public entity provided that the private  
13 entity has been selected by the school district pursuant to a  
14 solicitation of proposals or qualifications from at least two private  
15 entities. For the purposes of this subsection, a public entity shall  
16 include the New Jersey Economic Development Authority, and any  
17 project undertaken pursuant to this section of which the authority  
18 becomes the owner or lessee, or which is situated on land of which  
19 the authority becomes the lessee, shall be deemed a "project" under  
20 "The New Jersey Economic Development Authority Act," P.L.1974,  
21 c.80 (C.34:1B-1 et seq.).

22 (3) Prior to the commencement of work on a project, the private  
23 entity shall establish a construction account and appoint a third-  
24 party financial institution, who shall be prequalified by the State  
25 Treasurer to act as a collateral agent and manage the construction  
26 account. The construction account shall include the funding,  
27 financial instruments, or both, that shall be used to fully capitalize  
28 and fund the project, and the collateral agent shall maintain a full  
29 accounting of the funds and instruments in the account. The funds  
30 and instruments in the construction account shall be held in trust for  
31 the benefit of the contractor, construction manager, and design-  
32 build team involved in the project. The funds and instruments in  
33 the construction account shall not be the property of the private  
34 entity unless all amounts due to the construction account  
35 beneficiaries are paid in full. The construction account shall not be  
36 designated for more than one project.

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

45 e. (1) All building construction projects under a public-private  
46 partnership agreement entered into pursuant to this section shall  
47 contain a project labor agreement. The project labor agreement  
48 shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et

1 seq.), and shall be in a manner that to the greatest extent possible  
2 enhances employment opportunities for individuals residing in the  
3 county of the project's location. The general contractor,  
4 construction manager, design-build team, or subcontractor for a  
5 construction project proposed in accordance with this paragraph  
6 shall be registered pursuant to the provisions of P.L.1999, c.238  
7 (C.34:11-56.48 et seq.), and shall be classified by the Division of  
8 Property Management and Construction, or shall be prequalified by  
9 the Department of Transportation, as appropriate, to perform work  
10 on a public-private partnership project.

11 (2) All projects proposed in accordance with this section shall  
12 be submitted to the State Treasurer, in consultation with the  
13 Department of Education~~],~~ Schools Development Authority,~~]~~ and  
14 the New Jersey Economic Development Authority, for a review and  
15 approval in accordance with subsection f. of this section prior to the  
16 execution of the public-private partnership agreement and, when  
17 practicable, are encouraged to adhere to the Leadership in Energy  
18 and Environmental Design Green Building Rating System as  
19 adopted by the United States Green Building Council, the Green  
20 Globes Program adopted by the Green Building Initiative, or a  
21 comparable nationally recognized, accepted, and appropriate  
22 sustainable development rating system.

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

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

39 (5) Prior to entering into a public -private partnership, the  
40 school district must determine: (i) the benefits to be realized by the  
41 project, (ii) the cost of the project if it is developed by the public  
42 sector supported by comparisons to comparable projects, (iii) the  
43 maximum public contribution that the school district will allow  
44 under the public -private partnership, (iv) a comparison of the  
45 financial and non-financial benefits of the public-private  
46 partnership compared to other options including the public sector  
47 option, (v) a list of risks, liabilities and responsibilities to be  
48 transferred to the private entity and those to be retained by the

1 school district, and (vi) if the project has a high, medium or low  
2 level of project delivery risk and how the public is protected from  
3 these risks.

4 (6) Prior to entering into a public- private partnership, the  
5 school district at a public hearing shall find that the project is in the  
6 best interest of the public by finding that (i) it will cost less than the  
7 public sector option, or if it costs more there are factors that warrant  
8 the additional expense (ii) there is a public need for the project and  
9 the project is consistent with existing long-term plans, (iii) there are  
10 specific significant benefits to the project, (iv) there are specific  
11 significant benefits to using the public-private partnership instead  
12 of other options including No-Build (v) the private development  
13 will result in timely and efficient development and operation and  
14 (vi) the risks, liabilities and responsibilities transferred to the  
15 private entity provide sufficient benefits to warrant not using other  
16 means of procurement.

17 f. (1) All projects proposed in accordance with this section  
18 shall be submitted to the State Treasurer for review and approval,  
19 which shall be conducted in consultation with the Commissioner of  
20 the Department of Education and the Chief Executive Officer of the  
21 **【Schools】** Economic Development Authority. The Commissioner  
22 of the Department of Education shall determine if a project is  
23 subject to voter approval pursuant to N.J.S.**【A.】** 18A:24-10. If a  
24 project is subject to voter approval, such approval is required prior  
25 to progressing thru the procurement process. The projects are  
26 encouraged, when practicable, to adhere to the green building  
27 manual prepared by the Commissioner of Community Affairs  
28 pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

29 (2) All projects proposed in accordance with this section that  
30 have a transportation component or impact the transportation  
31 infrastructure shall be submitted to the Department of  
32 Transportation. The State Treasurer shall consult with the  
33 Department of Transportation in making its final determination.

34 (3) (a) In order for an application to be complete and  
35 considered by the State Treasurer, the application shall include, but  
36 not be limited to: (i) a full description of the proposed public-  
37 private partnership agreement between the school district and the  
38 private developer, including all information obtained by and  
39 findings of the school district pursuant to paragraphs (4) and (5) of  
40 subsection (e) of this section; (ii) a full description of the project,  
41 including a description of any agreement for the lease of a revenue-  
42 producing facility related to the project; (iii) the estimated costs and  
43 financial documentation for the project showing the underlying  
44 financial models and assumptions that determined the estimated  
45 costs. The financial documentation must include at least three  
46 different projected estimated costs showing scenarios in which  
47 materially different economic circumstances are assumed and an  
48 explanation for how the estimated costs were determined based on

1 the three scenarios; (iv) a timetable for completion of the  
2 construction of the project; (v) an analysis of all available funding  
3 options for the project, including an analysis of the financial  
4 viability and advisability of such project, along with evidence of the  
5 public benefit in advancing the project as a public-private  
6 partnership; (vi) a record of the public hearing held pursuant to  
7 paragraph (4) of subsection e. of this section, which shall have been  
8 kept open for a period of seven days following the conclusion of the  
9 hearing; (vii) any other requirements that the State Treasurer deems  
10 appropriate or necessary. The application shall also include a  
11 resolution by the school district's governing body of its intent to  
12 enter into a public-private partnership agreement pursuant to this  
13 section.

14 (b) As part of the estimated costs and financial documentation  
15 for the project, the application shall contain a long-range  
16 maintenance plan and a long-range maintenance bond and shall  
17 specify the expenditures that qualify as an appropriate investment in  
18 maintenance. The long-range maintenance plan shall be approved  
19 by the State Treasurer pursuant to regulations promulgated by the  
20 State Treasurer that reflect national building maintenance standards  
21 and other appropriate building maintenance benchmarks.

22 (4) The State Treasurer, in consultation with the authority~~],~~  
23 and the Commissioner of the Department of Education~~],~~ and the  
24 Chief Executive Officer of the Schools Development Authority~~],~~  
25 shall review all completed applications, and request additional  
26 information as is needed to make a complete assessment of the  
27 project. No public-private partnership agreement shall be executed  
28 until approval has been granted by the State Treasurer. Prior to a  
29 final decision by the State Treasurer on the application, the  
30 authority~~],~~ and the Department of Education~~],~~ and the Schools  
31 Development Authority~~]~~ shall be afforded the opportunity to  
32 provide comments on the application that they deem appropriate,  
33 and the State Treasurer shall consider any comments submitted by  
34 the authority~~],~~ and the Department of Education~~],~~ and the Schools  
35 Development Authority~~]~~ with respect to the application. The State  
36 Treasurer will find that: (i) the school district's assumptions  
37 regarding the project's scope, its benefits, its risks and the cost of  
38 the public sector option were fully and reasonably developed (ii) the  
39 design of the project is feasible; (iii) the experience and  
40 qualifications of the private entity; (iv) the financial plan is sound;  
41 (v) the long-range maintenance plan is adequate to protect the  
42 investment; (vi) the project is in the best interest of the public,  
43 using the criteria in paragraph (6) of subsection e. of this section;  
44 (vii) a resolution by the school district's governing body of its intent  
45 to enter into a public-private partnership agreement for the project  
46 has been received; and (viii) the term sheet for any proposed  
47 procurement contains all necessary elements.

1 (5) The State Treasurer, in consultation with the Commissioner  
2 of the Department of Education and Chief Executive Officer of the  
3 **【Schools】** Economic Development Authority, may promulgate any  
4 rules and regulations necessary to implement this subsection,  
5 including, but not limited to, provisions for fees to cover  
6 administrative costs, and for the determination of minimum school  
7 district standards for the operation of the project, and for the  
8 qualification for professional services, construction contracting, and  
9 other relevant qualifications.

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

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

24 i. Any public-private partnership agreement, if appropriate,  
25 shall include provisions affirming that the agreement and any work  
26 performed under the agreement are subject to the provisions of the  
27 "Construction Industry Independent Contractor Act," P.L.2007,  
28 c.114 (C.34:20-1 et seq.). Any public-private partnership agreement  
29 will also include, at a minimum: (i) the term of the agreement, (ii)  
30 the total project cost, (iii) a completion date guarantee, (iv) a  
31 provision for damages if the private entity fails to meet the  
32 completion date and (v) a maximum rate of return to the private  
33 entity and a provision for the distribution of excess earnings to the  
34 local government unit or to the private party for debt reduction.

35 j. (1) A private entity seeking to enter into a public-private  
36 partnership agreement with the school district shall be qualified by  
37 the school district as part of the procurement process, provided such  
38 process ensures that the private entity and its subcontractors and  
39 consultants, where relevant, meet at least the minimum  
40 qualifications standards promulgated by the State Treasurer, in  
41 consultation with the New Jersey Economic Development  
42 Authority, Department of Education, **【Schools Development**  
43 **Authority,】** and such other school district standards for  
44 qualification for professional services, construction contracting, and  
45 other qualifications applicable to the project, prior to submitting a  
46 proposal under the procurement process.

47 (2) A request for qualifications for a public-private partnership  
48 agreement shall be advertised at least 45 days prior to the

1 anticipated date of receipt. The advertisement of the request for  
2 qualifications shall be published on the official Internet website of  
3 the school district and at least one or more newspapers with  
4 Statewide circulation.

5 (3) After the school district determines the qualified respondents  
6 utilizing, at minimum, the qualification standards promulgated by  
7 the State Treasurer, the school district shall issue a request for  
8 proposals to each qualified respondent no less than 45 days prior to  
9 the date established for submission of the proposals. The request  
10 for proposals shall include relevant technical submissions,  
11 documents, and the evaluation criteria to be used in the selection of  
12 the designated respondent. The evaluation criteria shall be, at  
13 minimum, criteria promulgated by the State Treasurer, in  
14 consultation with the New Jersey Economic Development  
15 Authority~~[],~~ and the Department of Education~~[],~~ and Schools  
16 Development Authority~~].~~

17 (4) The school district may accept unsolicited proposals from  
18 private entities for public-private partnership agreements. If the  
19 school district receives an unsolicited proposal and determines that  
20 it meets the standards of this section, the school district shall  
21 publish a notice of the receipt of the proposal on the Internet site of  
22 the school district and through advertisement in at least one or more  
23 newspapers with Statewide circulation. The school district shall  
24 also provide notice of the proposal at its next scheduled public  
25 meeting and to the State Treasurer. To qualify as an unsolicited  
26 proposal, the unsolicited proposal must at a minimum include a  
27 description of the public-private project, the estimated construction  
28 and life-cycle costs, a timeline for development, proposed plan of  
29 financing, including projected revenues, public or private, debt,  
30 equity investment, description of how the project meets needs  
31 identified in existing plans, the permits and approvals needed to  
32 develop the project from local, state and federal agencies and a  
33 projected schedule for obtaining such permits and approvals, a  
34 statement of risks, liabilities and responsibilities to be assumed by  
35 the private entity. The notice shall provide that the school district  
36 will accept, for 120 days after the initial date of publication,  
37 proposals meeting the standards of this section from other private  
38 entities for eligible projects that satisfy the same basic purpose and  
39 need. A copy of the notice shall be mailed to each municipal and  
40 county local government body in the geographic area affected by  
41 the proposal.

42 (5) After the proposal or proposals have been received, and any  
43 public notification period has expired, the school district shall rank  
44 the proposals in order of preference. In ranking the proposals, the  
45 school district shall rely upon, at minimum, the evaluation criteria  
46 promulgated by the State Treasurer, in consultation with the New  
47 Jersey Economic Development Authority~~[],~~ and the Department of  
48 Education~~[],~~ and Schools Development Authority~~].~~ In addition, the

1 local school district may consider factors that include, but may not  
2 be limited to, professional qualifications, general business terms,  
3 innovative engineering, architectural services, or cost-reduction  
4 terms, finance plans, and the need for school district funds to  
5 deliver the project and discharge the agreement. The private entity  
6 selected shall comply with all laws and regulations required by the  
7 State government entity, including but not limited to section 1 of  
8 P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975,  
9 c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25.24-2),  
10 P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-  
11 51 et al.), Executive Order No. 117 of 2008, Executive Order No.  
12 118 of 2008, Executive Order No. 189, prior to executing the public  
13 private partnership agreement. If only one proposal is received, the  
14 school district shall negotiate in good faith and, if not satisfied with  
15 the results of the negotiations, the school district may, at its sole  
16 discretion, terminate negotiations.

17 (6) The school district may require, upon receipt of one or more  
18 proposals, that the private entity assume responsibility for all costs  
19 incurred by the school district before execution of the public-private  
20 partnership agreement, including costs of retaining independent  
21 experts to review, analyze, and advise the school district with  
22 respect to the proposal.

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

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

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

33

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

35 18A:22-39. Whenever the undertaking of any capital project or  
36 projects to be paid for from the proceeds of an issue or issue of  
37 bonds is submitted to the voters of a type II district at an annual or  
38 special school election for their approval or disapproval, the board  
39 shall frame and adopt by a recorded roll call majority vote of its full  
40 membership the question or questions to be submitted so that each  
41 project is submitted in a separate question, or all or any number of  
42 them are submitted in one question, which shall state the project or  
43 projects so submitted and the amounts to be raised for each of the  
44 projects so separately submitted or for each or for all of the projects  
45 so jointly submitted, as the case may be, but any proposal for the  
46 purchase of land shall be sufficient to authorize the taking and  
47 condemning of such land. If the project is to be constructed by the  
48 New Jersey **【Schools】** Economic Development Authority or a

1 redevelopment entity or by the district with a grant pursuant to  
2 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
3 when framed as a single question, request approval for the local  
4 share and shall disclose the final eligible costs of the project as  
5 approved by the commissioner pursuant to section 5 of P.L.2000,  
6 c.72 (C.18A:7G-5) and in the case of a demonstration project  
7 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and  
8 C.18A:7G-6), and, if applicable, the amount of any costs of the  
9 project which are in addition to the final eligible costs. If the school  
10 facilities project is not to be constructed by the New Jersey  
11 **【Schools】** Economic Development Authority or a redevelopment  
12 entity or by the district with a grant pursuant to section 15 of  
13 P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed  
14 as a single question, request approval for the total costs of the  
15 project, shall disclose State debt service aid for the project and, if  
16 applicable, the amount of any costs of the project which are in  
17 addition to the final eligible costs of the project. When a project is  
18 framed in more than one question, a summary shall be included in  
19 the explanatory statement which accompanies the questions that  
20 includes the total costs of the project, total State debt service aid,  
21 and, if applicable, the amount of the costs of the project which are  
22 in addition to the final eligible costs of the project, and any  
23 individual question containing costs in addition to the final eligible  
24 costs shall include the amount of those additional costs.

25 The statement of additional costs in any ballot question and in  
26 any explanatory statement that accompanies a ballot question shall  
27 describe the additional costs as follows: "This project includes  
28 \$(insert amount) for school facility construction elements in  
29 addition to the facilities efficiency standards developed by the  
30 Commissioner of Education."  
31 (cf: P.L.2007, c.137, s.50)

32

33 35. Section 4 of P.L.2011, c.176 (C.18A:36C-4) is amended to  
34 read as follows:

35 4. a. A nonprofit entity, in partnership with the renaissance  
36 school district, may submit to the commissioner an application to  
37 create a renaissance school project no later than three years  
38 following the effective date of P.L.2011, c.176 (C.18A:36C-1 et  
39 seq.); except that in the case of a project to be located in a  
40 renaissance school district which is in a municipality that is subject  
41 to the "Municipal Rehabilitation and Economic Recovery Act,"  
42 P.L.2002, c.43 (C.52:27BBB-1 et al.), the application must be  
43 submitted no later than four years following the effective date of  
44 P.L.2011, c.176 (C.18A:36C-1 et seq.). A nonprofit entity seeking  
45 to create a renaissance school project shall have experience in  
46 operating a school in a high-risk, low-income urban district. In  
47 addition, an entity retained by the nonprofit entity for the purpose

1 of financing or constructing the renaissance school project shall  
2 also have appropriate experience.

3 b. The application shall be in a form prescribed by the  
4 commissioner, but at a minimum it shall contain the following:

5 (1) except as otherwise provided in this paragraph, a resolution  
6 adopted in a public meeting by the board of education of the  
7 renaissance school district in which the renaissance school project  
8 will be located certifying the support of the board for the  
9 application. In the case of a district under full or partial State  
10 intervention with an advisory board of education, the application  
11 shall contain evidence that that State district superintendent or  
12 superintendent, as applicable, convened at least three public  
13 meetings to discuss the merits of the renaissance school project.  
14 The evidence shall include, at a minimum, any written public  
15 comments received during those meetings. In the case of these  
16 districts, the application shall contain a resolution from the advisory  
17 board of education reflecting the board's approval or disapproval of  
18 the renaissance school project. While a successful application does  
19 not require approval from the advisory board of education, the  
20 commissioner, in considering the application, shall give due  
21 consideration to any disapproval from the advisory board;

22 (2) a copy of the amendment to the renaissance school district's  
23 long-range facilities plan which has been submitted to the  
24 commissioner pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4)  
25 that includes the proposed renaissance school project;

26 (3) the educational goals of the renaissance school project, the  
27 curriculum to be offered, and the methods of assessing whether  
28 students are meeting the proffered educational goals;

29 (4) any testing and academic performance standards to be  
30 mandated by the renaissance school project beyond those required  
31 by State law and regulation;

32 (5) the admission policy and criteria for evaluating the  
33 admission of students to the renaissance school project, which shall  
34 comply with the provisions of section 8 of this act;

35 (6) the age or grade range of students to be enrolled in the  
36 renaissance school project;

37 (7) the total number of students to be enrolled in each grade  
38 level of the renaissance school project;

39 (8) the renaissance school project calendar and school day  
40 schedule;

41 (9) the financial plan for the renaissance school project and the  
42 provisions that will be made for auditing pursuant to N.J.S.18A:23-  
43 1;

44 (10) a description of, and address for, the initial school facility in  
45 which the renaissance school project will be located and an  
46 affirmation that any other school facility or facilities in which the  
47 renaissance school project will be located will be in the required  
48 urban campus area. For any school facility other than the initial

1 school facility included in the application pursuant to this  
2 paragraph, the nonprofit entity shall notify the Commissioner of  
3 Education of the location of the facility at least one year prior to the  
4 opening of the facility;

5 (11) documentation that the proposed renaissance school project  
6 meets school facility regulations promulgated by the State Board of  
7 Education pertaining to the health and safety of the pupils;

8 (12) documentation of a funding plan to acquire necessary lands  
9 and to construct a renaissance school project thereon, including the  
10 terms of any financing secured for such purpose;

11 (13) (Deleted by amendment, P.L.2013, c.149)

12 (14) identification of the attendance area of the renaissance  
13 school project, if the renaissance school project will not be built on  
14 land owned by the New Jersey **【Schools】** Economic Development  
15 Authority or the renaissance school district;

16 (15) a description of the process employed by the renaissance  
17 school district to find and partner with the chosen nonprofit entity  
18 to create a renaissance school project. The description shall be  
19 sufficient to show that the process employed by the renaissance  
20 school district was open, fair, and subject to public input and  
21 comment. The description shall, at a minimum, include any  
22 requests for proposals issued by the renaissance school district, the  
23 number of responses received, and the process and criteria  
24 employed by the renaissance school district to select the chosen  
25 nonprofit entity among the respondents; and

26 (16) such other information as the commissioner may require.  
27 (cf: P.L.2014, c.61, s.2)

28

29 36. Section 8 of P.L.2011, c.176 (C.18A:36C-8) is amended to  
30 read as follows:

31 8. a. (1) In the case of a renaissance school project built on  
32 land owned by the New Jersey **【Schools】** Economic Development  
33 Authority or the renaissance school district, students residing in the  
34 attendance area established by the renaissance school district for  
35 that property shall be automatically enrolled in the renaissance  
36 school project, except as otherwise provided in paragraph (2) of this  
37 subsection. The parent or guardian of the student may determine  
38 not to enroll the student in the renaissance school project, and in  
39 that case the student shall be eligible for enrollment in another  
40 school in the renaissance school district. If spaces remain available  
41 in the renaissance school project, students shall be selected for the  
42 remaining spaces through a lottery system. The first lottery shall  
43 include students who reside in the renaissance school district but  
44 outside the attendance area of the renaissance school. If space  
45 remains available, a second lottery shall be conducted that may  
46 include students who reside outside of the renaissance school  
47 district.

1 (2) A renaissance school project built on land owned by the  
2 New Jersey **【Schools】** Economic Development Authority or the  
3 renaissance school district, shall allow any student who was  
4 enrolled in the renaissance school project in the immediately  
5 preceding school year to enroll in the renaissance school project in  
6 the appropriate grade unless the appropriate grade is not offered;  
7 and if a grade is at capacity, a student enrolled in the immediately  
8 preceding school year shall have priority for enrollment in that  
9 grade over a student who would otherwise be eligible for initial  
10 enrollment in the renaissance school project automatically based on  
11 the fact that he resides in the attendance area established by the  
12 renaissance school project for that property.

13 b. (1) In the case of a renaissance school project which is not  
14 built on land owned by the New Jersey **【Schools】** Economic  
15 Development Authority or the renaissance school district,  
16 preference for enrollment in the renaissance school project shall be  
17 given to students who reside in the attendance area identified in the  
18 application submitted by the nonprofit entity and approved by the  
19 commissioner for the renaissance school project. In no case may an  
20 attendance area include an area outside of the renaissance school  
21 district. If spaces remain available in the renaissance school  
22 project, then the renaissance school project may select students for  
23 the remaining spaces through a lottery system. The first lottery  
24 shall include students who reside in the renaissance school district  
25 but outside the attendance area identified in the application  
26 approved by the commissioner for the renaissance school project. If  
27 space remains available, a second lottery shall be conducted that  
28 may include students who reside outside of the renaissance school  
29 district.

30 (2) A renaissance school project which is not built on land  
31 owned by the New Jersey **【Schools】** Economic Development  
32 Authority or the renaissance school district shall allow any student  
33 who was enrolled in the renaissance school project in the  
34 immediately preceding school year to enroll in the renaissance  
35 school project in the appropriate grade unless the appropriate grade  
36 is not offered.

37 In developing and executing its selection process, the nonprofit  
38 entity shall not discriminate on the basis of intellectual or athletic  
39 ability, measures of achievement or aptitude, status as a person with  
40 a disability, proficiency in the English language, or any other basis  
41 that would be illegal if used by a school district. A nonprofit entity  
42 may, however, limit admission to a particular grade level or levels  
43 consistent with its organizational document.

44 (cf: P.L.2017, c.131, s.29)

45

46 37. Section 11 of P.L.2011, c.176 (C.18A:36C-11) is amended  
47 to read as follows:

1        11. a. Notwithstanding the provisions of the "Educational  
2 Facilities Construction and Financing Act," P.L.2000, c.72  
3 (C.18A:7G-1 et al.), or any other law or regulation to the contrary,  
4 when an entity seeks to build a renaissance school project on land  
5 owned by the New Jersey **【Schools】** Economic Development  
6 Authority, the authority may convey the land by ground lease or fee  
7 simple title to either the renaissance school district or the entity if  
8 the authority determines conveyance to be in the best interests of  
9 the State, provided that such conveyance, whether by ground lease  
10 or fee simple title shall (1) contain a restriction that the land be used  
11 solely for a school or it shall revert to the authority; and (2) be for  
12 such consideration and on such terms as the authority determines to  
13 be in the best interests of the State.

14        b. Notwithstanding any other law to the contrary, in the event  
15 of a conveyance by the authority to a renaissance school district  
16 pursuant to this section, the renaissance school district is authorized  
17 to enter into a sub-lease of the property to the entity as required to  
18 effectuate the renaissance school project. The sub-lease shall be  
19 submitted to the commissioner for his review and approval. The  
20 sub-lease shall contain a restriction that the land be used solely for  
21 the renaissance school project or it shall revert to the school district.  
22 (cf: P.L.2011, c.176, s.11)

23

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

26        2. The Legislature hereby finds and determines that:

27        a. Department of Labor and Workforce Development statistics  
28 of recent years indicate a continuing decline in manufacturing  
29 employment within the State, which is a contributing factor to the  
30 drastic unemployment existing within the State, which far exceeds  
31 the national average, thus adversely affecting the economy of the  
32 State and the prosperity, safety, health and general welfare of its  
33 inhabitants and their standard of living; that there is an urgent need  
34 to protect and enhance the quality of the natural environment and to  
35 reduce, abate and prevent environmental pollution derived from the  
36 operation of industry, utilities and commerce within the State; and  
37 that the availability of financial assistance and suitable facilities are  
38 important inducements to new and varied employment promoting  
39 enterprises to locate in the State, to existing enterprises to remain  
40 and expand in the State, and to industry, utilities and commerce to  
41 reduce, abate and prevent environmental pollution.

42        b. The provision of buildings, structures and other facilities to  
43 increase opportunity for employment in manufacturing, industrial,  
44 commercial, recreational, retail and service enterprises in the State  
45 is in the public interest and it is a public purpose for the State to  
46 induce and to accelerate opportunity for employment in such  
47 enterprises.

1       c. In order to aid in supplying these needs and to assist in the  
2 immediate reduction of unemployment and to provide sufficient  
3 employment for the citizens of the State in the future, it is necessary  
4 and in the public interest to aid and encourage the immediate  
5 commencement of new construction projects of all types, to induce  
6 and facilitate the acquisition and installation at an accelerated rate  
7 of such devices, equipment and facilities as may be required to  
8 reduce, abate and prevent environmental pollution by industry,  
9 utilities and commerce.

10       d. The availability of financial assistance by the State will  
11 reduce present unemployment and improve future employment  
12 opportunities by encouraging and inducing the undertaking of such  
13 construction projects, the location, retaining or expanding of  
14 employment promoting enterprises within the State, and the  
15 accelerated acquisition and installation of energy saving  
16 improvements and pollution control devices, equipment and  
17 facilities.

18       e. In many municipalities in our State substantial and persistent  
19 unemployment exists; and many existing residential, industrial,  
20 commercial and manufacturing facilities within such municipalities  
21 are either obsolete, inefficient, dilapidated or are located without  
22 regard to the master plans of such municipalities; and the  
23 obsolescence and abandonment of existing facilities will increase  
24 with further technological advances, the provision of modern,  
25 efficient facilities in other states and the difficulty which many  
26 municipalities have in attracting new facilities; and that many  
27 existing and planned employment promoting facilities are far from  
28 or not easily accessible to the places of residence of substantial  
29 numbers of unemployed and underemployed persons.

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

46       The Legislature further determines that in order to aid in  
47 remedying the aforesaid conditions and to further and implement  
48 the purposes of this act, that there shall be created a body politic

1 and corporate having the powers, duties and functions provided in  
2 this act; and that the authority and powers conferred under this act,  
3 and the expenditure of moneys pursuant thereto constitute a serving  
4 of a valid public purpose; and that the enactment of the provisions  
5 hereinafter set forth is in the public interest and for the public  
6 benefit and good, and is hereby so declared to be as a matter of  
7 express legislative determination.

8 The Legislature further finds and determines that:

9 g. It is essential that this and future generations of young  
10 people be given the fullest opportunity to learn and develop their  
11 intellectual capacities; that institutions of public elementary and  
12 secondary education within the State be provided with the  
13 appropriate additional means required to assist these young citizens  
14 in achieving the required levels of learning and the complete  
15 development of their intellectual abilities; and that the resources of  
16 the State be employed to meet the tremendous demand for public  
17 elementary and secondary educational opportunities.

18 h. Public elementary and secondary educational facilities are an  
19 integral part of the effort in this State to provide educational  
20 opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et  
21 al.) **[and]** , P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. \_\_\_\_\_,  
22 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) to  
23 provide a measure of assistance and an alternative method of  
24 financing to enable school districts to provide the facilities which  
25 are so critically needed; the inventory of public elementary and  
26 secondary school buildings and the equipment and capital resources  
27 currently available are aging, both chronologically and  
28 technologically; and the current funding at the federal, State, and  
29 local levels and the current mechanisms for construction of these  
30 capital projects are inadequate to meet the demonstrated need for  
31 school facilities, and these inadequacies necessitate additional  
32 sources of funding and the coordination of construction activities at  
33 the State level to meet those needs.

34 i. While the credit status of New Jersey's school districts is  
35 sound, it can be economically more reasonable to finance the costs  
36 of developing the educational infrastructure of the State's public  
37 elementary and secondary schools by providing for the funding of  
38 capital projects through the issuance of bonds, notes or other  
39 obligations by the New Jersey Economic Development Authority, to  
40 be retired through annual payments made by the State subject to  
41 appropriation by the State Legislature, and to provide for the use of  
42 the proceeds of those bonds, notes or other obligations to pay for  
43 educational infrastructure projects; and such a structure would  
44 substantially reduce the costs of financing and provide for a more  
45 efficient use of the funds available for the development of the  
46 educational infrastructure.

47 The New Jersey Economic Development Authority also has  
48 substantial and significant experience in undertaking major capital

1 construction projects, has a system of internal controls and  
2 procedures to ensure the integrity of construction activities, and is  
3 therefore the appropriate entity to undertake the planning, design,  
4 construction, and operation of educational infrastructure projects.

5 j. (Deleted by amendment, P.L.2007, c.137).  
6 (cf: P.L.2007, c.137, s.51)

7  
8 39. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read  
9 as follows:

10 3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et  
11 seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54  
12 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505  
13 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),  
14 P.L.1992, c.16 (C.34:1B-7.10 et al.), section 6 of P.L.2001, c.401  
15 (C.34:1B-4.1), **【and】** P.L.2007, c.137 (C.52:18A-235 et al.), and  
16 P.L. , c. (C. ) (pending before the Legislature as this bill), unless  
17 a different meaning clearly appears from the context:

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

20 "Bonds" means bonds or other obligations issued by the authority  
21 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic  
22 Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16  
23 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and  
24 refunding bonds issued by the authority pursuant to P.L.2000, c.72  
25 (C.18A:7G-1 et al.) **【and】** , P.L.2007, c.137 (C.52:18A-235 et al.) ,  
26 and P.L. , c. (C. ) (pending before the Legislature as this bill).

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

1 "County" means any county of any class.

2 "County solid waste facility" means a solid waste facility that is  
3 designated by a public authority or county in its adopted district  
4 solid waste management plan as approved by the department prior  
5 to November 10, 1997 as the in-county facility to which solid waste  
6 generated within the boundaries of the county is transported for  
7 final disposal, or transfer for transportation to an offsite solid waste  
8 facility or designated out-of-district disposal site for disposal, as  
9 appropriate, pursuant to interdistrict or intradistrict waste flow  
10 orders issued by the department, regardless of whether the county  
11 solid waste facility was acquired, constructed, operated, abandoned  
12 or canceled.

13 "Department" means the Department of Environmental  
14 Protection.

15 "Development property" means any real or personal property,  
16 interest therein, improvements thereon, appurtenances thereto and  
17 air or other rights in connection therewith, including land,  
18 buildings, plants, structures, systems, works, machinery and  
19 equipment acquired or to be acquired by purchase, gift or otherwise  
20 by the authority within an urban growth zone.

21 "Person" means any person, including individuals, firms,  
22 partnerships, associations, societies, trusts, public or private  
23 corporations, or other legal entities, including public or  
24 governmental bodies, as well as natural persons. "Person" shall  
25 include the plural as well as the singular.

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

1 subdivision, and (2) the facilities, as designed, will be a pollution  
2 control project as defined in the provisions of P.L.1974, c.80  
3 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating  
4 or controlling pollution.

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

1 improvements related to economic development and of cultural,  
2 recreational and tourism facilities or improvements related to  
3 economic development and of capital facilities for primary and  
4 secondary schools and of mixed use projects consisting of housing  
5 and commercial development; and (5) the establishment,  
6 acquisition, construction, rehabilitation, improvement, and  
7 ownership of port facilities as defined in section 3 of P.L.1997,  
8 c.150 (C.34:1B-146). Project may also include: (i) reimbursement  
9 to any person for costs in connection with any project, or the  
10 refinancing of any project or portion thereof, if determined by the  
11 authority as necessary and in the public interest to maintain  
12 employment and the tax base of any political subdivision and will  
13 facilitate improvements thereto or the completion thereof, and (ii)  
14 development property and any construction, reconstruction,  
15 improvement, alteration, equipment or maintenance or repair, or  
16 planning and designing in connection therewith. For the purpose of  
17 carrying out mixed use projects consisting of both housing and  
18 commercial development, the authority may enter into agreements  
19 with the New Jersey Housing and Mortgage Finance Agency for  
20 loan guarantees for any such project in accordance with the  
21 provisions of P.L.1995, c.359 (C.55:14K-64 et al.), and for that  
22 purpose shall allocate to the New Jersey Housing and Mortgage  
23 Finance Agency, under such agreements, funding available pursuant  
24 to subsection a. of section 4 of P.L.1992, c.16 (C.34:1B-7.13).  
25 Project shall not include a school facilities project.

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

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

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

1 "Solid waste" means garbage, refuse, and other discarded  
2 materials resulting from industrial, commercial and agricultural  
3 operations, and from domestic and community activities, and shall  
4 include all other waste materials including liquids, except for source  
5 separated recyclable materials or source separated food waste  
6 collected by livestock producers approved by the State Department  
7 of Agriculture to collect, prepare and feed such wastes to livestock  
8 on their own farms.

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

11 "Solid waste facility bonds" means the bonds, notes or other  
12 evidences of financial indebtedness issued by, or on behalf of, any  
13 public authority or county related to the planning, design,  
14 acquisition, construction, renovation, installation, operation or  
15 management of a county solid waste facility.

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

27 "Energy saving improvement" means the construction, purchase  
28 and installation in a building devoted to industrial or commercial  
29 purposes of any of the following, designed to reduce the amount of  
30 energy from nonrenewable sources needed for heating and cooling  
31 that building: insulation, replacement burners, replacement high  
32 efficiency heating and air conditioning units, including modular  
33 boilers and furnaces, water heaters, central air conditioners with or  
34 without heat recovery to make hot water for industrial or  
35 commercial purposes or in office buildings, and any solar heating or  
36 cooling system improvement, including any system which captures  
37 solar radiation to heat a fluid which passes over or through the  
38 collector element of that system and then transfers that fluid to a  
39 point within the system where the heat is withdrawn from the fluid  
40 for direct usage or storage. These systems shall include, but not  
41 necessarily be limited to, systems incorporating flat plate, evacuated  
42 tube or focusing solar collectors. The foregoing list shall not be  
43 construed to be exhaustive, and shall not serve to exclude other  
44 improvements consistent with the legislative intent of the provisions  
45 of P.L.1983, c.282.

46 "Urban growth zone" means any area within a municipality  
47 receiving State aid pursuant to the provisions of P.L.1978, c.14  
48 (C.52:27D-178 et seq.) or a municipality certified by the

1 Commissioner of Community Affairs to qualify under such law in  
2 every respect except population, which area has been so designated  
3 pursuant to an ordinance of the governing body of such  
4 municipality.

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

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

17 "Other facilities" means athletic stadiums, swimming pools, any  
18 associated structures or related equipment tied to such facilities  
19 including, but not limited to, grandstands and night field lights,  
20 greenhouses, facilities used for non-instructional or non-educational  
21 purposes, and any structure, building, or facility used solely for  
22 school administration.

23 "Refunding bonds" means bonds, notes or other obligations  
24 issued to refinance bonds previously issued by the authority  
25 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), P.L.2000, c.72  
26 (C.18A:7G-1 et al.) **【and】** P.L.2007, c.137 (C.52:18A-235 et al.) ,  
27 and P.L. , c. (C. ) (pending before the Legislature as this bill).

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

38 "School facility" means and includes any structure, building or  
39 facility used wholly or in part for educational purposes by a district  
40 and facilities that physically support such structures, buildings, and  
41 facilities such as district wastewater treatment facilities, power  
42 generating facilities, and steam generating facilities, but shall  
43 exclude other facilities.  
44 (cf: P.L.2009, c.57, s.1)

45

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

48 5. The authority shall have the following powers:

- 1 a. To adopt bylaws for the regulation of its affairs and the  
2 conduct of its business;
- 3 b. To adopt and have a seal and to alter the same at pleasure;
- 4 c. To sue and be sued;
- 5 d. To acquire in the name of the authority by purchase or  
6 otherwise, on such terms and conditions and such manner as it may  
7 deem proper, or by the exercise of the power of eminent domain in  
8 the manner provided by the "Eminent Domain Act of 1971,"  
9 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
10 other property which it may determine is reasonably necessary for  
11 any project or school facilities project; provided, however, that the  
12 authority in connection with any project shall not take by exercise  
13 of the power of eminent domain any real property except upon  
14 consent thereto given by resolution of the governing body of the  
15 municipality in which such real property is located; and provided  
16 further that the authority shall be limited in its exercise of the power  
17 of eminent domain in connection with any project in qualifying  
18 municipalities as defined under the provisions of P.L.1978, c.14  
19 (C.52:27D-178 et seq.), or to municipalities which had a population,  
20 according to the latest federal decennial census, in excess of 10,000;
- 21 e. To enter into contracts with a person upon such terms and  
22 conditions as the authority shall determine to be reasonable,  
23 including, but not limited to, reimbursement for the planning,  
24 designing, financing, construction, reconstruction, improvement,  
25 equipping, furnishing, operation and maintenance of the project or  
26 the school facilities project and to pay or compromise any claims  
27 arising therefrom;
- 28 f. To establish and maintain reserve and insurance funds with  
29 respect to the financing of the project or the school facilities project  
30 and any project financed pursuant to the "Municipal Rehabilitation  
31 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
32 al.);
- 33 g. To sell, convey or lease to any person all or any portion of a  
34 project or school facilities project, for such consideration and upon  
35 such terms as the authority may determine to be reasonable;
- 36 h. To mortgage, pledge or assign or otherwise encumber all or  
37 any portion of a project, school facilities project, or revenues,  
38 whenever it shall find such action to be in furtherance of the  
39 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), the  
40 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
41 c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
42 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et  
43 al.), and P.L. , c. (C. ) (pending before the Legislature as  
44 this bill);
- 45 i. To grant options to purchase or renew a lease for any of its  
46 projects or school facilities projects on such terms as the authority  
47 may determine to be reasonable;

1       j. To contract for and to accept any gifts or grants or loans of  
2 funds or property or financial or other aid in any form from the  
3 United States of America or any agency or instrumentality thereof,  
4 or from the State or any agency, instrumentality or political  
5 subdivision thereof, or from any other source and to comply,  
6 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
7 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
8 (C.18A:7G-1 et al.), the "Municipal Rehabilitation and Economic  
9 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), **[and]**  
10 P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. )  
11 (pending before the Legislature as this bill), with the terms and  
12 conditions thereof;

13       k. In connection with any action undertaken by the authority in  
14 the performance of its duties and any application for assistance or  
15 commitments therefor and modifications thereof, to require and  
16 collect such fees and charges as the authority shall determine to be  
17 reasonable, including but not limited to fees and charges for the  
18 authority's administrative, organizational, insurance, operating,  
19 legal, and other expenses;

20       l. To adopt, amend and repeal regulations to carry out the  
21 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
22 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
23 the "Municipal Rehabilitation and Economic Recovery Act,"  
24 P.L.2002, c.43 (C.52:27BBB-1 et al.), **[and]** P.L.2007, c.137  
25 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the  
26 Legislature as this bill);

27       m. To acquire, purchase, manage and operate, hold and dispose  
28 of real and personal property or interests therein, take assignments  
29 of rentals and leases and make and enter into all contracts, leases,  
30 agreements and arrangements necessary or incidental to the  
31 performance of its duties;

32       n. To purchase, acquire and take assignments of notes,  
33 mortgages and other forms of security and evidences of  
34 indebtedness;

35       o. To purchase, acquire, attach, seize, accept or take title to any  
36 project or school facilities project by conveyance or by foreclosure,  
37 and sell, lease, manage or operate any project or school facilities  
38 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
39 et al.), the "Municipal Rehabilitation and Economic Recovery Act,"  
40 P.L.2002, c.43 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-  
41 235 et al.), **[and]** sections 3 through 18 of P.L.2009, c.90  
42 (C.52:27D-489c et al.) , and P.L. , c. (C. ) (pending before  
43 the Legislature as this bill);

44       p. To borrow money and to issue bonds of the authority and to  
45 provide for the rights of the holders thereof, as provided in  
46 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
47 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
48 Rehabilitation and Economic Recovery Act," P.L.2002, c.43

1 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
2 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et  
3 al.), and P.L. , c. (C. ) (pending before the Legislature as  
4 this bill);

5 q. To extend credit or make loans to any person for the  
6 planning, designing, acquiring, constructing, reconstructing,  
7 improving, equipping and furnishing of a project or school facilities  
8 project, which credits or loans may be secured by loan and security  
9 agreements, mortgages, leases and any other instruments, upon such  
10 terms and conditions as the authority shall deem reasonable,  
11 including provision for the establishment and maintenance of  
12 reserve and insurance funds, and to require the inclusion in any  
13 mortgage, lease, contract, loan and security agreement or other  
14 instrument, of such provisions for the construction, use, operation  
15 and maintenance and financing of a project or school facilities  
16 project as the authority may deem necessary or desirable;

17 r. To guarantee up to 90% of the amount of a loan to a person,  
18 if the proceeds of the loan are to be applied to the purchase and  
19 installation, in a building devoted to industrial or commercial  
20 purposes, or in an office building, of an energy improvement  
21 system;

22 s. To employ consulting engineers, architects, attorneys, real  
23 estate counselors, appraisers, and such other consultants and  
24 employees as may be required in the judgment of the authority or  
25 the redevelopment utility to carry out the purposes of P.L.1974,  
26 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
27 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
28 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
29 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
30 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et  
31 al.), and P.L. , c. (C. ) (pending before the Legislature as  
32 this bill), and to fix and pay their compensation from funds  
33 available to the redevelopment utility therefor, all without regard to  
34 the provisions of Title 11A of the New Jersey Statutes;

35 t. To do and perform any acts and things authorized by  
36 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
37 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
38 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
39 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
40 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et  
41 al.), and P.L. , c. (C. ) (pending before the Legislature as  
42 this bill, under, through or by means of its own officers, agents and  
43 employees, or by contract with any person;

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

47 v. To do any and all things necessary or convenient to carry out  
48 its purposes and exercise the powers given and granted in P.L.1974,

1 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
 2 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), the "Municipal  
 3 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
 4 (C.52:27BBB-1 et al.), P.L.2007, c.137 (C.52:18A-235 et al.),  
 5 **【and】** sections 3 through 18 of P.L.2009, c.90 (C.52:27D-489c et  
 6 al.) , and P.L. , c. (C. ) (pending before the Legislature as  
 7 this bill);

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

20 x. When authorized by the governing body of a municipality  
 21 exercising jurisdiction over an urban growth zone, to construct,  
 22 cause to be constructed or to provide financial assistance to projects  
 23 in an urban growth zone which shall be exempt from the terms and  
 24 requirements of the land use ordinances and regulations, including,  
 25 but not limited to, the master plan and zoning ordinances, of such  
 26 municipality;

27 y. To enter into business employment incentive agreements as  
 28 provided in the "Business Employment Incentive Program Act,"  
 29 P.L.1996, c.26 (C.34:1B-124 et al.);

30 z. To construct school facilities projects and to enter into  
 31 agreements or contracts, execute instruments, and do and perform  
 32 all acts or things necessary, convenient or desirable for the purposes  
 33 of the authority or the redevelopment utility to carry out any power  
 34 expressly provided pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.),  
 35 P.L.2000, c.72 (C.18A:7G-1 et al.), **【and】** P.L.2007, c.137  
 36 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before the  
 37 Legislatre as this bill), including, but not limited to, entering into  
 38 contracts with the State Treasurer, the Commissioner of Education,  
 39 districts, **【the New Jersey Schools Development Authority,】** any  
 40 other entity which may be required in order to carry out the  
 41 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.2007, c.137  
 42 (C.52:18A-235 et al.), **【and】** sections 3 through 18 of P.L.2009,  
 43 c.90 (C.52:27D-489c et al.), and P.L. , c. (C. ) (pending  
 44 before the Legislature as this bill);

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

46 bb. To make and contract to make loans or leases and to make  
 47 grants to local units to finance the cost of school facilities projects  
 48 and to acquire and contract to acquire bonds, notes or other

1 obligations issued or to be issued by local units to evidence the  
2 loans or leases, all in accordance with the provisions of P.L.2000,  
3 c.72 (C.18A:7G-1 et al.), **【and】** P.L.2007, c.137 (C.52:18A-235 et  
4 al.), and P.L. , c. (C. ) (pending before the Legislature as  
5 this bill);

6 cc. Subject to any agreement with holders of its bonds issued to  
7 finance a project or school facilities project, obtain as security or to  
8 provide liquidity for payment of all or any part of the principal of  
9 and interest and premium on the bonds of the authority or for the  
10 purchase upon tender or otherwise of the bonds, lines of credit,  
11 letters of credit, reimbursement agreements, interest rate exchange  
12 agreements, currency exchange agreements, interest rate floors or  
13 caps, options, puts or calls to hedge payment, currency, rate, spread  
14 or similar exposure or similar agreements, float agreements,  
15 forward agreements, insurance contract, surety bond, commitment  
16 to purchase or sell bonds, purchase or sale agreement, or  
17 commitments or other contracts or agreements, and other security  
18 agreements or instruments in any amounts and upon any terms as  
19 the authority may determine and pay any fees and expenses required  
20 in connection therewith;

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

28 ee. To make loans to refinance solid waste facility bonds  
29 through the issuance of bonds or other obligations and the execution  
30 of any agreements with counties or public authorities to effect the  
31 refunding or rescheduling of solid waste facility bonds, or otherwise  
32 provide for the payment of all or a portion of any series of solid  
33 waste facility bonds. Any county or public authority refunding or  
34 rescheduling its solid waste facility bonds pursuant to this  
35 subsection shall provide for the payment of not less than fifty  
36 percent of the aggregate debt service for the refunded or  
37 rescheduled debt of the particular county or public authority for the  
38 duration of the loan; except that, whenever the solid waste facility  
39 bonds to be refinanced were issued by a public authority and the  
40 county solid waste facility was utilized as a regional county solid  
41 waste facility, as designated in the respective adopted district solid  
42 waste management plans of the participating counties as approved  
43 by the department prior to November 10, 1997, and the utilization  
44 of the facility was established pursuant to tonnage obligations set  
45 forth in their respective interdistrict agreements, the public  
46 authority refunding or rescheduling its solid waste facility bonds  
47 pursuant to this subsection shall provide for the payment of a  
48 percentage of the aggregate debt service for the refunded or

1 rescheduled debt of the public authority not to exceed the  
2 percentage of the specified tonnage obligation of the host county for  
3 the duration of the loan. Whenever the solid waste facility bonds  
4 are the obligation of a public authority, the relevant county shall  
5 execute a deficiency agreement with the authority, which shall  
6 provide that the county pledges to cover any shortfall and to pay  
7 deficiencies in scheduled repayment obligations of the public  
8 authority. All costs associated with the issuance of bonds pursuant  
9 to this subsection may be paid by the authority from the proceeds of  
10 these bonds. Any county or public authority is hereby authorized to  
11 enter into any agreement with the authority necessary, desirable or  
12 convenient to effectuate the provisions of this subsection.

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

17 ff. To pool loans for any local government units that are  
18 refunding bonds and do and perform any and all acts or things  
19 necessary, convenient or desirable for the purpose of the authority  
20 to achieve more favorable interest rates and terms for those local  
21 governmental units;

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

29 hh. To offer financial assistance to qualified film production  
30 companies as provided in the "New Jersey Film Production  
31 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.); **and**

32 ii. To finance or develop private or public parking facilities or  
33 structures, which may include the use of solar photovoltaic  
34 equipment, in municipalities qualified to receive State aid pursuant  
35 to the provisions of P.L.1978, c.14 (C.52:27D-178 et seq.) and  
36 municipalities that contain areas designated pursuant to P.L.1985,  
37 c.398 (C.52:18A-196 et al.) as Planning Area 1 (Metropolitan),  
38 Planning Area 2 (Suburban), or a town center, and to provide  
39 appropriate assistance, including but not limited to, extensions of  
40 credit, loans, and guarantees, to municipalities qualified to receive  
41 State aid pursuant to the provisions of P.L.1978, c.14 (C.52:27D-  
42 178 et seq.) and municipalities that contain areas designated  
43 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning  
44 Area 1 (Metropolitan), Planning Area 2 (Suburban), or a town  
45 center, and their agencies and instrumentalities or to private entities  
46 whose projects are located in those municipalities, in order to  
47 facilitate the financing and development of parking facilities or  
48 structures in such municipalities. The authority may serve as the

1 issuing agent of bonds to finance the undertaking of a project for  
2 the purposes of this subsection; and

3 jj. To enter into leases, rental, or other disposition of a real  
4 property interest in and of any school facilities project to or from  
5 any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.),  
6 P.L.2007, c.137 (C.52:18A-235 et al.), and P.L. , c. (C. )  
7 (pending before the Legislature as this bill).  
8 (cf: P.L.2010, c.28, s.3)

9  
10 41. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to  
11 read as follows:

12 1. The New Jersey Economic Development Authority shall  
13 adopt rules and regulations requiring that not less than the  
14 prevailing wage rate be paid to workers employed in the  
15 performance of any construction contract, including contracts for  
16 millwork fabrication, undertaken in connection with authority  
17 financial assistance or any of its projects, those projects which it  
18 undertakes pursuant to P.L.2002, c.43 (C.52:27BBB-1 et al.) or  
19 school facilities projects, or undertaken to fulfill any condition of  
20 receiving authority financial assistance, including the performance  
21 of any contract to construct, renovate or otherwise prepare a facility  
22 for operations which are necessary for the receipt of authority  
23 financial assistance, unless the work performed under the contract is  
24 performed on a facility owned by a landlord of the entity receiving  
25 the assistance and less than 55% of the facility is leased by the  
26 entity at the time of the contract and under any agreement to  
27 subsequently lease the facility. The prevailing wage rate shall be  
28 the rate determined by the Commissioner of Labor and Workforce  
29 Development pursuant to the provisions of P.L.1963, c.150  
30 (C.34:11-56.25 et seq.). For the purposes of this section, "authority  
31 financial assistance" means any loan, loan guarantee, grant,  
32 incentive, tax exemption or other financial assistance that is  
33 approved, funded, authorized, administered or provided by the  
34 authority to any entity and is provided before, during or after  
35 completion of a project, including but not limited to, all authority  
36 financial assistance received by the entity pursuant to the "Business  
37 Employment Incentive Program Act," P.L.1996, c.26 (C.34:1B-124  
38 et al.) that enables the entity to engage in a construction contract,  
39 but this section shall not be construed as requiring the payment of  
40 the prevailing wage for construction commencing more than two  
41 years after an entity has executed with the authority a commitment  
42 letter regarding authority financial assistance and the first payment  
43 or other provision of the assistance is received.

44 (cf: P.L.2007, c.245)

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

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

12       b. (Deleted by amendment, P.L.2007, c.137).  
13 (cf: P.L.2007, c.137, s.55)  
14

15       43. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to  
16 read as follows:

17       50. In the exercise of powers granted by P.L.2000, c.72  
18 (C.18A:7G-1 et al.) **【and】** , P.L.2007, c.137 (C.52:18A-235 et al.),  
19 and P.L. , c. (C. ) (pending before the Legislature as this  
20 bill) in connection with any school facilities project, any and all  
21 claims, damages, losses, liabilities or costs that the authority may  
22 incur shall be payable only from the amounts made available to the  
23 authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) **【and】** ,  
24 P.L.2007, c.137 (C.52:18A-235 et al.) , and P.L. , c. (C. )  
25 (pending before the Legislature as this bill). In connection with any  
26 agreement or contract entered into by the authority relating to any  
27 school facilities project, there shall be no recovery against the  
28 authority for punitive or consequential damages arising out of  
29 contract nor shall there be any recovery against the authority for  
30 claims based upon implied warranties or upon contracts implied in  
31 law.

32 (cf: P.L.2007, c.137, s.56)  
33

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

36       54. Notwithstanding the provisions of any law to the contrary,  
37 any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
38 P.L.2007, c.137 (C.52:18A-235 et al.) or P.L.2008, c.39  
39 (C.18A:7G-14.1 et al.) or P.L. , c. (C. ) (pending before the  
40 Legislatre as this bill) shall be fully negotiable within the meaning  
41 and for all purposes of Title 12A of the New Jersey Statutes, and  
42 each holder or owner of such a bond or other obligation, or of any  
43 coupon appurtenant thereto, by accepting the bond or coupon shall  
44 be conclusively deemed to have agreed that the bond or coupon is  
45 and shall be fully negotiable within the meaning and for all  
46 purposes of Title 12A.

47 (cf: P.L.2008, c.39, s.7)

1        45. 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, P.L.2000,  
4 c.72 (C.18A:7G-1 et al.), **【and】** P.L.2007, c.137 (C.52:18A-235 et  
5 al.), and P.L. , c. (C. ) (pending before the Legislature as  
6 his bill) shall constitute the performance of an essential  
7 governmental function and the authority shall not be required to pay  
8 any taxes or assessments upon or in respect of a project or school  
9 facilities project, or any property or moneys of the authority, and  
10 the authority, its projects and school facilities projects, property and  
11 moneys and any bonds and notes issued under the provisions of this  
12 act, P.L.2000, c.72 (C.18A:7G-1 et al.), **【and】** P.L.2007, c.137  
13 (C.52:18A-235 et al.), and P.L. , c. (C. ) (pending before  
14 the Legislature as his bill), their transfer and the income therefrom,  
15 including any profit made on the sale thereof, shall at all times be  
16 free from taxation of every kind by the State except for transfer,  
17 inheritance and estate taxes and by any political subdivision of the  
18 State; provided, that any person occupying a project whether as  
19 lessee, vendee or otherwise shall, as long as title thereto shall  
20 remain in the authority, pay to the political subdivision in which  
21 such project is located a payment in lieu of taxes which shall equal  
22 the taxes on real and personal property, including water and sewer  
23 service charges or assessments, which such person would have been  
24 required to pay had it been the owner of such property during the  
25 period for which such payment is made and neither the authority  
26 nor its projects, properties, money or bonds and notes shall be  
27 obligated, liable or subject to lien of any kind for the enforcement,  
28 collection or payment thereof. If and to the extent the proceedings  
29 under which the bonds authorized to be issued under the provisions  
30 of this act so provide, the authority may agree to cooperate with  
31 such person occupying a project, in connection with any  
32 administrative or judicial proceedings for determining the validity  
33 or amount of such payments and may agree to appoint or designate  
34 and reserve the right in and for such person to take all action which  
35 the authority may lawfully take in respect of such payments and all  
36 matters relating thereto, provided such person shall bear and pay all  
37 costs and expenses of the authority thereby incurred at the request  
38 of such person or by reason of any such action taken by such person  
39 in behalf of the authority. If such person occupying a project has  
40 paid the amounts in lieu of taxes required by this section to be paid  
41 such person shall not be required to pay any such taxes as to which  
42 a payment in lieu thereof has been made to the State or to any  
43 political subdivision, any other statute to the contrary  
44 notwithstanding.

45 (cf: P.L.2007, c.137, s.58)

46

47        46. Section 8 of P.L.2018, c.90 (C.52:18A-260) is amended to  
48 read as follows:

1       8. a. There is hereby established in the Department of the  
2 Treasury the Public-Private Partnership Review Fund. The purpose  
3 of the fund will be to support financial and administrative review  
4 functions associated with the Public-Private Partnership plan review  
5 by the State Treasurer, along with the New Jersey Economic  
6 Development Authority, the Department of Community Affairs, the  
7 Department of Education, **the Schools Development Authority,**  
8 and the Department of Transportation, established by P.L.2018,  
9 c.90 (C.40A:11-52 et al.).

10       b. Notwithstanding the provisions of any law or regulation to  
11 the contrary, upon entering into any public-private partnership  
12 agreement which is backed, in whole or in part, by New Jersey  
13 Economic Development Authority bonds pursuant to P.L.2018, c.90  
14 (C.40A:11-52 et al.), a public entity shall remit one percent of the  
15 portion of the revenue established under the agreement to the  
16 Department of the Treasury to be placed in the Public-Private  
17 Partnership Review Fund.

18       c. The State Treasurer, in coordination with any relevant  
19 agency, including the New Jersey Economic Development  
20 Authority, Department of Transportation, and Department of  
21 Community Affairs, shall provide, and make available to the public  
22 on the Internet, an annual report, not later than December 31, 2019  
23 and each year after that year, a list of all projects reviewed and the  
24 percentage and amount of funds withheld and provided to the fund  
25 pursuant to this section.  
26 (cf: P.L.2018, c.90, s.8)

27  
28       47. (New section) a. No municipality shall modify or change  
29 the drawings, plans or specifications for the construction,  
30 reconstruction, rehabilitation, alteration or improvement of any  
31 school facilities project of the authority, or the construction,  
32 plumbing, heating, lighting or other mechanical branch of work  
33 necessary to complete the work in question, nor to require that any  
34 person, firm or corporation employed on any such work shall  
35 perform the work in any other or different manner than that  
36 provided by the drawings, plans and specifications, nor to require  
37 that any person, firm or corporation obtain any other or additional  
38 authority, approval, permit or certificate from the municipality in  
39 relation to the work being done, and the doing of the work by any  
40 person, firm or corporation in accordance with the terms of the  
41 drawings, plans, specifications or contracts shall not subject the  
42 person, firm or corporation to any liability or penalty, civil or  
43 criminal, other than as may be stated in the contracts or incidental  
44 to the proper enforcement thereof; nor shall any municipality  
45 require the authority or any person, firm, partnership or corporation  
46 which leases or purchases the school facilities project for lease or  
47 purchase to a State agency, to obtain any other or additional  
48 authority, approval, permit, certificate or certificate of occupancy

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

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

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

26  
27 48. (New section) a. In undertaking any school facilities  
28 projects where the cost of construction, reconstruction,  
29 rehabilitation or improvement will exceed \$25,000, the authority  
30 may prepare, or cause to be prepared, separate plans and  
31 specifications for: (1) the plumbing and gas fitting and all work and  
32 materials kindred thereto, (2) the steam and hot water heating and  
33 ventilating apparatus, steam power plants and all work and  
34 materials kindred thereto, (3) the electrical work, (4) structural steel  
35 and miscellaneous iron work and materials, and (5) all general  
36 construction, which shall include all other work and materials  
37 required to complete the building.

38 b. The authority shall advertise and receive (1) separate bids  
39 for each of the branches of work specified in subsection a. of this  
40 section; or (2) bids for all the work and materials required to  
41 complete the school facilities project to be included in a single  
42 overall contract, in which case there shall be set forth in the bid the  
43 name or names of all subcontractors to whom the bidder will  
44 subcontract for the furnishing of any of the work and materials  
45 specified in branches (1) through (4) in subsection a. of this section;  
46 or (3) both.

47 c. Contracts shall be awarded as follows: (1) if bids are  
48 received in accordance with paragraph (1) of subsection b. of this

1 section, the authority shall determine the responsible bidder for  
2 each branch whose bid, conforming to the invitation for bids, will  
3 be most advantageous to the authority, price and other factors  
4 considered; (2) if bids are received in accordance with paragraph  
5 (2) of subsection b. of this section, the authority shall determine the  
6 responsible bidder for the single overall contract whose bid,  
7 conforming to the invitation for bids, will be the most advantageous  
8 to the authority, price and other factors considered; or (3) if bids are  
9 received in accordance with paragraph (3) of subsection b. of this  
10 section, the authority shall award separate contracts for each branch  
11 of work specified in subsection a. of this section if the sum total of  
12 the amounts bid by the responsible bidders for each branch, as  
13 determined pursuant to paragraph (1) of this subsection, is less than  
14 the amount bid by the responsible bidder for all of the work and  
15 materials, as determined pursuant to paragraph (2) of this  
16 subsection; but if the sum total of the amounts bid by the  
17 responsible bidder for each branch, as determined pursuant to  
18 paragraph (1) of this subsection is not less than the amount bid by  
19 the responsible bidder for all of the work and materials, as  
20 determined pursuant to paragraph (2) of this subsection, the  
21 authority shall award a single over-all contract to the responsible  
22 bidder for all of the work and materials as determined pursuant to  
23 paragraph (2) of this subsection.

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

44 e. The authority shall require from all contractors to which it  
45 awards contracts pursuant to P.L. , c. (C. ) (now pending  
46 before the Legislature as this bill), the delivery of a payment  
47 performance bond issued in accordance with N.J.S.2A:44-143 et  
48 seq.

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

7 g. Each evaluation committee selected by the authority to  
8 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 such district elects to participate.

11  
12 49. (New section) a. If the authority shall find it necessary in  
13 connection with the undertaking of any school facilities project to  
14 change the location of any portion of any public highway or road, it  
15 may contract with any government agency, or public or private  
16 corporation which may have jurisdiction over the public highway or  
17 road to cause the public highway or road to be constructed at such  
18 locations as the authority shall deem most favorable. The cost of  
19 the reconstruction and any damage incurred in changing the  
20 location of the highway shall be ascertained and paid by the  
21 authority as part of the cost of the school facilities project. Any  
22 public highway affected by the construction of any school facilities  
23 project may be vacated or relocated by the authority in the manner  
24 now provided by law for the vacation or relocation of public roads,  
25 and any damages awarded on account thereof shall be paid by the  
26 authority as a part of the cost of the school facilities project. In all  
27 undertakings authorized by this subsection, the authority shall  
28 consult and obtain the approval of the Commissioner of  
29 Transportation.

30 b. The authority and its authorized agents and employees may  
31 enter upon any lands, waters and premises for the purpose of  
32 making surveys, soundings, drillings and examinations as it may  
33 deem necessary or convenient for the purposes of this act, all in  
34 accordance with due process of law, and this entry shall not be  
35 deemed a trespass nor shall an entry for this purpose be deemed an  
36 entry under any condemnation proceedings which may be then  
37 pending. The authority shall make reimbursement for any actual  
38 damages resulting to the lands, waters and premises as a result of  
39 these activities.

40 c. The authority shall have the power to make reasonable  
41 regulations for the installation, construction, maintenance, repair,  
42 renewal, relocation and removal of tracks, pipes, mains, conduits,  
43 cables, wires, towers, poles and other equipment and appliances,  
44 herein called "public utility facilities," or any public utility as  
45 defined in R.S.48:2-13, in, on, along, over or under any school  
46 facilities project. Whenever the authority shall determine that it is  
47 necessary that any public utility facilities which now are, or  
48 hereafter may be, located in, on, along, over or under any school

1 facilities project shall be relocated in the school facilities project, or  
2 should be removed from the school facilities project, the public  
3 utility owning or operating the facilities shall relocate or remove  
4 them in accordance with the order of the authority. The cost and  
5 expenses of the relocation or removal, including the cost of  
6 installing the facilities in a new location or new locations, and the  
7 cost of any lands, or any rights or interests in lands, and any other  
8 rights, acquired to accomplish the relocation or removal, shall be  
9 ascertained and paid by the authority as a part of the cost of the  
10 school facilities project. In case of any relocation or removal of  
11 facilities, the public utility owning or operating them, its successors  
12 or assigns, may maintain and operate the facilities, with the  
13 necessary appurtenances, in the new location or new locations, for  
14 as long a period, and upon the same terms and conditions, as it had  
15 the right to maintain and operate the facilities in their former  
16 location or locations. In all undertakings authorized by this  
17 subsection the authority shall consult and obtain the approval of the  
18 Board of Public Utilities.

19

20 50. (New section) a. The New Jersey Schools Development  
21 Authority established pursuant to section 3 of P.L.2007, c.137  
22 (C.52:18A-237) is abolished and all its functions, powers, duties,  
23 and employees are transferred to the New Jersey Economic  
24 Development Authority.

25 b. Whenever, in any law, rule, regulation, order, contract,  
26 document, judicial or administrative proceeding or otherwise,  
27 reference is made to the New Jersey Schools Development  
28 Authority, the same shall mean and refer to the New Jersey  
29 Economic Development Authority.

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

32

33 51. The following sections are repealed:

34 Sections 1 through 13 of P.L.2007, c.137 (C.52:18A-235 through  
35 52:18A-247).

36

37 52. Sections 33 and 46 shall take effect on February 10, 2019,  
38 and the remainder of this act shall take effect immediately.

39

40

#### 41 STATEMENT

42

43 This bill revises the school construction program established  
44 under the "Educational Facilities Construction and Financing Act,"  
45 (EFCFA) P.L.2000, c.72 (C.18A:7G-1 et al.). The bill will abolish  
46 the New Jersey Schools Development Authority (SDA), which was  
47 created pursuant to P.L.2007, c.137 (C.52:18A-235 et al.) as a new  
48 State authority responsible for the construction of schools in the

1    former Abbott districts. Under P.L.2007, c.137, the New Jersey  
2    Economic Development Authority (EDA) retained its responsibility  
3    for the financing of school construction projects. This bill transfers  
4    all the functions, powers, duties, and employees of the SDA to the  
5    EDA. The bill thereby consolidates all the construction and  
6    financing authority for school facilities projects in a single State  
7    authority, the EDA.