

[First Reprint]  
**SENATE, No. 15**

---

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

---

INTRODUCED NOVEMBER 15, 1999

**Sponsored by:**

**Senator WILLIAM L. GORMLEY**

**District 2 (Atlantic)**

**Senator JOHN A. LYNCH**

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

**Co-Sponsored by:**

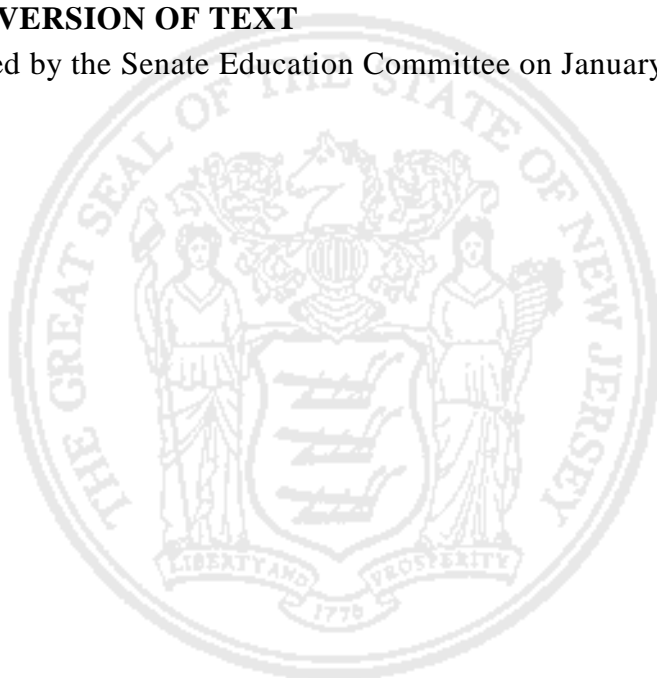
**Senators Martin, Codey, Turner, Rice, Lesniak, Singer and Inverso**

**SYNOPSIS**

The "Educational Facilities Construction and Financing Act."

**CURRENT VERSION OF TEXT**

As reported by the Senate Education Committee on January 6, 2000, with amendments.



**(Sponsorship Updated As Of: 1/11/2000)**

1 AN ACT concerning the construction and financing of public school  
2 facilities <sup>1</sup>**[and]**, <sup>1</sup> revising parts of the statutory law <sup>1</sup>and making  
3 an appropriation<sup>1</sup>.  
4

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

8 1. (New section) Sections 1 through <sup>1</sup>**[28]** <sup>1</sup>30<sup>1</sup> of this act shall be  
9 known and may be cited as the “Educational Facilities Construction  
10 and Financing Act.”  
11

12 2. (New section) The Legislature finds and declares that:

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

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

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

39 d. While providing that the educational infrastructure meets the  
40 requirements of a thorough and efficient education, the State must also  
41 protect the interests of taxpayers who will bear the burden of this

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

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SED committee amendments adopted January 6, 2000.

1 obligation. Design of school facilities should incorporate maximum  
2 operating efficiencies <sup>1</sup>and new technologies to advance the energy  
3 efficiency of school facilities and the efficiency of other school  
4 building systems<sup>1</sup>, construction should be achieved in as efficient a  
5 manner as possible, and a mechanism to assure proper maintenance of  
6 new facilities should be established and implemented, in order to  
7 reduce the overall cost of the program and to preserve this  
8 infrastructure investment.

9 e. At the same time, the location of school facilities in the context  
10 of the communities which they serve is important to both the  
11 educational success of the schools and the development of those  
12 communities. It is highly desirable, particularly in urban communities  
13 where the State has indicated a particular concern respecting local  
14 development efforts, that the planning and construction of schools be  
15 integrated where possible into the economic and community  
16 development efforts of local governments and <sup>1</sup>community<sup>1</sup>  
17 redevelopment entities in order to promote more effective and efficient  
18 use of land, resources and expertise and to better assure the future  
19 viability of local neighborhoods and communities.

20  
21 3. (New section) As used in sections 1 through <sup>1</sup>**[28] 30**<sup>1</sup> of this  
22 act, unless the context clearly requires a different meaning:

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

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

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

36 "Commissioner" means the Commissioner of Education;

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

43 <sup>1</sup>"Community redevelopment entity" means a redevelopment entity  
44 authorized by a municipal governing body to implement redevelopment  
45 plans and to carry out redevelopment projects in the municipality  
46 pursuant to the "Local Redevelopment and Housing Law," P.L.1992,

1 c.79 (C.40A:12A-1 et seq.), a county improvement authority  
2 designated by the municipality to implement redevelopment plans or  
3 carry out redevelopment projects pursuant to section 34 of P.L.1979,  
4 c.275 (C.40:37A-55.1), or the New Jersey Redevelopment Authority,  
5 where the municipality has designated that authority as its  
6 redevelopment agency pursuant to subsection y. of section 5 of  
7 P.L.1996, c.62 (C.55:19-24);<sup>1</sup>

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

11 "Cost index" means the average annual increase, expressed as a  
12 decimal, in actual construction cost factors for the New York City and  
13 Philadelphia areas during the second fiscal year preceding the budget  
14 year as determined pursuant to regulations promulgated by the  
15 <sup>1</sup>[facilities authority, in conjunction with the]<sup>1</sup> building authority,  
16 pursuant to section <sup>1</sup>[25] 26<sup>1</sup> of this act;

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

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

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

43 "Excess costs" means the additional costs, if any, <sup>1</sup>which shall be  
44 borne by the district,<sup>1</sup> of a school facilities project which result from  
45 design factors that are <sup>1</sup>either<sup>1</sup> not required to meet the facilities  
46 efficiency standards <sup>1</sup>and not approved pursuant to paragraph (1) of

1 subsection g. of section 5 of this act<sup>1</sup> or 'are'<sup>1</sup> not authorized as  
2 community design <sup>1</sup>**【factors and which shall be borne by the district】**  
3 features included in final eligible costs pursuant to subsection c. of  
4 section 6 of this act<sup>1</sup> ;

5 "Facilities authority" means the New Jersey Educational Facilities  
6 Authority created pursuant to N.J.S.18A:72A-1 et seq.<sup>1</sup>;

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

9 "Final eligible costs" means for school facilities projects to be  
10 constructed by the building authority, the final eligible costs of the  
11 school facilities project as determined by the commissioner, in  
12 consultation with the building authority, pursuant to section 5 of this  
13 act; for community development school projects to be constructed by  
14 a <sup>1</sup>'community' redevelopment entity, the final eligible costs of the  
15 community development school project as determined by the  
16 commissioner and reviewed by the building authority plus community  
17 design feature costs as approved by the Urban Coordinating Council  
18 pursuant to section 6 of this act <sup>1</sup>and reviewed by the building  
19 authority pursuant to section 6 of this act<sup>1</sup>; and for districts whose  
20 district aid percentage is less than 50% and which elect not to have the  
21 building authority construct a school facilities project, final eligible  
22 costs shall equal preliminary eligible costs;

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

45 <sup>1</sup>"Functional capacity" means the number of students that can be  
46 housed in a building in order to have sufficient space for it to be

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

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

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

32 "Local share" means, in the case of a school facilities project to be  
33 constructed by the building authority or a <sup>1</sup>community<sup>1</sup> redevelopment  
34 entity, the total costs less the State share as determined pursuant to  
35 <sup>1</sup>section<sup>1</sup> ~~sections~~<sup>1</sup> 5 <sup>1</sup>and 6<sup>1</sup> of this act; and in the case of a school  
36 facilities project not to be constructed by the building authority or a  
37 <sup>1</sup>community<sup>1</sup> redevelopment entity, the total costs less State debt  
38 service aid;

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

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

1 moneys payable to the authority;

2 “Long-range facilities plan” means the plan required to be submitted  
3 to the commissioner and where appropriate to the Urban Coordinating  
4 Council by a district pursuant to section 4 of this act;

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

19 “Preliminary eligible costs” means the initial eligible costs of a  
20 school facilities project as calculated pursuant to the formulas set forth  
21 in section 7 of this act;

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

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

30 “School bonds” means, in the case of a school facilities project  
31 which is to be constructed by the building authority or a <sup>1</sup>community<sup>1</sup>  
32 redevelopment entity, bonds, notes or other obligations issued by a  
33 district to finance the local share; and, in the case of a school facilities  
34 project which is not to be constructed by the building authority or a  
35 <sup>1</sup>community<sup>1</sup> redevelopment entity, bonds, notes or other obligations  
36 issued by a district to finance the total costs;

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

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

46 "School facilities project” means the acquisition, demolition,  
47 construction, improvement, repair, alteration, modernization,

1 renovation, reconstruction or maintenance of all or any part of a  
2 school facility or of any other personal property necessary for, or  
3 ancillary to, any school facility, and shall include fixtures, furnishings  
4 and equipment, and shall also include, but is not limited to, site  
5 acquisition, site development, services of design professionals, such as  
6 engineers and architects, construction management, legal services  
7 <sup>1</sup>~~["and"]~~, <sup>1</sup> financing costs <sup>1</sup>and administrative costs and expenses<sup>1</sup>  
8 incurred in connection with the project;

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

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

13 "State debt service aid " means for school bonds issued for school  
14 facilities projects approved by the commissioner after the effective  
15 date of P.L. , c. (C. ) (now pending before the Legislature as this  
16 bill) of districts which elect not to have the building authority or a  
17 <sup>1</sup>community<sup>1</sup> redevelopment entity construct the project, the amount  
18 of State aid determined pursuant to section 9 of this act; and for  
19 school bonds or certificates of participation issued for school facilities  
20 projects approved by the commissioner prior to the effective date of  
21 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
22 the amount of State aid determined pursuant to section 10 of this act;

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

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

32 "State share" means the State's proportionate share of the final  
33 eligible costs of a school facilities project to be constructed by the  
34 building authority as determined pursuant to section 5 of this act, and  
35 in the case of a community development school project the State's  
36 proportionate share of the final eligible costs of the community  
37 development school project as determined pursuant to sections 5 and  
38 6 of this act;

39 "Total costs" means, in the case of a school facilities project which  
40 is to be constructed by the building authority or a <sup>1</sup>community<sup>1</sup>  
41 redevelopment entity, the final eligible costs plus excess costs if any;  
42 and in the case of a school facilities project which is not to be  
43 constructed by the building authority or a <sup>1</sup>community<sup>1</sup> redevelopment  
44 entity, the total cost of the project as determined by the district;

45 "Urban Coordinating Council" means the Urban Coordinating  
46 Council established pursuant to section 45 of P.L.1996, c.62 (C.55:19-



1 60);

2 "Urban development municipality" means a municipality qualifying  
3 for assistance from the Urban Coordinating Council.

4

5 4. (New section) a. (1) Beginning in the 1999-2000 school year  
6 and in every school year thereafter ending with a "0" or a "5", each  
7 district shall prepare and submit to the commissioner a long-range  
8 facilities plan that details the district's school facilities needs and the  
9 district's plan to address those needs for the ensuing five years. The  
10 long-range facilities plan shall incorporate the facilities efficiency  
11 standards and shall be filed with the commissioner no later than  
12 October 1, 2000 and no later than October 1 of the other filing years  
13 for approval in accordance with those standards. <sup>1</sup>For all Abbott  
14 districts that have submitted long-range facilities plans to the  
15 commissioner prior to the effective date of P.L. , c. (C. )(now  
16 pending before the Legislature as this bill), the commissioner shall  
17 within 10 days of the effective date of P.L. , c. (C. )(now pending  
18 before the Legislature as this bill) submit the plan to the appropriate  
19 local planning board for review pursuant to subsection b. of this  
20 section and the 90-day review period established by that subsection  
21 shall begin on the date of the planning board's receipt of the plan. For  
22 those Abbott districts, this paragraph shall not be read to require an  
23 additional filing by October 1, 2000.<sup>1</sup>

24 (2) Notwithstanding any other law or regulation to the contrary,  
25 an application for a school facilities project pursuant to section 5 of  
26 this act shall not be approved unless the district has filed a long-range  
27 facilities plan that is consistent with the application and the plan has  
28 been approved by the commissioner; except that prior to October 1,  
29 2000, the commissioner may approve an application if the project is  
30 necessary to protect the health or safety of occupants of the school  
31 facility, <sup>1</sup>or is related to required early childhood education programs.<sup>1</sup>  
32 or is related to a school facility in which the functional capacity is less  
33 than 90% of the facilities efficiency standards based on current school  
34 enrollment, or the district received bids on the school facilities project  
35 prior to the effective date of P.L. , c. (C. ) (now pending before  
36 the Legislature as this bill) and the district demonstrates that further  
37 delay will negatively affect the cost of the project.

38 (3) An amendment to a long-range facilities plan may be submitted  
39 at any time to the commissioner for review and approval. <sup>1</sup>An  
40 amendment to include a community development school project in the  
41 plan shall be appropriate at any time unless construction or acquisition  
42 of the school facilities project affected by the amendment has been  
43 initiated by the building authority pursuant to section 5 of this act.<sup>1</sup>

44 (4) Each long-range facilities plan shall include a cohort survival  
45 methodology or other methodology approved by the commissioner,  
46 accompanied by a certification by a qualified demographer retained by

1 the district that serves as the basis for identifying the capacity and  
2 program needs detailed in the long-range facilities plan.

3 (5) The long-range facilities plan shall include an educational  
4 adequacy inventory of all existing school facilities in the district, the  
5 identification of all deficiencies in the district's current inventory of  
6 school facilities, which includes the identification of those deficiencies  
7 that involve emergent health and safety concerns, and the district's  
8 proposed plan for future construction and renovation. The long-range  
9 facilities plan submissions shall conform to the guidelines, criteria and  
10 format prescribed by the commissioner.

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

14 b. (1) Notwithstanding subsection a. of this section, prior to the  
15 submission of a long-range facilities plan to the commissioner pursuant  
16 to subsection a. of this section, a district located in an urban  
17 development municipality and any district which is a Level II district  
18 on the effective date of P.L. , c. (C. ) (now pending before the  
19 Legislature as this bill) shall submit the long-range facilities plan to  
20 the planning board of the municipality pursuant to section 22 of  
21 P.L.1975, c.291 (C.40:55D-31) for the planning board's review, which  
22 shall include an assessment of the extent to which the plan takes  
23 account of the land use and development proposals contained within  
24 the municipal master plan adopted pursuant to section 19 of P.L.1975,  
25 c.291 (C.40:55D-28) and recommendations as to the community  
26 development impact of individual school facilities projects contained  
27 in the long-range facilities plan. The commissioner shall not approve  
28 any long-range facilities plan submitted by a district located in an  
29 urban development municipality or by a Level II district, whether  
30 submitted before or after the effective date of P.L. , c. (C. )  
31 (now pending before the Legislature as this bill), unless the plan  
32 submitted for approval includes a resolution of the municipal planning  
33 board <sup>1</sup>~~approved~~ reviewed by the Urban Coordinating Council,  
34 setting forth the board's findings respecting the coordination of land  
35 use and development proposals for the municipality and school  
36 facilities planning and the anticipated impact of the school facilities  
37 projects contained in the plan on community development and  
38 redevelopment efforts and plans in the municipality <sup>1</sup>or the period  
39 established by paragraph (2) of this subsection has expired. The  
40 commissioner shall not consider any resolution that is not submitted  
41 to him in accordance with the requirements established by paragraph  
42 (2) of this subsection. <sup>1</sup> The requirements of this subsection shall not  
43 bar the commissioner from approving individual school projects in  
44 urban development municipalities or in any district which is a Level II  
45 district on the effective date of P.L. , c. (C. ) (now pending before  
46 the Legislature as this bill) if those projects could otherwise be

1 approved without the commissioner's approval of a long-range  
2 facilities plan as provided in paragraph (2) of subsection a. of this  
3 section.

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

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

10 (b) the board's findings as to the extent to which the long-range  
11 facilities plan is informed by, and consistent with, the land use and  
12 development proposals contained within the municipal master plan  
13 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28);

14 (c) the board's findings respecting the anticipated impact of the  
15 school facilities projects contained in the long-range facilities plan on  
16 community development and redevelopment efforts and plans in the  
17 municipality;

18 (d) the board's recommendations with respect to any school  
19 facilities project contained in the plan which the board finds to be  
20 appropriate for undertaking as a community development school  
21 project consistent with existing or proposed community development  
22 and redevelopment plans and projects in the municipality. The  
23 municipal planning board shall transmit the adopted resolution to the  
24 district as an attachment to the long-range facilities plan.

25 (3) <sup>1</sup>On the first business day following adoption of the resolution,  
26 the planning board shall transmit copies of the plan and the resolution  
27 to the council and to the commissioner.

28 (4)<sup>1</sup> Any district which is not located in an urban development  
29 municipality or which is not a Level II district on the effective date of  
30 P.L. , c. (C. ) (now pending before the Legislature as this bill)  
31 may elect to have its long-range facilities plan reviewed by the  
32 municipal planning board pursuant to this subsection, and the  
33 municipal planning board shall undertake that review and adopt a  
34 resolution as set forth in paragraphs (1) and (2) of this subsection.

35 <sup>1</sup>~~[(4)]~~ <sup>1</sup>~~(5)~~ The Urban Coordinating Council shall provide technical  
36 assistance to municipal planning boards in urban development  
37 municipalities and <sup>1</sup>~~[to]~~ <sup>1</sup>~~in~~ Level II district municipalities to assist in  
38 their review of long-range facilities plans and in formulating  
39 recommendations pursuant to this subsection. The council shall  
40 facilitate cooperative efforts of districts and planning boards by  
41 identifying or suggesting opportunities for community development  
42 school projects in the municipality.

43 <sup>1</sup>~~[(5)Upon]~~ <sup>1</sup>~~(6)~~ Within 45 days of the council's<sup>1</sup> receipt <sup>1</sup>~~[~~ by the  
44 commissioner<sup>1</sup> of a long-range facilities plan with an accompanying  
45 resolution of the municipal planning board pursuant to this subsection,  
46 the <sup>1</sup>~~[~~ commissioner shall submit the plan and resolution to the Urban

1 Coordinating Council for its review. The<sup>1</sup> council shall review the  
2 resolution to determine if the findings of the municipal planning board  
3 demonstrate a good faith effort to consult with the district with regard  
4 to the coordination of land use and educational facilities planning and  
5 with pertinent redevelopment entities with respect to the anticipated  
6 impact of school facilities projects on community development and  
7 redevelopment efforts and plans in the municipality.

8 c. The commissioner shall develop, for the March <sup>1</sup>~~2000~~2002<sup>1</sup>  
9 and subsequent Reports on the Cost of Providing a Thorough and  
10 Efficient Education, facilities efficiency standards for elementary,  
11 middle, and high schools consistent with the core curriculum school  
12 delivery assumptions in the report and sufficient for the achievement  
13 of the core curriculum content standards, and for the provision of  
14 required programs in Abbott districts and early childhood <sup>1</sup>education<sup>1</sup>  
15 programs in the districts in which these programs are required by the  
16 State. The area allowances per FTE student in each class of the  
17 district shall be derived from these facilities efficiency standards.

18 The facilities efficiency standards developed by the commissioner  
19 shall not be construction design standards but rather shall represent the  
20 instructional spaces, specialized instructional areas, and administrative  
21 spaces that are determined by the commissioner to be educationally  
22 adequate to support the achievement of the core curriculum content  
23 standards and for the provision of required programs in Abbott  
24 districts and early childhood <sup>1</sup>education<sup>1</sup> programs in the districts in  
25 which these programs are required. A district may design, at its  
26 discretion, the educational and other spaces to be included within the  
27 school facilities project. The design of the project may eliminate  
28 spaces in the facilities efficiency standards, include spaces not in the  
29 facilities efficiency standards, or size spaces differently than in the  
30 facilities efficiency standards upon a demonstration of the adequacy of  
31 the school facilities project to deliver the core curriculum content  
32 standards pursuant to paragraph (2) of subsection g. of section 5 of  
33 this act.

34 <sup>1</sup>Within a reasonable period of time after the effective date of  
35 P.L. , c. (C. ) (now pending before the Legislature as this bill),  
36 the commissioner shall publish the facilities efficiency standards  
37 developed for the 2000-2001, 2001-2002, and 2002-2003 school years  
38 in the New Jersey Register. Within a reasonable period of time after  
39 30 days after publication in the New Jersey Register, the commissioner  
40 shall file the facilities efficiency standards with the Office of  
41 Administrative Law and those standards shall become effective  
42 immediately upon filing with the Office of Administrative Law.  
43 During the 30-day period the commissioner shall provide an  
44 opportunity for public comment on the proposed facilities efficiency  
45 standards.

46 d. Within 90 days of the commissioner's receipt of a long-range

1 facilities plan for review, the commissioner shall determine whether the  
2 plan is fully and accurately completed and whether all information  
3 necessary for a decision on the plan has been filed by the district.  
4 Where pertinent, this 90-day period shall commence at the same time  
5 as the 45-day period for council review provided in paragraph (6) of  
6 subsection b. of this section. If the commissioner determines that the  
7 plan is complete, the commissioner shall promptly notify the district in  
8 writing and shall have 60 days from the date of that notification to  
9 determine whether to approve the plan or not. If the commissioner  
10 determines that the plan is not complete, the commissioner shall notify  
11 the district in writing. The district shall provide to the commissioner  
12 whatever information the commissioner determines is necessary to  
13 make the plan accurate and complete. The district shall submit that  
14 information to the commissioner, and the commissioner shall have 60  
15 days from the date of receipt of accurate and complete information to  
16 determine whether to approve the plan or not.

17 e. Notwithstanding any provision in subsection d. of this section,  
18 if at any time the number of long-range facilities plans filed by school  
19 districts with the commissioner and pending review exceeds 20 % of  
20 the number of school districts in New Jersey, the commissioner may  
21 extend by 60 days the deadline for reviewing each plan pending at that  
22 time.<sup>1</sup>

23  
24 5. (New section) a. The building authority shall construct and the  
25 facilities authority shall finance the school facilities projects of Abbott  
26 districts, level II districts, and districts with a district aid percentage  
27 equal to or greater than 50%.

28 b. (1) Any district whose district aid percentage is less than 50%  
29 may elect to have the facilities authority undertake the financing and  
30 the building authority undertake the construction of a school facilities  
31 project in the district and the State share shall be determined pursuant  
32 to this section. In the event that the district elects not to have the  
33 building authority undertake the construction of the project, State debt  
34 service aid for the project shall be determined pursuant to section 9 of  
35 this act.

36 (2) A district whose district aid percentage is less than 50% may  
37 enter into an agreement with a county, municipality, other political  
38 entity, or public agency authorized to construct a school facilities  
39 project to undertake the design, planning, and construction of a school  
40 facilities project <sup>1</sup>and shall not be required to bid the project  
41 pursuant to the provisions of the "Public School Contracts Law,"  
42 N.J.S.18A:18A-1 et seq. provided that the entity is subject to the  
43 "Local Public Contracts Law," P.L.1971, c.79 (C.40A:11-1 et seq.),  
44 the "Local Redevelopment and Housing Law," P.L.1992, c.79  
45 (C.40A:12A-1 et seq.) or the "Public School Contracts Law,  
46 N.J.S.18A:18A-1 et seq.)."<sup>1</sup>

1 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the  
2 contrary, the procedures for obtaining approval of a school facilities  
3 project shall be as set forth in this act; provided that any district  
4 whose district aid percentage is less than 50%, which elects not to  
5 have the building authority <sup>1</sup>or a community redevelopment entity<sup>1</sup>  
6 undertake the construction of the project, shall also be required to  
7 comply with the provisions of N.J.S.18A:18A-16.

8 d. Any district seeking to initiate a school facilities project shall  
9 apply to the commissioner for approval of the project. The application  
10 shall, at a minimum, contain the following information: a description  
11 of the school facilities project; a schematic drawing of the project or,  
12 at the option of the district, preliminary plans and specifications; a  
13 delineation and description of each of the functional components of the  
14 project; the number of unhoused students to be housed in the project;  
15 the area allowances per FTE student as calculated pursuant to section  
16 8 of this act; and the estimated cost to complete the project as  
17 determined by the district.

18 e. The commissioner shall review each proposed school facilities  
19 project to determine <sup>1</sup>**[if]** whether<sup>1</sup> it is consistent with the district's  
20 long-range facilities plan and <sup>1</sup>**[if]** whether<sup>1</sup> it complies with the  
21 facilities efficiency standards and the area allowances per FTE student  
22 derived from those standards. The commissioner shall make a decision  
23 on a district's application within 90 days from the date he determines  
24 that the application is fully and accurately completed and that all  
25 information necessary for a decision has been filed by the district, or  
26 from the date of the last revision made by the district. If the  
27 commissioner is not able <sup>1</sup>to<sup>1</sup> make a decision within 90 days, he shall  
28 notify the district in writing explaining the reason for the delay and  
29 indicating the date on which a decision on the project will be made.  
30 If the decision is not made by the subsequent date indicated by the  
31 commissioner, then the project shall be deemed approved and the  
32 preliminary eligible costs shall equal the proposed cost of the project.

33 f. If the commissioner determines that the school facilities project  
34 complies with the facilities efficiency standards and the district's long-  
35 range facilities plan and does not exceed the area allowance per FTE  
36 student derived from those standards, the commissioner shall calculate  
37 the preliminary eligible costs of the project pursuant to the formulas  
38 set forth in section 7 of this act; except that in the case of a county  
39 special services school district or a county vocational school district,  
40 the commissioner shall calculate the preliminary eligible costs to equal  
41 the amount determined by the board of school estimate and approved  
42 by the board of chosen freeholders pursuant to section 14 of P.L.1971,  
43 c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate. The  
44 preliminary eligible costs for all school facilities projects shall also  
45 include, in addition to the capital costs of construction, other  
46 <sup>1</sup>allowable<sup>1</sup> costs associated with the project <sup>1</sup>**[**, which shall include,

1 but not be limited to, the costs of site development, acquisition of land  
2 or other real property interests necessary to effectuate the project, fees  
3 for the services of design professionals including architects, engineers,  
4 construction managers and other design professionals, legal fees, and  
5 the costs associated with financing the project<sup>1</sup>.

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

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

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

28 (3) To house the district's central administration, a district may  
29 request an adjustment to the approved areas for unhoused students of  
30 2.17 square feet for each FTE student in the projected total district  
31 school enrollment if the proposed administrative offices will be housed  
32 in a school facility and the district demonstrates either that the existing  
33 central administrative offices are obsolete or that it is more practical  
34 to convert those offices to instructional space. To the extent that  
35 existing administrative space will continue to be used for  
36 administrative purposes, the space shall be included in the formulas set  
37 forth in section 7 of this act.

38 If the commissioner approves excess facilities efficiency standards  
39 or additional area allowances pursuant to paragraphs (1), (2), or (3)  
40 of this subsection, the commissioner shall calculate the preliminary  
41 eligible costs based upon the <sup>1</sup>~~excess~~ additional<sup>1</sup> area allowances or  
42 <sup>1</sup>~~excess~~<sup>1</sup> facilities efficiency standards pursuant to the formulas set  
43 forth in section 7 of this act. In the event that the commissioner does  
44 not approve the excess facilities efficiency standards or additional area  
45 allowances, the district may either: modify its submission so that the  
46 school facilities project meets the facilities efficiency standards; or pay

1 for the excess costs.

2 (4) The commissioner shall approve spaces in excess of, or  
3 inconsistent with, the facilities efficiency standards, hereinafter  
4 referred to as nonconforming spaces, upon a determination by the  
5 district that the spaces are necessary to comply with State or federal  
6 law concerning individuals with disabilities. A district may apply for  
7 additional State aid for nonconforming spaces that will permit pupils  
8 with learning disabilities to be educated to the greatest extent possible  
9 in the same buildings or classes with their nondisabled peers. The  
10 nonconforming spaces may: (a) allow for the return of pupils with  
11 learning disabilities from private facilities; (b) permit the retention of  
12 pupils with learning disabilities who would otherwise be placed in  
13 private facilities; (c) provide space for regional programs in a host  
14 school building that houses both disabled and nondisabled pupils; and  
15 (d) provide space for the coordination of regional programs by a  
16 county special services school district, educational services  
17 commission, jointure commission, or other agency authorized by law  
18 to provide regional educational services in a school building that  
19 houses both disabled and nondisabled pupils. A district's State  
20 <sup>1</sup>**["share"] support ratio<sup>1</sup>** shall be adjusted to equal the lesser of the  
21 sum of CCSAID/TEBUD as defined in section 9 of this act plus 0.25,  
22 or 100% for any nonconforming spaces approved by the commissioner  
23 pursuant to this paragraph.

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

26 (1) In the case of a district whose district aid percentage is less  
27 than 50% and which has elected not to have the <sup>1</sup>**building<sup>1</sup>** authority  
28 undertake the construction of the school facilities project, the  
29 commissioner shall notify the district whether the school facilities  
30 project is approved and, if so approved, the preliminary eligible costs  
31 and the excess costs, if any. Following the determination of  
32 preliminary eligible costs and the notification of project approval, the  
33 district may appeal to the commissioner for an increase in those costs  
34 if the detailed plans and specifications completed by a design  
35 professional for the school facilities project indicate that the cost of  
36 constructing that portion of the project which is consistent with the  
37 facilities efficiency standards and does not exceed the <sup>1</sup>**["areas"] area<sup>1</sup>**  
38 allowances per FTE student exceeds the preliminary eligible costs as  
39 determined by the commissioner for the project by 10% or more. The  
40 district shall file its appeal within 30 days of the preparation of the  
41 plans and specifications. The appeal shall outline the reasons why the  
42 preliminary eligible costs calculated for the project are inadequate and  
43 estimate the amount of the adjustment which needs to be made to the  
44 preliminary eligible costs. <sup>1</sup>**The commissioner shall forward the appeal**  
45 **information to the building authority for its review and**  
46 **recommendation. If the additional costs are the result of factors that**



1 are within the control of the district or are the result of design factors  
2 that are not required to meet the facilities efficiency standards, the  
3 building authority shall recommend to the commissioner that the  
4 preliminary eligible costs be accepted as the final eligible costs. If the  
5 building authority determines the additional costs are not within the  
6 control of the district or are the result of design factors required to  
7 meet the facilities efficiency standards, the building authority shall  
8 recommend to the commissioner a final eligible cost based on its  
9 experience for districts with similar characteristics.<sup>1</sup> The  
10 commissioner shall make a determination on the appeal within 30 days  
11 of its receipt. If the commissioner does not approve an adjustment to  
12 the school facilities project's preliminary eligible costs, the  
13 commissioner shall issue his findings in writing on the reasons for the  
14 denial and on why the preliminary eligible costs as originally calculated  
15 are sufficient.

16 (2) In all other cases, the commissioner shall 'promptly'<sup>1</sup> prepare  
17 and submit to the building authority a preliminary project report which  
18 shall consist, at a minimum, of the following information: a complete  
19 description of the school facilities project; the actual location of the  
20 project; the total square footage of the project together with a  
21 breakdown of total square footage by functional component; the  
22 preliminary eligible costs of the project; the project's priority ranking  
23 determined pursuant to subsection m. of this section; any other  
24 factors to be considered by the building authority in undertaking the  
25 project; and the name and address of the person from the district to  
26 contact in regard to the project.

27 i. Upon receipt by the building authority of the preliminary project  
28 report, the building authority, upon consultation with the district, shall  
29 prepare detailed plans 'schedules'<sup>1</sup> and specifications which contain  
30 the building authority's estimated cost 'and schedule'<sup>1</sup> to complete the  
31 school facilities project. The building authority shall transmit to the  
32 commissioner the building authority's recommendations in regard to  
33 the project which shall, at a minimum, contain the detailed plans and  
34 specifications; whether the school facilities project can be completed  
35 within the preliminary eligible costs; and any other factors which the  
36 building authority determines should be considered by the  
37 commissioner.

38 (1) In the event that the building authority advises the commissioner  
39 that the school facilities project can be completed within the  
40 preliminary eligible costs, the commissioner shall: calculate the final  
41 eligible costs to equal the preliminary eligible costs; give final approval  
42 to the project; and issue a final project report to the building authority  
43 pursuant to subsection j. of this section.

44 (2) In the event that the building authority determines that the  
45 school facilities project cannot be completed within the preliminary  
46 eligible costs, prior to the submission of the building authority's

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

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

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

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

41 (d) For a school facilities project constructed by the building  
42 authority, the building authority shall be responsible for any costs of  
43 construction, but only from the proceeds of bonds issued by the  
44 facilities authority pursuant to this act, which exceed the amount  
45 originally projected by the building authority and approved for  
46 financing by the facilities authority, provided that the excess is the

1 result of an underestimate of labor or materials costs by the building  
2 authority. <sup>1</sup>**【For a school facilities project constructed by the building**  
3 **authority, the district shall be responsible for the district aid**  
4 **percentage of the costs of construction which exceed the amount**  
5 **originally projected other than those that are the result of an**  
6 **underestimate of labor or materials costs.】** After receipt by the  
7 building authority of the final project report, the district shall be  
8 responsible only for the costs associated with changes, if any, made  
9 at the request of the district to the scope of the school facilities  
10 project.<sup>1</sup>

11 j. The building authority shall not commence the acquisition or  
12 construction of a school facilities project unless the commissioner  
13 transmits to the building authority a final project report and the district  
14 complies with the approval requirements <sup>1</sup>for the local share, if any.<sup>1</sup>  
15 pursuant to section 11 of this act. The final project report shall  
16 contain all of the information contained in the preliminary project  
17 report and, in addition, shall contain: the final eligible costs; the excess  
18 costs, if any; the total costs which equals the final eligible costs plus  
19 excess costs, if any; the State share; and the local share.

20 k. For the Abbott districts, the State share shall be 100% of the  
21 final eligible costs. For all other districts, the State share shall be an  
22 amount equal to <sup>1</sup>115% of<sup>1</sup> the district aid percentage; except that  
23 the State share shall not be less than 10% of the final eligible costs.

24 l. The local share for school facilities projects constructed by the  
25 building authority or a <sup>1</sup>community<sup>1</sup> redevelopment entity shall equal  
26 the final eligible costs plus any excess costs less the State share.

27 m. The commissioner shall establish, in consultation with the  
28 Abbott districts, a priority ranking of all school facilities projects in the  
29 Abbott districts based upon his determination of critical need, and shall  
30 establish priority categories for all school facilities projects in non-  
31 Abbott districts. <sup>1</sup>**【Projects shall be ranked】** The commissioner shall  
32 rank projects<sup>1</sup> from Tier I to Tier IV in terms of critical need  
33 according to the follow prioritization:

34 Tier I: health and safety, including electrical system upgrades;  
35 required <sup>1</sup>**【preschool】** early childhood education<sup>1</sup> programs; unhoused  
36 students/class size reduction as required to meet the standards of the  
37 "Comprehensive Educational Improvement and Financing Act of  
38 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.).

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

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

44 Tier IV: other local objectives.

45 n. Except as otherwise provided in paragraph (2) of subsection b.  
46 of this section, the provisions of the "Public School Contracts Law,"

1 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
 2 project constructed by a district but shall not be applicable to projects  
 3 constructed by the building authority or a <sup>1</sup>community <sup>1</sup>  
 4 redevelopment entity pursuant to the provisions of this act.

5 o. In the event that a district whose district aid percentage is less  
 6 than 50% elects not to have the building authority undertake  
 7 construction of a school facilities project, any proceeds of school  
 8 bonds issued by the district for the purpose of funding the project  
 9 which remain unspent upon completion of the project shall be used  
 10 by the district to reduce the outstanding principal amount of the school  
 11 bonds.

12 p. Upon completion by the building authority of a school facilities  
 13 project, <sup>1</sup>~~any~~ proceeds of bonds issued by the facilities authority for  
 14 the project, including interest earnings on the bonds, which remain  
 15 unspent upon completion of the project shall be returned on a pro rata  
 16 basis to the district. The pro rata basis shall be determined based on  
 17 the ratio of the State share to the local share ~~if the cost of~~  
 18 construction and completion of the project is less than the total costs,  
 19 the district shall be entitled to receive a portion of the local share  
 20 based on a pro rata share of the difference based on the ratio of the  
 21 State share to the local share <sup>1</sup>.

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

26 r. In the event that a district has engaged architectural services  
 27 <sup>1</sup>that have been prequalified by the building authority <sup>1</sup> to prepare  
 28 <sup>1</sup>~~the documents required for initial proposal~~ <sup>1</sup> of a  
 29 school facilities project <sup>1</sup>~~prior to the effective date of P.L. , c.~~  
 30 (C. ) (now pending before the Legislature as this bill) <sup>1</sup>, the district  
 31 shall, if permitted by the terms of the district's contract for  
 32 architectural services <sup>1</sup>~~and at the option of the building authority~~ <sup>1</sup>,  
 33 assign the contract for architectural services to the building authority  
 34 <sup>1</sup>~~if the building authority determines that the assignment would be in~~  
 35 ~~the best interests of the school facilities project~~ <sup>1</sup>, provided that the  
 36 fees for the architectural services shall not exceed the fees normally  
 37 paid by the building authority for such services <sup>1</sup>.

38

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

43 a. A district and municipality may request that the Urban  
 44 Coordinating Council designate as a community development school  
 45 project a school facilities project contained in a long-range facilities  
 46 plan for which a planning board resolution was reviewed by the

1 council pursuant to subsection b. of section 4 of P.L. , c. (C. )  
 2 (now pending before the Legislature as this bill) and determined by the  
 3 council to demonstrate a good faith effort as provided in that  
 4 subsection <sup>1</sup>or which was added to the long-range facilities plan by  
 5 amendment approved by the commissioner subsequent to adoption of  
 6 the plan<sup>1</sup>. The request shall set forth: (1) a project plan for carrying  
 7 out the redevelopment project as a whole, including the construction  
 8 of the school facility; (2) the name of the <sup>1</sup>**["local"] community**<sup>1</sup>  
 9 redevelopment entity to undertake the project <sup>1</sup>**["under the "Local**  
 10 **Redevelopment and Housing Law" P.L.1992, c.79 (C.40A:12A-1 et**  
 11 **seq.)"]**<sup>1</sup>; and (3) a description of how the project fits into a  
 12 redevelopment plan adopted or to be adopted by the municipal  
 13 governing body pursuant to section 7 of P.L. 1992, c.79 (C.40A:12A-  
 14 7). The council shall designate the project <sup>1</sup>as a community  
 15 development school project<sup>1</sup> if it determines that:

16 (a) the project furthers definite local objectives as to appropriate  
 17 land uses, density of population, and improved traffic and public  
 18 transportation, public utilities, recreational and community facilities  
 19 and other public improvements;

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

22 (c) <sup>1</sup>based upon the past experience of the community  
 23 redevelopment entity in undertaking similar projects and the financial  
 24 capability of that redevelopment entity.<sup>1</sup> there is a high degree of  
 25 assurance that the project will be undertaken and completed  
 26 successfully by the <sup>1</sup>**["local"] community**<sup>1</sup> redevelopment entity.

27 <sup>1</sup>With the agreement of the district and the municipality, the council  
 28 may designate the building authority as the redevelopment entity which  
 29 shall undertake the community development school project. The  
 30 designation shall be made if the council determines that neither the  
 31 community redevelopment entity proposed by the district and  
 32 municipality or any other redevelopment entity authorized to  
 33 undertake redevelopment projects in the municipality is financially  
 34 capable to do so, or possesses appropriate experience in undertaking  
 35 similar projects.

36 In the event that the council designates the building authority as the  
 37 redevelopment entity which shall undertake the community  
 38 development school project, the building authority shall operate under  
 39 the "Local Redevelopment and Housing Law," P.L.1992, c.79  
 40 (C.40A:12A-1 et seq.) in undertaking the project.<sup>1</sup>

41 The council's review of the proposed community development  
 42 school project for designation under this section shall proceed at the  
 43 same time as the commissioner's review of the school facilities project  
 44 for approval under section 5 of P.L. , c. (C. ) (now pending  
 45 before the Legislature as this bill) <sup>1</sup>**["**, and that approval and this  
 46 designation shall occur in conjunction with one another**"]**. The

1 council's designation or decision not to make a designation shall  
2 precede approval by the commissioner <sup>1</sup>.

3 b. Designation of a community development school project shall  
4 entitle an urban development municipality and a municipality in which  
5 a Level II district is located on the effective date of P.L. , c.  
6 (C. ) (now pending before the Legislature as this bill) to higher  
7 priority for receipt of State assistance for the project as determined by  
8 the Urban Coordinating Council in consultation with the <sup>1</sup>community<sup>1</sup>  
9 redevelopment entity to undertake the project. The council shall  
10 coordinate the provision of State assistance for the community  
11 development school project which may include any or all of the  
12 following<sup>1</sup>, so long as the purposes for which the moneys are to be  
13 expended are not inconsistent with the provisions of any other law<sup>1</sup>:

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

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

20 (3) <sup>1</sup>~~[(1)]~~ priority for project financing out of the South or North  
21 Jersey share of funds made available by the Casino Reinvestment  
22 Development Authority under subsection f. of section 3 of P.L.1984,  
23 c.218 (C.5:12-144.1), so long as those projects are otherwise eligible  
24 for funding pursuant thereto;

25 (4)<sup>1</sup>~~[(2)]~~ priority for loans, loan guarantees and any other housing  
26 assistance made available by the New Jersey Housing and Mortgage  
27 Finance Agency pursuant to the "New Jersey Housing and Mortgage  
28 Finance Agency Law of 1983," P.L.1983, c.530 (C.55:14K-1 et seq.),  
29 for which community development school projects may be eligible;

30 <sup>1</sup>~~[(5)]~~ ~~(4)~~<sup>1</sup> priority for funding out of the "Neighborhood  
31 Preservation Nonlapsing Revolving Fund" established pursuant to  
32 section 20 of P.L.1985, c.222 (C.52:27D-320);

33 <sup>1</sup>~~[(6)]~~ ~~(5)~~<sup>1</sup> priority for loans, loan guarantees, financing through  
34 tax exempt bond financing or any other financial assistance available  
35 for these projects by the New Jersey Redevelopment Authority  
36 established pursuant to section 4 of P.L.1996, c.62 (C.55:19-23);

37 <sup>1</sup>~~[(7)]~~ ~~(6)~~<sup>1</sup> priority for low-income housing tax credits administered  
38 by the New Jersey Housing and Mortgage Finance Agency and made  
39 available pursuant to Section 42(h)(4) of the Internal Revenue Code  
40 for those projects which support the community development school  
41 project within the district;

42 <sup>1</sup>~~[(8)]~~ ~~(7)~~<sup>1</sup> priority for any transportation infrastructure funds  
43 administered by the State for which the community development  
44 school project may otherwise be eligible, including any moneys  
45 available through reauthorization of the "New Jersey Transportation  
46 Trust Fund" pursuant to the "New Jersey Transportation Trust Fund

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

2 <sup>1</sup>~~[(9)]~~<sup>(8)</sup> priority for funds to assist in site remediation which may  
3 be made available pursuant to the "Hazardous Discharge Fund"  
4 created pursuant to the "Hazardous Discharge Bond Act," P.L.1981,  
5 c.275, the "Hazardous Discharge Site Cleanup Fund" established  
6 pursuant to section 1 of P.L.1985, c.247 (C.58:10-23.34) or any other  
7 moneys made available for purposes consistent with the  
8 implementation of a community development school project;

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

19 <sup>1</sup>~~[(11)]~~<sup>(10)</sup> priority for any State aid for a municipal library  
20 which supports a community development school project which is  
21 otherwise available pursuant to section 1 of P.L.1985, c.297  
22 (C.18A:74-3.2) or any other law; and

23 <sup>1</sup>~~[(12)]~~<sup>(11)</sup> priority for any State moneys which may be made  
24 available to construct, maintain or operate recreational facilities or  
25 playgrounds in order to further the implementation of a community  
26 development school project.

27 c. <sup>1</sup>~~[A]~~ In addition to the requirements set forth in section 5 of this  
28 act, a<sup>1</sup> community development school project may request inclusion  
29 in the final eligible costs of the school facilities project, of all or any  
30 portion of the cost of any community design features including any  
31 area, rooms, equipment, recreational area or playground included in  
32 the <sup>1</sup>school facilities<sup>1</sup> project which are to be used in common by  
33 students of the district and by residents of the community <sup>1</sup>, but there  
34 shall not be included in the final eligible costs any portion of the cost  
35 of any features which are not an integral part of the school building  
36 and grounds<sup>1</sup>. The Urban Coordinating Council shall approve the  
37 request if it finds that the inclusion of the funding in the final eligible  
38 costs would be conducive to the usefulness and success of the project  
39 for both the students of the district and the residents of the  
40 community. The council may condition its approval upon the adoption  
41 by the school district of policies suitable for assuring continuing  
42 community access to the community design features.

43 <sup>1</sup>The cost of the community design features approved by the Urban  
44 Coordinating Council shall be reviewed by the building authority. The  
45 district shall submit the documentation required by the building  
46 authority for the building authority to make its determination. The

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

4 d. The facilities authority shall provide funding for the State's share  
5 of the final eligible costs of a school facilities project to be constructed  
6 as part of a designated community development school project as  
7 approved by the Urban Coordinating Council. The facilities authority  
8 shall provide the funding to the <sup>1</sup>~~["local"]~~ community<sup>1</sup> redevelopment  
9 entity to undertake construction of the project, <sup>1</sup>~~["rather than"]~~ or to<sup>1</sup>  
10 the building authority contracting for construction of the school  
11 facilities project <sup>1</sup>, as determined in the designation of the project by  
12 the council<sup>1</sup>. Prior to the provision of funding, the building authority  
13 shall review the preliminary eligible costs of the school facilities  
14 project and certify to the commissioner and the Urban Coordinating  
15 Council any increase or other adjustment necessary to permit the  
16 school facilities project to be constructed in a manner conducive to the  
17 success of the community development school project. <sup>1</sup>If a  
18 community development school project is to be constructed by a  
19 community redevelopment entity, the facilities authority shall provide  
20 funding for the State share pursuant to an agreement among the  
21 facilities authority, the community redevelopment entity, and the State  
22 Treasurer which shall, in addition to any other terms and conditions,  
23 set forth the terms for disbursement of the State share and provide for  
24 the monitoring of construction by the State.<sup>1</sup>

25 e. <sup>1</sup>~~["The~~ redevelopment entity which is undertaking the  
26 construction of a community development school project shall  
27 advertise and receive bids in the form of a single contract for the  
28 design, planning, and construction of the community development  
29 school project, and shall award the contract to the responsible bidder  
30 whose bid, conforming to the invitation for bids, will be more  
31 advantageous, price and other factors considered. A bidder shall be  
32 required to set forth in the bid the name or names of all subcontractors  
33 to whom the bidder will subcontract for the furnishing of any of the  
34 following work and materials:

35 (1) the plumbing and gas fitting and all work and materials kindred  
36 thereto;

37 (2) the steam and hot water heating and ventilating apparatus,  
38 steam power plants and all work and materials kindred thereto;

39 (3) the electrical work;

40 (4) structural and ornamental iron work; and

41 (5) all other work and materials required to complete the  
42 community development school project.

43 The bidder that is awarded the contract shall not renegotiate its  
44 contracts with subcontractors associated with the community  
45 development school project without notice to the redevelopment entity  
46 awarding the contract and the redevelopment entity may take whatever



1 action, if any, it deems appropriate.

2 The contract between the redevelopment entity and the bidder that  
3 is awarded the contract for the construction of a community  
4 development school project shall establish a date for the timely  
5 completion of the project and shall include penalties to be assessed  
6 against the bidder for failure to complete the project by that date.  
7 The contract shall also provide that the successful bidder shall be  
8 responsible for any costs of construction which exceed the amount  
9 originally contracted for completion of the community development  
10 school project.

11 f. A district may include, and the Urban Coordinating Council may  
12 approve, as part of a community development school project a  
13 provision that the district enter into a lease purchase agreement with  
14 the local redevelopment entity for the financing of the local share of  
15 the school facilities project, if any portion is not met by funding of the  
16 building authority. If the Urban Coordinating Council approves a  
17 lease purchase arrangement, prior to entering into the lease purchase  
18 agreement with the local redevelopment entity, the district shall  
19 receive the approval of the board of school estimate in the case of a  
20 type I district or a type II district with a board of school estimate, or  
21 of the voters of the district at the annual or a special school election  
22 in the case of a type II district.

23 As used in this subsection, a "lease purchase agreement" refers to  
24 any agreement which gives the board of education as lessee the option  
25 of purchasing the leased premises during or upon termination of the  
26 lease, with credit toward the purchase price of all or part of rental  
27 payments which have been made by the board of education in  
28 accordance with the lease.

29 Any lease purchase payment made by a district during the budget  
30 year shall not be included in the calculation of the district's spending  
31 growth limitation.

32 g. <sup>1</sup> Upon completion of a community development school project  
33 by a <sup>1</sup>community<sup>1</sup> redevelopment entity, the district shall submit to the  
34 commissioner a plan to provide for the maintenance of the project and  
35 shall enter into a contract which provides for that maintenance.

36

37 7. (New section) a. Preliminary eligible costs for construction of  
38 new school facilities and additions to school facilities, characterized by  
39 an increase in the square footage of the school facility, shall be  
40 approved only if necessary for reasons of unhoused students.

41 <sup>1</sup>Unhoused students are the number of students to be housed in a  
42 school building, but which cannot be housed in an existing building  
43 without additional space or a new building in order to maintain  
44 educational adequacy. Unhoused students are calculated by  
45 subtracting the projected enrollment for a school building from its  
46 functional capacity.<sup>1</sup>

1 Preliminary eligible costs = AU x C <sup>1</sup>plus other allowable costs<sup>1</sup>  
2 where

3 AU is the approved area for unhoused students; and

4 C is the area cost allowance;

5 b. Preliminary eligible costs shall be calculated as follows for  
6 reconstruction, remodeling, alteration, modernization, renovation or  
7 repair of school facilities that were originally constructed by the  
8 district or that the district purchased more than five years prior to the  
9 date of application for approval to the commissioner and that have not  
10 been previously approved by the commissioner pursuant to this act  
11 within the prior <sup>1</sup>~~15~~ 10<sup>1</sup> years; provided that the <sup>1</sup>~~15-year~~ 10-  
12 year<sup>1</sup> requirement may be waived by the commissioner if the district  
13 satisfactorily demonstrates that extraordinary circumstances apply.

14 Preliminary eligible costs = R x A <sup>1</sup>plus other allowable costs<sup>1</sup>  
15 where

16 R = the replacement costs of the facility = GA x C

17 and where

18 GA is the gross area (square footage) of the existing school facility  
19 <sup>1</sup>~~or portion thereof~~<sup>1</sup> being reconstructed, remodeled, altered,  
20 modernized, renovated or repaired;

21 C is the area cost allowance; and

22 A is a factor determined by the age of the school facility, the  
23 measure of which commences with occupancy of the school facility,  
24 according to the following table:

25

26 Age of the School Facility	A
27 <sup>1</sup> <del>15</del> <u>10</u> <sup>1</sup> years or less	zero
28 <sup>1</sup> <del>16</del> <u>11</u> <sup>1</sup> years or more and less than 26 years	50%
29 26 years or more and less than 41 years	60%
30 41 years or more	85%

31  
32 For the purposes of this section the age of the school facility shall be  
33 a composite measure of the age of individual sections of the building  
34 determined in accordance with a method approved by the  
35 commissioner. The commissioner may adjust "A" for a district that  
36 demonstrates that additional renovation expenditures are necessary to  
37 address health and safety conditions <sup>1</sup>the "Americans with Disabilities  
38 Act of 1990," Pub.L.101-336 (42 U.S.C. s.12101 et seq.).<sup>1</sup> or  
39 obsolescence.

40 Notwithstanding the provisions of this subsection, all school  
41 facilities shall be deemed suitable for rehabilitation unless a pre-  
42 construction evaluation undertaken by the district demonstrates to the  
43 satisfaction of the commissioner that the structure might pose a risk to  
44 the safety of the occupants even after rehabilitation, or that  
45 rehabilitation is not cost-effective.

46 c. Preliminary eligible costs for new construction done in lieu of

1 renovations shall be determined in accordance with the methodology  
2 for new construction, with preliminary eligible costs determined  
3 pursuant to subsection a. of this section, only when the decision to  
4 replace a school facility is supported by a feasibility study conducted  
5 by the district, and either the age of the building being replaced is 41  
6 years or greater or the commissioner determines that extraordinary  
7 circumstances apply. When new construction done in lieu of  
8 renovations qualifies as new construction, the approved area for  
9 unhoused students shall be determined by the commissioner, with  
10 consideration of the existing school facilities in the district.

11 d. Preliminary eligible costs for new construction done in lieu of  
12 renovations which does not meet the requirements of subsection c. of  
13 this section shall be determined in accordance with the methodology  
14 for aiding renovations, with the preliminary eligible costs determined  
15 pursuant to subsection b. of this section.

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

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

24 Preliminary eligible costs = (ACP-PC) x (C/CP) <sup>1</sup>plus other  
25 allowable costs<sup>1</sup>

26 where

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

29 PC is the purchase cost for the facility;

30 C is the area cost allowance at the time of application for the  
31 renovation; and

32 CP is the area cost allowance at the time of purchase of the  
33 facility.

34 Preliminary eligible costs so calculated shall not be less than  
35 zero.

36 <sup>1</sup>g. Other allowable costs shall include the costs of site  
37 development, acquisition of land or other real property interests  
38 necessary to effectuate the school facilities project, fees for the  
39 services of design professionals, including architects, engineers,  
40 construction managers and other design professionals, legal fees, and  
41 the costs associated with financing the school facilities project. Other  
42 allowable costs for school facilities projects to be undertaken by the  
43 building authority shall be determined by the building authority. Other  
44 allowable costs for school facilities projects to be undertaken by a  
45 district or a community redevelopment entity shall be equal to the  
46 actual costs unless the commissioner, in consultation with the building

1 authority, determines these costs to be unreasonable in light of the  
2 experience of similarly situated districts.<sup>1</sup>

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

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

29 
$$AU = (UEC \times SEC) + (UE \times SE) + (UM \times SM) + (UH \times SH)$$
  
30 where

31 UEC, UE, UM, UH are the numbers of unhoused students in the  
32 early childhood, elementary, middle, and high school enrollment  
33 categories, respectively; and

34 SEC, SE, SM, SH are the area allowances per FTE student in <sup>1</sup>the  
35 early childhood, elementary, middle, and high school enrollment  
36 categories] preschool and kindergarten, grades 1 through 5, grades 6  
37 through 8, and grades 9 through 12<sup>1</sup>, respectively. <sup>1</sup>Area allowances  
38 shall be determined based on the grade level of a student regardless of  
39 the grade configurations used in the school buildings of the district.<sup>1</sup>

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

41

42 <sup>1</sup> [Elementary School (including early childhood)	125 sq. ft.
43 Middle School	131 sq. ft.
44 High School	151 sq. ft.]
45	
46 <u>Preschool through grade 5</u>	<u>125 sq. ft.</u>

<u>Grades 6 through 8</u>	<u>136 sq. ft.</u>
<u>Grades 9 through 12</u>	<u>151 sq. ft.<sup>1</sup></u>

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

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

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

where

$$A = B \times AC/P \times \textbf{1} \textbf{[CCSAID/TEBUD]} \textbf{(CCSAID/TEBUD} \times \textbf{1.15)}^{\textbf{1}}$$

x M, with AC/P =1

whenever AC/P would otherwise yield a number greater than one, and where:

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

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

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

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

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

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

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

1 Notwithstanding any provision of this subsection to the contrary, State  
2 debt service aid shall not be less than 10% of the preliminary eligible  
3 costs.

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

7 (1) Effective ten years from the date of the enactment of P.L. ,

8 c. (C ) (now pending before the Legislature as this bill), the  
9 maintenance factor for aid for reconstruction, remodeling, alteration,  
10 modernization, renovation or repair, or for an addition to a school  
11 facility, shall be zero for all school facilities projects for which the  
12 district fails to demonstrate over the ten years preceding issuance a net  
13 investment in maintenance of the related school facility of at least 2%  
14 of the replacement cost of the school facility, determined pursuant to  
15 subsection b. of section 7 of this act using the area cost allowance of  
16 the year ten years preceding the year in which the school bonds are  
17 issued.

18 (2) For new construction, additions, and school facilities aided  
19 under subsection b. of section 7 of this act supported by financing  
20 issued for projects approved by the commissioner after the effective  
21 date of P.L. , c. (C. ) (now pending before the Legislature as  
22 this bill), beginning in the fourth year after occupancy of the school  
23 facility, the maintenance factor shall be reduced according to the  
24 following schedule for all school facilities projects for which the  
25 district fails to demonstrate in the prior fiscal year an investment in  
26 maintenance of the related school facility of at least two-tenths of 1 %  
27 of the replacement cost of the school facility, determined pursuant to  
28 subsection b. of section 7 of this act.

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

35 (3) Within one year of the enactment of P.L. , c. (C. ) (now  
36 pending before the Legislature as this bill), the commissioner shall  
37 promulgate rules requiring districts to develop a long-range  
38 maintenance plan and specifying the expenditures that qualify as an  
39 appropriate investment in maintenance for the purposes of this  
40 subsection.

41 Any district which obtained approval from the commissioner for  
42 a school facilities project since September 1, 1998 and prior to the  
43 effective date of P.L. , c. (C ) (now pending before the  
44 Legislature as this bill) may elect to have the commissioner re-  
45 calculate its State aid as if the project were subject to the provisions  
46 of this act; provided that a district which received approval from the

1 commissioner for a school facilities project prior to the effective date  
2 of P.L. , c. (C. ) (now pending before the Legislature as this  
3 bill), but has not issued debt, other than short term notes, or entered  
4 into construction contracts, shall not be precluded from deciding not  
5 to proceed with the project and instead submitting an application  
6 pursuant to section 5 of this act.

7  
8 10. (New section) For each issuance of school bonds or  
9 certificates of participation issued for a school facilities project  
10 approved by the commissioner prior to the effective date of P.L. ,  
11 c. (C. ) (now pending before the Legislature as this bill):

12 Aid is the sum of A

13 where

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

15 and where

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

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

23 TEBUD is the district's T&E budget determined pursuant to section  
24 13 of P.L.1996, c.138(C.18A:7F-13).

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

27  
28 11. (New section) A school facilities project shall not be  
29 constructed <sup>1</sup>by the building authority, a redevelopment entity, or a  
30 district<sup>1</sup> unless the <sup>1</sup>local share of the<sup>1</sup> project <sup>1, if any.</sup><sup>1</sup> is  
31 approved in accordance with the provisions for the approval of capital  
32 projects pursuant to N.J.S.18A:22-1 et seq., N.J.S.18A:24-1 et seq.  
33 and P.L.1991, c.139 (C.18A:7A-46.1 et seq.), as applicable to the  
34 district.

35  
36 12. (New section) A district, other than a State-operated school  
37 district, that sought approval pursuant to section 11 of this act of a  
38 school facilities project without excess costs but failed to receive that  
39 approval, and within the three years prior to that, sought and failed to  
40 receive approval of that school facilities project with or without excess  
41 costs, may submit the project to the commissioner and request that the  
42 commissioner approve the project and authorize the issuance of school  
43 bonds for the local share of the project. Upon receipt of the request,  
44 the commissioner shall review the school facilities project and  
45 determine <sup>1</sup>if<sup>1</sup> whether<sup>1</sup> the project is necessary for the provision of  
46 a thorough and efficient system of education in the district. If the

1 commissioner concludes that the project is necessary, the  
2 commissioner may approve the project without excess costs and  
3 authorize the issuance of school bonds to fund the local share. In  
4 addition to the amount of taxes determined by the legal voters of the  
5 district at the annual school election, the secretary of the board of  
6 education shall certify the amount required for the repayment of the  
7 interest and principal of the bonds required to fund the local share  
8 amount approved by the commissioner in the same manner required  
9 for interest and debt redemption charges pursuant to N.J.S.18A:22-33,  
10 and the amount so certified shall be included in the taxes assessed,  
11 levied and collected in the municipality or municipalities comprising  
12 the school district for those purposes.

13 Any school facilities project authorized pursuant to this section  
14 shall be constructed by the building authority. Nothing in this section  
15 shall preclude a State-operated school district from using the process  
16 established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2)  
17 to obtain the approval of the commissioner to undertake a school  
18 facilities project.

19

20 13. (New section) a. The facilities authority shall be responsible  
21 for the financing of school facilities projects and the building authority  
22 shall be responsible for the planning, design, construction  
23 management, acquisition, construction, and completion of school  
24 facilities projects. Upon submission to the building authority of a final  
25 project report <sup>1</sup>and financing by the facilities authority<sup>1</sup>, the building  
26 authority shall undertake the acquisition, construction, and all other  
27 appropriate actions necessary to complete the project. <sup>1</sup>When the final  
28 eligible costs of a school facilities project are less than or equal to  
29 \$250,000, the building authority may, in its discretion, authorize a  
30 district to undertake the acquisition, construction and all other  
31 appropriate actions necessary to complete the project and enter into  
32 a grant agreement with the district for the payment of the State share.<sup>1</sup>

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

41 c. In order to implement the construction and finance arrangements  
42 established for school facilities projects which are to be constructed by  
43 the building authority and financed by the facilities authority pursuant  
44 to this section, a district shall enter into an agreement with the building  
45 authority, the facilities authority, and the commissioner containing the  
46 terms and conditions determined by the parties to be necessary to



1 effectuate the project.

2 d. Upon completion by the building authority of a school facilities  
3 project, the district shall enter into an agreement with the building  
4 authority to provide for the maintenance of the project by the district.  
5 In the event that the school facilities project is constructed by a  
6 district, upon the completion of the project, the district shall submit to  
7 the commissioner a plan to provide for the maintenance of the project  
8 by the district. Any agreement or plan shall contain, in addition to any  
9 other terms and provisions, a requirement for the establishment of a  
10 maintenance reserve fund, the funding levels of which shall be as set  
11 forth in regulations adopted by the commissioner pursuant to section  
12 25 of this act.

13 <sup>1</sup>e. There is hereby established a separate fund entitled the "School  
14 Facilities Construction Fund." This fund shall be maintained by the  
15 building authority separate and apart from any other funds of the  
16 building authority and may be held in depositaries as may be selected  
17 by the building authority and invested and reinvested as other funds in  
18 the custody of the building authority, subject to the approval of the  
19 State Treasurer. All interest or other income or earnings derived from  
20 the investment or reinvestment of moneys in the fund shall be credited  
21 to the fund. Any grants, contributions, donations and reimbursements  
22 from federal aid programs and from other public or private sources as  
23 may be used lawfully for the purposes of this act shall also be held in  
24 the fund, but shall be expended in accordance with any conditions or  
25 requirements attached thereto. The moneys in the fund are specifically  
26 dedicated and shall be applied to the cost of school facilities projects  
27 undertaken by the building authority pursuant to this act. The fund  
28 shall be credited with the proceeds of bonds issued pursuant to section  
29 14 of this act; any moneys appropriated or otherwise made available  
30 to it by the Legislature; net earnings received from the investment or  
31 deposit of monies in the fund, and any other moneys which the  
32 building authority determines to deposit therein.

33 f. Upon the issuance by the facilities authority of bonds pursuant  
34 to section 14 of this act, the proceeds of the bonds less costs of  
35 issuance shall be transferred to the building authority for deposit into  
36 the School Facilities Construction Fund.

37 g. In order to implement the arrangements provided for in this act,  
38 the State Treasurer, the facilities authority and the building authority  
39 are hereby authorized to enter into one or more contracts. The  
40 contracts shall provide, in addition to other terms and conditions, for  
41 the payment by the facilities authority to the building authority  
42 pursuant to subsection f. of this section in order for the building  
43 authority to carry out its responsibilities as set forth in this act. The  
44 contract or contracts shall be on terms and conditions as determined  
45 by the parties, provided that the incurrence of any obligations of the  
46 State under the contract or contracts, if any, shall be subject to and

1 dependent upon appropriations being made from time to time by the  
2 Legislature for the purposes of this act.<sup>1</sup>

3  
4 14. (New section) Notwithstanding any other provisions of law  
5 to the contrary:

6 a. The facilities authority shall have the power, pursuant to the  
7 provisions of this act and N.J.S.18A:72A-1 et seq., to issue bonds and  
8 refunding bonds, incur indebtedness and borrow money secured, in  
9 whole or in part, by monies received pursuant to sections 17, 18 and  
10 19 of this act for the purposes of: financing all or a portion of the  
11 costs of school facilities projects and any costs related to the issuance  
12 thereof, including, but not limited to, the administrative, insurance,  
13 operating and other expenses of the facilities authority to undertake  
14 the financing of school facilities projects and the <sup>1</sup>administrative,  
15 insurance and operating<sup>1</sup> expenses of the building authority to  
16 undertake the design, construction and maintenance of school facilities  
17 projects; lending moneys to local units to pay the costs of all or a  
18 portion of school facilities projects and any costs related to the  
19 issuance thereof; funding the school facilities project revolving loan  
20 fund pursuant to the provisions of section 15 of this act; and financing  
21 the acquisition of school facilities projects to permit the refinancing of  
22 debt by the district pursuant to section 16 of this act.

23 The facilities authority may establish reserve funds to further secure  
24 bonds and refunding bonds issued pursuant to this section and may  
25 issue bonds to pay for the administrative <sup>1</sup>insurance and operating<sup>1</sup>  
26 costs of the facilities authority <sup>1</sup>and the building authority<sup>1</sup> in carrying  
27 out the provisions of this act. In addition to its bonds and refunding  
28 bonds, the facilities authority shall have the power to issue  
29 subordinated indebtedness, which shall be subordinate in lien to the  
30 lien of any or all of its bonds or refunding bonds as the facilities  
31 authority may determine.

32 b. The facilities authority shall issue the bonds or refunding bonds  
33 in such manner as it shall determine in accordance with the provisions  
34 of this act and N.J.S.18A:72A-1 et seq.; provided that notwithstanding  
35 any other law to the contrary, no resolution adopted by the facilities  
36 authority authorizing the issuance of bonds or refunding bonds  
37 pursuant to this section shall be adopted or otherwise made effective  
38 without the approval in writing of the State Treasurer; and refunding  
39 bonds issued to refund bonds issued pursuant to this section shall be  
40 issued on such terms and conditions as may be determined by the  
41 facilities authority and the State Treasurer. The facilities authority  
42 may, in any resolution authorizing the issuance of bonds or refunding  
43 bonds issued pursuant to this section, pledge the contract with the  
44 State Treasurer provided for pursuant to section 18 of this act, or any  
45 part thereof, or may pledge all or any part of the repayments of loans  
46 made to local units pursuant to section 19 of this act for the payment

1 or redemption of the bonds or refunding bonds, and covenant as to the  
2 use and disposition of money available to the facilities authority for  
3 payment of the bonds and refunding bonds. All costs associated with  
4 the issuance of bonds and refunding bonds by the facilities authority  
5 for the purposes set forth in this act may be paid by the facilities  
6 authority from amounts it receives from the proceeds of the bonds or  
7 refunding bonds, and from amounts it receives pursuant to sections  
8 17, 18, and 19 of this act. The costs may include, but shall not be  
9 limited to, any costs relating to the issuance of the bonds or refunding  
10 bonds, administrative costs of the facilities authority attributable to the  
11 making and administering of loans to fund school facilities projects,  
12 and costs attributable to the agreements entered into pursuant to  
13 subsection d. of this section.

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

20 (1) Pledge of the revenues and other receipts to be derived from  
21 the payment of local unit obligations and any other payment made to  
22 the facilities authority pursuant to agreements with any local unit, or  
23 a pledge or assignment of any local unit obligations, and the rights and  
24 interest of the authority therein;

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

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

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

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

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

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

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

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

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

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

1 on their face.

2 g. The State hereby pledges and covenants with the holders of any  
3 bonds or refunding bonds issued pursuant to this act that it will not  
4 limit or alter the rights or powers vested in the facilities authority by  
5 this act, nor limit or alter the rights or powers of the State Treasurer  
6 in any manner which would jeopardize the interest of the holders or  
7 any trustee of the holders, or inhibit or prevent performance or  
8 fulfillment by the facilities authority or the State Treasurer with  
9 respect to the terms of any agreement made with the holders of the  
10 bonds or refunding bonds or agreements made pursuant to subsection  
11 d. of this section; except that the failure of the Legislature to  
12 appropriate moneys for any purpose of this act shall not be deemed a  
13 violation of this section.

14 <sup>1</sup>h. The facilities authority and the building authority may charge to  
15 and collect from local units, districts, the State and any other person,  
16 any fees and charges in connection with the facilities authority's or  
17 building authority's actions undertaken with respect to school facilities  
18 projects, including, but not limited to, fees and charges for the  
19 facilities authority's administrative, organization, insurance, operating  
20 and other expenses incident to the financing of school facilities  
21 projects and the building authority's administrative, organization,  
22 insurance, operating and other expenses incident to the planning,  
23 design, construction management, acquisition, construction,  
24 completion and placing into service and maintenance of school  
25 facilities projects. Notwithstanding any provision of this act to the  
26 contrary, no Level II district or a district whose district aid percentage  
27 is greater than or equal to 50% but less than 100% shall be responsible  
28 for the payment of any fees and charges related to the building  
29 authority's operating expenses.<sup>1</sup>

30

31 15. (New section) a. The facilities authority shall establish and  
32 maintain a special nonlapsing revolving loan fund to be known as the  
33 "School Facilities Project Revolving Loan Fund," hereinafter referred  
34 to as the "loan fund," which shall be credited with: (1) the proceeds of  
35 the sale of bonds pursuant to subsection b. of this section; (2) any  
36 moneys that shall be received by the facilities authority from the  
37 repayment of loans made from the fund; (3) any moneys appropriated  
38 or otherwise made available to it by the Legislature; (4) net earnings  
39 received from the investment or deposit of monies in the fund; and (5)  
40 any other moneys which the facilities authority determines to deposit  
41 therein.

42 b. In addition to any bonds which the facilities authority is  
43 authorized to issue pursuant to this act, the facilities authority is  
44 authorized to issue bonds in an aggregate principal amount not  
45 exceeding \$1,000,000,000 the proceeds from which shall be deposited  
46 into the loan fund. The bonds shall be secured in whole or in part by

1 monies received pursuant to sections 17, 18 and 19 of this act.

2 c. The facilities authority shall use the monies in the loan fund  
3 exclusively for making loans to local units for the purposes of  
4 financing the final eligible costs of school facilities projects in  
5 accordance with the provisions of this section. The amount of loans  
6 that may be made in <sup>1</sup>~~any one fiscal year shall not exceed~~  
7 ~~\$200,000,000~~ the first fiscal year shall not exceed \$400,000,000, in  
8 the second fiscal year, \$300,000,000, and in the third fiscal year,  
9 \$200,000,000. In any fiscal year in which the dollar value of the loans  
10 made is less than the amount permitted herein, the excess amount shall  
11 be carried forward and shall be available for loans in the following  
12 fiscal year<sup>1</sup>. Each loan to a local unit from the loan fund shall be  
13 evidenced by local unit obligations and shall be authorized and issued  
14 as provided by law. Notwithstanding the provisions of any law to the  
15 contrary, the local unit obligations may be sold at private sale to the  
16 facilities authority at any price, whether or not less than par value, and  
17 shall be subject to redemption prior to maturity at any times and at any  
18 prices as the facilities authority and the local unit may agree.

19 d. Loans from the fund may be made to districts whose district aid  
20 percentage is less than 50% and which have elected not to have the  
21 building authority construct a school facilities project. Loans from the  
22 fund shall be for time periods that are customary for the financing of  
23 the construction of school facilities. The facilities authority shall  
24 establish other terms of the loan which shall include, but not be limited  
25 to, a schedule for drawing down the loan, and a repayment schedule;  
26 provided that the interest rate shall be 2% per annum <sup>1</sup>~~for a minimum~~  
27 period of two years following the effective date of this act<sup>1</sup>, or such  
28 other rate as the State Treasurer <sup>1</sup>~~shall~~ may<sup>1</sup>, from time to time,  
29 approve <sup>1</sup>following the minimum two-year period<sup>1</sup>. Any loan interest  
30 rate approved by the State Treasurer pursuant to this subsection shall  
31 be no greater than 4% below The Bond Buyer Municipal Bond Index  
32 Rate on the date of the establishment of the new loan interest rate.  
33 Each loan by the facilities authority, and the terms and conditions of  
34 the loan, shall be subject to approval by the State Treasurer.

35 In the event that the dollar value of the <sup>1</sup>~~of~~<sup>1</sup> loan applications in  
36 any fiscal year exceeds the amount of loan funds available, the facilities  
37 authority may apportion the loan funds among eligible school facilities  
38 projects to finance such percentage <sup>1</sup>as determined by the State  
39 Treasurer<sup>1</sup> of each project's final eligible costs <sup>1</sup>~~as determined by~~  
40 ~~the State Treasurer~~<sup>1</sup>, and the district shall be eligible to receive State  
41 debt service aid pursuant to section 9 of this act on that portion of the  
42 school facilities project's final eligible costs for which loan funds are  
43 not available.

44 e. Loans made from the fund to finance school facilities projects  
45 shall be allocated to districts in accordance with the critical need for  
46 the project. <sup>1</sup>~~School facilities projects shall be ranked~~ The

1 commissioner shall rank school facilities projects<sup>1</sup> from Tier I to Tier  
2 IV in terms of critical need according to the <sup>1</sup>**【follow】** following<sup>1</sup>  
3 prioritization:

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

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

13 Tier III: <sup>1</sup> **【technology】** technology<sup>1</sup> projects;  
14 regionalization/consolidation projects.

15 Tier IV: other local objectives.

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

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

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

27 <sup>1</sup>i. The facilities authority shall promulgate as part of the  
28 regulations adopted pursuant to subsection b. of section 26 of this act,  
29 the procedures to be followed by districts in submitting loan  
30 applications, which shall include the dates within each fiscal year by  
31 which a district is required to submit its application in order to be  
32 eligible to receive loan funds.<sup>1</sup>

33  
34 16. (New section) In addition to the other powers and duties  
35 which have been granted to the facilities authority, whenever any local  
36 unit finances the construction or acquisition of a school facilities  
37 project which would otherwise qualify under this act except that the  
38 debt was issued prior to the effective date of this act, the facilities  
39 authority may refinance the debt issued by the local unit through the  
40 issuance of bonds secured by repayments of loans made to the local  
41 units and may purchase the work or improvement and lease the same  
42 to the district, subject to the approval of the State Treasurer; except  
43 that the amount of the purchase price for a school facilities project  
44 shall not exceed the original cost. <sup>1</sup>Each loan to a local unit pursuant  
45 to this section shall be evidenced by local unit obligations and shall be  
46 authorized and issued as provided by law. Notwithstanding the

1 provisions of any law to the contrary, the local unit obligations may be  
2 sold at private sale to the facilities authority at any price, whether or  
3 not less than par value, and shall be subject to redemption prior to  
4 maturity at any times and at any prices as the facilities authority and  
5 the local unit may agree.<sup>1</sup> All powers, rights, obligations and duties  
6 granted to or imposed upon the facilities authority, districts, State  
7 departments and agencies or others by this act in respect to school  
8 facilities projects shall apply to the same extent with respect to any  
9 refinance of debt pursuant to this section; except that any action  
10 otherwise required to be taken at a particular time in the  
11 implementation of a school facilities project may, when the  
12 circumstances require in connection with a refinance of debt pursuant  
13 to this section, be taken with the same effect as if taken at that  
14 particular time. Upon repayment of the bonds or provision for  
15 repayment of bonds issued by the facilities authority to refinance the  
16 debt of the local unit, the school facilities project shall be transferred  
17 to the district.

18

19 17. (New section) In each fiscal year the State Treasurer shall pay  
20 from the General Fund to the facilities authority <sup>1</sup>and the building  
21 authority<sup>1</sup>, in accordance with a contract <sup>1</sup>["between"] among<sup>1</sup> the  
22 State Treasurer <sup>1</sup>["and"]<sup>1</sup> the facilities authority <sup>1</sup>and the building  
23 authority<sup>1</sup> as authorized pursuant to section 18 of this act, an amount  
24 equal to the debt service amount due to be paid in the State fiscal year  
25 on the bonds or refunding bonds of the facilities authority issued or  
26 incurred pursuant to section 14 of this act and any additional costs  
27 authorized pursuant to that section; provided that all such payments  
28 from the General Fund shall be subject to and dependent upon  
29 appropriations being made from time to time by the Legislature for  
30 those purposes, and provided further that all payments shall be used  
31 only to pay for the costs of school facilities projects and the costs of  
32 financing those projects.

33

34 18. (New section) The State Treasurer <sup>1</sup>["and"]<sup>1</sup> the facilities  
35 authority <sup>1</sup>and the building authority<sup>1</sup> are authorized to enter into one  
36 or more contracts to implement the payment arrangement provided for  
37 in section 17 of this act. The contract shall provide for payment by the  
38 State Treasurer of the amounts required pursuant to section 17 of this  
39 act and shall set forth the procedure for the transfer of monies for the  
40 purpose of that payment. The contract shall contain terms and  
41 conditions as determined by the parties and shall, where appropriate,  
42 contain terms and conditions necessary and desirable to secure any  
43 bonds or refunding bonds of the facilities authority issued or incurred  
44 pursuant to this act; provided that notwithstanding any other provision  
45 of law or regulation of the facilities authority to the contrary, the  
46 facilities authority <sup>1</sup>and the building authority<sup>1</sup> shall be paid only such



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

6  
7 19. (New section) a. In addition to loans authorized pursuant to  
8 section 15 of this act, the facilities authority may make and contract  
9 to make loans to local units in accordance with and subject to the  
10 provisions of this act to finance all or any portion of the cost of a  
11 school facilities project which the local unit may lawfully undertake or  
12 acquire and for which the local unit is authorized by law to borrow  
13 money; or to refund obligations of the local unit which were issued to  
14 provide funds to pay for the cost of a school facilities project. The  
15 loans may be made subject to the terms and conditions the facilities  
16 authority determines to be consistent with the purposes of this act.  
17 Each loan by the facilities authority and the terms and conditions  
18 thereof shall be subject to approval by the State Treasurer.

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

30  
31 20. (New section) A local unit may purchase, lease, rent, sublease  
32 or otherwise acquire any school facilities project or any space within  
33 a project and pay the amounts as may be agreed upon between the  
34 local unit and the facilities authority as the purchase price, rent or  
35 other charge therefor; provided that the terms and conditions of the  
36 agreement between the facilities authority and the local unit relating  
37 to the purchase, lease, rental or sublease shall be subject to the  
38 approval of the State Treasurer.

39  
40 21. (New section) a. In the event that a local unit has failed or is  
41 unable to pay to the facilities authority in full when due any local unit  
42 obligations issued by the local unit to the facilities authority, including,  
43 but not limited to, any lease or sublease obligations, or any other  
44 monies owed by the district to the facilities authority, to assure the  
45 continued operation and solvency of the facilities authority, the State  
46 Treasurer shall pay directly to the facilities authority an amount

1 sufficient to satisfy the deficiency from State aid payable to the local  
2 unit; provided that if the local unit is a school district, the State aid  
3 shall not include any State aid which may otherwise be restricted  
4 pursuant to the provisions of P.L.1996, c.138 (C.18A:7F-1 et seq.).  
5 As used in this section, local unit obligations include the principal or  
6 interest on local unit obligations or payment pursuant to a lease or  
7 sublease of a school facilities project to a local unit, including the  
8 subrogation of the facilities authority to the right of the holders of  
9 those obligations, any fees or charges payable to the facilities  
10 authority, and any amounts payable by a local unit under a service  
11 contract or other contractual arrangement the payments under which  
12 are pledged to secure any local unit obligations issued to the facilities  
13 authority by another local unit.

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

28 c. The amount paid to the facilities authority pursuant to this  
29 section shall be deducted from the appropriation or apportionment of  
30 State aid payable to the local unit and shall not obligate the State to  
31 make, nor entitle the local unit to receive, any additional appropriation  
32 or apportionment. The obligation of the State Treasurer to make  
33 payments to the facilities authority or trustee and the right of the  
34 facilities authority or trustee to receive those payments shall be subject  
35 and subordinate to the rights of holders of qualified bonds issued prior  
36 to the effective date of this act pursuant to P.L. 1976, c. 38 (C.40A:3-  
37 1 et seq.) and P.L.1976, c.39 (C.18A:24-85 et seq.).

38

39 22. (New section) a. The facilities authority <sup>1</sup>and the building  
40 authority<sup>1</sup> shall have the power to accept and use any funds  
41 appropriated and paid by the State to the facilities authority <sup>1</sup>and the  
42 building authority<sup>1</sup>, for the purposes for which the appropriations are  
43 made. The facilities authority <sup>1</sup>and the building authority<sup>1</sup> shall have  
44 the power to apply for and receive and accept appropriations or grants  
45 of property, money, services or reimbursements for money previously  
46 spent and other assistance offered or made available to it by or from

1 any person, government agency, public authority or any public or  
2 private entity whatever for any lawful corporate purpose of the  
3 facilities authority, including, without limitation, grants, appropriations  
4 or reimbursements from the federal government, and to apply and  
5 negotiate for the same upon such terms and conditions as may be  
6 required by any person, government agency, authority or entity as the  
7 facilities authority <sup>1</sup>and the building authority<sup>1</sup> may determine to be  
8 necessary, convenient or desirable.

9 b. The facilities authority shall establish a financial incentive program  
10 for the purpose of promoting donations to school facilities projects.  
11 Any entity which makes a donation approved by the State Treasurer  
12 to the preliminary eligible costs of a school facilities project shall  
13 receive an incentive payment pursuant to the provisions of this  
14 subsection. The amount of the incentive payment shall equal 50% of  
15 the fair market value of the donation but shall not in any one year  
16 exceed one-half of the amount of taxes paid or otherwise due from the  
17 donor pursuant to the provisions of the "New Jersey Gross Income  
18 Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation  
19 Business Tax Act," P.L.1945, c.45 (C.54:10A-1 et seq.), as applicable,  
20 for the tax year in which the donation is made. The fair market value  
21 of a non-cash donation shall be determined by the State Treasurer. The  
22 carry-forward for incentive payments shall not be inconsistent with  
23 that allowed by P.L.1976, c.47 (C.54A:1-1 et seq) in the case of a  
24 donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in  
25 the case of a donation by a corporation.

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

30  
31 23. (New section) Not less than the prevailing wage rate  
32 determined by the Commissioner of Labor and Industry pursuant to  
33 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall <sup>1</sup>be<sup>1</sup>  
34 paid to workers employed in the performance of construction  
35 contracts in connection with any school facilities project that is  
36 undertaken by the building authority, a <sup>1</sup>**["local"] community**<sup>1</sup>  
37 redevelopment entity, a <sup>1</sup>**["school"]**<sup>1</sup> district, or a county,  
38 municipality, other political entity or public agency designated by a  
39 school district.

40  
41 24. (New section) The commissioner, in consultation with the State  
42 Treasurer, shall annually submit to the Governor and the Legislature  
43 a report on the school facilities construction program established  
44 pursuant to the provisions of this act. The report shall be submitted  
45 no later than August 1 of each year and shall include, but not be  
46 limited to, the following information for the prior fiscal year: the

1 number of school facilities projects approved by the commissioner  
 2 pursuant to section 5 of this act; the number of projects constructed  
 3 by the building authority <sup>1</sup>and the amount of time that it has taken the  
 4 building authority to complete those projects<sup>1</sup>; the number of projects  
 5 constructed by <sup>1</sup>**["school"]**<sup>1</sup> districts; the number of projects  
 6 constructed by entities designated by <sup>1</sup>**["school"]**<sup>1</sup> districts; the number  
 7 of community development school projects approved; the number of  
 8 loans made to <sup>1</sup>**["school"]**<sup>1</sup> districts from the School Facilities Project  
 9 Revolving Loan Fund; the percentage of the final eligible costs of each  
 10 project which was supported through loan funding; the number, if any,  
 11 of eligible school facilities projects for which loan funds were  
 12 <sup>1</sup>requested but<sup>1</sup> not available; the number of approved projects which  
 13 exceeded the facilities efficiency standards, the components of those  
 14 projects which exceeded the standards, and the amount of construction  
 15 by individual <sup>1</sup>**["school"]**<sup>1</sup> districts and Statewide estimated to have  
 16 exceeded the standards; and recommendations for changes in the  
 17 school facilities construction program established pursuant to this act.

18  
 19 <sup>1</sup>25. (New section) Notwithstanding the provisions of P.L.1999,  
 20 c.138 to the contrary concerning the conditions on the appropriation  
 21 and reappropriation of the balance in the School Construction and  
 22 Renovation Fund, the unexpended balance in the School Construction  
 23 and Renovation Fund on the effective date of this act is appropriated  
 24 to the building authority for deposit in the School Facilities  
 25 Construction Fund established pursuant to subsection e. of section 13  
 26 of this act. <sup>1</sup>

27  
 28 <sup>1</sup>**["25.]"** 26.<sup>1</sup> (New section) a. The commissioner shall adopt,  
 29 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
 30 (C.52:14B-1 et seq.), <sup>1</sup>**["and in consultation with the State Treasurer,"]**<sup>1</sup>  
 31 rules and regulations necessary to implement the provisions of sections  
 32 1 through 12 of this act; except that notwithstanding any provision of  
 33 P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
 34 commissioner may adopt, immediately upon filing with the Office of  
 35 Administrative Law, such rules and regulations as the commissioner  
 36 deems necessary to implement the provisions of sections 1 through 12  
 37 of this act which shall be effective for a period not to exceed <sup>1</sup>**["six"]**  
 38 12<sup>1</sup> months. Determinations made by the commissioner pursuant to  
 39 this act and the rules and regulations adopted by the commissioner to  
 40 implement this act shall be considered to be final agency action and  
 41 appeal of that action shall be directly to the Appellate Division of the  
 42 Superior Court. The regulations shall thereafter be amended, adopted  
 43 or re-adopted by the State Board of Education in accordance with the  
 44 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

45 b. The facilities authority <sup>1</sup>**["**, in conjunction with the building

1 authority, may] shall<sup>1</sup> adopt, pursuant to the “Administrative  
2 Procedure Act”, P.L.1968, c.410 (C.52:14B-1 et seq.), and in  
3 consultation with the State Treasurer, rules and regulations necessary  
4 to implement the provisions of sections 13 through 22 of this act;  
5 except that notwithstanding any provision of P.L.1968, c.410  
6 (C.52:14B-1 et seq.) to the contrary, the facilities authority <sup>1</sup>[, in  
7 conjunction with the building authority,]<sup>1</sup> may adopt, immediately  
8 upon filing with the Office of Administrative Law, such rules and  
9 regulations as the facilities authority deems necessary to implement the  
10 provisions of sections 13 through 22 of this act which shall be  
11 effective for a period not to exceed six months and shall thereafter be  
12 amended, adopted or re-adopted by the facilities authority <sup>1</sup>[, in  
13 conjunction with the building authority]<sup>1</sup> , in accordance with the  
14 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

15 <sup>1</sup>c. The building authority shall adopt, pursuant to the  
16 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
17 seq.), and in consultation with the State Treasurer, rules and  
18 regulations necessary to implement the provisions of this act as they  
19 apply to the building authority; except that notwithstanding any  
20 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the  
21 building authority may adopt, immediately upon filing with the Office  
22 of Administrative Law, such rules and regulations as the building  
23 authority deems necessary to implement the provisions of this act as  
24 they apply to the building authority which shall be effective for a  
25 period not to exceed six months and shall thereafter be amended,  
26 adopted or readopted by the building authority in accordance with the  
27 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

28 d. Any regulations adopted to implement this act shall include  
29 provisions to ensure that all programs necessary to comply with  
30 Abbott V are approved.<sup>1</sup>

31

32 <sup>1</sup>[26.] 27.<sup>1</sup> (New section) All property of the facilities authority and  
33 the building authority shall be exempt from levy and sale by virtue of  
34 an execution and no execution of other judicial process shall issue  
35 against the same nor shall any judgment against the facilities authority  
36 and the building authority be a charge or lien upon their property;  
37 provided that nothing herein contained shall apply to or limit the rights  
38 of the holder of any bonds, notes or other obligations to pursue any  
39 remedy for the enforcement of any pledge or lien given by the facilities  
40 authority and building authority on or with respect to any project,  
41 school facilities project, or any revenues or other moneys.

42

43 <sup>1</sup>[27.] 28.<sup>1</sup> (New section) If any clause, sentence, paragraph,  
44 section or part of this act shall be adjudged by any court of competent  
45 jurisdiction to be invalid, the judgment shall not affect, impair or  
46 invalidate the remainder thereof, but shall be confined in its operation

1 to the clause, sentence, paragraph, section or part thereof directly  
2 involved in the controversy in which the judgment shall have been  
3 rendered.

4  
5 <sup>1</sup>**[28.] 29.**<sup>1</sup> (New section) This act shall be construed liberally to  
6 effectuate the legislative intent and the purposes of this act as  
7 complete and independent authority for the performance of each act  
8 and thing herein authorized and all powers herein granted shall be  
9 broadly interpreted to effectuate the intent and purposes and not as  
10 a limitation of powers.

11  
12 <sup>1</sup>**30.** (New section) There shall be appropriated annually for the  
13 purposes of this act up to \$100,000,000 from monies made available  
14 to the State from tobacco companies under the nationwide settlement  
15 of the respective actions by the various states against those companies,  
16 entered into by this State in the Master Settlement Agreement in State  
17 of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior  
18 Court, Chancery Division, Middlesex County, No.C.254-96.<sup>1</sup>

19  
20 <sup>1</sup>**[29.] 31.**<sup>1</sup> Section 11 of P.L.1975, c.212 (C.18A:7A-11) is  
21 amended to read as follows:

22 11. Each school district and county vocational school district shall  
23 make an annual report of its progress in conforming to the standards  
24 for the evaluation of school performance adopted pursuant to section  
25 10 of P.L.1975, c.212 (C.18A:7A-10). Each district's annual report  
26 shall include but not be limited to:

- 27 a. Demographic data related to each school;  
28 b. Results of designated assessment programs, including Statewide  
29 assessment programs established pursuant to law and regulation;  
30 c. Information on each school's fiscal operation, including the  
31 budget of each school;  
32 d. (Deleted by amendment, P.L.1996, c.138).  
33 e. Plans and programs for professional improvement;  
34 f. Plans to carry out innovative educational programs designed to  
35 improve the quality of education;  
36 g. Recommendations for school improvements during the ensuing  
37 year; and  
38 h. Such additional information as may be prescribed by the  
39 commissioner.

40 **【Additionally, the State Board of Education may require each**  
41 **district to submit a facilities survey, including current use practices and**  
42 **projected capital project needs.】**

43 The district reports shall be submitted to the commissioner annually  
44 on a date to be prescribed by the commissioner, who shall make them  
45 the basis for an annual report to the Governor and the Legislature,  
46 describing the condition of education in New Jersey, the efforts of

1 New Jersey schools in meeting the standards of a thorough and  
2 efficient education, the steps underway to correct deficiencies in  
3 school performance, and the progress of New Jersey schools in  
4 comparison to other state education systems in the United States.

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

6  
7 <sup>1</sup>~~30.~~ 32.<sup>1</sup> Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is  
8 amended to read as follows:

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

21 b. The board shall consist of five voting members. One member  
22 shall be appointed by the Commissioner of Education and two  
23 members shall be appointed by the chief executive officer with the  
24 consent of a majority of the full membership of the local governing  
25 body of the municipality or municipalities in which the school district  
26 is located. If the school district is comprised of two municipalities,  
27 each municipality shall be entitled to one member, appointed by the  
28 executive officer with the consent of the governing body. If the school  
29 district is comprised of more than two municipalities, each of the two  
30 municipalities with the largest population according to the most recent  
31 federal decennial census shall be entitled to one member, appointed by  
32 the executive officer with the consent of the governing body.  
33 However, if a local governing body fails to agree upon the selection of  
34 either board member appointed by an executive officer, then the  
35 Commissioner of Education shall make the appointment. One member  
36 shall be appointed by the Director of the Division of Local  
37 Government Services in the Department of Community Affairs who  
38 shall have experience in the area of local finance and capital projects.  
39 The fifth member shall be the State district superintendent of schools  
40 who shall serve ex-officio and shall act as chairperson of the board.  
41 The board members, except for the State district superintendent, shall  
42 each serve for a term of one year commencing on July 1 of each year  
43 and expiring on June 30 of the following year. Any vacancy in the  
44 membership of the board shall be filled for the unexpired term in the  
45 manner provided by the original appointment. Members of the board  
46 may be employees of the State or any subdivision thereof. All

1 members of the board shall serve without compensation.

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

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

10

11 <sup>1</sup>~~31.~~ 33.<sup>1</sup> Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is  
12 amended to read as follows:

13 2. The board shall hear the recommendation of the State district  
14 superintendent concerning any proposed capital project, which is to be  
15 financed in whole or in part by school bonds or notes, or through a  
16 lease purchase agreement pursuant to subsection f. of  
17 N.J.S.18A:20-4.2, and shall undertake all actions necessary to review  
18 the proposed capital project to determine whether the project will  
19 assist the State-operated school district in providing a thorough and  
20 efficient system of education in that district. In making this  
21 determination it may take into consideration factors such as the  
22 conditions in the school district, any applicable educational goals, the  
23 objectives and standards established by the State, the need for the  
24 capital project, the reasonableness of the amount to be expended for  
25 the capital project, the estimated time for the undertaking and  
26 completion of the capital project, and any other factors which the  
27 board may deem necessary including the relationship of the capital  
28 project to the long-term capital budget or plan of the school district  
29 and the fiscal implications thereof.

30 Following its review and within 60 days of the date on which the  
31 State district superintendent submits the recommendation to the board,  
32 the board shall adopt a resolution as to whether the State-operated  
33 school district should undertake the capital project and providing its  
34 reasons therefor. The board shall adopt a resolution indicating the  
35 necessity for the capital project and shall also fix and determine by  
36 resolution the amount necessary to be raised locally for the capital  
37 project. If the board fails to act within 60 days of the submission date,  
38 the State district superintendent shall submit the recommendation to  
39 the commissioner who shall approve or disapprove the capital project.  
40 If the board makes a decision which is contrary to the recommendation  
41 of the superintendent, the superintendent may, within 30 days from the  
42 date of the board's action, submit the matter to the commissioner for  
43 final decision. If the commissioner determines that a capital project  
44 should be undertaken, the commissioner shall so notify the board and  
45 shall indicate the amount necessary to be raised locally for the capital  
46 project. Upon notification, the board shall adopt a resolution



1 indicating the necessity for the capital project and shall also fix and  
2 determine by resolution the amount necessary for the capital project  
3 as indicated by the commissioner. Certified copies of any resolution  
4 requesting the authorization and issuance of bonds and notes or the  
5 authorization of a lease purchase agreement shall be delivered to the  
6 State district superintendent, the Commissioner of Education, the  
7 Director of the Division of Local Government Services in the  
8 Department of Community Affairs and the governing body of the  
9 municipality or municipalities in which the school district is located.  
10 The board shall not approve or recommend any capital project which  
11 is inconsistent with the provisions of N.J.S.18A:21-1.  
12 (cf: P.L.1991, c.139, s.2)

13

14 <sup>1</sup>**[32.]** 34. <sup>1</sup> Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is  
15 amended to read as follows:

16 3. Notwithstanding the provisions of any law to the contrary, the  
17 cost of any capital project authorized pursuant to this act which is to  
18 be funded by bonds or notes and certified by the board to the State  
19 district superintendent, the Commissioner of Education, the Director  
20 of the Division of Local Government Services in the Department of  
21 Community Affairs and the governing body of the municipality or  
22 municipalities in which the school district is located shall be financed  
23 by the issuance of school bonds or notes pursuant to the provisions of  
24 chapter 24 of Title 18A of the New Jersey Statutes and the "Local  
25 Bond Law," (N.J.S.40A:2-1 et seq.) and the notes, school bonds or  
26 other obligations shall be authorized, issued, sold and delivered in the  
27 manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).  
28 (cf: P.L.1991, c.139, s.3)

29

30 <sup>1</sup>**[33.]** 35. <sup>1</sup> N.J.S.18A:20-4.2 is amended to read as follows:

31 18A:20-4.2 The board of education of any school district may, for  
32 school purposes:

33 (a) Purchase, take and condemn lands within the district and lands  
34 not exceeding 50 acres in extent without the district but situate in a  
35 municipality or municipalities adjoining the district, but no more than  
36 25 acres may be so acquired in any one such municipality, without the  
37 district, except with the consent, by ordinance, of such municipality;

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

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

42 (d) Borrow money therefor, with or without mortgage; in the case  
43 of a type II district without a board of school estimate, when  
44 authorized so to do at any annual or special school election; and in the  
45 case of a type II district having a board of school estimate, when the  
46 amount necessary to be provided therefor shall have been fixed,

1 determined and certified by the board of school estimate; and in the  
2 case of a type I district, when an ordinance authorizing expenditures  
3 for such purpose is finally adopted by the governing body of a  
4 municipality comprised within the district; provided, however, that no  
5 such election shall be held nor shall any such resolution of a school  
6 estimate board or ordinance of a municipal governing body be  
7 introduced to authorize any lease of any building for a term exceeding  
8 one year, until the proposed terms of such lease have been reviewed  
9 and approved by the Commissioner of Education and the Local  
10 Finance Board in the Department of Community Affairs;

11 (e) Construct, purchase, lease or otherwise acquire a building with  
12 the federal government, the State, a political subdivision thereof or any  
13 other individual or entity properly authorized to do business in the  
14 State; provided that: (1) the noneducational uses of the building are  
15 compatible with the establishment and operation of a school, as  
16 determined by the Commissioner of Education; (2) the portion of the  
17 building to be used as a school meets regulations of the Department of  
18 Education; (3) the board of education has complied with the  
19 provisions of law and regulations relating to the selection and approval  
20 of sites; and (4) in the case of a lease, that any lease in excess of five  
21 years shall be approved by the Commissioner of Education and the  
22 Local Finance Board in the Department of Community Affairs;

23 (f) Acquire **by lease purchase agreement a site and school**  
24 **building; provided that the site and building meet guidelines and**  
25 **regulations of the Department of Education and that any lease**  
26 **purchase agreement in excess of five years shall be approved by the**  
27 **Commissioner of Education as in the best interest of the school district**  
28 **after determining that the relationship of the proposed lease purchase**  
29 **project to the district's goals and objectives established pursuant to**  
30 **P.L.1975, c.212 (C.18A:7A-1 et seq.) has clearly been established; and**  
31 **provided that for any lease purchase agreement in excess of five years**  
32 **the Local Finance Board in the Department of Community Affairs shall**  
33 **determine within 30 days that the cost and the financial terms and**  
34 **conditions of the agreement are reasonable****], with the approval of**  
35 **either the commissioner, or voters or board of school estimate, as**  
36 **applicable, equipment or improvements or additions to school**  
37 **buildings through lease purchase agreements not in excess of five**  
38 **years. The agreement shall be recorded as an expenditure of the**  
39 **General Fund of the district. The commissioner shall approve the**  
40 **agreement only upon a demonstration by the district that the lease**  
41 **purchase payments and any operating expenses related to the**  
42 **agreement can be included within the district's net budget spending**  
43 **growth limitation and will not result in the need for approval by the**  
44 **voters or board of school estimate, as appropriate, of additional**  
45 **spending proposals to maintain existing instructional programs and**  
46 **extracurricular activities. If the commissioner cannot approve the**

1 agreement, the board of education may frame a separate question to  
2 authorize the lease purchase agreement and obtain voter or board of  
3 school estimate approval to enter into the agreement. A lease  
4 purchase agreement for equipment shall not require approval by the  
5 commissioner unless the aggregate value of the agreement exceeds in  
6 any school year 1% of the district's net budget or \$250,000, whichever  
7 is less. As used herein, a "lease purchase agreement" refers to any  
8 agreement which gives the board of education as lessee the option of  
9 purchasing the leased **【premises】** equipment or improvements or  
10 additions to existing school buildings during or upon termination of  
11 the lease, with credit toward the purchase price of all or part of rental  
12 payments which have been made by the board of education in  
13 accordance with the lease. As part of such a transaction **【approved by**  
14 **the Commissioner of Education】**, the board of education may transfer  
15 or lease land or rights in land, including any building thereon, after  
16 publicly advertising for proposals for the transfer for nominal or fair  
17 market value, to the party selected by the board of education, by  
18 negotiation or otherwise, after determining that the proposal is in the  
19 best interest of the taxpayers of the district, to construct or to improve  
20 and to lease or to own or to have ownership interests in the site and  
21 the school building to be leased pursuant to such lease purchase  
22 agreement, notwithstanding the provisions of any other law to the  
23 contrary. The land and any building thereon which is described in a  
24 lease purchase agreement entered into pursuant to this amendatory act,  
25 shall be deemed to be and treated as property of the school district,  
26 used for school purposes pursuant to R.S.54:4-3.3, and shall not be  
27 considered or treated as property leased to another whose property is  
28 not exempt, and shall not be assessed as real estate pursuant to section  
29 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement  
30 authorized by this section shall contain a provision making payments  
31 thereunder subject to the annual appropriation of funds sufficient to  
32 meet the required payments or shall contain an annual cancellation  
33 clause and shall require all construction contracts let by public school  
34 districts or let by developers or owners of property used for school  
35 purposes to be competitively bid, pursuant to P.L.1977, c.114  
36 (N.J.S.18A:18A-1 et seq.);

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

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

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

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

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

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

9 (6) Any such agreement shall be approved by the Commissioner  
10 of Education and the Local Finance Board in the Department of  
11 Community Affairs;

12 (h) Acquire through sale and lease-back textbooks and  
13 non-consumable instructional materials provided that the sale price and  
14 principal amount of the lease-back do not exceed the fair market value  
15 of the textbooks and instructional materials and that the interest rate  
16 applied in the lease-back is consistent with prevailing market rates or  
17 is less.

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

19  
20 <sup>1</sup>**[34.] 36.**<sup>1</sup> N.J.S.18A:22-18 is amended to read as follows:

21 18A:22-18. When a board of education of a type I district shall  
22 determine by resolution that it is necessary to sell school bonds to  
23 raise money for any capital project authorized by law, it shall prepare  
24 and deliver to each member of the board of school estimate a  
25 statement of the amount of money estimated to be necessary for such  
26 purpose. The statement shall include the amount needed to be raised  
27 by school bonds, the final eligible costs of the project as approved by  
28 the commissioner pursuant to section 5 of P.L. ,c. (C. ) (now  
29 pending before the Legislature as this bill) and in the case of a  
30 community development school project by the Urban Coordinating  
31 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
32 before the Legislature as this bill), and, if applicable, the amount of  
33 any costs of the project which are in addition to the final eligible costs.

34 (cf: P.L.1993, c.83, s.6)

35  
36 <sup>1</sup>**[35.] 37.**<sup>1</sup> N.J.S.18A:22-19 is amended to read as follows:

37 18A:22-19. The board of school estimate shall fix and determine the  
38 local share amount necessary for said purpose and shall certify such  
39 amount separately to the board of education and to the governing body  
40 of the municipality.

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

42  
43 <sup>1</sup>**[36.] 38.**<sup>1</sup> N.J.S.18A:22-27 is amended to read as follows:

44 18A:22-27. Whenever the board of education in a type II school  
45 district having a board of school estimate shall, by resolution adopted  
46 by recorded roll call affirmative vote of two thirds of its full

1 membership, determine that it is necessary to sell school bonds to raise  
 2 money for any capital project, it shall, by such resolution, estimate the  
 3 amount necessary to be raised for such project or projects, itemizing  
 4 such estimate so as to make it readily understandable, and the  
 5 secretary of the board of education shall certify a copy of such  
 6 resolution to each member of the board of school estimate of the  
 7 district. The resolution shall include the amount needed to be raised  
 8 by school bonds, the final eligible costs of the project as approved by  
 9 the commissioner pursuant to section 5 of P.L. , c. (C. ) (now  
 10 pending before the Legislature as this bill) and in the case of a  
 11 community development school project by the Urban Coordinating  
 12 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
 13 before the Legislature as this bill), and, if applicable, the amount of  
 14 any costs of the project which are in addition to the final eligible costs.  
 15 (cf: P.L.1993, c.83, s.8)

16  
 17 <sup>1</sup>**[37.] 39.**<sup>1</sup> N.J.S.18A:22-28 is amended to read as follows:  
 18 18A:22-28. The board of education of such district shall also, upon  
 19 delivery of such certificate to the members of the board of school  
 20 estimate, fix a date, place and time for the holding of a public hearing  
 21 by the board of school estimate with respect to the amount of money  
 22 to be raised locally for such project or projects, which date shall be not  
 23 less than 15 nor more than 30 days after the date of such delivery, and  
 24 shall cause notice of such public hearing and such resolution, including  
 25 a statement that said resolution will be on file and open to  
 26 examination to the public between reasonable hours to be fixed and at  
 27 a place to be named therein from the date of such notice until the date  
 28 of said public hearing, to be published at least once and not less than  
 29 seven days before such public hearing in at least one newspaper,  
 30 published in each municipality comprised within the school district,  
 31 and if no newspaper is published in any such municipality, then, as to  
 32 such municipality, in at least one newspaper circulating in the  
 33 municipality, and said board of education shall cause said resolution  
 34 to be on file and open to the examination of the public accordingly and  
 35 to be produced at said public hearing for the information of those  
 36 attending the same.  
 37 (cf: N.J.S.18A:22-28)

38  
 39 <sup>1</sup>**[38.] 40.**<sup>1</sup> N.J.S.18A:22-29 is amended to read as follows:  
 40 18A:22-29. On the date and at the time and place so fixed for such  
 41 public hearing, the board of school estimate shall grant the taxpayers  
 42 and other interested persons an opportunity to present objections and  
 43 to be heard with respect to said resolution and the amount of money  
 44 necessary to be raised locally for such project or projects and with  
 45 respect to the various items and projects for which the same is to be  
 46 raised.

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

2

3 <sup>1</sup>**[39.] 41<sup>1</sup>** N.J.S.18A:22-30 is amended to read as follows:

4 18A:22-30. At or after such hearing the board of school estimate  
5 shall fix and determine the amount of money necessary to be raised  
6 locally for said project or projects, and the secretary of said board  
7 shall certify said amount to the board of education of the district and  
8 to the board or body of each municipality comprised therein which has  
9 power to make appropriations of money to be raised by taxes in such  
10 municipality. The board of education of the district and the governing  
11 body of each such municipality comprising the district shall apportion  
12 the amount so to be appropriated, assessed, levied and raised in each  
13 of such municipalities, as nearly as may be, on the same basis and by  
14 the application of the same standards as are provided by law for  
15 apportionment of appropriations by county tax boards.

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

17

18 <sup>1</sup>**[40.] 42.<sup>1</sup>** N.J.S.18A:22-39 is amended to read as follows:

19 18A:22-39. Whenever the undertaking of any capital project or  
20 projects to be paid for from the proceeds of an issue or issue of bonds  
21 is submitted to the voters of a type II district at an annual or special  
22 school election for their approval or disapproval, the board shall frame  
23 and adopt by a recorded roll call majority vote of its full membership  
24 the question or questions to be submitted so that each project is  
25 submitted in a separate question, or all or any number of them are  
26 submitted in one question, which shall state the project or projects so  
27 submitted and the amounts to be raised for each of the projects so  
28 separately submitted or for each or for all of the projects so jointly  
29 submitted, as the case may be, but any proposal for the purchase of  
30 land shall be sufficient to authorize the taking and condemning of such  
31 land. If the project is to be constructed by the New Jersey Building  
32 Authority or a <sup>1</sup>community<sup>1</sup> redevelopment entity, the referendum  
33 shall, when framed as a single question, request approval for the local  
34 share and shall disclose the final eligible costs of the project as  
35 approved by the commissioner pursuant to section 5 of P.L. , c. (C.  
36 ) (now pending before the Legislature as this bill) and in the case of  
37 a community development school project by the Urban Coordinating  
38 Council pursuant to section 6 of P.L. , c. (C. ) (now pending  
39 before the Legislature as this bill), and, if applicable, the amount of  
40 any costs of the project which are in addition to the final eligible costs.  
41 If the school facilities project is not to be constructed by the New  
42 Jersey Building Authority or a <sup>1</sup>community<sup>1</sup> redevelopment entity, the  
43 referendum shall, when framed as a single question, request approval  
44 for the total costs of the project, shall disclose State debt service aid  
45 for the project and, if applicable, the amount of any costs of the  
46 project which are in addition to the final eligible costs of the project.

1 When a project is framed in more than one question, a summary shall  
2 be included in the explanatory statement which accompanies the  
3 questions that includes the total costs of the project, total State debt  
4 service aid, and, if applicable, the amount of the costs of the project  
5 which are in addition to the final eligible costs of the project, and any  
6 individual question containing costs <sup>1</sup>**[is]** in<sup>1</sup> addition to the final  
7 eligible costs shall include the amount of those additional costs.

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

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

15  
16 <sup>1</sup>**[41.] 43.**<sup>1</sup> N.J.S.18A:72A-1 is amended to read as follows:

17 18A:72A-1. **[It is hereby declared]** The Legislature finds and  
18 declares that a serious public emergency exists affecting and  
19 threatening the welfare, comfort, health, safety and prosperity of the  
20 people of the state and resulting from the fact that financial resources  
21 are lacking with which to construct required dormitory and other  
22 educational facilities at public and private institutions of higher  
23 education and to construct public elementary and secondary school  
24 facilities; that it is essential that this and future generations of youth  
25 be given the fullest opportunity to learn and to develop their  
26 intellectual and mental capacities; that it is essential that institutions  
27 for higher education and school districts within the state be provided  
28 with appropriate additional means to assist such youth in achieving  
29 the required levels of learning and development of their intellectual  
30 and mental capacities; that it is essential that all resources of the state  
31 be employed in order to meet the tremendous demand for higher  
32 educational opportunities and public school facilities; that all  
33 institutions of higher education in the state, both public and private,  
34 and all public elementary and secondary educational institutions, are  
35 an integral part of the total educational effort in the state for  
36 providing higher educational opportunities, and that it is the purpose  
37 of this chapter and P.L. , c. (C. ) (now pending before the  
38 Legislature as this bill) to provide a measure of assistance and an  
39 alternative method of financing to enable institutions of higher  
40 education and public school districts in the state to provide the  
41 facilities which are sorely needed to accomplish the purposes of this  
42 chapter and P.L. , c. (C. ) (now pending before the Legislature as  
43 this bill), all to the public benefit and good, to the extent and manner  
44 provided herein and in P.L. , c. (C. ) (now pending before the  
45 Legislature as this bill).

46 The Legislature further finds that the inventory of public

1 elementary and secondary school buildings and the equipment and  
 2 capital resources currently available are aging, both chronologically  
 3 and technologically; that the current funding at the federal, State, and  
 4 local levels and the current mechanisms for construction of these  
 5 capital projects is inadequate to meet the demonstrated need for public  
 6 school facilities and these inadequacies necessitate additional sources  
 7 of funding and the coordination of construction activities at the State  
 8 level to meet those needs; that while the credit status of New Jersey's  
 9 school districts is sound, it can be economically more reasonable to  
 10 finance the costs of developing the educational infrastructure of the  
 11 State's public elementary and secondary schools, by providing for the  
 12 funding of capital projects through the issuance of bonds, notes or  
 13 other obligations by the New Jersey Educational Facilities Authority,  
 14 to be retired through annual payments made by the State subject to  
 15 appropriation by the State Legislature, and to provide for the use of  
 16 the proceeds of those bonds, notes or other obligations to pay for  
 17 educational infrastructure projects; that such a structure would  
 18 substantially reduce the costs of financing and provide for a more  
 19 efficient use of the funds available for the development of the  
 20 educational infrastructure; that the New Jersey Building Authority has  
 21 substantial and significant experience in undertaking major capital  
 22 construction projects, has a system of internal controls and procedures  
 23 to ensure the integrity of construction activities, and is therefore the  
 24 appropriate entity to undertake the planning, design, construction and  
 25 operation of elementary and secondary educational infrastructure  
 26 projects; and that by authorizing the New Jersey Educational Facilities  
 27 Authority and the New Jersey Building Authority to undertake these  
 28 activities, there will be achieved economies of scale, better  
 29 coordination of resources, effective financial management and  
 30 reporting, and increased monitoring and quality control of school  
 31 district instruction.

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

33

34 <sup>1</sup>**[42.] 44.**<sup>1</sup> N.J.S.18A:72A-3 is amended to read as follows:

35 18A:72A-3. As used in this act, the following words and terms  
 36 shall have the following meanings, unless the context indicates or  
 37 requires another or different meaning or intent:

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

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



1     "Cost" means in connection with a school facilities project, all costs  
2     and expenses necessary or incident to all or part of a school facilities  
3     project, including the costs associated with financing <sup>1</sup>and  
4     administrative fees and expenses<sup>1</sup> :

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

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

18    "Dormitory" means a housing unit with necessary and usual  
19    attendant and related facilities and equipment;

20    "Educational facility" means a structure suitable for use as a  
21    dormitory, dining hall, student union, administration building,  
22    academic building, library, laboratory, research facility, classroom,  
23    athletic facility, health care facility, teaching hospital, and parking  
24    maintenance storage or utility facility and other structures or facilities  
25    related thereto or required or useful for the instruction of students or  
26    the conducting of research or the operation of an institution for higher  
27    education, and public libraries, and the necessary and usual attendant  
28    and related facilities and equipment, but shall not include any facility  
29    used or to be used for sectarian instruction or as a place for religious  
30    worship;

31    "Emerging needs program" means a program at one or more public  
32    or private institutions of higher education directed to meeting new and  
33    advanced technology needs or to supporting new academic programs  
34    in science and technology;

35    "Higher education equipment" means any property consisting of, or  
36    relating to, scientific, engineering, technical, computer,  
37    communications or instructional equipment;

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

42    "Participating college" means a public institution of higher  
43    education or private college which, pursuant to the provisions of this  
44    chapter, participates with the authority in undertaking the financing  
45    and construction or acquisition of a project;

46    "Project" means a dormitory or an educational facility or any

1 combination thereof, or a county college capital project, but shall not  
 2 include a school facilities project;

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

7 "Private institution of higher education" means independent colleges  
 8 or universities incorporated and located in New Jersey, which by virtue  
 9 of law or character or license, are nonprofit educational institutions  
 10 authorized to grant academic degrees and which provide a level of  
 11 education which is equivalent to the education provided by the State's  
 12 public institutions of higher education as attested by the receipt of and  
 13 continuation of regional accreditation by the Middle States Association  
 14 of Colleges and Schools, and which are eligible to receive State aid;

15 "Public institution of higher education" means Rutgers, The State  
 16 University, the State colleges, the New Jersey Institute of Technology,  
 17 the University of Medicine and Dentistry of New Jersey, the county  
 18 colleges and any other public university or college now or hereafter  
 19 established or authorized by law;

20 "School facilities project" means the <sup>1</sup>~~["financing.]"~~ <sup>1</sup> acquisition,  
 21 demolition, construction, improvement, repair, alteration,  
 22 modernization, renovation, reconstruction or maintenance of all or any  
 23 part of any school facility or of any other personal property necessary  
 24 for or ancillary to any school facility, and shall include fixtures,  
 25 furnishings and equipment, and shall include, but is not limited to, site  
 26 acquisition, site development, the services of design professionals such  
 27 as engineers and architects, construction management, legal services  
 28 <sup>1</sup>~~["and"]~~ <sup>1</sup> financing costs <sup>1</sup>~~and administrative fees and expenses~~<sup>1</sup>  
 29 incurred in connection with the school facilities project.

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

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

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

40  
 41 <sup>1</sup>~~["43.]"~~ <sup>1</sup> 45. <sup>1</sup> N.J.S.18A:72A-4 is amended to read as follows:

42 18A:72A-4. (a) There is hereby established in but not of the  
 43 Department of the Treasury a public body corporate and politic, with  
 44 corporate succession to be known as the "New Jersey educational  
 45 facilities authority." Notwithstanding this allocation, the authority <sup>1</sup>~~["~~  
 46 except as provided pursuant to P.L. , c. (C ) (now pending

1 before the Legislature as this bill).<sup>1</sup> shall be independent of any  
2 supervision or control by the department or any officer thereof. The  
3 authority shall constitute a political subdivision of the State established  
4 as an instrumentality exercising public and essential governmental  
5 functions, and the exercise by the authority of the powers conferred by  
6 this chapter and P.L. , c. (C. ) (now pending before the  
7 Legislature as this bill) shall be deemed and held to be an essential  
8 governmental function of the State.

9 (b) The authority shall consist of seven members, two of whom  
10 shall be the chairman of the Commission on Higher Education, ex  
11 officio, and the State Treasurer, ex officio, or when so designated by  
12 them, their deputies; one person to be appointed by the Governor upon  
13 the recommendation of the President of the Senate and one person  
14 appointed by the Governor upon the recommendation of the Speaker  
15 of the General Assembly who shall serve during the two year  
16 legislative term in which they are appointed and until their successors  
17 are appointed and qualified; and [five] three citizens of the State to be  
18 appointed by the Governor [with the advice and consent of the  
19 Senate] no more than two of whom shall be of the same political party  
20 for terms of five years]; provided that the terms of the members first  
21 appointed shall be arranged by the Governor so that one of such terms  
22 shall expire on April 30 in each successive year ensuing after such  
23 appointments]. Each member shall hold office for the term of his  
24 appointment and shall continue to serve during the term of his  
25 successor unless and until his successor shall have been appointed and  
26 qualified. Any vacancy among the members appointed by the  
27 Governor shall be filled by appointment for the unexpired term only.  
28 A member of the authority shall be eligible for reappointment.

29 The terms of office of members of the authority appointed by the  
30 Governor who are serving on the effective date of P.L. , c. (C. )  
31 (now pending before the Legislature as this bill) shall expire upon the  
32 appointment by the Governor of five '[new]' members of the  
33 authority 'as provided by this section' . The five '[new]' members  
34 initially appointed by the Governor pursuant to this section shall be as  
35 follows: one member upon the recommendation of the President of the  
36 Senate and one member upon the recommendation of the Speaker of  
37 the General Assembly, who shall serve during the '[ 2] two'-year  
38 legislative term in which they are appointed; and three members whose  
39 terms shall be arranged so that a term of one of the members expires  
40 on April 30 in each successive year ensuing after the appointments.

41 (c) Any member of the authority appointed by the Governor may  
42 be removed from office by the Governor for cause after a public  
43 hearing.

44 (d) The members of the authority shall serve without  
45 compensation, but the authority may reimburse its members for

1 necessary expenses incurred in the discharge of their duties.

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

12 (f) The powers of the authority shall be vested in the members  
13 thereof in office from time to time and a majority of the total  
14 authorized membership of the authority shall constitute a quorum at  
15 any meeting thereof. Action may be taken and motions and resolutions  
16 adopted by the authority at any meeting thereof by the affirmative vote  
17 of a majority of the members present, unless in any case the bylaws of  
18 the authority shall require a larger number. No vacancy in the  
19 membership of the authority shall impair the right of a quorum to  
20 exercise all the rights and perform all the duties of the authority.

21 (g) Before the issuance of any bonds under the provisions of this  
22 chapter or P.L. , c. (C. ) (now pending before the Legislature as  
23 this bill), the members and the officer of the authority charged with  
24 the handling of the authority's moneys shall be covered by a surety  
25 bond or bonds in a penal sum of not less than \$25,000.00 per person  
26 conditioned upon the faithful performance of the duties of their  
27 respective offices, and executed by a surety company authorized to  
28 transact business in the State of New Jersey as surety. Each such bond  
29 shall be submitted to the attorney general for his approval and upon his  
30 approval shall be filed in the Office of the Secretary of State prior to  
31 the issuance of any bonds by the authority. At all times after the  
32 issuance of any bonds by the authority the officer of the authority and  
33 each member charged with the handling of the authority's moneys shall  
34 maintain such surety bonds in full force and effect. All costs of such  
35 surety bonds shall be borne by the authority.

36 (h) Notwithstanding any other law to the contrary, it shall not be  
37 or constitute a conflict of interest for a trustee, director, officer or  
38 employee of a participating college or a member or employee of a  
39 board of education to serve as a member of the authority; provided  
40 such trustee, director, officer, member or employee shall abstain from  
41 discussion, deliberation, action and vote by the authority under this  
42 chapter or P.L. , c. (C. ) (now pending before the Legislature as  
43 this bill) in specific respect to such participating college or board of  
44 education of which such member is a trustee, director, officer,  
45 member or employee.

46 (i) A true copy of the minutes of every meeting of the authority

1 shall be forthwith delivered by and under the certification of the  
2 secretary thereof, to the Governor. No action taken at such meeting  
3 by the authority shall have force or effect until 10 days, Saturdays,  
4 Sundays and public holidays excepted, after such copy of the minutes  
5 shall have been so delivered. If, in said 10-day period, the Governor  
6 returns such copy of the minutes with veto of any action taken by the  
7 authority or any member thereof at such meeting, such action shall be  
8 null and of no effect. If the Governor shall not return the minutes  
9 within said 10-day period, any action therein recited shall have force  
10 and effect according to the wording thereof. At any time prior to the  
11 expiration of the said 10-day period, the Governor may sign a  
12 statement of approval of any such action of the authority, in which  
13 case the action so approved shall not thereafter be disapproved.

14 Notwithstanding the foregoing provisions of this subsection (i),  
15 with regard to the authorization or sale of bonds of the authority, the  
16 authority shall furnish to the Governor a certified copy of the minutes  
17 of the meeting at which the bonds are authorized or sold and the  
18 Governor shall indicate approval or disapproval of the action upon  
19 receipt of the certified copy of the minutes.

20 The powers conferred in this subsection (i) upon the Governor shall  
21 be exercised with due regard for the rights of the holders of bonds of  
22 the authority at any time outstanding, and nothing in, or done pursuant  
23 to, this subsection (i) shall in any way limit, restrict or alter the  
24 obligation or powers of the authority or any representative or officer  
25 of the authority to carry out and perform in every detail each and  
26 every covenant, agreement or contract at any time made or entered  
27 into by or on behalf of the authority with respect to its bonds or for  
28 the benefit, protection or security of the holders thereof.

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

30

31 <sup>1</sup>~~44.~~<sup>46.</sup> N.J.S.18A:72A-5 is amended to read as follows:

32 18A:72A-5. The authority shall have power:

33 (a) To adopt bylaws for the regulation of its affairs and the conduct  
34 of its business;

35 (b) To adopt and have an official common seal and alter the same  
36 at pleasure;

37 (c) To maintain an office at such place or places within the State  
38 as it may designate;

39 (d) To sue and be sued in its own name, and plead and be  
40 impleaded;

41 (e) To borrow money and to issue bonds and notes and other  
42 obligations of the authority and to provide for the rights of the holders  
43 thereof as provided in this chapter and P.L. , c. (C. ) (now  
44 pending before the Legislature as this bill);

45 (f) To acquire, lease as lessee, hold and dispose of real and  
46 personal property or any interest therein, in the exercise of its powers

1 and the performance of its duties under this chapter and P.L. , c.  
2 (C. ) (now pending before the Legislature as this bill);

3 (g) To acquire in the name of the authority by purchase or  
4 otherwise, on such terms and conditions and in such manner as it may  
5 deem proper, or by the exercise of the power of eminent domain, any  
6 land or interest therein and other property which it may determine is  
7 reasonably necessary for any project , including any lands held by any  
8 county, municipality or other governmental subdivision of the State;  
9 and to hold and use the same and to sell, convey, lease or otherwise  
10 dispose of property so acquired, no longer necessary for the authority's  
11 purposes;

12 (h) To receive and accept, from any federal or other public agency  
13 or governmental entity, grants or loans for or in aid of the acquisition  
14 or construction of any project or school facilities project, and to  
15 receive and accept aid or contributions from any other source, of  
16 either money, property, labor or other things of value, to be held, used  
17 and applied only for the purposes for which such grants, loans and  
18 contributions may be made consistent with this chapter and section 22  
19 of P.L. , c. (C. ) (now pending before the Legislature as this bill);

20 (i) To prepare or cause to be prepared plans, specifications, designs  
21 and estimates of costs for the construction and equipment of projects  
22 for participating colleges under the provisions of this chapter, and  
23 from time to time to modify such plans, specifications, designs or  
24 estimates;

25 (j) By contract or contracts or by its own employees to construct,  
26 acquire, reconstruct, rehabilitate and improve, and furnish and equip,  
27 projects for participating colleges and, pursuant to the provisions of  
28 P.L. ,c. (C. ) (now pending before the Legislature as this bill), to  
29 finance the planning, design, and construction of school facilities  
30 projects; however, in any contract or contracts undertaken by the  
31 authority for the construction, reconstruction, rehabilitation or  
32 improvement of any public college project where the cost of such  
33 work will exceed \$25,000, the contracting agent shall advertise for and  
34 receive in the manner provided by law:

35 (1) separate bids for the following categories of work;

36 (a) the plumbing and gas fitting work;

37 (b) the heating and ventilating systems and equipment;

38 (c) the electrical work, including any electrical power plants;

39 (d) the structural steel and ornamental iron work;

40 (e) all other work and materials required for the completion of the  
41 project, or

42 (2) bids for all work and materials required to complete the entire  
43 project if awarded as a single contract; or

44 (3) both (1) and (2) above.

45 All bids submitted shall set forth the names and license numbers of,  
46 and evidence of performance security from, all subcontractors to

1 whom the bidder will subcontract the work described in the foregoing  
2 categories (1)(a) through (1)(e).

3 Contracts shall be awarded to the lowest responsible bidder whose  
4 bid, conforming to the invitation for bids, will be the most  
5 advantageous to the authority;

6 (k) To determine the location and character of any project to be  
7 undertaken pursuant to the provisions of this chapter ~~'[and, in the~~  
8 ~~case of a school facilities project, pursuant to the provisions of P.L.~~  
9 ~~c. (C. ) (now pending before the Legislature as this bill;]'~~ and to  
10 construct, reconstruct, maintain, repair, operate, lease, as lessee or  
11 lessor, and regulate the same ~~pursuant to this chapter in the case of~~  
12 ~~any project, and 'as authorized' pursuant to the provisions of P.L. ,~~  
13 ~~c. (C. ) (now pending before the Legislature as this bill) in the case~~  
14 ~~of any school facilities project;~~ to enter into contracts for any or all  
15 such purposes; to enter into contracts for the management and  
16 operation of a project and the financing of a school facilities project,  
17 and to designate a participating college as its agent to determine the  
18 location and character of a project undertaken by such participating  
19 college under the provisions of this chapter and, as the agent of the  
20 authority, to construct, reconstruct, maintain, repair, operate, lease, as  
21 lessee or lessor, and regulate the same, and, as agent of the authority,  
22 to enter into contracts for any and all such purposes including  
23 contracts for the management and operation of such project;

24 (l) To establish rules and regulations for the use of a project or any  
25 portion thereof and to designate a participating college as its agent to  
26 establish rules and regulations for the use of a project undertaken by  
27 such participating college;

28 (m) Generally to fix and revise from time to time and to charge and  
29 collect rates, rents, fees and other charges for the use of and for the  
30 services furnished or to be furnished by a project or, if applicable, a  
31 school facilities project or any portion thereof and to contract with  
32 holders of its bonds and with any other person, party, association,  
33 corporation or other body, public or private, in respect thereof;

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

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

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

46 (q) To enter into loan agreements with any county, to hold bonds

1 or notes of the county evidencing those loans, and to issue bonds or  
2 notes of the authority to finance county college capital projects  
3 pursuant to the provisions of the "County College Capital Projects  
4 Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

5 (r) To enter into agreements or contracts, execute instruments, and  
6 do and perform all acts or things necessary, convenient or desirable for  
7 the purposes of the authority to carry out any power expressly  
8 provided pursuant to this chapter and P.L. , c. (C. )(now  
9 pending before the Legislature as this bill), including, but not limited  
10 to, entering into contracts with the State Treasurer <sup>1</sup>[.] and the  
11 building authority<sup>1</sup> as authorized pursuant to section 18 of P.L. ,  
12 c. (C. )(now pending before the Legislature as this bill) <sup>1</sup>and  
13 entering into agreements with districts as may be authorized pursuant  
14 to P.L. , c. (C. ) (now pending before the Legislature as this  
15 bill)<sup>1</sup> :

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

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

26 (u) Subject to any agreement with holders of its bonds issued to  
27 finance a school facilities project, obtain as security or to provide  
28 liquidity for payment of all or any part of the principal of and interest  
29 and premium on the bonds of the authority or for the purchase upon  
30 tender or otherwise of the bonds, lines of credit, letters of credit,  
31 reimbursement agreements, interest rate exchange agreements,  
32 currency exchange agreements, interest rate floors or caps, options,  
33 puts or calls to hedge payment, currency, rate, spread or similar  
34 exposure or similar agreements, float agreements, forward agreements,  
35 insurance contract, surety bond, commitment to purchase or sell  
36 bonds, purchase or sale agreement, or commitments or other contracts  
37 or agreements and other security agreements or instruments in any  
38 amounts and upon any terms as the authority may determine and pay  
39 any fees and expenses required in connection therewith;

40 (v) To charge to and collect from local units, the State and any  
41 other person, any fees and charges in connection with the authority's  
42 actions undertaken with respect to projects and school facilities  
43 projects, including, but not limited to, fees and charges for the  
44 authority's administrative, organization, insurance, operating and other  
45 expenses incident to the financing, construction and placing into  
46 service and maintenance of projects and school facilities projects .

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



1       <sup>1</sup>**[45.] 47.**<sup>1</sup> N.J.S.18A:72A-12 is amended to read as follows:

2       18A:72A-12. **[All]** With respect to projects, all moneys received  
3 pursuant to the authority of this chapter, whether as proceeds from the  
4 sale of bonds or as revenues, shall be deemed to be trust funds to be  
5 held and applied solely as provided in this chapter. Any officer with  
6 whom, or any bank or trust company with which, such moneys shall be  
7 deposited shall act as trustee of such moneys and shall hold and apply  
8 the same for the purposes hereof, subject to such regulations as this  
9 chapter and the resolution authorizing the bonds of any issue or the  
10 trust agreement securing such bonds may provide.

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

12

13       <sup>1</sup>**[46.] 48.**<sup>1</sup> N.J.S.18A:72A-15 is amended to read as follows:

14       18A:72A-15. Bonds and notes issued by the authority under the  
15 provisions of this chapter and P.L. , c. (C. ) (now pending before  
16 the Legislature as this bill) are hereby made securities in which the  
17 state and all political subdivisions of the state, their officers, boards,  
18 commissions, departments or other agencies, all banks, bankers,  
19 savings banks, trust companies, savings and loan associations,  
20 investment companies and other persons carrying on a banking  
21 business, all insurance companies, insurance associations, and other  
22 persons carrying on an insurance business, and all administrators,  
23 executors, guardians, trustees and other fiduciaries, and all other  
24 persons whatsoever who now are or may hereafter be authorized to  
25 invest in bonds or other obligations of the state, may properly and  
26 legally invest any funds, including capital belonging to them or within  
27 their control; and said bonds, notes or other securities or obligations  
28 are hereby made securities which may properly and legally be  
29 deposited with and received by any state or municipal officers or  
30 agency of the state for any purpose for which the deposit of bonds or  
31 other obligations of the state is now or may hereafter be authorized  
32 by law.

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

34

35       <sup>1</sup>**[47.] 49.**<sup>1</sup> Section 2 of P.L.1981, c.120 (C.52:18A-78.2) is  
36 amended to read as follows:

37       2. As used in this act, unless the context clearly indicates  
38 otherwise:

39       a. "Authority" means the New Jersey Building Authority created  
40 under this act.

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

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

- 1 d. "Local governmental agency" means any municipality, county,  
2 school district, or any agency, department or instrumentality of any of  
3 the foregoing, or any other public body having local or regional  
4 jurisdiction or powers and not constituting a State agency.
- 5 e. "Notes" means notes issued by the authority pursuant to this act.
- 6 f. "Project" means any building or buildings, including related  
7 structures, parking facilities, improvements, real and personal property  
8 or any interest therein, including lands under water, space rights and  
9 air rights, and other appurtenances and facilities necessary or  
10 convenient to the use or operation of the building or buildings,  
11 acquired, owned, constructed, reconstructed, extended, rehabilitated,  
12 renovated, preserved or improved by the authority for the purposes set  
13 forth in section 8 of P.L.1992, c.174 (C.52:18A-78.5a), but shall not  
14 include a school facilities project.
- 15 g. "State agency" means the Executive, Legislative or Judicial  
16 branch of the State Government or any officer, department, board,  
17 commission, bureau, division, public authority or corporation, agency  
18 or instrumentality of the State.
- 19 h. "Historic public building" means a building that is owned by a  
20 governmental agency and that is on or eligible for State or National  
21 Registers of Historic Places.
- 22 i. "District" means a local or regional school district established  
23 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
24 Statutes, a county special services school district established pursuant  
25 to article 8 of chapter 46 of Title 18A of the New Jersey Statutes, a  
26 county vocational school district established pursuant to article 3 of  
27 chapter 54 of Title 18A of the New Jersey Statutes, and a State-  
28 operated school district established pursuant to P.L.1987, c.399  
29 (C.18A:7A-34).
- 30 j. "Local unit" means a county, municipality, board of education or  
31 any other political entity authorized to construct, operate and maintain  
32 a school facilities project and to borrow money for those purposes  
33 pursuant to Title 18A of the New Jersey Statutes.
- 34 k. "School facilities project" means the acquisition, demolition,  
35 construction, improvement, repair, alteration, modernization,  
36 renovation, reconstruction or maintenance of all or any part of a  
37 school facility or of any other personal property necessary for or  
38 ancillary to a school facility, and shall include fixtures, furnishings and  
39 equipment, and shall include, but is not limited to, site acquisition, site  
40 development, the services of design professionals such as engineers  
41 and architects, construction management, <sup>1</sup>and <sup>1</sup> legal services <sup>1</sup>and  
42 financing and administrative costs<sup>1</sup> incurred in connection with the  
43 school facilities project.
- 44 l. "School facility" means and includes any structure, building or  
45 facility used wholly or in part for academic purposes by a district, but  
46 shall exclude athletic stadiums, grandstands, and any structure,

1 building or facility used solely for school administration.

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

6  
7 <sup>1</sup>**[48.] 50.**<sup>1</sup> Section 3 of P.L.1981, c.120 (C.52:18A-78.3) is  
8 amended to read as follows:

9 3. The Legislature finds and declares the following:

10 a. That for many years the functions of the State Government have  
11 grown and that during this period of rapid expansion no definite  
12 program has been adopted for the housing and carrying out of the  
13 operations of the many State agencies.

14 b. That many State agencies have their offices in privately owned  
15 or inadequate State owned buildings and that these buildings are  
16 inadequate to meet the needs of these State agencies and the needs of  
17 the people of the State.

18 c. That it is to the economic benefit and general welfare of the  
19 citizens of the State to provide sufficient office space and related  
20 facilities for these State agencies and thus provide for a more efficient  
21 and economic operation of State Government.

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

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

29 f. It is necessary and in the public interest that this building  
30 authority have the necessary funds to provide for predevelopment  
31 cost, temporary financing, land development expenses, construction  
32 and operation of office buildings and related facilities for the use of,  
33 and sale or rental to, State agencies.

34 g. That the renovation and preservation of historic public buildings  
35 contribute to the preservation of the State's heritage, the promotion of  
36 the cultural life of our people, and the development and redevelopment  
37 of our municipalities.

38 h. For these purposes, there should be created a corporate  
39 governmental agency to be known as the "New Jersey Building  
40 Authority" which, through issuance of bonds and notes to the private,  
41 investing public may provide or obtain the capital resources necessary  
42 to acquire, construct, reconstruct, rehabilitate, renovate, preserve or  
43 improve these office buildings and related facilities necessary or  
44 convenient to the operation of any State agency, or historic public  
45 buildings, as the case may be.

46 i. That the acquisition, construction, reconstruction, rehabilitation,

1 renovation, preservation or improvement of these office buildings and  
2 related facilities necessary or convenient to the operation of any State  
3 agency, and historic public buildings are public uses and public  
4 purposes for which public money may be loaned and private property  
5 may be acquired and tax exemptions granted, and that the powers and  
6 duties of the New Jersey Building Authority as set forth in this act are  
7 necessary and proper for the purpose of achieving the ends here  
8 recited.

9 j. That the construction, reconstruction, rehabilitation, renovation,  
10 preservation and improvement activities of the authority will provide  
11 a much needed stimulus for the construction industry, and related  
12 industries and professions, particularly in urban areas.

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

17 The Legislature further finds and declares that:

18 l. It is essential that this and future generations of young people be  
19 given the fullest opportunity to learn and develop their intellectual  
20 capacities; that institutions of public elementary and secondary  
21 education within the State be provided with the appropriate additional  
22 means required to assist these young citizens in achieving the required  
23 levels of learning and the complete development of their intellectual  
24 abilities; and that the resources of the State be employed to meet the  
25 tremendous demand for public elementary and secondary educational  
26 opportunities.

27 m. Public elementary and secondary educational facilities are an  
28 integral part of the effort in this State to provide educational  
29 opportunities; it is the purpose of P.L. , c. (C. ) (now pending  
30 before the Legislature as this bill) to provide a measure of assistance  
31 and an alternative method of financing to enable school districts to  
32 provide the facilities which are so critically needed; the inventory of  
33 public elementary and secondary school buildings and the equipment  
34 and capital resources currently available are aging, both  
35 chronologically and technologically; and the current funding at the  
36 federal, State, and local levels and the current mechanisms for  
37 construction of these capital projects is inadequate to meet the  
38 demonstrated need for school facilities and these inadequacies  
39 necessitate additional sources of funding and the coordination of  
40 construction activities at the State level to meet those needs.

41 n. While the credit status of New Jersey's school districts is sound,  
42 it can be economically more reasonable to finance the costs of  
43 developing the educational infrastructure of the State's public  
44 elementary and secondary schools, by providing for the funding of  
45 capital projects through the issuance of bonds, notes or other  
46 obligations by the New Jersey Educational Facilities Authority, to be

1 retired through annual payments made by the State subject to  
 2 appropriation by the State Legislature, and to provide for the use of  
 3 the proceeds of those bonds, notes or other obligations to pay for  
 4 educational infrastructure projects; and such a structure would  
 5 substantially reduce the costs of financing and provide for a more  
 6 efficient use of the funds available for the development of the  
 7 educational infrastructure.

8 o. The New Jersey Building Authority has substantial and significant  
 9 experience in undertaking major capital construction projects, has a  
 10 system of internal controls and procedures to ensure the integrity of  
 11 construction activities, and is therefore the appropriate entity to  
 12 undertake the planning, design, construction, and operation of  
 13 educational infrastructure projects; and by authorizing the New Jersey  
 14 Building Authority and the New Jersey Educational Facilities  
 15 Authority to undertake these activities, there will be achieved  
 16 economies of scale, better coordination of resources, effective  
 17 financial management and control and increased monitoring and quality  
 18 control of school district construction.

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

20  
 21 <sup>1</sup>**[49.] 51.**<sup>1</sup> Section 4 of P.L.1981, c.120 (C.52:18A-78.4) is  
 22 amended to read as follows:

23 4. a. There is established in the Department of the Treasury a  
 24 public body corporate and politic, with corporate succession, to be  
 25 known as the "New Jersey Building Authority." The authority is  
 26 constituted an instrumentality of the State exercising public and  
 27 essential governmental functions, and the exercise by the authority  
 28 thereof of the powers conferred by this act shall be deemed and held  
 29 to be an essential governmental function of the State.

30 b. The membership of the authority shall consist of **[12]** 13  
 31 directors as follows: the State Treasurer, **[the** Comptroller of the  
 32 Treasury,**]** the Chairman of the Commission on Capital Budgeting  
 33 and Planning and the Commissioner of Education who shall be  
 34 members ex officio; two persons appointed by the Governor upon the  
 35 recommendation of the President of the Senate and two persons  
 36 appointed by the Governor upon the recommendation of the Speaker  
 37 of the General Assembly, of whom no more than one of each group  
 38 of two shall be of the same political party, and who shall serve during  
 39 the 2-year legislative term in which they are appointed and until their  
 40 successors shall have been appointed and qualified; and **[five]** six  
 41 directors appointed by the Governor **[with the advice and consent of**  
 42 the Senate**]** for terms of 4 years no more than **[three]** four of whom  
 43 shall be of the same political party. **[The** directors of the authority  
 44 first appointed by the Governor shall serve for terms of 1 year, 2  
 45 years, 3 years and two for 4 years, respectively, and thereafter

1 directors shall be appointed by the Governor for terms of 4 years.】  
2 Each such director shall hold office for the term of his appointment  
3 and until his successor shall have been appointed and qualified. A  
4 director shall be eligible for reappointment. Any vacancy on the board  
5 of directors occurring other than by expiration of term shall be filled  
6 in the same manner as the original appointment but for the unexpired  
7 term only.

8 The terms of office of the directors of the authority appointed by  
9 the Governor who are serving on the effective date of P.L. , c.  
10 (C. ) (now pending before the Legislature as this bill) shall expire  
11 upon the appointment by the Governor of ten <sup>1</sup>【new】<sup>1</sup> directors  
12 <sup>1</sup>pursuant to this section<sup>1</sup> . The ten <sup>1</sup>【new】<sup>1</sup> directors appointed by  
13 the Governor pursuant to the provisions of this section shall be as  
14 follows: two persons upon the recommendation of the President of the  
15 Senate and two persons upon the recommendation of the Speaker of  
16 the General Assembly, who shall serve during the <sup>1</sup>【2】 two<sup>1</sup>-year  
17 legislative term in which they are appointed; and six persons, one of  
18 whom shall serve for a term of one year, two for terms of two years,  
19 two for terms of three years, and one for a term on four years.

20 c. Each director appointed by the Governor, except those  
21 appointed upon recommendation of the President of the Senate and  
22 Speaker of the General Assembly, may be removed from office by the  
23 Governor for cause, after a public hearing, and may be suspended by  
24 the Governor pending the completion of the hearing. Each director  
25 before entering upon his duties shall take and subscribe an oath to  
26 perform the duties of his office faithfully, impartially and justly to the  
27 best of his ability. A record of the oaths shall be filed in the office of  
28 the Secretary of State.

29 d. The authority shall not be deemed to be constituted and shall not  
30 take action or adopt motions or resolutions until all original authorized  
31 members shall have been appointed and qualified in the manner  
32 provided in this section. A chairman shall be appointed by the  
33 Governor with the advice and consent of the Senate from the  
34 directors of the authority other than the ex officio directors, and the  
35 directors of the authority shall annually elect one of their number as  
36 vice chairman thereof. The directors shall elect a secretary and a  
37 treasurer who need not be directors, and the same person may be  
38 elected to serve both as secretary and treasurer. The powers of the  
39 authority shall be vested in the directors thereof in office from time to  
40 time and seven directors of the authority shall constitute a quorum at  
41 any meeting thereof. Action may be taken and motions and  
42 resolutions adopted by the authority at any meeting thereof by the  
43 affirmative vote of at least seven directors of the authority. No  
44 vacancy on the board of directors of the authority shall impair the right  
45 of a quorum of the directors to exercise all the powers and perform all  
46 the duties of the authority.

- 1 e. Each director and the treasurer of the authority shall execute a  
2 bond to be conditioned upon the faithful performance of the duties of  
3 the director or treasurer, as the case may be, in such form and amount  
4 as may be prescribed by the Comptroller of the Treasury. Bonds shall  
5 be filed in the office of the Secretary of State. At all times thereafter,  
6 the directors and treasurer of the authority shall maintain these bonds  
7 in full effect. All costs of the bonds shall be borne by the authority.
- 8 f. The directors of the authority shall serve without compensation,  
9 but the authority shall reimburse its directors for actual expenses  
10 necessarily incurred in the discharge of their duties. Notwithstanding  
11 the provisions of any other law, no officer or employee of the State  
12 shall be deemed to have forfeited or shall forfeit his office or  
13 employment or any benefits or emoluments thereof by reason of his  
14 acceptance of the office of ex officio director of the authority or his  
15 services therein.
- 16 g. The State Treasurer ~~and the Comptroller of the Treasury of the~~  
17 ~~State~~, as ~~an~~ ex officio ~~directors~~ director of the authority, may  
18 ~~each~~ designate an officer or employee of the Department of the  
19 Treasury to represent him at meetings of the authority, and the  
20 Chairman of the Commission on Capital Budgeting and Planning, as  
21 ex officio director of the authority, may designate a member or the  
22 executive director of the Commission on Capital Budgeting and  
23 Planning to represent him at meetings of the authority and the  
24 Commissioner of Education, as an ex officio director of the authority,  
25 may designate an officer or employee of the Department of Education  
26 to represent him at meetings of the authority. Each designee may  
27 lawfully vote and otherwise act on behalf of the director for whom he  
28 constitutes the designee. The designation shall be in writing delivered  
29 to the authority and shall continue in effect until revoked or amended  
30 in writing delivered to the authority.
- 31 h. The authority may be dissolved by act of the Legislature on  
32 condition that the authority has no debts or obligations outstanding or  
33 that provision has been made for the payment or retirement of these  
34 debts or obligations. Upon any dissolution of the authority all  
35 property, funds and assets thereof shall be vested in the State. In  
36 addition, subject to any property rights of a person, firm, partnership  
37 ~~or~~, corporation or local unit resulting from the sale or leasing of a  
38 project or a school facilities project by the authority to the person,  
39 firm, partnership ~~or~~, corporation or local unit, any project or school  
40 facilities project shall be vested in the State upon the payment or  
41 retirement of all debts or obligations for the project or school  
42 facilities project or upon the assumption by the State of liability for  
43 any outstanding debts or obligations for the project or school facilities  
44 project. <sup>1</sup>Notwithstanding any provisions of P.L. , c. (C. )(now  
45 pending before the Legislature as this bill) or any other law to the  
46 contrary, the authority may, but shall not be obligated to, own all or

1 any part of a school facilities project or have any property rights  
2 therein.】<sup>1</sup>

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

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

24  
25 <sup>1</sup>【50.】 52.<sup>1</sup> Section 5 of P.L.1981, c.120 (C.52:18A-78.5) is  
26 amended to read as follows:

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

29 a. To make and alter bylaws for its organization and internal  
30 management and, subject to agreements with noteholders and  
31 bondholders, to make rules and regulations with respect to its projects,  
32 its school facilities projects, operations, properties and facilities.

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

34 c. To sue and be sued.

35 d. To make and enter into all contracts and agreements necessary  
36 or incidental to the performance of its duties and the exercise of its  
37 powers under 【this act】 P.L.1981, c.120 (C.52:18A-78.1 et seq.) and  
38 P.L. , c. (C. )(now pending before the Legislature as this bill).

39 e. To enter into agreements or other transactions with and accept  
40 grants and the cooperation of the United States or any agency thereof  
41 or any State agency in furtherance of the purposes of this act,  
42 including but not limited to the development, maintenance, operation  
43 and financing of any project or school facilities project, and to do any  
44 and all things necessary in order to avail itself of this aid and  
45 cooperation.

46 f. To receive and accept aid or contributions from any source of



1 money, property, labor or other things of value, to be held, used and  
2 applied to carry out the purposes of <sup>1</sup> **["this act"] P.L.1981, c.120**  
3 **(C.52:18A-78.1 et seq. and P.L. , c. (C. )(now pending before the**  
4 **Legislature as this bill)**<sup>1</sup> subject to such conditions upon which this aid  
5 and these contributions may be made, including but not limited to,  
6 gifts or grants from any department or agency of the United States or  
7 any State agency for any purpose consistent with <sup>1</sup> **["this act"] P.L.1981,**  
8 **c.120 (C.52:18A-78.1 et seq. and P.L. , c. (C. )(now pending before**  
9 **the Legislature as this bill)**<sup>1</sup> .

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

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

19 i. To acquire, construct, reconstruct, rehabilitate, renovate,  
20 preserve, improve, alter or repair or provide for the demolition,  
21 construction, reconstruction, improvement, alteration or repair of any  
22 project or school facilities project and let, award and enter into  
23 construction contracts, purchase orders and other contracts with  
24 respect thereto in such manner as the authority shall determine.

25 j. To arrange or contract with a county or municipality and any  
26 relevant utility for the planning, replanning, opening, grading or  
27 closing of streets, roads, roadways, alleys or other places, or for the  
28 furnishing of facilities or for the acquisition by a county or  
29 municipality of property or property rights or for the furnishing of  
30 property or services, in connection with a project or school facilities  
31 project.

32 k. To sell, lease, assign, transfer, convey, exchange, mortgage or  
33 otherwise dispose of or encumber any project or school facilities  
34 project or other property no longer needed to carry out the public  
35 purposes of the authority and, in the case of the sale of any project or  
36 school facilities project or property, to accept a purchase money  
37 mortgage in connection therewith; and to lease, repurchase or  
38 otherwise acquire and hold any project or school facilities project or  
39 property which the authority has theretofore sold, leased or otherwise  
40 conveyed, transferred or disposed of.

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

45 m. To acquire by purchase, lease or otherwise, on such terms and  
46 conditions and in such manner as it may deem proper, or by the

1 exercise of the power of eminent domain, except with respect to lands  
2 owned by the State or any public lands reserved for recreation and  
3 conservation purposes, any land and other property, including railroad  
4 lands and land under water, which it may determine is reasonably  
5 necessary for any of its projects or school facilities project or for the  
6 relocation or reconstruction of any highway by the authority and any  
7 and all rights, title and interest in that land and other property,  
8 including public lands, highways or parkways, owned by or in which  
9 a State agency or local governmental agency has any right, title or  
10 interest, or parts thereof or rights therein and any fee simple absolute  
11 or any lesser interest in private property, and any fee simple absolute  
12 in, easements upon or the benefit of restrictions upon, abutting  
13 property to preserve and protect any project or school facilities  
14 project.

15 n. To prepare or cause to be prepared plans, specifications,  
16 designs and estimates of costs for the construction, reconstruction,  
17 rehabilitation, improvement, alteration or repair of any project or  
18 school facilities project, and from time to time to modify these plans,  
19 specifications, designs or estimates.

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

33 p. To sell, lease, rent, sublease or otherwise dispose of, to any  
34 person, firm, partnership or corporation, any surplus space in any  
35 project over and above that sold, leased, rented, subleased or  
36 otherwise disposed of to State agencies and to establish and revise the  
37 purchase price, rents or charges therefor.

38 q. To approve of the selection of any tenant not a State agency  
39 under a lease or sublease agreement for the use or occupation of any  
40 portion of a building in which a project is located.

41 r. To manage or operate any project or school facilities project or  
42 real or personal property related thereto whether owned or leased by  
43 the authority or any State agency or any person, firm, partnership or  
44 corporation, and to enter into agreements with any State agency, or  
45 any local governmental agency, or local unit or with any person, firm,  
46 association, partnership or corporation, either public or private, for the

1 purpose of causing any project or school facilities project or related  
2 property to be managed.

3 s. To provide advisory, consultative, training and educational  
4 services, technical assistance and advice to any person, firm,  
5 association, partnership or corporation, either public or private, in  
6 order to carry out the purposes of **【this act】** P.L.1981, c.120  
7 (C.52:18A-78.1 et seq.) and P.L. , c. (C. )(now pending before  
8 the Legislature as this bill).

9 t. Subject to the provisions of any contract with noteholders or  
10 bondholders to consent to any modification, amendment or revision of  
11 any kind of any contract, lease or agreement of any kind to which the  
12 authority is a party.

13 u. To determine, after holding a public hearing in the municipality  
14 in which the project is to be located, except as otherwise provided in  
15 section 6 of **【this act】**P.L.1981, c.120 (C.52:18A-78.6), and at any  
16 time, with respect to a school facilities project, the location, type and  
17 character of the project or school facilities project or any part thereof  
18 and all other matters in connection with all or any part of the project  
19 or school facilities project notwithstanding any land use plan, zoning  
20 regulation, **【building code】** or similar regulation heretofore or  
21 hereafter adopted by any municipality, county, public body corporate  
22 and politic, or any other political subdivision of the State.

23 v. To borrow money and to issue its bonds and notes and to secure  
24 the same and provide for the rights of the holders thereof as provided  
25 in this act.

26 w. Subject to any agreement with bondholders or noteholders, to  
27 invest moneys of the authority not required for immediate use,  
28 including proceeds from the sale of any bonds or notes, in those  
29 obligations, securities and other investments as the authority shall  
30 deem prudent.

31 x. To procure insurance against any loss in connection with its  
32 property and other assets and operations in such amounts and from  
33 such insurers as it deems desirable.

34 y. To engage the services of architects, engineers, attorneys,  
35 accountants, building contractors, urban planners, landscape architects  
36 and financial experts and such other advisors, consultants and agents  
37 as may be necessary in its judgment and to fix their compensation.

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

43 aa. <sup>1</sup>To enter into agreements with the State Treasurer, the  
44 Commissioner of Education, districts, community redevelopment  
45 entities, the educational facilities authority and any other entity which  
46 may be required in order to carry out the provisions of P.L. , c.

1 (C. ) (now pending before the Legislature as this bill).

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

11 cc.<sup>1</sup> To do any act necessary or convenient to the exercise of the  
12 foregoing powers or reasonably implied therefrom.

13 (cf: P.L.1992, c.174, s.10)

14  
15 <sup>1</sup>**[51.] 53.**<sup>1</sup> Section 10 of P.L.1981, c.120 (C.52:18A-78.10) is  
16 amended to read as follows:

17 10. a. No municipality shall modify or change the drawings, plans  
18 or specifications for the construction, reconstruction, rehabilitation,  
19 alteration or improvement of any project or school facilities project  
20 of the authority, or the construction, plumbing, heating, lighting or  
21 other mechanical branch of work necessary to complete the work in  
22 question, nor to require that any person, firm or corporation employed  
23 on any such work shall perform the work in any other or different  
24 manner than that provided by the drawings, plans and specifications,  
25 nor to require that any person, firm or corporation obtain any other  
26 or additional authority, approval, permit or certificate from the  
27 municipality in relation to the work being done, and the doing of the  
28 work by any person, firm or corporation in accordance with the terms  
29 of the drawings, plans, specifications or contracts shall not subject the  
30 person, firm or corporation to any liability or penalty, civil or  
31 criminal, other than as may be stated in the contracts or incidental to  
32 the proper enforcement thereof; nor shall any municipality require the  
33 authority or any State agency which leases or purchases the project,  
34 or any person, firm, partnership or corporation which leases or  
35 purchases the project for lease or purchase to a State agency, to  
36 obtain any other or additional authority, approval, permit, certificate  
37 or certificate of occupancy from the municipality as a condition of  
38 owning, using, maintaining, operating or occupying any project  
39 acquired, constructed, reconstructed, rehabilitated, altered or  
40 improved by the authority or by any subsidiary thereof. The  
41 foregoing provisions shall not preclude any municipality from  
42 exercising the right of inspection for the purpose of requiring  
43 compliance by any project with local requirements for operation and  
44 maintenance, affecting the health, safety and welfare of the occupants  
45 thereof, provided that the compliance does not require changes,  
46 modifications or additions to the original construction of the project.

47 b. Each municipality in which any project or school facilities

1 project of the authority is located shall provide for the project or  
2 school facilities project , whether then owned by the authority, any  
3 subsidiary, any State agency or any person, firm, partnership or  
4 corporation, police, fire, sanitation, health protection and other  
5 municipal services of the same character and to the same extent as  
6 those provided for other residents of the municipality.

7 c. In carrying out any project or school facilities project, the  
8 authority may enter into contractual agreements with local  
9 governmental agencies with respect to the furnishing of any  
10 community, municipal or public facilities or services necessary or  
11 desirable for the project or school facilities project , and any local  
12 governmental agency may enter into these contractual agreements with  
13 the authority and do all things necessary to carry out its obligations  
14 under the same.

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

16  
17 <sup>1</sup>54. Section 11 of P.L.1981, c.120 (C.52:18A-78.11) is amended  
18 to read as follows:

19 11. a. The authority, in the exercise of its authority to make and  
20 enter into contracts and agreements necessary or incidental to the  
21 performance of its duties and the execution of its powers, shall adopt  
22 standing rules and procedures providing that no contract on behalf of  
23 the authority shall be entered into for the doing of any work, or for the  
24 hiring of equipment or vehicles, where the sum to be expended  
25 exceeds the sum of \$7,500.00 unless the authority shall first publicly  
26 advertise for bids therefor, and shall award the contract to the lowest  
27 responsible bidder. Advertising shall not be required where the  
28 contract to be entered into is one for the furnishing or performing of  
29 services of a professional nature or for the supplying of any product  
30 or the rendering of any service by a public utility subject to the  
31 jurisdiction of the Board of Public Utilities and tariffs and schedules  
32 of the charges made, charged, or exacted by the public utility for any  
33 products to be supplied or services to be rendered are filed with the  
34 board. This section shall not prevent the authority from having any  
35 work done by its own employees, nor shall it apply to repairs, or to  
36 the furnishing of materials, supplies or labor, or the hiring of  
37 equipment or vehicles, when the safety or protection of its or other  
38 public property or the public convenience requires, or the exigency of  
39 the accomplishment of the projects or school facilities projects will not  
40 allow advertisement. In that case, the board of directors of the  
41 authority shall, by resolution, declare the exigency or emergency to  
42 exist, and set forth in the resolution the nature thereof and the  
43 approximate amount to be so expended.

44 b. (1) In undertaking any project or school facilities project where  
45 the cost of construction, reconstruction, rehabilitation or improvement  
46 will exceed \$25,000.00, the authority shall be subject to the rules and

1 regulations of the Division of Building and Construction concerning  
2 procedural requirements for the making, negotiating or awarding of  
3 purchases, contracts or agreements; and the authority, with the  
4 assistance of the division, may prepare, or cause to be prepared,  
5 separate plans and specifications for:

6 (a) The plumbing and gas fitting and all work and materials kindred  
7 thereto,

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

10 (c) The electrical work,

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

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

14 (2) The authority shall receive (a) separate bids for each of the  
15 branches of work specified in paragraph (1) of this subsection; or (b)  
16 bids for all the work and materials required to complete the project or  
17 school facilities projects to be included in a single overall contract, in  
18 which case there shall be set forth in the bid the name or names of all  
19 subcontractors to whom the bidder will subcontract for the furnishing  
20 of any of the work and materials specified in branches (a) through (d)  
21 in paragraph (1) of this subsection; or (c) both.

22 (3) Contracts shall be awarded to the lowest responsible bidder in  
23 each branch of work in the case of separate bids and to the single  
24 lowest responsible bidder in the case of single bids. In the event that  
25 a contract is advertised in accordance with subparagraph (c) of  
26 paragraph (2) of this subsection, the contract shall be awarded in the  
27 following manner: If the sum total of the amounts bid by the lowest  
28 responsible bidder for each branch is less than the amount bid by the  
29 lowest responsible bidder for all of the work and materials, the  
30 authority shall award separate contracts for each of branches to the  
31 lowest responsible bidder therefor, but if the sum total of the amount  
32 bid by the lowest responsible bidder for each branch is not less than  
33 the amount bid by the lowest responsible bidder for all the work and  
34 materials, the authority shall award a single over-all contract to the  
35 lowest responsible bidder for all of the work and materials.

36 Whenever a contract is awarded under subparagraph (b) or (c) of  
37 paragraph (2) of this subsection, all payments required to be made by  
38 the authority under the contract for work and materials supplied by a  
39 subcontractor may, upon the certification of the contractor of the  
40 amount due to the subcontractor, be paid directly to the  
41 subcontractor. Payments to a subcontractor for work and materials  
42 supplied in connection with the contract shall be made within 10  
43 calendar days of the receipt of payment for that work or the delivery  
44 of those materials by the subcontractor in accordance with the  
45 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any  
46 regulations promulgated thereunder.

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

6 c. With respect to the lease or sale of any project or portion thereof  
7 to any person, firm, partnership or corporation, for subsequent lease  
8 to or purchase by a State agency, no agreement for that lease or sale  
9 shall be entered into, unless the authority shall first publicly advertise  
10 for bids therefor. The authority shall employ a person, firm,  
11 partnership or corporation, independent from any other aspect or  
12 component of the financing of or any ownership or leasehold interest  
13 in that project, to assist in the bid procedure and evaluation.

14 (cf: P.L.1999, c. 280, s. 2)<sup>1</sup>

15  
16 <sup>1</sup>[52.] 55.<sup>1</sup> Section 12 of P.L.1981, c.120 (C.52:18A-78.12) is  
17 amended to read as follows:

18 12. a. If the authority shall find it necessary in connection with the  
19 undertaking of any of its projects or school facilities projects to  
20 change the location of any portion of any public highway, or road, it  
21 may contract with any government agency, or public or private  
22 corporation which may have jurisdiction over the public highway or  
23 road to cause the public highway or road to be constructed at such  
24 location as the authority shall deem most favorable. The cost of the  
25 reconstruction and any damage incurred in changing the location of  
26 the highway shall be ascertained and paid by the authority as a part of  
27 the cost of the project or school facilities project. Any public highway  
28 affected by the construction of any project or school facilities project  
29 may be vacated or relocated by the authority in the manner now  
30 provided by law for the vacation or relocation of public roads, and  
31 any damages awarded on account thereof shall be paid by the  
32 authority as a part of the cost of the project or school facilities project.

33 In all undertakings authorized by the subsection, the authority shall  
34 consult and obtain the approval of the Commissioner of  
35 Transportation.

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

46 c. The authority shall also have power to make reasonable

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

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

28

29 <sup>1</sup>**[53.] 56.**<sup>1</sup> Section 28 of P.L.1981, c.120 (C.52:18A-78.28) is  
30 amended to read as follows:

31 28. a. The authority shall adopt rules and regulations to establish  
32 an affirmative action program for the hiring of minority workers  
33 employed in the performance of construction contracts undertaken in  
34 connection with any of its projects and school facilities projects, and  
35 to expand the business opportunities of socially and economically  
36 disadvantaged contractors and vendors seeking to provide materials  
37 and services for those contracts, consistent with the provisions of the  
38 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).  
39 The authority shall provide for the proper enforcement and  
40 administration of these rules and regulations.

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

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



1       <sup>1</sup>**[54.] 57.**<sup>1</sup> Section 29 of P.L.1981, c.120 (C.52:18A-78.29) is  
2 amended to read as follows:

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

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

11  
12       <sup>1</sup>**[55.] 58.**<sup>1</sup> Section 22 of P.L.1975, c.291 (C.40:55D-31) is  
13 amended to read as follows:

14       22. a. Whenever the planning board shall have adopted any portion  
15 of the master plan, the governing body or other public agency having  
16 jurisdiction over the subject matter, before taking action necessitating  
17 the expenditure of any public funds, incidental to the location,  
18 character or extent of such project, shall refer the action involving  
19 such specific project to the planning board for review and  
20 recommendation in conjunction with such master plan and shall not act  
21 thereon, without such recommendation or until 45 days have elapsed  
22 after such reference without receiving such recommendation. This  
23 requirement shall apply to action by a housing, parking, highway,  
24 special district, or other authority, redevelopment agency, school  
25 board or other similar public agency, State, county or municipal.

26       b. The planning board shall review and make recommendations  
27 concerning any long-range facilities plan submitted to the board  
28 pursuant to the "Educational Facilities Construction and Financing  
29 Act," P.L. , c. (C. ) (now pending before the Legislature  
30 as this bill), for the purpose of review of the extent to which the long-  
31 range facilities plan is informed by, and consistent with, the land use  
32 and development proposals contained within the municipal master plan  
33 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and  
34 the anticipated impact of individual school facilities projects contained  
35 in the plan on community development and redevelopment efforts and  
36 plans in the municipality. Upon receipt of a long-range facilities plan  
37 to be reviewed for this purpose, the planning board shall notify in  
38 writing the Urban Coordinating Council established pursuant to  
39 section 45 of P.L.1996, c.62 (C.55:19-60) and each public or private  
40 development corporation and each <sup>1</sup>community<sup>1</sup> redevelopment entity  
41 which is authorized to undertake projects in the municipality. The  
42 planning board shall devote at least one full meeting of the board to  
43 presentation and review of the long-range facilities plan prior to  
44 adoption of a resolution setting forth the board's findings pursuant to  
45 the "Educational Facilities Construction and Financing Act," P.L. ,  
46 c. (C. ) (now pending before the Legislature as this bill).

1 (cf: P.L.1975, c.291, s.22)

2

3 <sup>1</sup>~~56.~~ 59.<sup>1</sup> Section 46 of P.L.1996, c.62 (C.55:19-61) is amended  
4 to read as follows:

5 46. The Urban Coordinating Council shall:

6 a. Ensure that State agencies coordinate responses and provide  
7 assistance to projects and programs outlined in neighborhood  
8 empowerment plans developed pursuant to section 49 of P.L.1996,  
9 c.62 (C.55:19-64), and projects and programs established by the New  
10 Jersey Redevelopment Authority, the New Jersey Economic  
11 Development Authority, and development initiatives proposed by  
12 municipal and county governments, including making available the  
13 resources of the departments of the State in implementing those  
14 programs;

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

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

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

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

32 f. Publish an annual report on the status of redevelopment activity  
33 which shall describe the progress toward achieving the goals of this  
34 act; **[and]**

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

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

1     i. Provide assistance to municipal planning boards in urban  
2     development municipalities<sup>1</sup> and in Level II districts<sup>1</sup> pursuant to  
3     P.L. \_\_\_\_\_, c. \_\_\_\_\_ (C. \_\_\_\_\_) in their review of long-range facilities plans of  
4     school districts;

5     j. Compile information and provide technical assistance to  
6     municipal planning boards and<sup>1</sup> community<sup>1</sup> redevelopment entities  
7     in urban development municipalities<sup>1</sup> and in Level II districts<sup>1</sup>  
8     respecting State projects and programs which are of consequence for  
9     the planning and financing of community development school projects  
10    in urban development municipalities<sup>1</sup> and in Level II districts<sup>1</sup> ; and

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

14    (cf: P.L.1996, c.62, s.46.)

15  
16    <sup>1</sup>60. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to  
17    read as follows:

18    4. Notwithstanding the provisions of any other law to the contrary,  
19    commencing July 1, 1998: after the deposit required pursuant to  
20    section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000  
21    of revenue collected annually from the cigarette tax imposed pursuant  
22    to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of  
23    revenue collected annually from the "Tobacco Products Wholesale  
24    Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be  
25    deposited in to the Health Care Subsidy Fund established pursuant to  
26    section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next  
27    \$50,000,000 of revenue collected annually from the cigarette tax  
28    imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be  
29    **【deposited in the School Construction and Renovation Fund as shall**  
30    **be established by law】** appropriated annually to the New Jersey  
31    Education Facilities Authority for payment of debt service incurred by  
32    the authority for school facilities construction purposes.<sup>1</sup>

33    (cf: P.L.1997, c.264, s.4)

34  
35    <sup>1</sup>61. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read  
36    as follows:

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

1	Amount of Sale				Amount of Tax
2	\$0.01	to	\$0.10	.....	No Tax
3	0.11	to	0.22	.....	\$0.01
4	0.23	to	0.38	.....	0.02
5	0.39	to	0.56	.....	0.03
6	0.57	to	0.72	.....	0.04
7	0.73	to	0.88	.....	0.05
8	0.89	to	1.10	.....	0.06
9					

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

13 b. For charges paid by inserting coins into a coin operated  
14 telecommunications device available to the public the tax shall be  
15 computed to the nearest multiple of five cents of the tax otherwise due  
16 pursuant to subsection a. of this section, except that, if the amount of  
17 the tax is midway between multiples of five cents, the next higher  
18 multiple shall apply.

19 c. For the purpose of adding and collecting the sales and use tax at  
20 the rate imposed pursuant to section 63 of P.L. , c. (C. )  
21 (now pending before the Legislature as this bill) on and after August  
22 1 of a fiscal year in which a certification is made to the Director of the  
23 Division of Taxation pursuant to subsection b. of that section 63 of  
24 P.L. , c. (C. ) (now pending before the Legislature as this  
25 bill), or an amount equal as nearly as possible or practicable to the  
26 average equivalent thereof, the director shall promulgate tax collection  
27 formulas for the purpose of collecting the tax for the rate established  
28 pursuant to that section 63 of P.L. , c. (C. ) (now pending  
29 before the Legislature as this bill).<sup>1</sup>  
30 (cf: P.L.1993, c.10, s.2)

31  
32 <sup>1</sup> 62. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended  
33 to read as follows:

34 31. Receipts from sales of tangible personal property and services  
35 taxable under any municipal ordinance which was adopted pursuant to  
36 P.L.1947, c.71 (C.40:48-8.15 et seq.) and was in effect on April 27,  
37 1966 are exempt from the tax imposed under the Sales and Use Tax  
38 Act, subject to the following conditions:

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

43 b. Irrespective of the rate of tax imposed by such ordinance, such

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

9  
10 <sup>1</sup>63. (New section) a. The annual appropriations act for each  
11 State fiscal year commencing with fiscal year 2001 shall appropriate  
12 and distribute during the fiscal year the amount determined by the  
13 Department of Education to be the amount of State debt service aid  
14 determined pursuant to section 9 and 10 of P.L. , c. (C. )  
15 (now pending before the Legislature as this bill) for the purposes of  
16 those sections.

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

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

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

40 e. Any sales and use tax erroneously collected or paid at a rate of  
41 6% instead of at a rate of 5% on receipts from sales or use within this  
42 State on or after August 1 of that fiscal year through June 30 of that  
43 fiscal year shall be subject to refund in the manner provided in section  
44 20 of P.L.1966, c.30 (C.54:32B-20).<sup>1</sup>

45  
46 <sup>1</sup>64. (New section) The Director of the Division of Taxation shall

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

13

14 <sup>1</sup>**[57.] 65.**<sup>1</sup> This act shall take effect immediately.