

# 52:18A-235

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 137

**NJSA:** 52:18A-235 (Establishes the New Jersey Schools Development Authority and revises the school construction program established under the "Educational Facilities Construction and Financing Act.")

**BILL NO:** A4336 (Substituted for S2796)

**SPONSOR(S):** Stanley and others

**DATE INTRODUCED:** June 14, 2007

**COMMITTEE:**            **ASSEMBLY:** Education

**SENATE:**

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** June 21, 2007

**SENATE:** June 21, 2007

**DATE OF APPROVAL:** August 6, 2007

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Second reprint enacted)

**A4336**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 87 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **[ASSEMBLY:](#)** [Yes](#)

**SENATE:** No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**[FLOOR AMENDMENT STATEMENT:](#)** [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:** No

**S2796**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 87 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**[SENATE:](#)** [Yes](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

- "School-construction agency gets new name, structure," The Philadelphia Inquirer, 8-7-07, p. B3
- "Corzine cites waste as he abolishes school construction body," Courier-Post, 8-7-07, p.3B
- "State school construction agency overhauled, renamed," The Trentonian, 8-7-07, p.9
- "School building agency replaced," Courier News, 8-7-07, p.A3
- "Corzine abolishes troubled school construction agency," Burlington County Times, 8-7-07, p.\_\_\_\_
- "School agency replaced, revamped," Home News Tribune, 8-7-07, p.\_\_\_\_
- "School building oversight," The New York Times, 8-7-07, p.B4
- "State rebuilds school construction program," The Star-Ledger, 8-7-07, p.13

§§1-13 -  
C.52:18A-235 to  
52:18A-247  
§§14-17 -  
C.18A:7G-45 to  
18A:7G-48  
§61 - Repealer

P.L. 2007, CHAPTER 137, *approved August 6, 2007*  
Assembly, No. 4336 (*Second Reprint*)

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

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. (New section) The Legislature finds and declares that:

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

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

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

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

36 e. The corporation initiated reform efforts to implement the  
37 recommendations of the Inspector General. While undertaking

**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>Assembly AED committee amendments adopted June 14, 2007.

<sup>2</sup>Senate floor amendments adopted June 21, 2007.

1 these reform efforts and continuing to undertake the design and  
2 construction of school facilities projects, it was determined that  
3 there would be insufficient funding available under the  
4 “Educational Facilities Construction and Financing Act” to  
5 complete all the school facilities projects in the Abbott districts. A  
6 joint effort by the New Jersey Schools Construction Corporation  
7 and the Department of Education resulted in a prioritization of  
8 projects to be completed with remaining funds.

9 f. Governor Jon S. Corzine issued Executive Order No. 3 of  
10 2006 in February 2006 which created an Interagency Working  
11 Group on School Construction to study management reforms and  
12 legislative action necessary to improve the school construction  
13 program.

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

23 h. The initiatives provided herein implement the  
24 recommendations of the Interagency Working Group on School  
25 Construction with regard to the creation of a new school  
26 construction authority and the undertaking of projects for and by  
27 Abbott districts so as to ensure that the agency undertaking the  
28 school construction program has adequate internal controls,  
29 processes, and procedures to undertake additional school facilities  
30 projects <sup>1</sup>; and the initiatives also provide opportunities for the  
31 Abbott districts, the public, and stakeholders to provide input  
32 during the various phases of the construction of school facilities  
33 projects<sup>1</sup>.

34  
35 2. (New section) As used in sections 1 through 13 of P.L. ,  
36 c. (C. ) (pending before the Legislature as this bill), unless a  
37 different meaning appears from the context:

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

42 “Development authority” means the New Jersey Schools  
43 Development Authority, established pursuant section 3 of P.L. ,  
44 c. (C. ) (pending before the Legislature as this bill);

45 "District" means a local or regional school district established  
46 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
47 Statutes, a county special services school district established  
48 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey

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

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

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

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

25 "School facility" means and includes any structure, building or  
26 facility used wholly or in part for educational purposes by a district  
27 and facilities that physically support such structures, buildings and  
28 facilities, such as district wastewater treatment facilities, power  
29 generating facilities, and steam generating facilities, but shall  
30 exclude other facilities.

31

32 3. (New section) a. There is established in, but not of, the  
33 Department of the Treasury a public body corporate and politic,  
34 with corporate succession, to be known as the "New Jersey Schools  
35 Development Authority." The development authority shall  
36 constitute an instrumentality of the State exercising public and  
37 essential governmental functions, and the exercise by the  
38 development authority of the powers conferred by this act shall be  
39 deemed and held to be an essential governmental function of the  
40 State.

41 b. The development authority shall consist of the  
42 Commissioner of Education, the Commissioner of the Department  
43 of Community Affairs, the executive director of the Economic  
44 Development Authority, and the State Treasurer, who shall serve as  
45 ex officio members; and 11 public members appointed by the  
46 Governor with the advice and consent of the Senate. At least one of  
47 the public members shall have knowledge or expertise in the area of  
48 law enforcement and the remaining public members shall have

1 knowledge or expertise in real estate development, construction  
2 management, finance, architectural or building design, or any other  
3 related field.

4 c. Each public member shall serve for a term of five years and  
5 shall hold office for the term of the member's appointment and until  
6 the member's successor shall have been appointed and qualified. A  
7 member shall be eligible for reappointment. Any vacancy in the  
8 membership occurring other than by expiration of term shall be  
9 filled in the same manner as the original appointment but for the  
10 unexpired term only.

11 In the case of the first 11 public members appointed, three shall  
12 serve for a term of two years, three shall serve for a term of three  
13 years, three shall serve for a term of four years, and two shall serve  
14 for a term of five years.

15 d. Each member appointed by the Governor may be removed  
16 from office by the Governor, for cause, after a public hearing, and  
17 may be suspended by the Governor pending the completion of such  
18 hearing. Each member before entering upon his duties shall take  
19 and subscribe an oath to perform the duties of the office faithfully,  
20 impartially and justly to the best of his ability. A record of such  
21 oath shall be filed in the Office of the Secretary of State.

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

37 f. Each member of the development authority shall execute a  
38 bond to be conditioned upon the faithful performance of the duties  
39 of such member in such form and amount as may be prescribed by  
40 the Director of the Division of Budget and Accounting in the  
41 Department of the Treasury. Such bonds shall be filed in the Office  
42 of the Secretary of State. At all times thereafter the members and  
43 treasurer of the development authority shall maintain such bonds in  
44 full force and effect. All costs of such bonds shall be borne by the  
45 development authority.

46 g. The members of the development authority shall serve  
47 without compensation, but the development authority may  
48 reimburse its members for actual expenses necessarily incurred in

1 the discharge of their duties. Notwithstanding the provisions of any  
2 other law to the contrary, no officer or employee of the State shall  
3 be deemed to have forfeited or shall forfeit any office or  
4 employment or any benefits or emoluments thereof by reason of the  
5 acceptance of the office of ex officio member of the development  
6 authority or any services therein.

7 h. Each ex officio member of the development authority may  
8 designate an officer or employee of the member's department to  
9 represent the member at meetings of the development authority, and  
10 each such designee may lawfully vote and otherwise act on behalf  
11 of the member for whom the person constitutes the designee. Any  
12 such designation shall be in writing delivered to the development  
13 authority and shall continue in effect until revoked or amended by  
14 writing delivered to the development authority.

15 i. The development authority shall appoint from among its  
16 members an audit committee and such other committees as it deems  
17 necessary or conducive to the efficient management and operation  
18 of the development authority.

19 j. The development authority may be dissolved by act of the  
20 Legislature on condition that the development authority has no  
21 debts or obligations outstanding or that provision has been made for  
22 the payment or retirement of such debts or obligations. Upon any  
23 such dissolution of the development authority, all property, funds  
24 and assets thereof shall be vested in the State.

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

37 l. The development authority shall cause an audit of its books  
38 and accounts to be made at least once in each year by certified  
39 public accountants and cause a copy thereof to be filed with the  
40 Secretary of State <sup>2</sup>[and] <sup>2</sup> the Director of the Division of Budget  
41 and Accounting in the Department of the Treasury <sup>2</sup>, and the State  
42 Auditor<sup>2</sup>.

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

47 n. The Director of the Division of Budget and Accounting in  
48 the Department of the Treasury and the director's legally authorized

1 representatives are authorized and empowered from time to time to  
2 examine the accounts, books and records of the development  
3 authority including its receipts, disbursements, contracts, funds,  
4 investments and any other matters relating thereto and to its  
5 financial standing.

6 o. No member, officer, employee or agent of the development  
7 authority shall be interested, either directly or indirectly, in any  
8 school facilities project, or in any contract, sale, purchase, lease or  
9 transfer of real or personal property to which the development  
10 authority is a party.

11

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

14 a. To adopt bylaws for the regulation of its affairs and the  
15 conduct of its business;

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

17 c. To sue and be sued;

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

25 e. To enter into contracts with a person upon such terms and  
26 conditions as the development authority shall determine to be  
27 reasonable, including, but not limited to, for the planning, design,  
28 construction, reconstruction, improvement, equipping, furnishing,  
29 operation and maintenance of a school facilities project and the  
30 reimbursement thereof, and to pay or compromise any claims  
31 arising therefrom;

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

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

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

43 i. To contract for and to accept any gifts or grants or loans of  
44 funds or property or financial or other aid in any form from the  
45 United States of America or any agency or instrumentality thereof,  
46 or from the State or any agency, instrumentality or political  
47 subdivision thereof, or from any other source and to comply,  
48 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and



- 1 P.L. , c. (C. ) (pending before the Legislature as this bill),  
2 with the terms and conditions thereof;
- 3 j. In connection with any application for assistance under  
4 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L. , c. (C. ) (pending  
5 before the Legislature as this bill) or commitments therefor, to  
6 require and collect such fees and charges as the development  
7 authority shall determine to be reasonable;
- 8 k. To adopt, amend and repeal regulations to carry out the  
9 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. ,  
10 c. (C. ) (pending before the Legislature as this bill);
- 11 l. To acquire, purchase, manage and operate, hold and dispose  
12 of real and personal property or interests therein, take assignments  
13 of rentals and leases and make and enter into all contracts, leases,  
14 agreements and arrangements necessary or incidental to the  
15 performance of its duties;
- 16 m. To purchase, acquire and take assignments of notes,  
17 mortgages and other forms of security and evidences of  
18 indebtedness;
- 19 n. To purchase, acquire, attach, seize, accept or take title to any  
20 property by conveyance or by foreclosure, and sell, lease, manage  
21 or operate any property for a use specified in P.L.2000, c.72  
22 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
23 Legislature as this bill);
- 24 o. To employ consulting engineers, architects, attorneys, real  
25 estate counselors, appraisers, and such other consultants and  
26 employees as may be required in the judgment of the development  
27 authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1  
28 et al.) and P.L. , c. (C. ) (pending before the Legislature as  
29 this bill) and to fix and pay their compensation from funds available  
30 to the development authority therefor, all without regard to the  
31 provisions of Title 11A of the New Jersey Statutes;
- 32 p. To do and perform any acts and things authorized by  
33 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. )  
34 (pending before the Legislature as this bill) under, through or by  
35 means of its own officers, agents and employees, or by contract  
36 with any person;
- 37 q. To procure insurance against any losses in connection with  
38 its property, operations or assets in such amounts and from such  
39 insurers as it deems desirable;
- 40 r. To do any and all things necessary or convenient to carry out  
41 its purposes and exercise the powers given and granted in P.L.2000,  
42 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before  
43 the Legislature as this bill);
- 44 s. To construct, reconstruct, rehabilitate, improve, alter, equip,  
45 maintain or repair or provide for the construction, reconstruction,  
46 improvement, alteration, equipping or maintenance or repair of any  
47 property and lot, award and enter into construction contracts,  
48 purchase orders and other contracts with respect thereto, upon such

1 terms and conditions as the development authority shall determine  
2 to be reasonable, including, but not limited to, reimbursement for  
3 the planning, designing, construction, reconstruction, improvement,  
4 equipping, furnishing, operation and maintenance of any such  
5 property and the settlement of any claims arising therefrom;

6 t. To undertake school facilities projects and to enter into  
7 agreements or contracts, execute instruments, and do and perform  
8 all acts or things necessary, convenient or desirable for the purposes  
9 of the development authority to carry out any power expressly  
10 provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill), including,  
12 but not limited to, entering into contracts with the State Treasurer,  
13 the New Jersey Economic Development Authority, the  
14 Commissioner of Education, districts, and any other entity which  
15 may be required in order to carry out the provisions of P.L.2000,  
16 c.72 (C.18A:7G-1 et al.) or P.L. , c. (C. ) (pending before the  
17 Legislature as this bill);

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

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

29 w. To charge to and collect from local units, the State, and any  
30 other person, any fees and charges in connection with the  
31 development authority's actions undertaken with respect to school  
32 facilities projects including, but not limited to, fees and charges for  
33 the development authority's administrative, organization, insurance,  
34 operating and other expenses incident to the planning, design,  
35 construction and placing into service and maintenance of school  
36 facilities projects.

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

46 b. A violation of the rules and regulations adopted pursuant to  
47 this section shall be deemed to be a violation of P.L.1963, c. 150  
48 (C.34:11-56.25 et seq.). The Commissioner of Labor and

1 Workforce Development and any worker shall have the same  
2 powers of enforcement against violations of such rules and  
3 regulations as are provided by sections 11 through 16, inclusive, of  
4 P.L.1963, c.150 (C.34:11-56.35 - 34:11-56.40).

5 c. The rules and regulations concerning the prevailing wage  
6 rate in connection with school facilities projects which have been  
7 adopted by the New Jersey Schools Construction Corporation  
8 pursuant to the provisions of P.L.2000, c. 72 (C.18A:7G-1 et al.)  
9 shall remain in full force and effect unless subsequently revised by  
10 the development authority following the enactment of P.L. ,  
11 c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

1 any recovery against the development authority for claims based  
2 upon implied warranties or upon contracts implied in law.

3  
4 8. (New section) a. No municipality shall modify or change the  
5 drawings, plans or specifications for the construction,  
6 reconstruction, rehabilitation, alteration or improvement of any  
7 school facilities project of the development authority, or the  
8 construction, plumbing, heating, lighting or other mechanical  
9 branch of work necessary to complete the work in question, nor to  
10 require that any person, firm or corporation employed on any such  
11 work shall perform the work in any other or different manner than  
12 that provided by the drawings, plans and specifications, nor to  
13 require that any person, firm or corporation obtain any other or  
14 additional authority, approval, permit or certificate from the  
15 municipality in relation to the work being done, and the doing of  
16 the work by any person, firm or corporation in accordance with the  
17 terms of the drawings, plans, specifications or contracts shall not  
18 subject the person, firm or corporation to any liability or penalty,  
19 civil or criminal, other than as may be stated in the contracts or  
20 incidental to the proper enforcement thereof; nor shall any  
21 municipality require the development authority or any person, firm,  
22 partnership or corporation which leases or purchases the school  
23 facilities project for lease or purchase to a State agency, to obtain  
24 any other or additional authority, approval, permit, certificate or  
25 certificate of occupancy from the municipality as a condition of  
26 owning, using, maintaining, operating or occupying any school  
27 facilities project acquired, constructed, reconstructed, rehabilitated,  
28 altered or improved by the development authority or by any  
29 subsidiary thereof. The foregoing provisions shall not preclude any  
30 municipality from exercising the right of inspection for the purpose  
31 of requiring compliance by any school facilities project with local  
32 requirements for operation and maintenance affecting the health,  
33 safety and welfare of the occupants thereof, provided that the  
34 compliance does not require changes, modifications or additions to  
35 the original construction of the school facilities project.

36 b. Each municipality in which any school facilities project of  
37 the development authority is located shall provide for the school  
38 facilities project, whether then owned by the development authority,  
39 any subsidiary, any State agency, or any person, firm, partnership or  
40 corporation, police, fire, sanitation, health protection and other  
41 municipal services of the same character and to the same extent as  
42 those provided for other residents of the municipality.

43 c. Notwithstanding the provisions of any law, rule or regulation  
44 to the contrary and except as otherwise provided by any federal law,  
45 the development authority shall be exempt from all connection,  
46 tapping, maintenance or capital improvement fees or charges in  
47 respect to each connection of any school facility project with a

1 water or sewerage system operated by a political subdivision or  
2 agency of the State.

3 d. In carrying out any school facilities project, the development  
4 authority may enter into contractual agreements with local  
5 government agencies with respect to the furnishing of any  
6 community, municipal, or public facilities or services necessary or  
7 desirable for the school facilities project, and any local government  
8 agency may enter into these contractual agreements with the  
9 authority and do all things necessary to carry out its obligations.  
10

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

22 Commencing in the fifth year after the year in which  
23 P.L. , c. (C. ) (pending before the Legislature as this bill) takes  
24 effect, and every five years thereafter, the Governor, in consultation  
25 with the Department of the Treasury, shall adjust the amount set  
26 forth in this subsection or the amount resulting from any adjustment  
27 under this subsection in direct proportion to the rise or fall of the  
28 index rate as defined in this subsection, and shall round the  
29 adjustment to the nearest \$1,000. The Governor shall, no later than  
30 June 1 of every fifth year, notify the development authority of the  
31 adjustment. The adjustment shall become effective on July 1 of the  
32 year in which it is made.

33 For the purposes of this subsection, "index rate" means the rate  
34 of annual percentage increase, rounded to the nearest half-percent,  
35 in the Implicit Price Deflator for State and Local Government  
36 Purchases of Goods and Services, computed and published quarterly  
37 by the United States Department of Commerce, Bureau of  
38 Economic Analysis.

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

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

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

1 e. The development authority shall require from all contractors  
2 to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-  
3 1 et al.) and P.L. , c. (C. ) (pending before the Legislature as  
4 this bill), the delivery of a payment and performance bond issued in  
5 accordance with N.J.S.2A:44-143 et seq.

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

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

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

22 h. All advertisements for bids shall be published in a legal  
23 newspaper and be posted on the development authority's website  
24 sufficiently in advance of the date fixed for receiving the bids to  
25 promote competitive bidding but in no event less than ~~'[7]~~ 10<sup>1</sup>  
26 days prior to such date. Notice of revisions or addenda to  
27 advertisements or bid documents relating to bids shall be advertised  
28 on the development authority's website to best give notice to  
29 bidders no later than seven days, Saturdays, Sundays and holidays  
30 excepted, prior to the bid due date. The notice shall be provided to  
31 any person who has submitted a bid, in one of the following ways:  
32 (a) in writing by certified mail or (b) by certified facsimile  
33 transmission, meaning that the sender's facsimile machine produces  
34 a receipt showing date and time of transmission and that the  
35 transmission was successful or (c) by a delivery service that  
36 provides certification of delivery to the sender. Failure to advertise  
37 or provide proper notification of revisions or addenda to  
38 advertisements or bid documents related to bids as prescribed by  
39 this section shall prevent the acceptance of bids and require the  
40 readvertisement for bids. Failure to obtain a receipt when good  
41 faith notice is sent or delivered to the address or telephone facsimile  
42 number on file with the development authority shall not be  
43 considered failure by the development authority to provide notice.

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

47 j. Any purchase, contract, or agreement may be made,  
48 negotiated, or awarded by the development authority without public

1 bid or advertising when the authority has advertised for bids on two  
2 occasions and has received no bids on both occasions in response to  
3 its advertisements. Any purchase, contract, or agreement may be  
4 negotiated by the development authority after public bid or  
5 advertising when the authority receives only a single responsive  
6 bid, provided however that negotiation with that single responsive  
7 bidder shall be limited to price.

8  
9 10. (New section) a. If the development authority shall find it  
10 necessary in connection with the undertaking of any school  
11 facilities project to change the location of any portion of any public  
12 highway or road, it may contract with any government agency, or  
13 public or private corporation which may have jurisdiction over the  
14 public highway or road to cause the public highway or road to be  
15 constructed at such locations as the authority shall deem most  
16 favorable. The cost of the reconstruction and any damage incurred  
17 in changing the location of the highway shall be ascertained and  
18 paid by the development authority as part of the cost of the school  
19 facilities project. Any public highway affected by the construction  
20 of any school facilities project may be vacated or relocated by the  
21 development authority in the manner now provided by law for the  
22 vacation or relocation of public roads, and any damages awarded on  
23 account thereof shall be paid by the development authority as a part  
24 of the cost of the school facilities project. In all undertakings  
25 authorized by this subsection, the development authority shall  
26 consult and obtain the approval of the Commissioner of the  
27 Department of Transportation.

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

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



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

18

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

34

35 12. (New section) All property of the development authority  
36 shall be exempt from levy and sale by virtue of an execution and no  
37 execution or other judicial process shall issue against the same nor  
38 shall any judgment against the development authority be a charge or  
39 lien upon its property.

40

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

47 b. Whenever, in any law, rule, regulation, order, contract,  
48 document, judicial or administrative proceeding or otherwise,

1 reference is made to the New Jersey Schools Construction  
2 Corporation, the same shall mean and refer to the New Jersey  
3 Schools Development Authority in, but not of, the Department of  
4 the Treasury.

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

7  
8 14. (New section) a. In the event that the development authority  
9 funds 100% of the cost of the acquisition of land for the  
10 construction of a school facilities project and as a result of the  
11 construction of that project a school building located in the district  
12 and the land upon which the school building is situate are no longer  
13 necessary for educational purposes, title to the land together with  
14 the school building on the land shall be conveyed to and shall vest  
15 in the New Jersey Schools Development Authority established  
16 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) when it is determined by the development  
18 authority that such conveyance is in the best interest of the  
19 development authority. The district shall execute any documents  
20 including, but not limited to, a deed of conveyance necessary to  
21 accomplish the transfer of title.

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

27 c. The transfer of title pursuant to subsection a. of this section  
28 shall occur in accordance with a schedule determined by the  
29 development authority. The schedule may provide that the transfer  
30 occur prior to the completion of the construction of the new school  
31 facilities project if the development authority deems it necessary in  
32 order to complete additional school facilities projects within the  
33 district.

34  
35 15. (New section) If land is necessary to be acquired in  
36 connection with a school facilities project in an Abbott district, the  
37 board of education of the district and the governing body of the  
38 municipality in which the district is situate shall jointly submit to  
39 the commissioner and to the development authority a complete  
40 inventory of all district- and municipal-owned land located in the  
41 municipality. The inventory shall include a map of the district  
42 showing the location of each of the identified parcels of land. The  
43 board of education and the governing body of the municipality shall  
44 provide an analysis of why any district- or municipal-owned land is  
45 not suitable as a site for a school facilities project identified in the  
46 district's long range facilities plan. The inventory shall be updated  
47 as needed in connection with any subsequent school facilities  
48 projects for which it is necessary to acquire land.

1       16. (New section) a. Whenever the board of education of an  
2 Abbott district submits to the New Jersey Schools Development  
3 Authority established pursuant to P.L.     , c.     (C.     ) (pending  
4 before the Legislature as this bill) information on a proposed  
5 preferred site for the construction of a school facilities project, the  
6 development authority shall file a copy of a map, plan or report  
7 indicating the proposed preferred site with the county clerk of the  
8 county within which the site is located and with the municipal clerk,  
9 planning board, and building inspector of the municipality within  
10 which the site is located.

11       b. Whenever a map, plan, or report indicating a proposed  
12 preferred site for the construction of an Abbott district school  
13 facilities project is filed by the development authority pursuant to  
14 subsection a. of this section, any municipal approving authority  
15 before granting any site plan approval, building permit, or approval  
16 of a subdivision plat, or exercising any other approval power with  
17 respect to the development or improvement of any lot, tract, or  
18 parcel of land which is located wholly or partially within the  
19 proposed preferred site shall refer the site plan, application for a  
20 building permit or subdivision plat or any other application for  
21 proposed development or improvement to the development  
22 authority for review and recommendation as to the effect of the  
23 proposed development or improvement upon the construction of the  
24 school facilities project.

25       c. A municipal approving authority shall not issue any site plan  
26 approval or building permit or approve a subdivision plat or  
27 exercise any other approval power with respect to the development  
28 or improvement of the lot, tract, or parcel of land without the  
29 recommendation of the development authority until 45 days  
30 following referral to the development authority pursuant to  
31 subsection b. of this section. Within that 45-day period, the  
32 development authority may:

33       (1) give notice to the municipal approving authority and to the  
34 owner of the lot, tract, or parcel of land of probable intention to  
35 acquire the whole or any part thereof, and no further action shall be  
36 taken by the approving authority for a further period of 180 days  
37 following receipt of notice from the development authority. If  
38 within the 180-day period the development authority has not  
39 acquired, agreed to acquire, or commenced an action to condemn  
40 the property, the municipal approving authority shall be free to act  
41 upon the pending application in such manner as may be provided by  
42 law; or

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

1 17. (New section) Notwithstanding any provision of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
3 the contrary, a school facilities project of a '[nonAbbott]'<sup>1</sup> district  
4 'other than an Abbott district,'<sup>1</sup> with a district aid percentage equal  
5 to or greater than 55% or of a '[nonAbbott]'<sup>1</sup> district 'other than  
6 an Abbott district,'<sup>1</sup> with a district aid percentage of less than 55%  
7 that had been approved by the Commissioner of Education and the  
8 New Jersey Schools Construction Corporation prior to the effective  
9 date of P.L. , c. (C. ) (pending before the Legislature as this  
10 bill) to be constructed by the corporation, shall be constructed and  
11 financed in accordance with the provisions of P.L. 2000, c.72  
12 (C.18A:7G-1 et al.) as the same read before the effective date of  
13 P.L. , c. (C. ) (pending before the Legislature as this bill).

14

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

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

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

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

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

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

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

1       “Capital maintenance project” means a school facilities project  
2 intended to extend the useful life of a school facility, including up-  
3 grades and replacements of building systems, such as structure,  
4 enclosure, mechanical, plumbing and electrical systems;

5       "Commissioner" means the Commissioner of Education;

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

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

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

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

30       “Development authority” means the New Jersey Schools  
31 Development Authority established pursuant to section 3 of P.L. ,  
32 c. (C. ) (pending before the Legislature as this bill);

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

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

1 c.138 (C.18A:7F-13) as of the date of the commissioner's  
2 determination of preliminary eligible costs;

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

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

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

16 "Final eligible costs" means for school facilities projects to be  
17 constructed by the development authority, the final eligible costs of  
18 the school facilities project as determined by the commissioner, in  
19 consultation with the development authority, pursuant to section 5  
20 of this act; for demonstration projects, the final eligible costs of the  
21 project as determined by the commissioner and reviewed by the  
22 development authority which may include the cost of community  
23 design features determined by the commissioner to be an integral  
24 part of the school facility and which do not exceed the facilities  
25 efficiency standards, and which were reviewed by the development  
26 authority and approved by the State Treasurer pursuant to section 6  
27 of this act; and for **'[nonAbbott]'** districts **['whose district aid  
28 percentage is less than 55% and which elect not to have the  
29 authority construct a school facilities project] 'other than Abbott  
30 districts'** , final eligible costs as determined pursuant to paragraph  
31 (1) of subsection h. of section 5 of this act;

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

35 "FTE" means a full-time equivalent student which shall be  
36 calculated as follows: in districts that qualify for early childhood  
37 program aid pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-  
38 16), each student in grades kindergarten through 12 shall be counted  
39 at 100% of the actual count of students, and each preschool student  
40 approved by the commissioner to be served in the district shall be  
41 counted at 50% or 100% of the actual count of preschool students  
42 for an approved half-day or full-day program, respectively; in  
43 districts that do not qualify for early childhood program aid  
44 pursuant to section 16 of P.L.1996, c.138 (C.18A:7F-16), each  
45 student in grades 1 through 12 shall be counted at 100% of the  
46 actual count of students, in the case of districts which operate a  
47 half-day kindergarten program each kindergarten student shall be

1 counted at 50% of the actual count of kindergarten students, in the  
2 case of districts which operate a full-day kindergarten program or  
3 which currently operate a half-day kindergarten program but  
4 propose to build facilities to house a full-day kindergarten program  
5 each kindergarten student shall be counted at 100% of the actual  
6 count of kindergarten students, and preschool students shall not be  
7 counted. In addition, each preschool handicapped child who is  
8 entitled to receive a full-time program pursuant to N.J.S.18A:46-6  
9 shall be counted at 100% of the actual count of these students in the  
10 district;

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

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

42 "Local share" means, in the case of a school facilities project to  
43 be constructed by the development authority, the total costs less the  
44 State share as determined pursuant to section 5 of this act; in the  
45 case of a demonstration project, the total costs less the State share  
46 as determined pursuant to sections 5 and 6 of this act; and in the  
47 case of a school facilities project [not to be constructed by the  
48 authority, but] which shall be financed pursuant to section 15 of

1 this act, the total costs less the State share as determined pursuant to  
2 that section;

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

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

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

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

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

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

44 "Preliminary eligible costs" means the initial eligible costs of a  
45 school facilities project as calculated pursuant to the formulas set  
46 forth in section 7 of this act or as otherwise provided pursuant to  
47 section 5 of P.L.2000, c.72 (C.18A:7G-5) and which shall be



1 deemed to include the costs of construction and other allowable  
2 costs;

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

8 ["Report on the Cost of Providing a Thorough and Efficient  
9 Education" or "Report" means the report issued by the  
10 commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-  
11 4);]

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

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

26 "School facility" means and includes any structure, building or  
27 facility used wholly or in part for **[academic] educational** purposes  
28 by a district and facilities that physically support such structures,  
29 buildings and facilities, such as district wastewater treatment  
30 facilities, power generating facilities, and steam generating  
31 facilities, but shall exclude **[athletic stadiums, grandstands, and any**  
32 **structure, building or facility used solely for school administration]**  
33 other facilities;

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

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

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

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

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

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

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

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

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

37

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

40 4. a. [Beginning in the 1999-2000 school year and in every  
41 school year thereafter ending with a "0" or a "5"] By December 15,  
42 2000 and by October 1, 2005, each district shall prepare and submit  
43 to the commissioner a long-range facilities plan that details the  
44 district's school facilities needs and the district's plan to address  
45 those needs for the ensuing five years. Following the approval of  
46 the 2005 long-range facilities plan, each district shall amend its  
47 long-range facilities plan at least once every five years to update  
48 enrollment projections, building capacities, and health and safety

1 conditions. The long-range facilities plan shall incorporate the  
2 facilities efficiency standards and shall be filed with the  
3 commissioner [no later than December 15, 2000 and no later than  
4 October 1 of the other filing years] for approval in accordance with  
5 those standards. For those Abbott districts that have submitted  
6 long-range facilities plans to the commissioner prior to the effective  
7 date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not  
8 be read to require an additional filing by October 1, 2000.

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

24 c. An amendment to a long-range facilities plan may be  
25 submitted at any time to the commissioner for review and  
26 **[approval]** determination on the approval or disapproval of the  
27 amendment.

28 d. Each long-range facilities plan shall include a cohort  
29 survival methodology or other methodology approved by the  
30 commissioner, accompanied by a certification by a qualified  
31 demographer retained by the district that serves as the basis for  
32 identifying the capacity and program needs detailed in the long-  
33 range facilities plan.

34 e. The long-range facilities plan shall include an educational  
35 adequacy inventory of all existing school facilities in the district  
36 including the adequacy of school facilities to educate within the  
37 district the existing and projected number of pupils with disabilities,  
38 the identification of all deficiencies in the district's current  
39 inventory of school facilities, which includes the identification of  
40 those deficiencies that involve emergent health and safety concerns,  
41 and the district's proposed plan for future construction and  
42 renovation. The long-range facilities plan submissions shall  
43 conform to the guidelines, criteria and format prescribed by the  
44 commissioner.

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

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

7 h. The commissioner shall develop, for the March 2002 Report  
8 on the Cost of Providing a Thorough and Efficient Education **【and**  
9 **for subsequent reports】** issued by the commissioner pursuant to  
10 section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency  
11 standards for elementary, middle, and high schools consistent with  
12 the core curriculum school delivery assumptions in the report and  
13 sufficient for the achievement of the core curriculum content  
14 standards, including the provision of required programs in Abbott  
15 districts and early childhood education programs in the districts in  
16 which these programs are required by the State. The area  
17 allowances per FTE student in each class of the district shall be  
18 derived from these facilities efficiency standards. The  
19 commissioner shall revise the facilities efficiency standards in  
20 accordance with such schedule as the commissioner deems  
21 necessary. The commissioner shall publish the revised facilities  
22 efficiency standards in the New Jersey Register and, within a  
23 reasonable period of time after 30 days following publication, shall  
24 file the revised facilities efficiency standards with the Office of  
25 Administrative Law for publication in the New Jersey Register and  
26 those standards shall become effective immediately upon filing.  
27 During the 30-day period the commissioner shall provide an  
28 opportunity for public comment on the proposed facilities  
29 efficiency standards.

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

47 Within a reasonable period of time after the effective date of  
48 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish

1 the facilities efficiency standards developed for the 2000-2001,  
2 2001-2002, and 2002-2003 school years in the New Jersey Register.  
3 Within a reasonable period of time after 30 days after publication in  
4 the New Jersey Register, the commissioner shall file the facilities  
5 efficiency standards with the Office of Administrative Law and  
6 those standards shall become effective immediately upon filing with  
7 the Office of Administrative Law. During the 30-day period the  
8 commissioner shall provide an opportunity for public comment on  
9 the proposed facilities efficiency standards.

10 i. Within 90 days of the commissioner's receipt of a long-range  
11 facilities plan for review, the commissioner shall determine whether  
12 the plan is fully and accurately completed and whether all  
13 information necessary for a decision on the plan has been filed by  
14 the district. If the commissioner determines that the plan is  
15 complete, the commissioner shall promptly notify the district in  
16 writing and shall have 60 days from the date of that notification to  
17 determine whether to approve the plan or not. If the commissioner  
18 determines that the plan is not complete, the commissioner shall  
19 notify the district in writing. The district shall provide to the  
20 commissioner whatever information the commissioner determines is  
21 necessary to make the plan accurate and complete. The district  
22 shall submit that information to the commissioner, and the  
23 commissioner shall have 60 days from the date of receipt of  
24 accurate and complete information to determine whether to approve  
25 the plan or not.

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

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

46 l. By July 1, 2001, the commissioner shall provide the  
47 Legislature with recommendations to address the circumstances of  
48 districts which are contiguous with two or more Abbott districts.

1 The recommendations shall address the issues of the financing of  
2 school facilities projects and the funding of the educational and  
3 other programs required within these districts as a result of their  
4 unique demographic situation.

5 m. By July 1, 2001, the commissioner shall study the Safe  
6 Schools Design Guidelines, prepared by the Florida Center for  
7 Community Design and Research, which address the issues of  
8 school safety and security through the design of school facilities.  
9 Based upon the commissioner's study, the commissioner shall issue  
10 recommendations to districts on the appropriateness of including  
11 the Safe Schools Design Guidelines in the design and construction  
12 of school facilities projects.  
13 (cf: P.L.2000, c.72, s.4)

14

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

17 5. a. The development authority shall **【construct】** undertake and  
18 the financing authority shall finance the school facilities projects of  
19 Abbott districts**【**, districts in level II monitoring pursuant to section  
20 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of  
21 P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with a district aid  
22 percentage equal to or greater than 55% **】**.

23 b. **【**Any district whose district aid percentage is less than 55%  
24 may elect to have the authority undertake the construction of a  
25 school facilities project in the district and the State share shall be  
26 determined pursuant to this section. In the event that the district  
27 elects not to have the authority undertake the construction of the  
28 project】 In the case of a **【nonAbbott】** district 'other than an  
29 Abbott district<sup>1</sup>, State support for the project shall be determined  
30 pursuant to section 9 or section 15 of this act, as applicable.

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

39 d. (1) Any district seeking to initiate a school facilities project  
40 shall apply to the commissioner for approval of the project. The  
41 application **【**shall, at a minimum, contain the following  
42 information】 may include, but not be limited to: a description of the  
43 school facilities project; a schematic drawing of the project or, at  
44 the option of the district, preliminary plans and specifications; a  
45 delineation and description of each of the functional components of  
46 the project; educational specifications detailing the programmatic  
47 needs of each proposed space; the number of unhoused students to

1 be housed in the project; the area allowances per FTE student as  
2 calculated pursuant to section 8 of this act; and the estimated cost to  
3 complete the project as determined by the district.

4 (2) In the case of an Abbott district school facilities project,  
5 based upon its educational priority ranking and the Statewide  
6 strategic plan established pursuant to subsection m. of this section,  
7 the commissioner may authorize the development authority to  
8 undertake preconstruction activities which may include, but need  
9 not be limited to, site identification, investigation, and acquisition,  
10 feasibility studies, land-related design work, design work, site  
11 remediation, demolition, and acquisition of temporary facilities.  
12 Upon receipt of the authorization, the development authority may  
13 initiate the preconstruction activities required to prepare the  
14 application for commissioner approval of the school facilities  
15 project.

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

38 f. If the commissioner determines that the school facilities  
39 project complies with the facilities efficiency standards and the  
40 district's long-range facilities plan and does not exceed the area  
41 allowance per FTE student derived from those standards, the  
42 commissioner shall calculate the preliminary eligible costs of the  
43 project pursuant to the formulas set forth in section 7 of this act;  
44 except that (1) in the case of a county special services school  
45 district or a county vocational school district, the commissioner  
46 shall calculate the preliminary eligible costs to equal the amount  
47 determined by the board of school estimate and approved by the  
48 board of chosen freeholders pursuant to section 14 of P.L.1971,

1 c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate , and (2) in  
2 the case of an Abbott district, the commissioner shall calculate the  
3 preliminary eligible costs to equal the estimated cost as determined  
4 by the development authority.

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

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

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

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

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



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

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

29 (1) In the case of a <sup>1</sup>**[nonAbbott]**<sup>1</sup> district **[whose district aid**  
30 **percentage is less than 55% and which has elected not to have the**  
31 **authority undertake the construction of the]** <sup>1</sup>other than an Abbott  
32 district<sup>1</sup>, the commissioner shall notify the district whether the  
33 school facilities project is approved and, if so approved, the  
34 preliminary eligible costs and the excess costs, if any. Following the  
35 determination of preliminary eligible costs and the notification of  
36 project approval, the district may appeal to the commissioner for an  
37 increase in those costs if the detailed plans and specifications  
38 completed by a design professional for the school facilities project  
39 indicate that the cost of constructing that portion of the project  
40 which is consistent with the facilities efficiency standards and does  
41 not exceed the area allowances per FTE student exceeds the  
42 preliminary eligible costs as determined by the commissioner for  
43 the project by 10% or more. The district shall file its appeal within  
44 30 days of the preparation of the plans and specifications. If the  
45 district chooses not to file an appeal, then the final eligible costs  
46 shall equal the preliminary eligible costs.

47 The appeal shall outline the reasons why the preliminary eligible  
48 costs calculated for the project are inadequate and estimate the

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

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

36 i. Upon receipt by the development authority of the  
37 preliminary project report, the development authority, upon  
38 consultation with the district, shall prepare detailed plans and  
39 specifications and schedules which contain the development  
40 authority's estimated cost and schedule to complete the school  
41 facilities project. The development authority shall transmit to the  
42 commissioner **[the authority's]** its recommendations in regard to  
43 the project which shall, at a minimum, contain the detailed plans  
44 and specifications; whether the school facilities project can be  
45 completed within the preliminary eligible costs; and any other  
46 factors which the development authority determines should be  
47 considered by the commissioner.

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

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

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

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

39 (c) If the additional costs are the result of factors that are within  
40 the control of the district or are the result of design factors that are  
41 not required to meet the facilities efficiency standards or approved  
42 pursuant to paragraph (1) of subsection g. of this section, the  
43 development authority shall recommend to the commissioner that  
44 the preliminary eligible costs be accepted, whereupon the  
45 commissioner shall: calculate the final eligible costs to equal the  
46 preliminary eligible costs and specify the excess costs which are to  
47 be borne by the district; give final approval to the school facilities  
48 project; and issue a final project report to the development authority

1 pursuant to subsection j. of this section; provided that the  
2 commissioner may approve final eligible costs which are in excess  
3 of the preliminary eligible costs if, in his judgment, the action is  
4 necessary to meet the educational needs of the district.

5 (d) For a school facilities project **【constructed】** undertaken by  
6 the development authority, the development authority shall be  
7 responsible for any costs of construction, but only from the  
8 proceeds of bonds issued by the financing authority pursuant to  
9 **【this act】** P.L.2000, c.72 (C.18A:7G-1 et al. and P.L. , c. (C. )  
10 (pending before the Legislature as this bill), which exceed the  
11 amount originally projected by the development authority and  
12 approved for financing by the development authority, provided that  
13 the excess is the result of an underestimate of labor or materials  
14 costs by the development authority. After receipt by the  
15 development authority of the final project report, the district shall  
16 be responsible only for the costs associated with changes, if any,  
17 made at the request of the district to the scope of the school  
18 facilities project.

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

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

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

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

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

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

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

10 Tier III: technology projects; regionalization or consolidation  
11 projects;

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

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

40 (3) Upon the commissioner's determination of the educational  
41 priority ranking of school facilities projects in Abbott districts  
42 pursuant to paragraph (2) of this subsection, the development  
43 authority, in consultation with the commissioner, the Abbott  
44 districts, and the governing bodies of the municipalities in which  
45 the Abbott districts are situate, shall establish a Statewide strategic  
46 plan to be used in the sequencing of Abbott district school facilities  
47 projects based upon the projects' educational priority rankings and  
48 issues which impact the development authority's ability to complete

1 the projects including, but not limited to, the construction schedule  
2 and other appropriate factors. The development authority shall  
3 revise the Statewide strategic plan and the sequencing of Abbott  
4 district school facilities projects in accordance with that plan no less  
5 than once every five years.

6 'Any amendment to an Abbott district's long-range facilities  
7 plan that is submitted to the commissioner in the period between the  
8 five-year updates of the long-range facilities plan shall be  
9 considered by the development authority, in consultation with the  
10 commissioner, for incorporation into the Statewide strategic plan.  
11 In making a determination on whether or not to amend the  
12 Statewide strategic plan, the development authority shall consider  
13 the cost of the amendment, the impact of the amendment upon the  
14 school development plans for other districts, and other appropriate  
15 factors.'<sup>1</sup>

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

21 o. In the [event that a district whose district aid percentage is  
22 less than 55% elects not to have the authority undertake  
23 construction of a school facilities project] case of a '[nonAbbott  
24 district]' school facilities project 'of a district other than an Abbott  
25 district'<sup>1</sup>, any proceeds of school bonds issued by the district for the  
26 purpose of funding the project which remain unspent upon  
27 completion of the project shall be used by the district to reduce the  
28 outstanding principal amount of the school bonds.

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

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

38 r. [In the event that a district has engaged architectural  
39 services to prepare the documents required for initial proposal of a  
40 school facilities project, the district shall, if permitted by the terms  
41 of the district's contract for architectural services, and at the option  
42 of the authority assign the contract for architectural services to the  
43 authority if the authority determines that the assignment would be  
44 in the best interest of the school facilities project.] Deleted by  
45 amendment, P.L. , c. (pending before the Legislature as this bill)

46 s. [Notwithstanding anything to the contrary contained in  
47 P.L.2000, c.72 (C.18A:7G-1 et al.), an ECPA district, at its option,

1 may provide in its long-range facilities plan submitted pursuant to  
2 section 4 of this act, for one or more community early childhood  
3 education facilities projects. If the district has requested  
4 designation of a demonstration project pursuant to section 6 of this  
5 act and is eligible to submit a plan for a community early childhood  
6 education facilities project pursuant to this section, the district shall  
7 be permitted to include the community early childhood education  
8 facilities project as part of the demonstration project.

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

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

44 (3) If the commissioner approves the project, the commissioner  
45 shall determine, in consultation with the authority, the cost to  
46 complete the approved project, which shall be the reasonable,  
47 estimated cost of the renovation or new construction necessary to  
48 provide a facility which is structurally adequate and safe and

1 capable of providing a program which will enable preschool  
2 children being served pursuant to the ECPA district's approved  
3 early childhood education operation plan to meet the standards for  
4 early childhood education programs established by the department.  
5 For projects initiated by an Abbott district, the State support shall  
6 be 100% of such reasonable, estimated cost. For projects initiated  
7 by an ECPA district that is not an Abbott district, the State support  
8 shall be an amount equal to 115% of the district aid percentage of  
9 that ECPA district, of such reasonable, estimated cost, except that  
10 the State support shall not be less than 40% of such reasonable,  
11 estimated cost. The commissioner shall issue a final project report  
12 to the authority which shall contain a complete description of the  
13 project, the actual location of the project, the total square footage of  
14 the project together with a breakdown of total square footage by  
15 functional component; any other factors to be considered by the  
16 authority in undertaking the project; the names and addresses of the  
17 people to contact from the district and the community provider; the  
18 amount of State support for the project; and the amount of local  
19 support required from the community provider to pay for costs, if  
20 any, of the project which have not been approved by the  
21 commissioner for State support.

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

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

40 (6) The authority shall require as a condition of providing State  
41 support for any community early childhood education facilities  
42 project that the State support must be repaid by the community  
43 provider in the event that (a) the commissioner determines that the  
44 project is no longer being used for the purposes for which it was  
45 intended; or (b) the project is sold, leased or otherwise conveyed to  
46 an individual or organization that does not have tax exempt  
47 nonprofit or government status. ] Deleted by



1 amendment, P.L. , c. (pending before the Legislature as this bill)  
2 (cf: P.L.2006, c.47, s.91)

3

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

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

9 a. For the initial three full fiscal years following the effective  
10 date of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al.), the State  
11 Treasurer may designate up to six school facilities projects which  
12 the State Treasurer determines to be in the best interests of the State  
13 and of the districts to be demonstration projects pursuant to the  
14 provisions of this section. As used in this section, "authority"  
15 means the New Jersey Economic Development Authority which  
16 was designated as both the financing and construction agency for  
17 school facilities projects prior to the enactment of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill); except that  
19 in the event that any actions required to be taken pursuant to this  
20 section by the New Jersey Economic Development Authority or its  
21 subsidiary, the New Jersey Schools Construction Corporation, have  
22 not been taken prior to the effective date of P.L. , c. (C. )  
23 (pending before the Legislature as this bill), authority shall mean  
24 the New Jersey Schools Development Authority.

25 b. A district and municipality may apply to the authority for the  
26 designation of a school facilities project contained in a long-range  
27 facilities plan submitted to the commissioner pursuant to section 4  
28 of P.L.2000, c.72 (C.18A:7G-4) to be a demonstration project to  
29 provide for the coordination of local economic development,  
30 redevelopment or community development with a school facilities  
31 project. The application shall be accompanied by resolutions  
32 requesting the designation adopted by the board of education of the  
33 district and the governing body of the municipality. The  
34 application shall set forth:

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

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

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

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

45 c. The authority shall evaluate the request to determine  
46 whether the school facilities project is suitable for designation as a  
47 demonstration project and whether the proposed redevelopment  
48 entity is suitable for designation as the entity to construct the

1 demonstration project based upon consideration of the following  
2 factors:

3 (1) whether the demonstration project furthers definite local  
4 objectives as to appropriate land uses, density of population, and  
5 improved traffic and public transportation, public utilities,  
6 recreational and community facilities and other public  
7 improvements;

8 (2) whether the demonstration project provides significant social  
9 and economic benefits to the municipality, its neighborhoods and  
10 residents;

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

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

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

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

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

21 d. The authority's review of the proposed school facilities  
22 project for designation as a demonstration project under this section  
23 shall commence upon approval by the commissioner of the school  
24 facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-  
25 5). Upon approval by the commissioner of the school facilities  
26 project, and recommendation by the authority that the school  
27 facilities project be a demonstration project, the recommendation of  
28 the authority shall be forwarded to the State Treasurer who shall  
29 determine whether the school facilities project should be designated  
30 as a demonstration project. At the same time as the authority  
31 forwards its recommendation to the State Treasurer, the authority  
32 shall forward its recommendation to the Urban Coordinating  
33 Council for review pursuant to subsection i. of this section.

34 e. In addition to the requirements set forth in section 5 of this  
35 act, a demonstration project may request inclusion in the final  
36 eligible costs of the school facilities project, of all or any portion of  
37 the cost of any community design features including any area,  
38 rooms, equipment, recreational area or playground included in the  
39 school facilities project which are to be used in common by students  
40 of the district and by residents of the community, but there shall not  
41 be included in the final eligible costs any portion of the cost of any  
42 features which are not an integral part of the school building and  
43 grounds or exceed the facilities efficiency standards. The  
44 commissioner shall approve the inclusion of the community design  
45 features as part of the school facilities project if he finds that the  
46 inclusion of the community design features as part of the school  
47 facilities project would be conducive to the usefulness and success  
48 of the project for both the students of the district and the residents

1 of the community. The commissioner may condition his approval  
2 upon the adoption by the district of policies suitable for assuring  
3 continuing community or educational access to the community  
4 design features.

5 f. The cost of the community design features approved by the  
6 commissioner shall be reviewed by the authority. The district shall  
7 submit the documentation required by the authority for the authority  
8 to make its determination. The authority shall, in its  
9 recommendation to the commissioner pursuant to section 5 of this  
10 act, include its recommendation with respect to the cost of the  
11 community design features. The commissioner shall make the final  
12 determination with respect to the inclusion of the cost of  
13 community design features in the final eligible costs.

14 g. The authority shall provide funding for the State's share of  
15 the final eligible costs of a school facilities project to be constructed  
16 as part of a demonstration project pursuant to an agreement among  
17 the authority, the redevelopment entity and the district which shall,  
18 in addition to any other terms and conditions, set forth the terms for  
19 disbursement of the State share and provide for the monitoring of  
20 construction by the authority.

21 h. Upon completion of a demonstration project by a  
22 redevelopment entity, the district shall submit to the commissioner  
23 a plan to provide for the maintenance of the project and shall enter  
24 into a contract which provides for that maintenance.

25 i. The Urban Coordinating Council shall review the  
26 recommendations of the authority with respect to the demonstration  
27 projects and shall advise the authority, redevelopment entity and the  
28 district regarding the potential availability of funding for the  
29 demonstration project, including, but not limited to, sources of  
30 funds for acquisition, clearance, site remediation, and assemblage  
31 of land and the development, redevelopment, construction or  
32 rehabilitation of any structure or improvement included in the  
33 project.

34 j. Any district may consult with the Urban Coordinating  
35 Council with respect to the potential availability of funding for  
36 aspects of the school facilities project, including, but not limited to,  
37 sources of funds for acquisition, clearance, site remediation, and  
38 assemblage of land and the development, redevelopment,  
39 construction or rehabilitation of any structure or improvement  
40 included in the project.

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

42

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

45 9. a. State debt service aid for capital investment in school  
46 facilities for a **'[nonAbbott]'** district **【whose district aid percentage**  
47 **is less than 55% and】** **'other than an Abbott district'** which elects  
48 not to **【have the authority construct a school facilities project or to】**

1 finance the project under section 15 of this act, shall be distributed  
2 upon a determination of preliminary eligible costs by the  
3 commissioner, according to the following formula:

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

7 where

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

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

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

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

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

17 DAP is the district's district aid percentage as defined pursuant to  
18 section 3 of this act and where (DAP x 1.15) shall not be less than  
19 40%; and

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

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

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

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

42 (2) For new construction, additions, and school facilities aided  
43 under subsection b. of section 7 of this act supported by financing  
44 issued for projects approved by the commissioner after the effective  
45 date of P.L.2000, c.72 (C.18A:7G-1 et al.), beginning in the fourth  
46 year after occupancy of the school facility, the maintenance factor  
47 shall be reduced according to the following schedule for all school  
48 facilities projects for which the district fails to demonstrate in the

1 prior fiscal year an investment in maintenance of the related school  
 2 facility of at least two-tenths of 1% of the replacement cost of the  
 3 school facility, determined pursuant to subsection b. of section 7 of  
 4 this act.

5 Maintenance Percentage	Maintenance Factor (M)
6 .199% - .151%	75%
7 .150% - .100%	50%
8 Less than .100%	Zero

9 (3) Within one year of the enactment of P.L.2000, c.72  
 10 (C.18A:7G-1 et al.), the commissioner shall promulgate rules  
 11 requiring districts to develop a long-range maintenance plan and  
 12 specifying the expenditures that qualify as an appropriate  
 13 investment in maintenance for the purposes of this subsection.

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

24 Any district which received approval from the commissioner for  
 25 a school facilities project at any time prior to the effective date of  
 26 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other  
 27 than short term notes, may submit an application pursuant to section  
 28 5 of this act to have the final eligible costs of the project determined  
 29 pursuant to that section and to have the **[authority]** New Jersey  
 30 Economic Development Authority construct the project; or, at its  
 31 discretion, the district may choose to receive debt service aid under  
 32 this section or under section 10 of this act or to receive a grant  
 33 under section 15 of this act.

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

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

37

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

40 12. A district, other than a **[State-operated school]** district under  
 41 full State intervention, that sought approval pursuant to section 11  
 42 of this act of a school facilities project without excess costs but  
 43 failed to receive that approval, and within the three years prior to  
 44 that, sought and failed to receive approval of that school facilities  
 45 project with or without excess costs, may submit the project to the  
 46 commissioner and request that the commissioner approve the  
 47 project and authorize the issuance of school bonds for the local  
 48 share of the project. Upon receipt of the request, the commissioner

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

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

25

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

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

1 b. The financing authority shall undertake the financing of  
2 school facilities projects pursuant to the provisions of this act. The  
3 financing authority shall finance the State share of a school  
4 facilities project and may, in its discretion and upon consultation  
5 with the district, finance [only the State share of the school  
6 facilities project or the State share and] the local share of the  
7 project. In the event that the financing authority finances only the  
8 State share of a project, the development authority shall not  
9 commence acquisition or construction of the project until the  
10 development authority receives the local share from the district.

11 c. In order to implement the arrangements established for  
12 school facilities projects which are to be constructed by the  
13 development authority and financed pursuant to this section, a  
14 district shall enter into an agreement with the development  
15 authority and the commissioner containing the terms and conditions  
16 determined by the parties to be necessary to effectuate the project.

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

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

45 (2) Within one year of the effective date of P.L. \_\_\_\_\_, c. (C. )  
46 (pending before the Legislature as this bill), the development  
47 authority, in consultation with the commissioner, shall adopt  
48 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410

1 (C.52:14B-1 et seq.), rules and regulations by which the  
2 development authority shall determine the capacity of an Abbott  
3 district, deemed eligible by the commissioner pursuant to paragraph  
4 (1) of this subsection, to manage a school facilities project or  
5 projects identified by the development authority. In making the  
6 determination, the development authority shall consider the  
7 experience of the Abbott district, the size, complexity, and cost of  
8 the project, time constraints, and other relevant factors.

9 (3) The development authority, in consultation with the  
10 commissioner, shall develop and implement training programs,  
11 seminars, or symposia to provide technical assistance to Abbott  
12 districts deemed to lack the capacity to manage a school facility  
13 project or projects; except that nothing herein shall be construed to  
14 require the development authority or the commissioner to authorize  
15 an Abbott district to hire additional staff in order to achieve  
16 capacity.

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

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

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

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

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



1 facilities projects in all other districts. This limitation shall not  
2 include any bonds, notes or other obligations issued for refunding  
3 purposes.

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

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

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

1 may be secured by other sources of revenue, including, but not  
2 limited to, one or more of the following:

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

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

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

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

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

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

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

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

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

1 out of the proceeds of notes, bonds or other obligations of the  
2 financing authority or appropriations, grants, reimbursements or  
3 other funds or revenues of the financing authority.

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

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

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

43 h. The financing authority and the development authority may  
44 charge to and collect from local units, districts, the State and any  
45 other person, any fees and charges in connection with the financing  
46 authority's or development authority's actions undertaken with  
47 respect to school facilities projects, including, but not limited to,  
48 fees and charges for the financing authority's administrative,

1 organization, insurance, operating and other expenses incident to  
2 the financing of school facilities projects, and the development  
3 authority's administrative, organization, insurance, operating,  
4 planning, design, construction management, acquisition,  
5 construction, completion and placing into service and maintenance  
6 of school facilities projects. Notwithstanding any provision of this  
7 act to the contrary, no Abbott district [in Level II monitoring  
8 pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the  
9 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), or a district  
10 whose district aid percentage is greater than or equal to 55% but  
11 less than 100%] shall be responsible for the payment of any fees  
12 and charges related to the development authority's operating  
13 expenses.

14 i. Upon the issuance by the financing authority of bonds  
15 pursuant to this section, other than refunding bonds, the net  
16 proceeds of the bonds shall be transferred to the development  
17 authority.

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

19

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

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

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

39

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

42 16. In addition to the other powers and duties which have been  
43 granted to the financing authority, whenever any local unit finances  
44 the construction or acquisition of a school facilities project which  
45 would otherwise qualify under this act except that the debt was  
46 issued prior to the effective date of this act, the financing authority  
47 may refinance the debt issued by the local unit through the issuance

1 of bonds secured by repayments of loans made to the local units and  
2 may purchase the work or improvement and lease the same to the  
3 district, subject to the approval of the State Treasurer; except that  
4 the amount of the purchase price for a school facilities project shall  
5 not exceed the original cost. Each loan to a local unit pursuant to  
6 this section shall be evidenced by local unit obligations and shall be  
7 authorized and issued as provided by law. Notwithstanding the  
8 provisions of any law to the contrary, the local unit obligations may  
9 be sold at private sale to the financing authority at any price,  
10 whether or not less than par value, and shall be subject to  
11 redemption prior to maturity at any times and at any prices as the  
12 financing authority and the local unit may agree. All powers, rights,  
13 obligations and duties granted to or imposed upon the financing  
14 authority, districts, State departments and agencies or others by this  
15 act in respect to school facilities projects shall apply to the same  
16 extent with respect to any refinance of debt pursuant to this section;  
17 except that any action otherwise required to be taken at a particular  
18 time in the implementation of a school facilities project may, when  
19 the circumstances require in connection with a refinance of debt  
20 pursuant to this section, be taken with the same effect as if taken at  
21 that particular time. Upon repayment of the bonds or provision for  
22 repayment of bonds issued by the financing authority to refinance  
23 the debt of the local unit, the school facilities project shall be  
24 transferred to the district.

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

26

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

29 17. In each fiscal year the State Treasurer shall pay from the  
30 General Fund to the financing authority, in accordance with a  
31 contract between the State Treasurer and the financing authority as  
32 authorized pursuant to section 18 of this act, an amount equal to the  
33 debt service amount due to be paid in the State fiscal year on the  
34 bonds or refunding bonds of the financing authority issued or  
35 incurred pursuant to section 14 of this act and any additional costs  
36 authorized pursuant to that section; provided that all such payments  
37 from the General Fund shall be subject to and dependent upon  
38 appropriations being made from time to time by the Legislature for  
39 those purposes, and provided further that all payments shall be used  
40 only to pay for the costs of school facilities projects and the costs of  
41 financing those projects.

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

43

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

46 18. The State Treasurer and the financing authority are  
47 authorized to enter into one or more contracts to implement the  
48 payment arrangement provided for in section 17 of this act. The

1 contract shall provide for payment by the State Treasurer of the  
2 amounts required pursuant to section 17 of this act and shall set  
3 forth the procedure for the transfer of moneys for the purpose of  
4 that payment. The contract shall contain terms and conditions as  
5 determined by the parties and shall, where appropriate, contain  
6 terms and conditions necessary and desirable to secure any bonds or  
7 refunding bonds of the financing authority issued or incurred  
8 pursuant to this act; provided that notwithstanding any other  
9 provision of law or regulation of the financing authority to the  
10 contrary, the financing authority shall be paid only such funds as  
11 shall be determined by the contract, and the incurrence of any  
12 obligation of the State under the contract, including any payments  
13 to be made thereunder from the General Fund, shall be subject to  
14 and dependent upon appropriations being made from time to time  
15 by the Legislature for the purposes of this act.

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

17

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

20 19. a. The financing authority may make and contract to make  
21 loans to local units in accordance with and subject to the provisions  
22 of this act to finance all or any portion of the cost of a school  
23 facilities project which the local unit may lawfully undertake or  
24 acquire and for which the local unit is authorized by law to borrow  
25 money; or to refund obligations of the local unit which were issued  
26 to provide funds to pay for the cost of a school facilities project.  
27 The loans may be made subject to the terms and conditions the  
28 financing authority determines to be consistent with the purposes of  
29 this act. Each loan by the financing authority and the terms and  
30 conditions thereof shall be subject to approval by the State  
31 Treasurer.

32 b. Each loan to a local unit shall be evidenced by local unit  
33 obligations and shall be authorized and issued as provided by law.  
34 Notwithstanding the provisions of any other law to the contrary, the  
35 local unit obligations may be sold at private sale to the financing  
36 authority at any price, whether or not less than par value, and shall  
37 be subject to redemption prior to maturity at any times and at any  
38 prices as the financing authority and the local unit may agree. Each  
39 loan to a local unit and the local unit obligations issued to evidence  
40 the loan shall bear interest at a rate or rates per annum, including  
41 zero interest, and shall be repaid in whole or in part, as the  
42 financing authority and the local unit may agree, with the approval  
43 of the State Treasurer.

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

45

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

1       20. A local unit may purchase, lease, rent, sublease or otherwise  
2 acquire any school facilities project or any space within a project  
3 and pay the amounts as may be agreed upon between the local unit  
4 and the development authority as the purchase price, rent or other  
5 charge therefor; provided that the terms and conditions of the  
6 agreement between the development authority and the local unit  
7 relating to the purchase, lease, rental or sublease shall be subject to  
8 the approval of the State Treasurer.

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

10  
11       32. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to  
12 read as follows:

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

34       b. If the financing authority requires, and if there has been a  
35 failure or inability of a local unit to pay its local unit obligations to  
36 the financing authority for a period of 30 days, the chairman or the  
37 executive director of the financing authority shall certify to the  
38 State Treasurer, with written notice to the fiscal officer of the local  
39 unit, the amount remaining unpaid, and the State Treasurer shall  
40 pay that amount to the financing authority; or if the right to receive  
41 those payments has been pledged or assigned to a trustee for the  
42 benefit of the holders of bonds or refunding bonds of the financing  
43 authority, to that trustee, out of the State aid payable to the local  
44 unit, until the amount so certified has been paid. Notwithstanding  
45 any provision of this act to the contrary, the State Treasurer's  
46 obligation to pay the financing authority pursuant to this section  
47 shall not extend beyond the amount of State aid payable to the local  
48 unit.

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

13  
14 33. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to  
15 read as follows:

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

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



1 seq.) in the case of a donation by an individual, or P.L.1945, c.162  
2 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

3 All incentive payments made pursuant to this section shall be  
4 funded by and shall be subject to annual appropriations **【to the**  
5 **authority】** for this purpose, and shall in no way rely upon funds  
6 raised by the issuance of bonds for school facilities projects.  
7 (cf: P.L.2000, c.72, s.22)

8  
9 34. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to  
10 read as follows:

11 23. a. Not less than the prevailing wage rate determined by the  
12 Commissioner of Labor pursuant to the provisions of P.L.1963,  
13 c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in  
14 the performance of construction contracts in connection with any  
15 school facilities project that is undertaken by the development  
16 authority, a redevelopment entity, or a district and any contractor  
17 who violates the provisions of this subsection shall be prohibited  
18 from subsequently bidding on any State or district contract.

19 b. Registration fees collected pursuant to P.L.1999, c.238  
20 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and  
21 administrative costs of the Division of Workplace Standards, Office  
22 of Wage and Hour Compliance, Public Contracts section and  
23 Registration section within the Department of Labor.  
24 (cf: P.L.2000, c.72, s.23)

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

28 24. The **【commissioner】** development authority, in consultation  
29 with the State Treasurer, the financing authority, and the  
30 commissioner, shall **【annually】** biannually submit to the Governor,  
31 the Joint Budget Oversight Committee, the President of the Senate  
32 and the Speaker of the General Assembly a report on the school  
33 facilities construction program established pursuant to the  
34 provisions of this act. The report shall be submitted no later than  
35 **【August 1】** <sup>1</sup>**【January 15 and July 15】** June 1 and December 1<sup>1</sup> of  
36 each year and shall include, but not be limited to, the following  
37 information for the prior **【fiscal year】** six-month period: the number  
38 of school facilities projects approved by the commissioner pursuant  
39 to section 5 of this act; the number of projects **【constructed】**  
40 undertaken and funded by the development authority **【and the**  
41 amount of time that it has taken the authority to complete those  
42 projects**】**; the aggregate principal amount of bonds, notes or other  
43 obligations issued by the financing authority for the State share of  
44 construction and renovation of school facilities and whether there is  
45 a need to adjust the aggregate principal amount of bonds, notes or  
46 other obligations authorized for issuance pursuant to subsection a.  
47 of section 14 of this act; **【the number of projects constructed by**

1 districts; the number of demonstration projects approved;] the  
2 number of approved projects which exceeded the facilities  
3 efficiency standards, the components of those projects which  
4 exceeded the standards, and the amount of construction by  
5 individual districts and Statewide estimated to have exceeded the  
6 standards; and recommendations for changes in the school facilities  
7 construction program established pursuant to this act which have  
8 been formulated as a result of its experience with the program or  
9 through collaboration with program stakeholders.

10 <sup>2</sup>In addition, the biannual report shall include a comparison of  
11 the costs of school facilities projects undertaken and funded by the  
12 development authority to similar school facilities projects  
13 constructed in the New York City Metropolitan Statistical Area and  
14 the Philadelphia Metropolitan Statistical Area as defined by the  
15 United States Department of Labor. The development authority  
16 shall include in the report an explanation of the methodology used  
17 in making the comparison.<sup>2</sup>

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

19

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

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

41 b. The development authority shall adopt, pursuant to the  
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
43 seq.), rules and regulations necessary to implement the provisions  
44 of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al) and P.L. ,  
45 c. (C. ) (pending before the Legislature as this bill) that apply  
46 to the development authority; except that notwithstanding any  
47 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,

1 the development authority may adopt immediately upon filing with  
2 the Office of Administrative Law, such rules and regulations as the  
3 development authority deems necessary which shall be effective for  
4 a period not to exceed 12 months and shall thereafter be amended,  
5 adopted or re-adopted by the authority, in accordance with the  
6 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

17

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

20 27. All property of the development authority and the financing  
21 authority shall be exempt from levy and sale by virtue of an  
22 execution and no execution of other judicial process shall issue  
23 against the same nor shall any judgment against the development  
24 authority or the financing authority be a charge or lien upon its  
25 property; provided that nothing herein contained shall apply to or  
26 limit the rights of the holder of any bonds, notes or other  
27 obligations to pursue any remedy for the enforcement of any pledge  
28 or lien given by the development authority or the financing  
29 authority on or with respect to any project, school facilities project,  
30 or any revenues or other moneys.

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

32

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

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

40 The prequalification process shall apply to general contractors,  
41 construction managers, and contractors including those in the  
42 following areas:

43 (1) plumbing and gas fitting and all work and materials kindred  
44 thereto;

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

47 (3) electrical work; and

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

1     The prequalification process established by the New Jersey  
2     Schools Construction Corporation pursuant to the provisions of  
3     P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and  
4     effect unless subsequently revised by the development authority  
5     following the enactment of P.L.     , c.     (C.     ) (pending before  
6     the Legislature as this bill).  
7     (cf: P.L.2000, c.72, s.59)

8  
9     39. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to  
10    read as follows:

11    60. a. The prequalification process shall include a requirement  
12    that the contractor proposing to submit bids on a school facilities  
13    project submit a statement under oath on a form designated by the  
14    development authority. The form shall fully describe and establish  
15    the financial ability, responsibility, plant and equipment,  
16    organization, ownership, relationships and prior experience of the  
17    prospective bidder and any other pertinent and material facts as may  
18    be deemed necessary by the development authority. The submission  
19    shall include:

20    (1) A certified, audited financial statement or compilation of  
21    financial statements or other documentation of financial status  
22    acceptable to the development authority;

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

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

32    (4) A list of the names and titles of all individuals who own  
33    10% or more of any class of stock in the corporation or are a 10%  
34    or more partner in the firm. If any of the aforementioned  
35    stockholders or partners is itself a corporation, or a partnership, that  
36    entity shall also provide the information specified herein;

37    (5) Disclosure of any judgments, convictions or criminal  
38    indictments for any conduct constituting a crime under local, State  
39    or federal law;

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

44    (7) Disclosure of any determination for violations of federal,  
45    State or local laws, rules or regulations, including health laws,  
46    unemployment insurance or workers' compensation coverage or  
47    claim requirements, the "Employee Retirement Income Security Act  
48    of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,

1 environmental laws, safety laws, licensing laws, tax laws and  
2 antitrust laws;

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

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

6 (10) A statement as to past performance, which shall give an  
7 accurate and complete record of work completed in the past five  
8 years by the contractor giving the names of the projects, type of  
9 work, location, contract price, bid and final contract amount paid  
10 and the names of the owner and of the architect or engineer in  
11 charge for the owner. This statement shall also disclose any labor  
12 problems experienced, any failure to complete a contract on  
13 schedule, any penalties, judgments, orders or liens imposed by  
14 reason of any contract undertaken within the five-year period and  
15 whether the contractor has been defaulted for cause on any project  
16 as determined by an unappealed or nonappealable decision. This  
17 statement shall also indicate the status of any litigation pending  
18 against the potential bidder. The contractor shall be required to  
19 attach to this statement all performance evaluations in his  
20 possession for any work performed by the contractor on any public  
21 or private projects;

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

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

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

31 b. After the receipt of the submission provided for in  
32 subsection a. of this section, the development authority may verify  
33 information provided in the contractor's submission, including  
34 applicable license and certificate requirements, federal or State  
35 debarments and violations of law. The development authority may  
36 also conduct random inquiries or surveys of the contractor's prior  
37 customers.

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

42 (1) a trade or work classification; and

43 (2) an aggregate rating limit.

44 To effectuate these requirements of the prequalification process,  
45 the development authority shall develop rules and regulations for  
46 assigning classifications and aggregate limits.

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

4 e. The development authority shall establish procedures to  
5 permit contractors to challenge a classification made pursuant to  
6 this section.

7 f. The prequalification submission shall include an affidavit  
8 which acknowledges receipt of information regarding the  
9 appropriate federal Bureau of Apprenticeship and Training  
10 apprenticeship laws and regulations as adopted by the State and  
11 information regarding the county apprenticeship coordinators and  
12 the federal Bureau of Apprenticeship and Training.

13 g. The development authority shall maintain a registry of all  
14 contractors prequalified to bid on school facilities projects. The  
15 registry shall include the classification of the bidder and aggregate  
16 building limit.

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

18

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

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

24 b. Any material changes relevant to the prequalification  
25 process shall be reported by the contractor to the development  
26 authority in writing within 10 days. Based on the information  
27 provided, the development authority may change the classification  
28 or revoke prequalification for cause.

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

30

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

33 62. a. A mandatory uniform performance evaluation shall be  
34 conducted on all school facilities projects undertaken by the  
35 development authority. The evaluation shall, at a minimum, include  
36 cost, schedule adherence and quality.

37 b. A contractor shall be notified of a performance evaluation.  
38 The contractor shall be afforded an opportunity to respond to an  
39 adverse evaluation.

40 c. The contractor performance evaluations shall be utilized in  
41 reviewing bid submissions.

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

43

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

46 66. A contractor who has been prequalified as a bidder on school  
47 facilities projects in accordance with the process established by the  
48 development authority pursuant to section 59 of this act shall not be

1 required to undergo any other prequalification process to bid on a  
2 school facilities project.

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

4

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

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

11 b. For any school facilities project which has a State share of  
12 less than 100% **【,** the authority, in the case of a project being  
13 constructed by the authority, may require the use of, or the district,  
14 in the case of a project being constructed by the district **】, the**  
15 district may elect to purchase **【,】** wrap-up insurance coverage for  
16 the school facilities project. A district may purchase the coverage  
17 on its own or may enter into a joint purchasing agreement with one  
18 or more other districts to purchase coverage.

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

29 (cf: P.L.2000, c.72, s.71)

30

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

32 18A:20-5. **【The】** Except as otherwise provided pursuant to  
33 section 14 of P.L. , c. (C. ) (pending before the Legislature  
34 as this bill), the board of education of any district by a recorded roll  
35 call majority vote of its full membership may dispose, by sale or  
36 otherwise, in the manner prescribed in this chapter, of any lands or  
37 any rights or interest therein, owned by it, which cease to be  
38 suitable or convenient for the use for which they were acquired or  
39 which are no longer needed for school purposes, whether acquired  
40 by purchase or through condemnation proceedings and the  
41 purchaser thereof shall acquire title thereto free from any use or  
42 purpose for which it may have been acquired by the board.

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

44

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

46 18A:20-8. **【The】** Except as otherwise provided pursuant to  
47 section 14 of P.L. , c. (C. ) (pending before the Legislature  
48 as this bill), the board of education of any school district, by a

1 recorded roll call majority vote of its full membership, may  
2 exchange any lands owned by it and not needed for school purposes  
3 for lands located in the school district and at least equal in value to  
4 the lands conveyed by the board in such exchange.

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

6  
7 46. Section 1 of P.L.1970, c.106 (C.18A:20-8.1) is amended to  
8 read as follows:

9 1. **【The】** Except as otherwise provided pursuant to section 14  
10 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
11 the board of education of any school district or regional school  
12 district may, by resolution, transfer land to the board of education  
13 of a county vocational school district for the purpose of  
14 constructing a vocational school on such land.

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

16  
17 47. Section 1 of P.L.1978, c.91 (C.18A:20-8.2) is amended to  
18 read as follows:

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

33 (1) After advertisement of the request for bids to lease to the  
34 highest bidder in a newspaper published in the school district, or, if  
35 none is published therein, then in a newspaper circulating in the  
36 district in which the same is situate, at least once a week for two  
37 weeks prior to the date fixed for the receipt and opening of bids,  
38 unless:

39 (2) The same is leased to the federal government, State, a  
40 political subdivision thereof, another school district, any board,  
41 body or commission of a municipality within the school district, any  
42 volunteer fire company or rescue squad actively engaged in the  
43 protection of life and property and duly incorporated under the laws  
44 of the State of New Jersey, or to any American Legion post,  
45 Veterans of Foreign Wars, or other recognized veterans'  
46 organization of the United States of America, located in the  
47 municipality or the county, as a meeting place for such  
48 organization, or to a nonprofit child care service organization duly



1 incorporated under the laws of the State of New Jersey, or to a  
2 nonprofit hospital duly licensed under the laws of the State of New  
3 Jersey, or to a nonprofit organization duly licensed under the laws  
4 of the State of New Jersey to provide emergency shelter for the  
5 homeless, or to a nonprofit senior citizen organization, or to a  
6 nonprofit historic preservation organization duly incorporated under  
7 the laws of the State of New Jersey, in which case the same may be  
8 leased by private agreement for a nominal fee without  
9 advertisement for bids.

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

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

13

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

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

1 property shall thereupon revert to and the title thereof shall vest in  
2 the board of education making the conveyance thereof hereunder.

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

4  
5 49. Section 1 of P.L.1990, c.35 (C.18A:20-9.2) is amended to  
6 read as follows:

7 1. **【Whenever】** Except as otherwise provided pursuant to  
8 section 14 of P.L. , c. (C. ) (pending before the Legislature as  
9 this bill), whenever, any board of education shall by resolution  
10 determine that any tract of land is no longer desirable or necessary  
11 for public school purposes it may authorize the conveyance thereof,  
12 at no less than the fair market price, whether there is a building  
13 thereon or not, to a nonprofit private school for the handicapped  
14 duly incorporated under the laws of the State of New Jersey. As  
15 used in this section, market price shall equal the median of two or  
16 more appraisals conducted by qualified real estate appraisers. The  
17 president and secretary of the board shall be authorized to execute  
18 and deliver a conveyance for the same in the name and under the  
19 seal of the board, which conveyance may, in the discretion of the  
20 board, be made subject to a condition or limitation that said land  
21 shall be used by such nonprofit private school for the handicapped  
22 and in the event that the property shall cease to be used for the  
23 purposes contemplated by this section, such property shall first be  
24 offered for resale to the board of education making the conveyance  
25 thereof hereunder at the market price current at the time of resale.

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

27  
28 50. N.J.S.18A:22-39 is amended to read as follows:

29 18A:22-39. Whenever the undertaking of any capital project or  
30 projects to be paid for from the proceeds of an issue or issue of  
31 bonds is submitted to the voters of a type II district at an annual or  
32 special school election for their approval or disapproval, the board  
33 shall frame and adopt by a recorded roll call majority vote of its full  
34 membership the question or questions to be submitted so that each  
35 project is submitted in a separate question, or all or any number of  
36 them are submitted in one question, which shall state the project or  
37 projects so submitted and the amounts to be raised for each of the  
38 projects so separately submitted or for each or for all of the projects  
39 so jointly submitted, as the case may be, but any proposal for the  
40 purchase of land shall be sufficient to authorize the taking and  
41 condemning of such land. If the project is to be constructed by the  
42 New Jersey **【Economic】** Schools Development Authority or a  
43 redevelopment entity or by the district with a grant pursuant to  
44 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
45 when framed as a single question, request approval for the local  
46 share and shall disclose the final eligible costs of the project as  
47 approved by the commissioner pursuant to section 5 of P.L.2000,  
48 c.72 (C.18A:7G-5) and in the case of a demonstration project

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

19 The statement of additional costs in any ballot question and in  
20 any explanatory statement that accompanies a ballot question shall  
21 describe the additional costs as follows: "This project includes  
22 \$(insert amount) for school facility construction elements in  
23 addition to the facilities efficiency standards developed by the  
24 Commissioner of Education."  
25 (cf: P.L. 2000, c.72, s.42)

26

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

29 2. The Legislature hereby finds and determines that:

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

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

1 induce and to accelerate opportunity for employment in such  
2 enterprises.

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

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

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

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

1 The Legislature further determines that in order to aid in  
2 remedying the aforesaid conditions and to further and implement  
3 the purposes of this act, that there shall be created a body politic  
4 and corporate having the powers, duties and functions provided in  
5 this act; and that the authority and powers conferred under this act,  
6 and the expenditure of moneys pursuant thereto constitute a serving  
7 of a valid public purpose; and that the enactment of the provisions  
8 hereinafter set forth is in the public interest and for the public  
9 benefit and good, and is hereby so declared to be as a matter of  
10 express legislative determination.

11 The Legislature further finds and determines that:

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

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

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

1 j. [The New Jersey Economic Development Authority has  
2 substantial and significant experience in undertaking major capital  
3 construction projects, has a system of internal controls and  
4 procedures to ensure the integrity of construction activities, and is  
5 therefore the appropriate entity to undertake the planning, design,  
6 construction, and operation of educational infrastructure projects;  
7 and by authorizing the New Jersey Economic Development  
8 Authority to undertake these activities, there will be achieved  
9 economies of scale, better coordination of resources, more effective  
10 financial management and control and increased monitoring and  
11 quality control of school district construction.] (Deleted by  
12 amendment, P.L. , c. ) (pending before the Legislature as this  
13 bill)  
14 (cf: P.L.2000, c.72, s.43)

15  
16 52. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read  
17 as follows:

18 3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et  
19 seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54  
20 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505  
21 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),  
22 P.L.1992, c.16 (C.34:1B-7.10 et seq.) [and] , section 6 of P.L.2001,  
23 c.401 (C.34:1B-4.1), and P.L. , c. (C. ) (pending before the  
24 Legislatre as this bill), unless a different meaning clearly appears  
25 from the context:

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

28 "Bonds" means bonds or other obligations issued by the authority  
29 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic  
30 Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16  
31 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and  
32 refunding bonds issued by the authority pursuant to P.L.2000, c.72  
33 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
34 Legislatre as this bill).

35 "Cost" means the cost of the acquisition, construction,  
36 reconstruction, repair, alteration, improvement and extension of any  
37 building, structure, facility including water transmission facilities,  
38 or other improvement; the cost of machinery and equipment; the  
39 cost of acquisition, construction, reconstruction, repair, alteration,  
40 improvement and extension of energy saving improvements or  
41 pollution control devices, equipment or facilities; the cost of lands,  
42 rights-in-lands, easements, privileges, agreements, franchises,  
43 utility extensions, disposal facilities, access roads and site  
44 development deemed by the authority to be necessary or useful and  
45 convenient for any project or school facilities project or in  
46 connection therewith; discount on bonds; cost of issuance of bonds;  
47 engineering and inspection costs; costs of financial, legal,  
48 professional and other estimates and advice; organization,

1 administrative, insurance, operating and other expenses of the  
2 authority or any person prior to and during any acquisition or  
3 construction, and all such expenses as may be necessary or incident  
4 to the financing, acquisition, construction or completion of any  
5 project or school facilities project or part thereof, and also such  
6 provision for reserves for payment or security of principal of or  
7 interest on bonds during or after such acquisition or construction as  
8 the authority may determine.

9 "County" means any county of any class.

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

21 "Department" means the Department of Environmental  
22 Protection.

23 "Development property" means any real or personal property,  
24 interest therein, improvements thereon, appurtenances thereto and  
25 air or other rights in connection therewith, including land,  
26 buildings, plants, structures, systems, works, machinery and  
27 equipment acquired or to be acquired by purchase, gift or otherwise  
28 by the authority within an urban growth zone.

29 "Person" means any person, including individuals, firms,  
30 partnerships, associations, societies, trusts, public or private  
31 corporations, or other legal entities, including public or  
32 governmental bodies, as well as natural persons. "Person" shall  
33 include the plural as well as the singular.

34 "Pollution control project" means any device, equipment,  
35 improvement, structure or facility, or any land and any building,  
36 structure, facility or other improvement thereon, or any combination  
37 thereof, whether or not in existence or under construction, or the  
38 refinancing thereof in order to facilitate improvements or additions  
39 thereto or upgrading thereof, and all real and personal property  
40 deemed necessary thereto, having to do with or the end purpose of  
41 which is the control, abatement or prevention of land, sewer, water,  
42 air, noise or general environmental pollution, including, but not  
43 limited to, any air pollution control facility, noise abatement  
44 facility, water management facility, thermal pollution control  
45 facility, radiation contamination control facility, wastewater  
46 collection system, wastewater treatment works, sewage treatment  
47 works system, sewage treatment system or solid waste facility or  
48 site; provided that the authority shall have received from the

1 Commissioner of the State Department of Environmental Protection  
2 or the commissioner's duly authorized representative a certificate  
3 stating the opinion that, based upon information, facts and  
4 circumstances available to the State Department of Environmental  
5 Protection and any other pertinent data, (1) the pollution control  
6 facilities do not conflict with, overlap or duplicate any other  
7 planned or existing pollution control facilities undertaken or  
8 planned by another public agency or authority within any political  
9 subdivision, and (2) the facilities, as designed, will be a pollution  
10 control project as defined in the provisions of P.L.1974, c.80  
11 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating  
12 or controlling pollution.

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



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

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

45 "Revenues" means receipts, fees, rentals or other payments to be  
46 received on account of lease, mortgage, conditional sale, or sale,  
47 and payments and any other income derived from the lease, sale or  
48 other disposition of a project, moneys in such reserve and insurance

1 funds or accounts or other funds and accounts, and income from the  
2 investment thereof, established in connection with the issuance of  
3 bonds or notes for a project or projects, and fees, charges or other  
4 moneys to be received by the authority in respect of projects or  
5 school facilities projects and contracts with persons.

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

9 "Solid waste" means garbage, refuse, and other discarded  
10 materials resulting from industrial, commercial and agricultural  
11 operations, and from domestic and community activities, and shall  
12 include all other waste materials including liquids, except for source  
13 separated recyclable materials or source separated food waste  
14 collected by livestock producers approved by the State Department  
15 of Agriculture to collect, prepare and feed such wastes to livestock  
16 on their own farms.

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

19 "Solid waste facility bonds" means the bonds, notes or other  
20 evidences of financial indebtedness issued by, or on behalf of, any  
21 public authority or county related to the planning, design,  
22 acquisition, construction, renovation, installation, operation or  
23 management of a county solid waste facility.

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

35 "Energy saving improvement" means the construction, purchase  
36 and installation in a building devoted to industrial or commercial  
37 purposes of any of the following, designed to reduce the amount of  
38 energy from nonrenewable sources needed for heating and cooling  
39 that building: insulation, replacement burners, replacement high  
40 efficiency heating and air conditioning units, including modular  
41 boilers and furnaces, water heaters, central air conditioners with or  
42 without heat recovery to make hot water for industrial or  
43 commercial purposes or in office buildings, and any solar heating or  
44 cooling system improvement, including any system which captures  
45 solar radiation to heat a fluid which passes over or through the  
46 collector element of that system and then transfers that fluid to a  
47 point within the system where the heat is withdrawn from the fluid  
48 for direct usage or storage. These systems shall include, but not

1 necessarily be limited to, systems incorporating flat plate, evacuated  
2 tube or focusing solar collectors.

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

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

13 "District" means a local or regional school district established  
14 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
15 Statutes, a county special services school district established  
16 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey  
17 Statutes, a county vocational school district established pursuant to  
18 article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and  
19 a **[State-operated]** school district under full State intervention  
20 **[established]** pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

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

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

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

36 "School facilities project" means the planning, acquisition,  
37 demolition, construction, improvement, **[repair,]** alteration,  
38 modernization, renovation, reconstruction or capital maintenance of  
39 all or any part of a school facility or of any other personal property  
40 necessary for, or ancillary to, any school facility, and shall include  
41 fixtures, furnishings and equipment, and shall also include, but is  
42 not limited to, site acquisition, site development, the services of  
43 design professionals, such as engineers and architects, construction  
44 management, legal services, financing costs and administrative  
45 costs and expenses incurred in connection with the project.

46 "School facility" means and includes any structure, building or  
47 facility used wholly or in part for **[academic]** educational purposes

1 by a district and facilities that physically support such structures,  
2 buildings, and facilities such as district wastewater treatment  
3 facilities, power generating facilities, and steam generating  
4 facilities, but shall exclude **【athletic stadiums, grandstands, and any**  
5 **structure, building or facility used solely for school administration】**  
6 other facilities.

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

8

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

11 5. The authority shall have the following powers:

12 a. To adopt bylaws for the regulation of its affairs and the  
13 conduct of its business;

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

15 c. To sue and be sued;

16 d. To acquire in the name of the authority by purchase or  
17 otherwise, on such terms and conditions and such manner as it may  
18 deem proper, or by the exercise of the power of eminent domain in  
19 the manner provided by the "Eminent Domain Act of 1971,"  
20 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
21 other property which it may determine is reasonably necessary for  
22 any project **【or school facilities project】**; provided, however, that  
23 the authority in connection with any project shall not take by  
24 exercise of the power of eminent domain any real property except  
25 upon consent thereto given by resolution of the governing body of  
26 the municipality in which such real property is located; and  
27 provided further that the authority shall be limited in its exercise of  
28 the power of eminent domain in connection with any project to  
29 municipalities receiving State aid under the provisions of P.L.1978,  
30 c.14 (C.52:27D-178 et seq.), or to municipalities which had a  
31 population, according to the latest federal decennial census, in  
32 excess of 10,000;

33 e. To enter into contracts with a person upon such terms and  
34 conditions as the authority shall determine to be reasonable,  
35 including, but not limited to, reimbursement for the planning,  
36 designing, financing, construction, reconstruction, improvement,  
37 equipping, furnishing, operation and maintenance of the project **【or**  
38 **the school facilities project】** and to pay or compromise any claims  
39 arising therefrom;

40 f. To establish and maintain reserve and insurance funds with  
41 respect to the financing of the project or the school facilities project  
42 and any project financed pursuant to the "Municipal Rehabilitation  
43 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
44 al.);

45 g. To sell, convey or lease to any person all or any portion of a  
46 project **【or school facilities project,】** for such consideration and  
47 upon such terms as the authority may determine to be reasonable;

- 1 h. To mortgage, pledge or assign or otherwise encumber all or  
2 any portion of a project, **[school facilities project]** or revenues,  
3 whenever it shall find such action to be in furtherance of the  
4 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the  
5 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
6 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending  
7 before the Legislature as this bill);
- 8 i. To grant options to purchase or renew a lease for any of its  
9 projects **[or school facilities projects]** on such terms as the  
10 authority may determine to be reasonable;
- 11 j. To contract for and to accept any gifts or grants or loans of  
12 funds or property or financial or other aid in any form from the  
13 United States of America or any agency or instrumentality thereof,  
14 or from the State or any agency, instrumentality or political  
15 subdivision thereof, or from any other source and to comply,  
16 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
17 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
18 (C.18A:7G-1 et al.), **[and]** the "Municipal Rehabilitation and  
19 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
20 and P.L. , c. (C. ) (pending before the Legislature as this bill),  
21 with the terms and conditions thereof;
- 22 k. In connection with any application for assistance under  
23 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
24 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) **[or]**, the  
25 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
26 c.43 (C.52:27BBB-1 et al.), or P.L. , c. (C. ) (pending before  
27 the Legislature as this bill) or commitments therefor, to require and  
28 collect such fees and charges as the authority shall determine to be  
29 reasonable;
- 30 l. To adopt, amend and repeal regulations to carry out the  
31 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
32 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
33 **[and]** the "Municipal Rehabilitation and Economic Recovery Act,"  
34 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. )  
35 (pending before the Legislature as this bill);
- 36 m. To acquire, purchase, manage and operate, hold and dispose  
37 of real and personal property or interests therein, take assignments  
38 of rentals and leases and make and enter into all contracts, leases,  
39 agreements and arrangements necessary or incidental to the  
40 performance of its duties;
- 41 n. To purchase, acquire and take assignments of notes,  
42 mortgages and other forms of security and evidences of  
43 indebtedness;
- 44 o. To purchase, acquire, attach, seize, accept or take title to any  
45 project or school facilities project by conveyance or by foreclosure,  
46 and sell, lease, manage or operate any project or school facilities  
47 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1

1 et al.), **[and]** the "Municipal Rehabilitation and Economic  
2 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. ,  
3 c. (C. ) (pending before the Legislature as this bill);

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

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

23 r. To guarantee up to 90% of the amount of a loan to a person,  
24 if the proceeds of the loan are to be applied to the purchase and  
25 installation, in a building devoted to industrial or commercial  
26 purposes, or in an office building, of an energy improvement  
27 system;

28 s. To employ consulting engineers, architects, attorneys, real  
29 estate counselors, appraisers, and such other consultants and  
30 employees as may be required in the judgment of the authority to  
31 carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section  
32 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et  
33 al.), **[and]** the "Municipal Rehabilitation and Economic Recovery  
34 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L. , c. (C. )  
35 (pending before the Legislature as this bill), and to fix and pay their  
36 compensation from funds available to the authority therefor, all  
37 without regard to the provisions of Title 11A of the New Jersey  
38 Statutes;

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

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

- 1 v. To do any and all things necessary or convenient to carry out  
2 its purposes and exercise the powers given and granted in P.L.1974,  
3 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
4 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **and** the "Municipal  
5 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
6 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before the  
7 Legislature as this bill);
- 8 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
9 maintain or repair or provide for the construction, reconstruction,  
10 improvement, alteration, equipping or maintenance or repair of any  
11 development property and lot, award and enter into construction  
12 contracts, purchase orders and other contracts with respect thereto,  
13 upon such terms and conditions as the authority shall determine to  
14 be reasonable, including, but not limited to, reimbursement for the  
15 planning, designing, financing, construction, reconstruction,  
16 improvement, equipping, furnishing, operation and maintenance of  
17 any such development property and the settlement of any claims  
18 arising therefrom and the establishment and maintenance of reserve  
19 funds with respect to the financing of such development property;
- 20 x. When authorized by the governing body of a municipality  
21 exercising jurisdiction over an urban growth zone, to construct,  
22 cause to be constructed or to provide financial assistance to projects  
23 in an urban growth zone which shall be exempt from the terms and  
24 requirements of the land use ordinances and regulations, including,  
25 but not limited to, the master plan and zoning ordinances, of such  
26 municipality;
- 27 y. To enter into business employment incentive agreements as  
28 provided in the "Business Employment Incentive Program Act,"  
29 P.L.1996, c.26 (C.34:1B-124 et al.);
- 30 z. To **undertake school facilities projects and to** enter into  
31 agreements or contracts, execute instruments, and do and perform  
32 all acts or things necessary, convenient or desirable for the purposes  
33 of the authority to carry out any power expressly provided pursuant  
34 to P.L.1974, c.80 (C.34:1B-1 et seq.) **and**, P.L.2000, c.72  
35 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending before the  
36 Legislature as this bill), including, but not limited to, entering into  
37 contracts with the State Treasurer, the Commissioner of Education,  
38 districts, the New Jersey Schools Development Authority, and any  
39 other entity which may be required in order to carry out the  
40 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L. ,  
41 c. (C. ) (pending before the Legislature as this bill);
- 42 aa. **To enter into leases, rentals or other disposition of a real**  
43 **property interest in and of any school facilities project to or from**  
44 **any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.)**  
45 **(Deleted by amendment, P.L. , c. ) (pending before the**  
46 **Legislature as this bill);**

- 1       bb. To make and contract to make loans [or leases and to make  
2 grants] to local units to finance the cost of school facilities projects  
3 and to acquire and contract to acquire bonds, notes or other  
4 obligations issued or to be issued by local units to evidence the  
5 loans [or leases], all in accordance with the provisions of P.L.2000,  
6 c.72 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending before  
7 the Legislature as this bill);
- 8       cc. Subject to any agreement with holders of its bonds issued to  
9 finance a project or school facilities project, obtain as security or to  
10 provide liquidity for payment of all or any part of the principal of  
11 and interest and premium on the bonds of the authority or for the  
12 purchase upon tender or otherwise of the bonds, lines of credit,  
13 letters of credit, reimbursement agreements, interest rate exchange  
14 agreements, currency exchange agreements, interest rate floors or  
15 caps, options, puts or calls to hedge payment, currency, rate, spread  
16 or similar exposure or similar agreements, float agreements,  
17 forward agreements, insurance contract, surety bond, commitment  
18 to purchase or sell bonds, purchase or sale agreement, or  
19 commitments or other contracts or agreements, and other security  
20 agreements or instruments in any amounts and upon any terms as  
21 the authority may determine and pay any fees and expenses required  
22 in connection therewith;
- 23       dd. To charge to and collect from local units, the State and any  
24 other person, any fees and charges in connection with the  
25 authority's actions undertaken with respect to school facilities  
26 projects, including, but not limited to, fees and charges for the  
27 authority's administrative, organization, insurance, operating and  
28 other expenses incident to the financing[, construction and placing  
29 into service and maintenance] of school facilities projects;
- 30       ee. To make loans to refinance solid waste facility bonds  
31 through the issuance of bonds or other obligations and the execution  
32 of any agreements with counties or public authorities to effect the  
33 refunding or rescheduling of solid waste facility bonds, or otherwise  
34 provide for the payment of all or a portion of any series of solid  
35 waste facility bonds. Any county or public authority refunding or  
36 rescheduling its solid waste facility bonds pursuant to this  
37 subsection shall provide for the payment of not less than fifty  
38 percent of the aggregate debt service for the refunded or  
39 rescheduled debt of the particular county or public authority for the  
40 duration of the loan; except that, whenever the solid waste facility  
41 bonds to be refinanced were issued by a public authority and the  
42 county solid waste facility was utilized as a regional county solid  
43 waste facility, as designated in the respective adopted district solid  
44 waste management plans of the participating counties as approved  
45 by the department prior to November 10, 1997, and the utilization  
46 of the facility was established pursuant to tonnage obligations set  
47 forth in their respective interdistrict agreements, the public



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

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

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

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

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

36

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

39 1. The New Jersey Economic Development Authority shall  
40 adopt rules and regulations requiring that not less than the  
41 prevailing wage rate be paid to workers employed in the  
42 performance of any construction contract undertaken in connection  
43 with any of its projects, those projects which it undertakes pursuant  
44 to P.L.2002, c.43 (C.52:27BBB-1 et al.) [or school facilities  
45 projects], or undertaken to fulfill any condition of receiving  
46 authority financial assistance. The prevailing wage rate shall be the  
47 rate determined by the Commissioner of Labor pursuant to the  
48 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the

1 purposes of this section, "authority financial assistance" means any  
2 loan, loan guarantee, grant, incentive, tax exemption or other  
3 financial assistance approved, funded, authorized, administered or  
4 provided by the authority to any entity, including but not limited to,  
5 all authority financial assistance received by the entity pursuant to  
6 P.L.1996, c.26 (C.34:1B-124 et seq.) that enables the entity to  
7 engage in a construction contract, but this shall not be construed as  
8 requiring the payment of the prevailing wage for construction  
9 commencing more than two years after the assistance is received.  
10 (cf: P.L.2002, c.78, s.1)

11

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

14 4. a. The New Jersey Economic Development Authority shall  
15 adopt rules and regulations to establish an affirmative action  
16 program for the hiring of minority workers employed in the  
17 performance of construction contracts undertaken in connection  
18 with any of its projects **[and school facilities projects]**, and to  
19 expand the business opportunities of socially and economically  
20 disadvantaged contractors and vendors seeking to provide materials  
21 and services for those contracts, consistent with the provisions of  
22 the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
23 seq.) and the authority shall provide for the proper enforcement and  
24 administration of such rules and regulations.

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

33

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

36 50. In the exercise of powers granted by P.L.2000, c.72  
37 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
38 Legislature as this bill) in connection with any school facilities  
39 project, any and all claims, damages, losses, liabilities or costs that  
40 the authority may incur shall be payable only from the amounts  
41 made available to the authority pursuant to **[that act]** P.L.2000,  
42 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before  
43 the Legislature as this bill). In connection with any agreement or  
44 contract entered into by the authority relating to any school  
45 facilities project, there shall be no recovery against the authority for  
46 punitive or consequential damages arising out of contract nor shall  
47 there be any recovery against the authority for claims based

1 uponimplied warranties or upon contracts implied in law.  
2 (cf: P.L.2000, c.72, s.50)

3  
4 57. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to  
5 read as follows:

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

16  
17 58. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to  
18 read as follows:

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

1 and reserve the right in and for such person to take all action which  
2 the authority may lawfully take in respect of such payments and all  
3 matters relating thereto, provided such person shall bear and pay all  
4 costs and expenses of the authority thereby incurred at the request  
5 of such person or by reason of any such action taken by such person  
6 in behalf of the authority. If such person occupying a project has  
7 paid the amounts in lieu of taxes required by this section to be paid  
8 such person shall not be required to pay any such taxes as to which  
9 a payment in lieu thereof has been made to the State or to any  
10 political subdivision, any other statute to the contrary  
11 notwithstanding.

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

13

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

16 19. Preparation; contents; modification.

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

21 b. The master plan shall generally comprise a report or  
22 statement and land use and development proposals, with maps,  
23 diagrams and text, presenting, at least the following elements (1)  
24 and (2) and, where appropriate, the following elements (3) through  
25 (14):

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

29 (2) A land use plan element (a) taking into account and stating  
30 its relationship to the statement provided for in paragraph (1)  
31 hereof, and other master plan elements provided for in paragraphs  
32 (3) through (14) hereof and natural conditions, including, but not  
33 necessarily limited to, topography, soil conditions, water supply,  
34 drainage, flood plain areas, marshes, and woodlands; (b) showing  
35 the existing and proposed location, extent and intensity of  
36 development of land to be used in the future for varying types of  
37 residential, commercial, industrial, agricultural, recreational,  
38 educational and other public and private purposes or combination of  
39 purposes; and stating the relationship thereof to the existing and any  
40 proposed zone plan and zoning ordinance; and (c) showing the  
41 existing and proposed location of any airports and the boundaries of  
42 any airport safety zones delineated pursuant to the "Air Safety and  
43 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)  
44 including a statement of the standards of population density and  
45 development intensity recommended for the municipality;

46 (3) A housing plan element pursuant to section 10 of P.L.1985,  
47 c.222 (C.52:27D-310), including, but not limited to, residential

1 standards and proposals for the construction and improvement of  
2 housing;

3 (4) A circulation plan element showing the location and types of  
4 facilities for all modes of transportation required for the efficient  
5 movement of people and goods into, about, and through the  
6 municipality, taking into account the functional highway  
7 classification system of the Federal Highway Administration and  
8 the types, locations, conditions and availability of existing and  
9 proposed transportation facilities, including air, water, road and rail;

10 (5) A utility service plan element analyzing the need for and  
11 showing the future general location of water supply and distribution  
12 facilities, drainage and flood control facilities, sewerage and waste  
13 treatment, solid waste disposal and provision for other related  
14 utilities, and including any storm water management plan required  
15 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).  
16 If a municipality prepares a utility service plan element as a  
17 condition for adopting a development transfer ordinance pursuant to  
18 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan  
19 element shall address the provision of utilities in the receiving zone  
20 as provided thereunder;

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

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

28 (8) A conservation plan element providing for the preservation,  
29 conservation, and utilization of natural resources, including, to the  
30 extent appropriate, energy, open space, water supply, forests, soil,  
31 marshes, wetlands, harbors, rivers and other waters, fisheries,  
32 endangered or threatened species wildlife and other resources, and  
33 which systemically analyzes the impact of each other component  
34 and element of the master plan on the present and future  
35 preservation, conservation and utilization of those resources;

36 (9) An economic plan element considering all aspects of  
37 economic development and sustained economic vitality, including  
38 (a) a comparison of the types of employment expected to be  
39 provided by the economic development to be promoted with the  
40 characteristics of the labor pool resident in the municipality and  
41 nearby areas and (b) an analysis of the stability and diversity of the  
42 economic development to be promoted;

43 (10) A historic preservation plan element: (a) indicating the  
44 location and significance of historic sites and historic districts; (b)  
45 identifying the standards used to assess worthiness for historic site  
46 or district identification; and (c) analyzing the impact of each  
47 component and element of the master plan on the preservation of  
48 historic sites and districts;

- 1 (11) Appendices or separate reports containing the technical  
2 foundation for the master plan and its constituent elements;
- 3 (12) A recycling plan element which incorporates the State  
4 Recycling Plan goals, including provisions for the collection,  
5 disposition and recycling of recyclable materials designated in the  
6 municipal recycling ordinance, and for the collection, disposition  
7 and recycling of recyclable materials within any development  
8 proposal for the construction of 50 or more units of single-family  
9 residential housing or 25 or more units of multi-family residential  
10 housing and any commercial or industrial development proposal for  
11 the utilization of 1,000 square feet or more of land;
- 12 (13) A farmland preservation plan element, which shall include:  
13 an inventory of farm properties and a map illustrating significant  
14 areas of agricultural land; a statement showing that municipal  
15 ordinances support and promote agriculture as a business; and a  
16 plan for preserving as much farmland as possible in the short term  
17 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-  
18 1 et al.) through a variety of mechanisms including, but not limited  
19 to, utilizing option agreements, installment purchases, and  
20 encouraging donations of permanent development easements; **[and]**
- 21 (14) A development transfer plan element which sets forth the  
22 public purposes, the locations of sending and receiving zones and  
23 the technical details of a development transfer program based on the  
24 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and
- 25 (15) An educational facilities plan element which incorporates  
26 the purposes and goals of the "long-range facilities plan" required to  
27 be submitted to the Commissioner of Education by a school district  
28 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4).
- 29 c. The master plan and its plan elements may be divided into  
30 subplans and subplan elements projected according to periods of  
31 time or staging sequences.
- 32 d. The master plan shall include a specific policy statement  
33 indicating the relationship of the proposed development of the  
34 municipality, as developed in the master plan to (1) the master plans  
35 of contiguous municipalities, (2) the master plan of the county in  
36 which the municipality is located, (3) the State Development and  
37 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
38 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)  
39 and (4) the district solid waste management plan required pursuant  
40 to the provisions of the "Solid Waste Management Act," P.L.1970,  
41 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is  
42 located.
- 43 In the case of a municipality situated within the Highlands  
44 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the  
45 master plan shall include a specific policy statement indicating the  
46 relationship of the proposed development of the municipality, as  
47 developed in the master plan, to the Highlands regional master

1 planadopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).  
2 (cf: P.L.2004, c.120, s.60)

3

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

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

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

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

15 c. (1) Where: (a) by reason of exceptional narrowness,  
16 shallowness or shape of a specific piece of property, or (b) by  
17 reason of exceptional topographic conditions or physical features  
18 uniquely affecting a specific piece of property, or (c) by reason of  
19 an extraordinary and exceptional situation uniquely affecting a  
20 specific piece of property or the structures lawfully existing  
21 thereon, the strict application of any regulation pursuant to article 8  
22 of this act would result in peculiar and exceptional practical  
23 difficulties to, or exceptional and undue hardship upon, the  
24 developer of such property, grant, upon an application or an appeal  
25 relating to such property, a variance from such strict application of  
26 such regulation so as to relieve such difficulties or hardship; (2)  
27 where in an application or appeal relating to a specific piece of  
28 property the purposes of this act or the purposes of the "Educational  
29 Facilities Construction and Financing Act," P.L.2000, c.72  
30 (C.18A:7G-1 et al.), would be advanced by a deviation from the  
31 zoning ordinance requirements and the benefits of the deviation  
32 would substantially outweigh any detriment, grant a variance to  
33 allow departure from regulations pursuant to article 8 of this act;  
34 provided, however, that the fact that a proposed use is an inherently  
35 beneficial use shall not be dispositive of a decision on a variance  
36 under this subsection and provided that no variance from those  
37 departures enumerated in subsection d. of this section shall be  
38 granted under this subsection; and provided further that the  
39 proposed development does not require approval by the planning  
40 board of a subdivision, site plan or conditional use, in conjunction  
41 with which the planning board has power to review a request for a  
42 variance pursuant to subsection a. of section 47 of this act; and  
43 d. In particular cases for special reasons, grant a variance to  
44 allow departure from regulations pursuant to article 8 of this act to  
45 permit: (1) a use or principal structure in a district restricted against  
46 such use or principal structure, (2) an expansion of a  
47 nonconforming use, (3) deviation from a specification or standard  
48 pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining

1 solely to a conditional use, (4) an increase in the permitted floor  
2 area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-  
3 4), (5) an increase in the permitted density as defined in section 3.1  
4 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required  
5 lot area for a lot or lots for detached one or two dwelling unit  
6 buildings, which lot or lots either an isolated undersized lot or lots  
7 resulting from a minor subdivision or (6) a height of a principal  
8 structure which exceeds by 10 feet or 10% the maximum height  
9 permitted in the district for a principal structure. A variance under  
10 this subsection shall be granted only by affirmative vote of at least  
11 five members, in the case of a municipal board, or two-thirds of the  
12 full authorized membership, in the case of a regional board,  
13 pursuant to article 10 of this act.

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

18 No variance or other relief may be granted under the terms of  
19 this section, including a variance or other relief involving an  
20 inherently beneficial use, without a showing that such variance or  
21 other relief can be granted without substantial detriment to the  
22 public good and will not substantially impair the intent and the  
23 purpose of the zone plan and zoning ordinance. In respect to any  
24 airport safety zones delineated under the "Air Safety and Zoning  
25 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or  
26 other relief may be granted under the terms of this section,  
27 permitting the creation or establishment of a nonconforming use  
28 which would be prohibited under standards promulgated pursuant to  
29 that act, except upon issuance of a permit by the Commissioner of  
30 Transportation. An application under this section may be referred  
31 to any appropriate person or agency for its report; provided that  
32 such reference shall not extend the period of time within which the  
33 zoning board of adjustment shall act.

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

35

36 61. The following sections are repealed:

37 Sections 51, 52, and 53 of P.L.2000, c.72 (C.34:1B-5.6, 34:1B-  
38 5.7, and 34:1B-5.8).

39

40 62. This act shall take effect immediately.

41

42

43

44

45 Establishes the New Jersey Schools Development Authority and  
46 revises the school construction program established under the  
47 "Educational Facilities Construction and Financing Act."



# ASSEMBLY, No. 4336

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**

**Assemblyman CRAIG A. STANLEY**

**District 28 (Essex)**

**Assemblyman WILFREDO CARABALLO**

**District 29 (Essex and Union)**

**Assemblywoman NELLIE POU**

**District 35 (Bergen and Passaic)**

**Assemblyman JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman JOSEPH VAS**

**District 19 (Middlesex)**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Co-Sponsored by:**

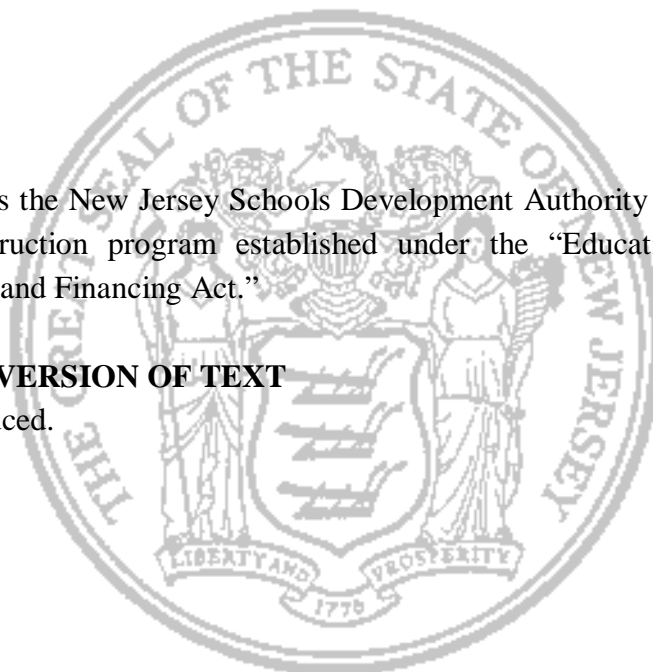
**Assemblyman Steele and Assemblywoman Truitt**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/15/2007)**

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

3

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

6

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

15 h. The initiatives provided herein implement the  
16 recommendations of the Interagency Working Group on School  
17 Construction with regard to the creation of a new school  
18 construction authority and the undertaking of projects for and by  
19 Abbott districts so as to ensure that the agency undertaking the  
20 school construction program has adequate internal controls,  
21 processes, and procedures to undertake additional school facilities  
22 projects.

23

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

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

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

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

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

46 "Other facilities" means athletic stadiums, swimming pools, any  
47 associated structures or related equipment tied to such facilities  
48 including, but not limited to, grandstands and night field lights,

1 greenhouses, facilities used for non-instructional or non-educational  
2 purposes, and any structure, building or facility used solely for  
3 school administration;

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

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

20

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

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

41 c. Each public member shall serve for a term of five years and  
42 shall hold office for the term of the member's appointment and until  
43 the member's successor shall have been appointed and qualified. A  
44 member shall be eligible for reappointment. Any vacancy in the  
45 membership occurring other than by expiration of term shall be  
46 filled in the same manner as the original appointment but for the  
47 unexpired term only.

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

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

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

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

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

45       h. Each ex officio member of the development authority may  
46 designate an officer or employee of the member's department to  
47 represent the member at meetings of the development authority, and  
48 each such designee may lawfully vote and otherwise act on behalf

1 of the member for whom the person constitutes the designee. Any  
2 such designation shall be in writing delivered to the development  
3 authority and shall continue in effect until revoked or amended by  
4 writing delivered to the development authority.

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

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

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

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

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

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

43 o. No member, officer, employee or agent of the development  
44 authority shall be interested, either directly or indirectly, in any  
45 school facilities project, or in any contract, sale, purchase, lease or  
46 transfer of real or personal property to which the development  
47 authority is a party.

- 1       4. (New section) The development authority shall have the  
2 following powers:
- 3       a. To adopt bylaws for the regulation of its affairs and the  
4 conduct of its business;
- 5       b. To adopt and have a seal and to alter the same at pleasure;
- 6       c. To sue and be sued;
- 7       d. To acquire in the name of the development authority by  
8 purchase or otherwise, on such terms and conditions and such  
9 manner as it may deem proper, or by the exercise of the power of  
10 eminent domain in the manner provided by the "Eminent Domain  
11 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
12 interests therein or other property which it may determine is  
13 reasonably necessary for any school facilities project;
- 14       e. To enter into contracts with a person upon such terms and  
15 conditions as the development authority shall determine to be  
16 reasonable, including, but not limited to, for the planning, design,  
17 construction, reconstruction, improvement, equipping, furnishing,  
18 operation and maintenance of a school facilities project and the  
19 reimbursement thereof, and to pay or compromise any claims  
20 arising therefrom;
- 21       f. To sell, convey or lease to any person all or any portion of  
22 its property, for such consideration and upon such terms as the  
23 development authority may determine to be reasonable;
- 24       g. To mortgage, pledge or assign or otherwise encumber all or  
25 any portion of any property or revenues, whenever it shall find such  
26 action to be in furtherance of the purposes of P.L.2000, c.72  
27 (C.18A:7G-1 et al.) and P.L.     , c. (C.     ) (pending before the  
28 Legislature as this bill);
- 29       h. To grant options to purchase or renew a lease for any of its  
30 property on such terms as the development authority may determine  
31 to be reasonable;
- 32       i. To contract for and to accept any gifts or grants or loans of  
33 funds or property or financial or other aid in any form from the  
34 United States of America or any agency or instrumentality thereof,  
35 or from the State or any agency, instrumentality or political  
36 subdivision thereof, or from any other source and to comply,  
37 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and  
38 P.L.     , c. (C.     ) (pending before the Legislature as this bill),  
39 with the terms and conditions thereof;
- 40       j. In connection with any application for assistance under  
41 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.     , c. (C.     ) (pending  
42 before the Legislature as this bill) or commitments therefor, to  
43 require and collect such fees and charges as the development  
44 authority shall determine to be reasonable;
- 45       k. To adopt, amend and repeal regulations to carry out the  
46 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.     ,  
47 c. (C.     ) (pending before the Legislature as this bill);

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



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

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

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

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

27  
28 5. (New section) a. The development authority shall adopt  
29 rules and regulations pursuant to the "Administrative Procedure  
30 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to require that not less  
31 than the prevailing wage rate be paid to workers employed in the  
32 performance of any construction contract undertaken in connection  
33 with any of its school facilities projects. The development authority  
34 shall provide for the proper enforcement and administration of these  
35 rules and regulations.

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

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

1 the development authority following the enactment of P.L. ,  
2 c. (C. ) (pending before the Legislature as this bill).

3  
4 6. (New section) a. The development authority shall adopt  
5 rules and regulations pursuant to the "Administrative Procedure  
6 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to establish an  
7 affirmative action program for the hiring of minority workers  
8 employed in the performance of construction contracts undertaken  
9 in connection with any of its school facilities projects, and to  
10 expand the business opportunities of socially and economically  
11 disadvantaged contractors and vendors seeking to provide materials  
12 and services for those contracts, consistent with the provisions of  
13 the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
14 seq.). The development authority shall provide for the proper  
15 enforcement and administration of these rules and regulations.

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

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

27  
28 7. (New section) In the exercise of powers granted by  
29 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. )  
30 (pending before the Legislature as this bill) in connection with any  
31 school facilities project, any and all claims, damages, losses,  
32 liabilities or costs that the development authority may incur shall be  
33 payable only from the amounts made available to the development  
34 authority pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) and  
35 P.L. , c. (C. ) (pending before the Legislature as this bill). In  
36 connection with any agreement or contract entered into by the  
37 development authority relating to any school facilities project, there  
38 shall be no recovery against the development authority for punitive  
39 or consequential damages arising out of contract nor shall there be  
40 any recovery against the development authority for claims based  
41 upon implied warranties or upon contracts implied in law.

42  
43 8. (New section) a. No municipality shall modify or change the  
44 drawings, plans or specifications for the construction,  
45 reconstruction, rehabilitation, alteration or improvement of any  
46 school facilities project of the development authority, or the  
47 construction, plumbing, heating, lighting or other mechanical  
48 branch of work necessary to complete the work in question, nor to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

23

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

38

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

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

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

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

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

39  
40       17. (New section) Notwithstanding any provision of P.L.     ,  
41 c. (C.     ) (pending before the Legislature as this bill) to the  
42 contrary, a school facilities project of a nonAbbott district with a  
43 district aid percentage equal to or greater than 55% or of a  
44 nonAbbott district with a district aid percentage of less than 55%  
45 that had been approved by the Commissioner of Education and the  
46 New Jersey Schools Construction Corporation prior to the effective  
47 date of P.L.     , c. (C.     ) (pending before the Legislature as this  
48 bill) to be constructed by the corporation, shall be constructed and

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

4  
5 18. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to  
6 read as follows:

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

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

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

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

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

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

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

41 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

27

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 r. [In the event that a district has engaged architectural  
19 services to prepare the documents required for initial proposal of a  
20 school facilities project, the district shall, if permitted by the terms  
21 of the district's contract for architectural services, and at the option  
22 of the authority assign the contract for architectural services to the  
23 authority if the authority determines that the assignment would be  
24 in the best interest of the school facilities project.] Deleted by  
25 amendment, P.L. , c. (pending before the Legislature as this bill)

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

36 (1) An ECPA district seeking to initiate a community early  
37 childhood education facilities project shall apply to the  
38 commissioner for approval of the project. The application shall, at  
39 a minimum, contain the following information: the name of the  
40 community provider; evidence that the community provider is  
41 licensed by the Department of Children and Families pursuant to  
42 P.L.1983, c.492 (C.30:5B-1 et seq.) and is a tax exempt nonprofit  
43 organization; evidence that the community provider is or shall  
44 provide early childhood education programs for the district; a  
45 description of the community early childhood education facilities  
46 project; a schematic drawing of the project, or at the option of the  
47 district, preliminary plans and specifications; a delineation and

1 description of each of the functional components of the project;  
2 identification of those portions of the proposed project which shall  
3 be devoted in whole or in part to the provision of early childhood  
4 education programs to 3 or 4-year old children from the ECPA  
5 district; the estimated cost to complete the project as determined by  
6 the district in consultation with the community provider; and  
7 whether the facility provides services other than early childhood  
8 education programs for 3 and 4-year old children, pursuant to a  
9 contract with the ECPA district.

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

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

1 any, of the project which have not been approved by the  
2 commissioner for State support.

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

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

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

31  
32 21. Section 6 of P.L.2000, c.72 (C.18A:7G-6) is amended to  
33 read as follows:

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

37 a. For the initial three full fiscal years following the effective  
38 date of [this act] P.L.2000, c.72 (C.18A:7G-1 et al.), the State  
39 Treasurer may designate up to six school facilities projects which  
40 the State Treasurer determines to be in the best interests of the State  
41 and of the districts to be demonstration projects pursuant to the  
42 provisions of this section. As used in this section, "authority"  
43 means the New Jersey Economic Development Authority which  
44 was designated as both the financing and construction agency for  
45 school facilities projects prior to the enactment of P.L. \_\_\_\_\_,  
46 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill); except that  
47 in the event that any actions required to be taken pursuant to this  
48 section by the New Jersey Economic Development Authority or its

1 subsidiary, the New Jersey Schools Construction Corporation, have  
2 not been taken prior to the effective date of P.L. , c. (C. )  
3 (pending before the Legislature as this bill), authority shall mean  
4 the New Jersey Schools Development Authority.

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

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

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

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

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

25 c. The authority shall evaluate the request to determine  
26 whether the school facilities project is suitable for designation as a  
27 demonstration project and whether the proposed redevelopment  
28 entity is suitable for designation as the entity to construct the  
29 demonstration project based upon consideration of the following  
30 factors:

31 (1) whether the demonstration project furthers definite local  
32 objectives as to appropriate land uses, density of population, and  
33 improved traffic and public transportation, public utilities,  
34 recreational and community facilities and other public  
35 improvements;

36 (2) whether the demonstration project provides significant social  
37 and economic benefits to the municipality, its neighborhoods and  
38 residents;

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

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

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

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

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



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

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

33 f. The cost of the community design features approved by the  
34 commissioner shall be reviewed by the authority. The district shall  
35 submit the documentation required by the authority for the authority  
36 to make its determination. The authority shall, in its  
37 recommendation to the commissioner pursuant to section 5 of this  
38 act, include its recommendation with respect to the cost of the  
39 community design features. The commissioner shall make the final  
40 determination with respect to the inclusion of the cost of  
41 community design features in the final eligible costs.

42 g. The authority shall provide funding for the State's share of  
43 the final eligible costs of a school facilities project to be constructed  
44 as part of a demonstration project pursuant to an agreement among  
45 the authority, the redevelopment entity and the district which shall,  
46 in addition to any other terms and conditions, set forth the terms for  
47 disbursement of the State share and provide for the monitoring of  
48 construction by the authority.

1 h. Upon completion of a demonstration project by a  
 2 redevelopment entity, the district shall submit to the commissioner  
 3 a plan to provide for the maintenance of the project and shall enter  
 4 into a contract which provides for that maintenance.

5 i. The Urban Coordinating Council shall review the  
 6 recommendations of the authority with respect to the demonstration  
 7 projects and shall advise the authority, redevelopment entity and the  
 8 district regarding the potential availability of funding for the  
 9 demonstration project, including, but not limited to, sources of  
 10 funds for acquisition, clearance, site remediation, and assemblage  
 11 of land and the development, redevelopment, construction or  
 12 rehabilitation of any structure or improvement included in the  
 13 project.

14 j. Any district may consult with the Urban Coordinating  
 15 Council with respect to the potential availability of funding for  
 16 aspects of the school facilities project, including, but not limited to,  
 17 sources of funds for acquisition, clearance, site remediation, and  
 18 assemblage of land and the development, redevelopment,  
 19 construction or rehabilitation of any structure or improvement  
 20 included in the project.

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

22

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

25 9. a. State debt service aid for capital investment in school  
 26 facilities for a nonAbbott district [whose district aid percentage is  
 27 less than 55% and] which elects not to [have the authority  
 28 construct a school facilities project or to] finance the project under  
 29 section 15 of this act, shall be distributed upon a determination of  
 30 preliminary eligible costs by the commissioner, according to the  
 31 following formula:

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

35 where

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

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

38 and where:

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

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

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

45 DAP is the district's district aid percentage as defined pursuant to  
 46 section 3 of this act and where (DAP x 1.15) shall not be less than  
 47 40%; and

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

4 For county special services school districts, DAP shall be that of  
 5 the county vocational school district in the same county.  
 6 **[Notwithstanding any provision of this subsection to the contrary,**  
 7 **State debt service aid shall not be less than 40% of the preliminary**  
 8 **eligible costs.]**

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

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

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

34 Maintenance Percentage	Maintenance Factor (M)
35 .199% - .151%	75%
36 .150% - .100%	50%
37 Less than .100%	Zero

38 (3) Within one year of the enactment of P.L.2000, c.72  
 39 (C.18A:7G-1 et al.), the commissioner shall promulgate rules  
 40 requiring districts to develop a long-range maintenance plan and  
 41 specifying the expenditures that qualify as an appropriate  
 42 investment in maintenance for the purposes of this subsection.

43 c. Any district which obtained approval from the commissioner  
 44 since September 1, 1998 and prior to the effective date of P.L.2000,  
 45 c.72 (C.18A:7G-1 et al.) of the educational specifications for a  
 46 school facilities project or obtained approval from the Department  
 47 of Community Affairs or the appropriately licensed municipal code  
 48 official since September 1, 1998 of the final construction plans and

1 specifications, and the district has issued debt, may elect to have the  
2 final eligible costs of the project determined pursuant to section 5 of  
3 this act and to receive debt service aid under this section or under  
4 section 10 of this act.

5 Any district which received approval from the commissioner for  
6 a school facilities project at any time prior to the effective date of  
7 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other  
8 than short term notes, may submit an application pursuant to section  
9 5 of this act to have the final eligible costs of the project determined  
10 pursuant to that section and to have the **[authority]** New Jersey  
11 Economic Development Authority construct the project; or, at its  
12 discretion, the district may choose to receive debt service aid under  
13 this section or under section 10 of this act or to receive a grant  
14 under section 15 of this act.

15 For the purposes of this subsection, the "issuance of debt" shall  
16 include lease purchase agreements in excess of five years.  
17 (cf: P.L.2000, c.72, s.9)

18

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

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

45 Any school facilities project authorized pursuant to this section  
46 shall be **[constructed]** undertaken by the development authority in  
47 accordance with an agreement between the development authority  
48 and the district. Nothing in this section shall preclude a **[State-**

1 operated] school district under full State intervention from using  
2 the process established pursuant to section 2 of P.L.1991, c.139  
3 (C.18A:7A-46.2) to obtain the approval of the commissioner to  
4 undertake a school facilities project.  
5 (cf: P.L.2000, c.72, s.12)

6  
7 24. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to  
8 read as follows:

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

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

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

45 d. Upon completion by the development authority of a school  
46 facilities project, the district shall enter into an agreement with the  
47 development authority to provide for the maintenance of the project

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

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

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

38 (3) The development authority, in consultation with the  
39 commissioner, shall develop and implement training programs,  
40 seminars, or symposia to provide technical assistance to Abbott  
41 districts deemed to lack the capacity to manage a school facility  
42 project or projects; except that nothing herein shall be construed to  
43 require the development authority or the commissioner to authorize  
44 an Abbott district to hire additional staff in order to achieve  
45 capacity.

46 (4) If the development authority determines to delegate a school  
47 facilities project to an Abbott district in accordance with paragraph

1 (2) of this subsection, the development authority, the commissioner,  
2 and the district shall enter into a grant agreement.

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

4

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

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

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

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

43 b. The financing authority shall issue the bonds or refunding  
44 bonds in such manner as it shall determine in accordance with the  
45 provisions of this act **[and]**, P.L.1974, c.80 (C.34:1B-1 et seq.) and  
46 P.L. , c. (C. ) (pending before the Legislature as this bill);  
47 provided that notwithstanding any other law to the contrary, no

1 resolution adopted by the financing authority authorizing the  
2 issuance of bonds or refunding bonds pursuant to this section shall  
3 be adopted or otherwise made effective without the approval in  
4 writing of the State Treasurer; and refunding bonds issued to  
5 refund bonds issued pursuant to this section shall be issued on such  
6 terms and conditions as may be determined by the financing  
7 authority and the State Treasurer. The financing authority may, in  
8 any resolution authorizing the issuance of bonds or refunding bonds  
9 issued pursuant to this section, pledge the contract with the State  
10 Treasurer provided for pursuant to section 18 of this act, or any part  
11 thereof, or may pledge all or any part of the repayments of loans  
12 made to local units pursuant to section 19 of this act for the  
13 payment or redemption of the bonds or refunding bonds, and  
14 covenant as to the use and disposition of money available to the  
15 financing authority for payment of the bonds and refunding bonds.  
16 All costs associated with the issuance of bonds and refunding bonds  
17 by the financing authority for the purposes set forth in this act may  
18 be paid by the financing authority from amounts it receives from the  
19 proceeds of the bonds or refunding bonds, and from amounts it  
20 receives pursuant to sections 17, 18, and 19 of this act. The costs  
21 may include, but shall not be limited to, any costs relating to the  
22 issuance of the bonds or refunding bonds, administrative costs of  
23 the financing authority attributable to the making and administering  
24 of loans and grants to fund school facilities projects, and costs  
25 attributable to the agreements entered into pursuant to subsection d.  
26 of this section.

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

33 (1) Pledge of the revenues and other receipts to be derived from  
34 the payment of local unit obligations and any other payment made  
35 to the financing authority pursuant to agreements with any local  
36 unit, or a pledge or assignment of any local unit obligations, and the  
37 rights and interest of the financing authority therein;

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

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

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



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

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

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

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

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

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

41 f. Bonds and refunding bonds issued by the financing authority  
42 pursuant to this section shall be special and limited obligations of  
43 the financing authority payable from, and secured by, funds and  
44 moneys determined by the financing authority in accordance with  
45 this section. Notwithstanding any other provision of law or  
46 agreement to the contrary, any bonds and refunding bonds issued by  
47 the financing authority pursuant to this section shall not be secured  
48 by the same property as bonds and refunding bonds issued by the

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

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

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

45 i. Upon the issuance by the financing authority of bonds  
46 pursuant to this section, other than refunding bonds, the net

1 proceeds of the bonds shall be transferred to the development  
2 authority.

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

4

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

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

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

24

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

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

1 except that any action otherwise required to be taken at a particular  
2 time in the implementation of a school facilities project may, when  
3 the circumstances require in connection with a refinance of debt  
4 pursuant to this section, be taken with the same effect as if taken at  
5 that particular time. Upon repayment of the bonds or provision for  
6 repayment of bonds issued by the financing authority to refinance  
7 the debt of the local unit, the school facilities project shall be  
8 transferred to the district.

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

10

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

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

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

27

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

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

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

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

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

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

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

28

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

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

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

40

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

43       21. a. In the event that a local unit has failed or is unable to pay  
44 to the financing authority or the development authority in full when  
45 due any local unit obligations issued by the local unit to the  
46 financing authority, including, but not limited to, any lease or  
47 sublease obligations, or any other moneys owed by the district to  
48 the financing authority, to assure the continued operation and

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

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

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

42 (cf: P.L.2000, c.72 , s.21)

43

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

46 22. a. The financing authority and the development authority  
47 shall have the power to accept and use any funds appropriated and  
48 paid by the State to the financing authority and the development

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

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

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

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

38

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

41 23. a. Not less than the prevailing wage rate determined by the  
42 Commissioner of Labor pursuant to the provisions of P.L.1963,  
43 c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in  
44 the performance of construction contracts in connection with any  
45 school facilities project that is undertaken by the development  
46 authority, a redevelopment entity, or a district and any contractor  
47 who violates the provisions of this subsection shall be prohibited  
48 from subsequently bidding on any State or district contract.

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

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

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

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

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

39  
40 36. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to  
41 read as follows:

42 26. a. The commissioner shall adopt, pursuant to the  
43 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
44 seq.), rules and regulations necessary to implement the provisions  
45 of sections 1 through 12 and 57 and 58 and 64 of **[this act]**  
46 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending  
47 before the Legislature as this bill); except that notwithstanding any



1 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
2 the commissioner may adopt, immediately upon filing with the  
3 Office of Administrative Law, such rules and regulations as the  
4 commissioner deems necessary to implement the provisions of  
5 sections 1 through 12 and 57 and 58 and 64 of this act which shall  
6 be effective for a period not to exceed 12 months. Determinations  
7 made by the commissioner pursuant to this act and the rules and  
8 regulations adopted by the commissioner to implement this act shall  
9 be considered to be final agency action and appeal of that action  
10 shall be directly to the Appellate Division of the Superior Court.  
11 The regulations shall thereafter be amended, adopted or re-adopted  
12 by the State Board of Education in accordance with the provisions  
13 of P.L.1968, c.410 (C.52:14B-1 et seq.).

14 b. The development authority shall adopt, pursuant to the  
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
16 seq.), rules and regulations necessary to implement the provisions  
17 of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al) and P.L. \_\_\_\_\_,  
18 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) that apply  
19 to the development authority; except that notwithstanding any  
20 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
21 the development authority may adopt immediately upon filing with  
22 the Office of Administrative Law, such rules and regulations as the  
23 development authority deems necessary which shall be effective for  
24 a period not to exceed 12 months and shall thereafter be amended,  
25 adopted or re-adopted by the authority, in accordance with the  
26 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

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

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

37

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

40 27. All property of the development authority and the financing  
41 authority shall be exempt from levy and sale by virtue of an  
42 execution and no execution of other judicial process shall issue  
43 against the same nor shall any judgment against the development  
44 authority or the financing authority be a charge or lien upon its  
45 property; provided that nothing herein contained shall apply to or  
46 limit the rights of the holder of any bonds, notes or other  
47 obligations to pursue any remedy for the enforcement of any pledge  
48 or lien given by the development authority or the financing

1 authority on or with respect to any project, school facilities project,  
2 or any revenues or other moneys.

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

4

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

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

12 The prequalification process shall apply to general contractors,  
13 construction managers, and contractors including those in the  
14 following areas:

15 (1) plumbing and gas fitting and all work and materials kindred  
16 thereto;

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

19 (3) electrical work; and

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

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

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

28

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

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

40 (1) A certified, audited financial statement or compilation of  
41 financial statements or other documentation of financial status  
42 acceptable to the development authority;

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

47 (3) A statement as to bonding capacity, which shall be from a  
48 surety authorized to issue bid, performance and payment bonds in

1 the State of New Jersey in accordance with N.J.S.2A:44-143  
2 through N.J.S.2A:44-147 to the contractor, and shall indicate  
3 aggregate bonding limits;

4 (4) A list of the names and titles of all individuals who own  
5 10% or more of any class of stock in the corporation or are a 10%  
6 or more partner in the firm. If any of the aforementioned  
7 stockholders or partners is itself a corporation, or a partnership, that  
8 entity shall also provide the information specified herein;

9 (5) Disclosure of any judgments, convictions or criminal  
10 indictments for any conduct constituting a crime under local, State  
11 or federal law;

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

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

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

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

26 (10) A statement as to past performance, which shall give an  
27 accurate and complete record of work completed in the past five  
28 years by the contractor giving the names of the projects, type of  
29 work, location, contract price, bid and final contract amount paid  
30 and the names of the owner and of the architect or engineer in  
31 charge for the owner. This statement shall also disclose any labor  
32 problems experienced, any failure to complete a contract on  
33 schedule, any penalties, judgments, orders or liens imposed by  
34 reason of any contract undertaken within the five-year period and  
35 whether the contractor has been defaulted for cause on any project  
36 as determined by an unappealed or nonappealable decision. This  
37 statement shall also indicate the status of any litigation pending  
38 against the potential bidder. The contractor shall be required to  
39 attach to this statement all performance evaluations in his  
40 possession for any work performed by the contractor on any public  
41 or private projects;

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

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

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

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

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

15 (1) a trade or work classification; and

16 (2) an aggregate rating limit.

17 To effectuate these requirements of the prequalification process,  
18 the development authority shall develop rules and regulations for  
19 assigning classifications and aggregate limits.

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

23 e. The development authority shall establish procedures to  
24 permit contractors to challenge a classification made pursuant to  
25 this section.

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

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

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

37

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

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

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

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

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

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

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

10       c. The contractor performance evaluations shall be utilized in  
11 reviewing bid submissions.

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

13

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

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

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

22

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

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

29       b. For any school facilities project which has a State share of  
30 less than 100% **],** the authority, in the case of a project being  
31 constructed by the authority, may require the use of, or the district,  
32 in the case of a project being constructed by the district **],** the  
33 district may elect to purchase **[,]** wrap-up insurance coverage for  
34 the school facilities project. A district may purchase the coverage  
35 on its own or may enter into a joint purchasing agreement with one  
36 or more other districts to purchase coverage.

37       c. As used in this section, "wrap-up insurance coverage" means  
38 a single insurance and loss control program for all parties involved  
39 in the school facilities project, including the owners, administrators,  
40 contractors and all tiers of subcontractors, which is controlled and  
41 authorized by the owner or financing administrator and applicable  
42 to defined construction work sites. Wrap-up insurance coverage  
43 may include, but not be limited to, workers' compensation and  
44 employers' liability, commercial general liability, umbrella/excess  
45 liability, builder's risk, architects' and engineers' errors and  
46 omissions, liability, environmental liability, and force majeure.

47 (cf: P.L.2000, c.72, s.71)

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

2 18A:20-5. **【The】** Except as otherwise provided pursuant to  
3 section 14 of P.L. , c. (C. ) (pending before the Legislature  
4 as this bill), the board of education of any district by a recorded roll  
5 call majority vote of its full membership may dispose, by sale or  
6 otherwise, in the manner prescribed in this chapter, of any lands or  
7 any rights or interest therein, owned by it, which cease to be  
8 suitable or convenient for the use for which they were acquired or  
9 which are no longer needed for school purposes, whether acquired  
10 by purchase or through condemnation proceedings and the  
11 purchaser thereof shall acquire title thereto free from any use or  
12 purpose for which it may have been acquired by the board.  
13 (cf: N.J.S.18A:20-5)

14

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

16 18A:20-8. **【The】** Except as otherwise provided pursuant to  
17 section 14 of P.L. , c. (C. ) (pending before the Legislature  
18 as this bill), the board of education of any school district, by a  
19 recorded roll call majority vote of its full membership, may  
20 exchange any lands owned by it and not needed for school purposes  
21 for lands located in the school district and at least equal in value to  
22 the lands conveyed by the board in such exchange.  
23 (cf: N.J.S.18A:20-8)

24

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

27 1. **【The】** Except as otherwise provided pursuant to section 14  
28 of P.L. , c. (C. ) (pending before the Legislature as this bill),  
29 the board of education of any school district or regional school  
30 district may, by resolution, transfer land to the board of education  
31 of a county vocational school district for the purpose of  
32 constructing a vocational school on such land.  
33 (cf: P.L.1970, c.106, s.1)

34

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

37 1. a. **【Whenever】** Except as otherwise provided pursuant to  
38 section 14 of P.L. , c. (C. ) (pending before the Legislature as  
39 this bill), whenever any board of education shall by resolution  
40 determine that any tract of land, whether there is a building thereon  
41 or not, or part or all of a school building, is not necessary for school  
42 purposes, but which it does not desire to dispose of for reason that  
43 the property may, at some future time, again be required for school  
44 purposes, it may authorize the lease thereof for a term extending  
45 beyond the official life of the board; provided that the  
46 noneducational uses of such building or tract of land are compatible  
47 with the establishment and operation of a school, as determined by  
48 the Commissioner of Education, if joint occupancy of such site is

1 considered. The lease shall be binding upon the successor board as  
2 follows:

3 (1) After advertisement of the request for bids to lease to the  
4 highest bidder in a newspaper published in the school district, or, if  
5 none is published therein, then in a newspaper circulating in the  
6 district in which the same is situate, at least once a week for two  
7 weeks prior to the date fixed for the receipt and opening of bids,  
8 unless:

9 (2) The same is leased to the federal government, State, a  
10 political subdivision thereof, another school district, any board,  
11 body or commission of a municipality within the school district, any  
12 volunteer fire company or rescue squad actively engaged in the  
13 protection of life and property and duly incorporated under the laws  
14 of the State of New Jersey, or to any American Legion post,  
15 Veterans of Foreign Wars, or other recognized veterans'  
16 organization of the United States of America, located in the  
17 municipality or the county, as a meeting place for such  
18 organization, or to a nonprofit child care service organization duly  
19 incorporated under the laws of the State of New Jersey, or to a  
20 nonprofit hospital duly licensed under the laws of the State of New  
21 Jersey, or to a nonprofit organization duly licensed under the laws  
22 of the State of New Jersey to provide emergency shelter for the  
23 homeless, or to a nonprofit senior citizen organization, or to a  
24 nonprofit historic preservation organization duly incorporated under  
25 the laws of the State of New Jersey, in which case the same may be  
26 leased by private agreement for a nominal fee without  
27 advertisement for bids.

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

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

31

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

33 18A:20-9. **【Whenever】** Except as other wise provided pursuant  
34 to section 14 of P.L. (C. ) (pending before the Legislature as  
35 this bill, whenever any board of education shall by resolution  
36 determine that any tract of land is no longer desirable or necessary  
37 for school purposes it may authorize the conveyance thereof,  
38 whether there is a building thereon or not, for a nominal  
39 consideration, to the municipality or any board, body or  
40 commission thereof, or to any volunteer fire company or rescue  
41 squad actively engaged in the protection of life and property and  
42 duly incorporated under the laws of the State of New Jersey, or to  
43 any American Legion post, Veterans of Foreign Wars, or other  
44 recognized veterans' organization of the United States of America,  
45 located in the municipality or the county, as a meeting place for  
46 such organization, or to a nonprofit child care service organization  
47 duly incorporated under the laws of the State of New Jersey, to a  
48 nonprofit hospital duly licensed under the laws of the State, or to a

1 nonprofit organization duly licensed under the laws of the State of  
2 New Jersey to provide emergency shelter for the homeless, or to a  
3 nonprofit historic preservation organization duly incorporated under  
4 the laws of the State of New Jersey to provide a place for  
5 educational, cultural and musical functions. The president and  
6 secretary of the board shall be authorized to execute and deliver a  
7 conveyance for the same in the name and under the seal of the  
8 board, which conveyance may, in the discretion of the board, be  
9 made subject to a condition or limitation that said land shall be used  
10 by such municipality, board, body or commission thereof for public  
11 purposes and by any such fire company for fire company purposes  
12 or by such rescue squad for rescue squad purposes or to any  
13 veterans' organization, or to any child care service organization, or  
14 to any nonprofit hospital, or to any provider of emergency shelter  
15 for the homeless, or to any nonprofit historic preservation  
16 organization, and in the event that the property shall cease to be  
17 used for any of the purposes contemplated by this section, such  
18 property shall thereupon revert to and the title thereof shall vest in  
19 the board of education making the conveyance thereof hereunder.  
20 (cf: P.L.1995, c.29)

21

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

24 1. **【Whenever】** Except as otherwise provided pursuant to  
25 section 14 of P.L. , c. (C. ) (pending before the Legislature as  
26 this bill), whenever, any board of education shall by resolution  
27 determine that any tract of land is no longer desirable or necessary  
28 for public school purposes it may authorize the conveyance thereof,  
29 at no less than the fair market price, whether there is a building  
30 thereon or not, to a nonprofit private school for the handicapped  
31 duly incorporated under the laws of the State of New Jersey. As  
32 used in this section, market price shall equal the median of two or  
33 more appraisals conducted by qualified real estate appraisers. The  
34 president and secretary of the board shall be authorized to execute  
35 and deliver a conveyance for the same in the name and under the  
36 seal of the board, which conveyance may, in the discretion of the  
37 board, be made subject to a condition or limitation that said land  
38 shall be used by such nonprofit private school for the handicapped  
39 and in the event that the property shall cease to be used for the  
40 purposes contemplated by this section, such property shall first be  
41 offered for resale to the board of education making the conveyance  
42 thereof hereunder at the market price current at the time of resale.  
43 (cf: P.L.1990, c.35, s.1)

44

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

46 18A:22-39. Whenever the undertaking of any capital project or  
47 projects to be paid for from the proceeds of an issue or issue of  
48 bonds is submitted to the voters of a type II district at an annual or



1 special school election for their approval or disapproval, the board  
2 shall frame and adopt by a recorded roll call majority vote of its full  
3 membership the question or questions to be submitted so that each  
4 project is submitted in a separate question, or all or any number of  
5 them are submitted in one question, which shall state the project or  
6 projects so submitted and the amounts to be raised for each of the  
7 projects so separately submitted or for each or for all of the projects  
8 so jointly submitted, as the case may be, but any proposal for the  
9 purchase of land shall be sufficient to authorize the taking and  
10 condemning of such land. If the project is to be constructed by the  
11 New Jersey **【Economic】** Schools Development Authority or a  
12 redevelopment entity or by the district with a grant pursuant to  
13 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
14 when framed as a single question, request approval for the local  
15 share and shall disclose the final eligible costs of the project as  
16 approved by the commissioner pursuant to section 5 of P.L.2000,  
17 c.72 (C.18A:7G-5) and in the case of a demonstration project  
18 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and  
19 C.18A:7G-6), and, if applicable, the amount of any costs of the  
20 project which are in addition to the final eligible costs. If the school  
21 facilities project is not to be constructed by the New Jersey  
22 **【Economic】** Schools Development Authority or a redevelopment  
23 entity or by the district with a grant pursuant to section 15 of  
24 P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed  
25 as a single question, request approval for the total costs of the  
26 project, shall disclose State debt service aid for the project and, if  
27 applicable, the amount of any costs of the project which are in  
28 addition to the final eligible costs of the project. When a project is  
29 framed in more than one question, a summary shall be included in  
30 the explanatory statement which accompanies the questions that  
31 includes the total costs of the project, total State debt service aid,  
32 and, if applicable, the amount of the costs of the project which are  
33 in addition to the final eligible costs of the project, and any  
34 individual question containing costs in addition to the final eligible  
35 costs shall include the amount of those additional costs.

36 The statement of additional costs in any ballot question and in  
37 any explanatory statement that accompanies a ballot question shall  
38 describe the additional costs as follows: "This project includes  
39 \$(insert amount) for school facility construction elements in  
40 addition to the facilities efficiency standards developed by the  
41 Commissioner of Education."

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

43

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

46 2. The Legislature hereby finds and determines that:

47 a. Department of Labor statistics of recent years indicate a  
48 continuing decline in manufacturing employment within the State,

1 which is a contributing factor to the drastic unemployment existing  
2 within the State, which far exceeds the national average, thus  
3 adversely affecting the economy of the State and the prosperity,  
4 safety, health and general welfare of its inhabitants and their  
5 standard of living; that there is an urgent need to protect and  
6 enhance the quality of the natural environment and to reduce, abate  
7 and prevent environmental pollution derived from the operation of  
8 industry, utilities and commerce within the State; and that the  
9 availability of financial assistance and suitable facilities are  
10 important inducements to new and varied employment promoting  
11 enterprises to locate in the State, to existing enterprises to remain  
12 and expand in the State, and to industry, utilities and commerce to  
13 reduce, abate and prevent environmental pollution.

14 b. The provision of buildings, structures and other facilities to  
15 increase opportunity for employment in manufacturing, industrial,  
16 commercial, recreational, retail and service enterprises in the State  
17 is in the public interest and it is a public purpose for the State to  
18 induce and to accelerate opportunity for employment in such  
19 enterprises.

20 c. In order to aid in supplying these needs and to assist in the  
21 immediate reduction of unemployment and to provide sufficient  
22 employment for the citizens of the State in the future, it is necessary  
23 and in the public interest to aid and encourage the immediate  
24 commencement of new construction projects of all types, to induce  
25 and facilitate the acquisition and installation at an accelerated rate  
26 of such devices, equipment and facilities as may be required to  
27 reduce, abate and prevent environmental pollution by industry,  
28 utilities and commerce.

29 d. The availability of financial assistance by the State will  
30 reduce present unemployment and improve future employment  
31 opportunities by encouraging and inducing the undertaking of such  
32 construction projects, the location, retaining or expanding of  
33 employment promoting enterprises within the State, and the  
34 accelerated acquisition and installation of energy saving  
35 improvements and pollution control devices, equipment and  
36 facilities.

37 e. In many municipalities in our State substantial and persistent  
38 unemployment exists; and many existing residential, industrial,  
39 commercial and manufacturing facilities within such municipalities  
40 are either obsolete, inefficient, dilapidated or are located without  
41 regard to the master plans of such municipalities; and the  
42 obsolescence and abandonment of existing facilities will increase  
43 with further technological advances, the provision of modern,  
44 efficient facilities in other states and the difficulty which many  
45 municipalities have in attracting new facilities; and that many  
46 existing and planned employment promoting facilities are far from  
47 or not easily accessible to the places of residence of substantial  
48 numbers of unemployed and underemployed persons.

1 f. By virtue of their architectural and cultural heritage, their  
2 positions as principal centers of communication and transportation  
3 and their concentration of productive and energy efficient facilities,  
4 many municipalities are capable of ameliorating the conditions of  
5 deterioration which impede sound community growth and  
6 development; and that building a proper balance of housing,  
7 industrial and commercial facilities and increasing the  
8 attractiveness of such municipalities to persons of all income levels  
9 is essential to restoring such municipalities as desirable places to  
10 live, work, shop and enjoy life's amenities; that the accomplishment  
11 of these objectives is beyond remedy solely by the regulatory  
12 process in the exercise of the police power and cannot be dealt with  
13 effectively by the ordinary operations of private enterprise without  
14 the powers provided herein, and that the exercise of the powers  
15 herein provided is critical to continuing the process of revitalizing  
16 such municipalities and will serve an urgent public use and purpose.

17 The Legislature further determines that in order to aid in  
18 remedying the aforesaid conditions and to further and implement  
19 the purposes of this act, that there shall be created a body politic  
20 and corporate having the powers, duties and functions provided in  
21 this act; and that the authority and powers conferred under this act,  
22 and the expenditure of moneys pursuant thereto constitute a serving  
23 of a valid public purpose; and that the enactment of the provisions  
24 hereinafter set forth is in the public interest and for the public  
25 benefit and good, and is hereby so declared to be as a matter of  
26 express legislative determination.

27 The Legislature further finds and determines that:

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

37 h. Public elementary and secondary educational facilities are an  
38 integral part of the effort in this State to provide educational  
39 opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et  
40 al.) and P.L. , c. (C. ) (pending before the Legislature as this  
41 bill) to provide a measure of assistance and an alternative method of  
42 financing to enable school districts to provide the facilities which  
43 are so critically needed; the inventory of public elementary and  
44 secondary school buildings and the equipment and capital resources  
45 currently available are aging, both chronologically and  
46 technologically; and the current funding at the federal, State, and  
47 local levels and the current mechanisms for construction of these  
48 capital projects are inadequate to meet the demonstrated need for

1 school facilities, and these inadequacies necessitate additional  
2 sources of funding and the coordination of construction activities at  
3 the State level to meet those needs.

4 i. While the credit status of New Jersey's school districts is  
5 sound, it can be economically more reasonable to finance the costs  
6 of developing the educational infrastructure of the State's public  
7 elementary and secondary schools by providing for the funding of  
8 capital projects through the issuance of bonds, notes or other  
9 obligations by the New Jersey Economic Development Authority, to  
10 be retired through annual payments made by the State subject to  
11 appropriation by the State Legislature, and to provide for the use of  
12 the proceeds of those bonds, notes or other obligations to pay for  
13 educational infrastructure projects; and such a structure would  
14 substantially reduce the costs of financing and provide for a more  
15 efficient use of the funds available for the development of the  
16 educational infrastructure.

17 j. **【The New Jersey Economic Development Authority has**  
18 **substantial and significant experience in undertaking major capital**  
19 **construction projects, has a system of internal controls and**  
20 **procedures to ensure the integrity of construction activities, and is**  
21 **therefore the appropriate entity to undertake the planning, design,**  
22 **construction, and operation of educational infrastructure projects;**  
23 **and by authorizing the New Jersey Economic Development**  
24 **Authority to undertake these activities, there will be achieved**  
25 **economies of scale, better coordination of resources, more effective**  
26 **financial management and control and increased monitoring and**  
27 **quality control of school district construction.】 (Deleted by  
28 amendment, P.L. , c. ) (pending before the Legislature as this  
29 bill)  
30 (cf: P.L.2000, c.72, s.43)  
31**

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

34 3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et  
35 seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54  
36 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505  
37 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),  
38 P.L.1992, c.16 (C.34:1B-7.10 et seq.) **【and】** , section 6 of P.L.2001,  
39 c.401 (C.34:1B-4.1), and P.L. , c. (C. ) (pending before the  
40 Legislature as this bill), unless a different meaning clearly appears  
41 from the context:

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

44 "Bonds" means bonds or other obligations issued by the authority  
45 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic  
46 Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16  
47 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and  
48 refunding bonds issued by the authority pursuant to P.L.2000, c.72

1 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
2 Legislature as this bill).

3 "Cost" means the cost of the acquisition, construction,  
4 reconstruction, repair, alteration, improvement and extension of any  
5 building, structure, facility including water transmission facilities,  
6 or other improvement; the cost of machinery and equipment; the  
7 cost of acquisition, construction, reconstruction, repair, alteration,  
8 improvement and extension of energy saving improvements or  
9 pollution control devices, equipment or facilities; the cost of lands,  
10 rights-in-lands, easements, privileges, agreements, franchises,  
11 utility extensions, disposal facilities, access roads and site  
12 development deemed by the authority to be necessary or useful and  
13 convenient for any project or school facilities project or in  
14 connection therewith; discount on bonds; cost of issuance of bonds;  
15 engineering and inspection costs; costs of financial, legal,  
16 professional and other estimates and advice; organization,  
17 administrative, insurance, operating and other expenses of the  
18 authority or any person prior to and during any acquisition or  
19 construction, and all such expenses as may be necessary or incident  
20 to the financing, acquisition, construction or completion of any  
21 project or school facilities project or part thereof, and also such  
22 provision for reserves for payment or security of principal of or  
23 interest on bonds during or after such acquisition or construction as  
24 the authority may determine.

25 "County" means any county of any class.

26 "County solid waste facility" means a solid waste facility that is  
27 designated by a public authority or county in its adopted district  
28 solid waste management plan as approved by the department prior  
29 to November 10, 1997 as the in-county facility to which solid waste  
30 generated within the boundaries of the county is transported for  
31 final disposal, or transfer for transportation to an offsite solid waste  
32 facility or designated out-of-district disposal site for disposal, as  
33 appropriate, pursuant to interdistrict or intradistrict waste flow  
34 orders issued by the department, regardless of whether the county  
35 solid waste facility was acquired, constructed, operated, abandoned  
36 or canceled.

37 "Department" means the Department of Environmental  
38 Protection.

39 "Development property" means any real or personal property,  
40 interest therein, improvements thereon, appurtenances thereto and  
41 air or other rights in connection therewith, including land,  
42 buildings, plants, structures, systems, works, machinery and  
43 equipment acquired or to be acquired by purchase, gift or otherwise  
44 by the authority within an urban growth zone.

45 "Person" means any person, including individuals, firms,  
46 partnerships, associations, societies, trusts, public or private  
47 corporations, or other legal entities, including public or

1 governmental bodies, as well as natural persons. "Person" shall  
2 include the plural as well as the singular.

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

30 "Project" means: (1) (a) acquisition, construction, reconstruction,  
31 repair, alteration, improvement and extension of any building,  
32 structure, facility, including water transmission facilities or other  
33 improvement, whether or not in existence or under construction, (b)  
34 purchase and installation of equipment and machinery, (c)  
35 acquisition and improvement of real estate and the extension or  
36 provision of utilities, access roads and other appurtenant facilities;  
37 and (2) (a) the acquisition, financing, or refinancing of inventory,  
38 raw materials, supplies, work in process, or stock in trade, or (b) the  
39 financing, refinancing or consolidation of secured or unsecured  
40 debt, borrowings, or obligations, or (c) the provision of financing  
41 for any other expense incurred in the ordinary course of business;  
42 all of which are to be used or occupied by any person in any  
43 enterprise promoting employment, either for the manufacturing,  
44 processing or assembly of materials or products, or for research or  
45 office purposes, including, but not limited to, medical and other  
46 professional facilities, or for industrial, recreational, hotel or motel  
47 facilities, public utility and warehousing, or for commercial and  
48 service purposes, including, but not limited to, retail outlets, retail

1 shopping centers, restaurant and retail food outlets, and any and all  
2 other employment promoting enterprises, including, but not limited  
3 to, motion picture and television studios and facilities and  
4 commercial fishing facilities, commercial facilities for recreational  
5 fishermen, fishing vessels, aquaculture facilities and marketing  
6 facilities for fish and fish products and (d) acquisition of an equity  
7 interest in, including capital stock of, any corporation; or any  
8 combination of the above, which the authority determines will: (i)  
9 tend to maintain or provide gainful employment opportunities  
10 within and for the people of the State, or (ii) aid, assist and  
11 encourage the economic development or redevelopment of any  
12 political subdivision of the State, or (iii) maintain or increase the  
13 tax base of the State or of any political subdivision of the State, or  
14 (iv) maintain or diversify and expand employment promoting  
15 enterprises within the State; and (3) the cost of acquisition,  
16 construction, reconstruction, repair, alteration, improvement and  
17 extension of an energy saving improvement or pollution control  
18 project which the authority determines will tend to reduce the  
19 consumption in a building devoted to industrial or commercial  
20 purposes, or in an office building, of nonrenewable sources of  
21 energy or to reduce, abate or prevent environmental pollution  
22 within the State; and (4) the acquisition, construction,  
23 reconstruction, repair, alteration, improvement, extension,  
24 development, financing or refinancing of infrastructure and  
25 transportation facilities or improvements related to economic  
26 development and of cultural, recreational and tourism facilities or  
27 improvements related to economic development and of capital  
28 facilities for primary and secondary schools and of mixed use  
29 projects consisting of housing and commercial development; and  
30 (5) the establishment, acquisition, construction, rehabilitation,  
31 improvement, and ownership of port facilities as defined in section  
32 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i)  
33 reimbursement to any person for costs in connection with any  
34 project, or the refinancing of any project or portion thereof, if  
35 determined by the authority as necessary and in the public interest  
36 to maintain employment and the tax base of any political  
37 subdivision and will facilitate improvements thereto or the  
38 completion thereof, and (ii) development property and any  
39 construction, reconstruction, improvement, alteration, equipment or  
40 maintenance or repair, or planning and designing in connection  
41 therewith. For the purpose of carrying out mixed use projects  
42 consisting of both housing and commercial development, the  
43 authority may enter into agreements with the New Jersey Housing  
44 and Mortgage Finance Agency for loan guarantees for any such  
45 project in accordance with the provisions of P.L.1995, c.359  
46 (C.55:14K-64 et al.), and for that purpose shall allocate to the New  
47 Jersey Housing and Mortgage Finance Agency, under such  
48 agreements, funding available pursuant to subsection a. of section 4

1 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school  
2 facilities project.

3 "Public authority" means a municipal or county utilities authority  
4 created pursuant to the "municipal and county utilities authorities  
5 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement  
6 authority created pursuant to the "county improvement authorities  
7 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control  
8 financing authority created pursuant to the "New Jersey Pollution  
9 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that  
10 has issued solid waste facility bonds or that has been designated by  
11 the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21)  
12 to supervise the implementation of the district solid waste  
13 management plan.

14 "Revenues" means receipts, fees, rentals or other payments to be  
15 received on account of lease, mortgage, conditional sale, or sale,  
16 and payments and any other income derived from the lease, sale or  
17 other disposition of a project, moneys in such reserve and insurance  
18 funds or accounts or other funds and accounts, and income from the  
19 investment thereof, established in connection with the issuance of  
20 bonds or notes for a project or projects, and fees, charges or other  
21 moneys to be received by the authority in respect of projects or  
22 school facilities projects and contracts with persons.

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

26 "Solid waste" means garbage, refuse, and other discarded  
27 materials resulting from industrial, commercial and agricultural  
28 operations, and from domestic and community activities, and shall  
29 include all other waste materials including liquids, except for source  
30 separated recyclable materials or source separated food waste  
31 collected by livestock producers approved by the State Department  
32 of Agriculture to collect, prepare and feed such wastes to livestock  
33 on their own farms.

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

36 "Solid waste facility bonds" means the bonds, notes or other  
37 evidences of financial indebtedness issued by, or on behalf of, any  
38 public authority or county related to the planning, design,  
39 acquisition, construction, renovation, installation, operation or  
40 management of a county solid waste facility.

41 "Solid waste facilities" means, and includes, the plants,  
42 structures and other real and personal property acquired,  
43 constructed or operated by, or on behalf of, any county or public  
44 authority pursuant to the provisions of the "Solid Waste  
45 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other  
46 act, including transfer stations, incinerators, resource recovery  
47 facilities, including co-composting facilities, sanitary landfill  
48 facilities or other plants for the disposal of solid waste, and all



1 vehicles, equipment and other real and personal property and rights  
2 therein and appurtenances necessary or useful and convenient for  
3 the collection or disposal of solid waste in a sanitary manner.

4 "Energy saving improvement" means the construction, purchase  
5 and installation in a building devoted to industrial or commercial  
6 purposes of any of the following, designed to reduce the amount of  
7 energy from nonrenewable sources needed for heating and cooling  
8 that building: insulation, replacement burners, replacement high  
9 efficiency heating and air conditioning units, including modular  
10 boilers and furnaces, water heaters, central air conditioners with or  
11 without heat recovery to make hot water for industrial or  
12 commercial purposes or in office buildings, and any solar heating or  
13 cooling system improvement, including any system which captures  
14 solar radiation to heat a fluid which passes over or through the  
15 collector element of that system and then transfers that fluid to a  
16 point within the system where the heat is withdrawn from the fluid  
17 for direct usage or storage. These systems shall include, but not  
18 necessarily be limited to, systems incorporating flat plate, evacuated  
19 tube or focusing solar collectors.

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

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

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

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

42 "Other facilities" means athletic stadiums, swimming pools, any  
43 associated structures or related equipment tied to such facilities  
44 including, but not limited to, grandstands and night field lights,  
45 greenhouses, facilities used for non-instructional or non-educational  
46 purposes, and any structure, building, or facility used solely for  
47 school administration.

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

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

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

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

25  
26 53. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
27 as follows:

28 5. The authority shall have the following powers:

29 a. To adopt bylaws for the regulation of its affairs and the  
30 conduct of its business;

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

32 c. To sue and be sued;

33 d. To acquire in the name of the authority by purchase or  
34 otherwise, on such terms and conditions and such manner as it may  
35 deem proper, or by the exercise of the power of eminent domain in  
36 the manner provided by the "Eminent Domain Act of 1971,"  
37 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
38 other property which it may determine is reasonably necessary for  
39 any project **[or school facilities project]**; provided, however, that  
40 the authority in connection with any project shall not take by  
41 exercise of the power of eminent domain any real property except  
42 upon consent thereto given by resolution of the governing body of  
43 the municipality in which such real property is located; and  
44 provided further that the authority shall be limited in its exercise of  
45 the power of eminent domain in connection with any project to  
46 municipalities receiving State aid under the provisions of P.L.1978,  
47 c.14 (C.52:27D-178 et seq.), or to municipalities which had a

- 1 population, according to the latest federal decennial census, in  
2 excess of 10,000;
- 3 e. To enter into contracts with a person upon such terms and  
4 conditions as the authority shall determine to be reasonable,  
5 including, but not limited to, reimbursement for the planning,  
6 designing, financing, construction, reconstruction, improvement,  
7 equipping, furnishing, operation and maintenance of the project [or  
8 the school facilities project] and to pay or compromise any claims  
9 arising therefrom;
- 10 f. To establish and maintain reserve and insurance funds with  
11 respect to the financing of the project or the school facilities project  
12 and any project financed pursuant to the "Municipal Rehabilitation  
13 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
14 al.);
- 15 g. To sell, convey or lease to any person all or any portion of a  
16 project [or school facilities project,] for such consideration and  
17 upon such terms as the authority may determine to be reasonable;
- 18 h. To mortgage, pledge or assign or otherwise encumber all or  
19 any portion of a project, [school facilities project] or revenues,  
20 whenever it shall find such action to be in furtherance of the  
21 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), [and] the  
22 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
23 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending  
24 before the Legislature as this bill);
- 25 i. To grant options to purchase or renew a lease for any of its  
26 projects [or school facilities projects] on such terms as the  
27 authority may determine to be reasonable;
- 28 j. To contract for and to accept any gifts or grants or loans of  
29 funds or property or financial or other aid in any form from the  
30 United States of America or any agency or instrumentality thereof,  
31 or from the State or any agency, instrumentality or political  
32 subdivision thereof, or from any other source and to comply,  
33 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
34 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
35 (C.18A:7G-1 et al.), [and] the "Municipal Rehabilitation and  
36 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
37 and P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 with the terms and conditions thereof;
- 39 k. In connection with any application for assistance under  
40 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
41 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) [or], the  
42 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
43 c.43 (C.52:27BBB-1 et al.), or P.L. , c. (C. ) (pending before  
44 the Legislature as this bill) or commitments therefor, to require and  
45 collect such fees and charges as the authority shall determine to be  
46 reasonable;

- 1 l. To adopt, amend and repeal regulations to carry out the  
2 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
3 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
4 **[and]** the "Municipal Rehabilitation and Economic Recovery Act,"  
5 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. \_\_\_\_\_, c. \_\_\_\_\_  
6 (pending before the Legislature as this bill);
- 7 m. To acquire, purchase, manage and operate, hold and dispose  
8 of real and personal property or interests therein, take assignments  
9 of rentals and leases and make and enter into all contracts, leases,  
10 agreements and arrangements necessary or incidental to the  
11 performance of its duties;
- 12 n. To purchase, acquire and take assignments of notes,  
13 mortgages and other forms of security and evidences of  
14 indebtedness;
- 15 o. To purchase, acquire, attach, seize, accept or take title to any  
16 project or school facilities project by conveyance or by foreclosure,  
17 and sell, lease, manage or operate any project or school facilities  
18 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
19 et al.), **[and]** the "Municipal Rehabilitation and Economic  
20 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. \_\_\_\_\_,  
21 c. \_\_\_\_\_ (pending before the Legislature as this bill);
- 22 p. To borrow money and to issue bonds of the authority and to  
23 provide for the rights of the holders thereof, as provided in  
24 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
25 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the  
26 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
27 c.43 (C.52:27BBB-1 et al.), and P.L. \_\_\_\_\_, c. \_\_\_\_\_ (pending  
28 before the Legislature as this bill);
- 29 q. To extend credit or make loans to any person for the  
30 planning, designing, acquiring, constructing, reconstructing,  
31 improving, equipping and furnishing of a project or school facilities  
32 project, which credits or loans may be secured by loan and security  
33 agreements, mortgages, leases and any other instruments, upon such  
34 terms and conditions as the authority shall deem reasonable,  
35 including provision for the establishment and maintenance of  
36 reserve and insurance funds, and to require the inclusion in any  
37 mortgage, lease, contract, loan and security agreement or other  
38 instrument, such provisions for the construction, use, operation and  
39 maintenance and financing of a project or school facilities project as  
40 the authority may deem necessary or desirable;
- 41 r. To guarantee up to 90% of the amount of a loan to a person,  
42 if the proceeds of the loan are to be applied to the purchase and  
43 installation, in a building devoted to industrial or commercial  
44 purposes, or in an office building, of an energy improvement  
45 system;
- 46 s. To employ consulting engineers, architects, attorneys, real  
47 estate counselors, appraisers, and such other consultants and  
48 employees as may be required in the judgment of the authority to

- 1 carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section  
2 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et  
3 al.), **[and]** the "Municipal Rehabilitation and Economic Recovery  
4 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L. , c. (C. )  
5 (pending before the Legislature as this bill), and to fix and pay their  
6 compensation from funds available to the authority therefor, all  
7 without regard to the provisions of Title 11A of the New Jersey  
8 Statutes;
- 9 t. To do and perform any acts and things authorized by  
10 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
11 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the  
12 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
13 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending  
14 before the Legislature as this bill), under, through or by means of its  
15 own officers, agents and employees, or by contract with any person;
- 16 u. To procure insurance against any losses in connection with  
17 its property, operations or assets in such amounts and from such  
18 insurers as it deems desirable;
- 19 v. To do any and all things necessary or convenient to carry out  
20 its purposes and exercise the powers given and granted in P.L.1974,  
21 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
22 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the "Municipal  
23 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
24 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before the  
25 Legislature as this bill);
- 26 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
27 maintain or repair or provide for the construction, reconstruction,  
28 improvement, alteration, equipping or maintenance or repair of any  
29 development property and lot, award and enter into construction  
30 contracts, purchase orders and other contracts with respect thereto,  
31 upon such terms and conditions as the authority shall determine to  
32 be reasonable, including, but not limited to, reimbursement for the  
33 planning, designing, financing, construction, reconstruction,  
34 improvement, equipping, furnishing, operation and maintenance of  
35 any such development property and the settlement of any claims  
36 arising therefrom and the establishment and maintenance of reserve  
37 funds with respect to the financing of such development property;
- 38 x. When authorized by the governing body of a municipality  
39 exercising jurisdiction over an urban growth zone, to construct,  
40 cause to be constructed or to provide financial assistance to projects  
41 in an urban growth zone which shall be exempt from the terms and  
42 requirements of the land use ordinances and regulations, including,  
43 but not limited to, the master plan and zoning ordinances, of such  
44 municipality;
- 45 y. To enter into business employment incentive agreements as  
46 provided in the "Business Employment Incentive Program Act,"  
47 P.L.1996, c.26 (C.34:1B-124 et al.);

- 1 z. To **【undertake school facilities projects and to】** enter into  
2 agreements or contracts, execute instruments, and do and perform  
3 all acts or things necessary, convenient or desirable for the purposes  
4 of the authority to carry out any power expressly provided pursuant  
5 to P.L.1974, c.80 (C.34:1B-1 et seq.) **【and】**, P.L.2000, c.72  
6 (C.18A:7G-1 et al.), and P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
7 Legislature as this bill), including, but not limited to, entering into  
8 contracts with the State Treasurer, the Commissioner of Education,  
9 districts, the New Jersey Schools Development Authority, and any  
10 other entity which may be required in order to carry out the  
11 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L. \_\_\_\_\_,  
12 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill);
- 13 aa. **【To enter into leases, rentals or other disposition of a real**  
14 **property interest in and of any school facilities project to or from**  
15 **any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.)】**  
16 **(Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_) (pending before the**  
17 **Legislature as this bill);**
- 18 bb. To make and contract to make loans **【or leases and to make**  
19 **grants】** to local units to finance the cost of school facilities projects  
20 and to acquire and contract to acquire bonds, notes or other  
21 obligations issued or to be issued by local units to evidence the  
22 loans **【or leases】**, all in accordance with the provisions of P.L.2000,  
23 c.72 (C.18A:7G-1 et al.), and P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before  
24 the Legislature as this bill);
- 25 cc. Subject to any agreement with holders of its bonds issued to  
26 finance a project or school facilities project, obtain as security or to  
27 provide liquidity for payment of all or any part of the principal of  
28 and interest and premium on the bonds of the authority or for the  
29 purchase upon tender or otherwise of the bonds, lines of credit,  
30 letters of credit, reimbursement agreements, interest rate exchange  
31 agreements, currency exchange agreements, interest rate floors or  
32 caps, options, puts or calls to hedge payment, currency, rate, spread  
33 or similar exposure or similar agreements, float agreements,  
34 forward agreements, insurance contract, surety bond, commitment  
35 to purchase or sell bonds, purchase or sale agreement, or  
36 commitments or other contracts or agreements, and other security  
37 agreements or instruments in any amounts and upon any terms as  
38 the authority may determine and pay any fees and expenses required  
39 in connection therewith;
- 40 dd. To charge to and collect from local units, the State and any  
41 other person, any fees and charges in connection with the  
42 authority's actions undertaken with respect to school facilities  
43 projects, including, but not limited to, fees and charges for the  
44 authority's administrative, organization, insurance, operating and  
45 other expenses incident to the financing**【, construction and placing**  
46 **into service and maintenance】** of school facilities projects;

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

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

38 ff. To pool loans for any local government units that are  
39 refunding bonds and do and perform any and all acts or things  
40 necessary, convenient or desirable for the purpose of the authority  
41 to achieve more favorable interest rates and terms for those local  
42 governmental units;

43 gg. To finance projects approved by the board, provide staff  
44 support to the board, oversee and monitor progress on the part of  
45 the board in carrying out the revitalization, economic development  
46 and restoration projects authorized pursuant to the "Municipal  
47 Rehabilitation and Economic Recovery Act," P.L.2002, c.43

1 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
2 pursuant thereto; and

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

6 (cf: P.L.2003, c.182, s.8)

7

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

10 1. The New Jersey Economic Development Authority shall  
11 adopt rules and regulations requiring that not less than the  
12 prevailing wage rate be paid to workers employed in the  
13 performance of any construction contract undertaken in connection  
14 with any of its projects, those projects which it undertakes pursuant  
15 to P.L.2002, c.43 (C.52:27BBB-1 et al.) [or school facilities  
16 projects], or undertaken to fulfill any condition of receiving  
17 authority financial assistance. The prevailing wage rate shall be the  
18 rate determined by the Commissioner of Labor pursuant to the  
19 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the  
20 purposes of this section, "authority financial assistance" means any  
21 loan, loan guarantee, grant, incentive, tax exemption or other  
22 financial assistance approved, funded, authorized, administered or  
23 provided by the authority to any entity, including but not limited to,  
24 all authority financial assistance received by the entity pursuant to  
25 P.L.1996, c.26 (C.34:1B-124 et seq.) that enables the entity to  
26 engage in a construction contract, but this shall not be construed as  
27 requiring the payment of the prevailing wage for construction  
28 commencing more than two years after the assistance is received.

29 (cf: P.L.2002, c.78, s.1)

30

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

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

44 b. [Within 180 days of the effective date of P.L.2000, c.72  
45 (C.18A:7G-1 et al.), but before adoption of its rules and regulations  
46 concerning its affirmative action program, the authority shall  
47 submit the proposed rules and regulations to the presiding officers  
48 and the standing committees on State government of both houses of



1 the Legislature for their review.】 (Deleted by amendment, P.L. ,  
2 c. ) (pending before the Legislature as this bill)  
3 (cf: P.L.2000, c.72, s.48)

4  
5 56. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to  
6 read as follows:

7 50. In the exercise of powers granted by P.L.2000, c.72  
8 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
9 Legislature as this bill) in connection with any school facilities  
10 project, any and all claims, damages, losses, liabilities or costs that  
11 the authority may incur shall be payable only from the amounts  
12 made available to the authority pursuant to **【that act】** P.L.2000,  
13 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before  
14 the Legislature as this bill). In connection with any agreement or  
15 contract entered into by the authority relating to any school  
16 facilities project, there shall be no recovery against the authority for  
17 punitive or consequential damages arising out of contract nor shall  
18 there be any recovery against the authority for claims based upon  
19 implied warranties or upon contracts implied in law.  
20 (cf: P.L.2000, c.72, s.50)

21  
22 57. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to  
23 read as follows:

24 54. Notwithstanding the provisions of any law to the contrary,  
25 any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
26 P.L. , c. (C. ) (pending before the Legislature as this bill)  
27 shall be fully negotiable within the meaning and for all purposes of  
28 Title 12A of the New Jersey Statutes, and each holder or owner of  
29 such a bond or other obligation, or of any coupon appurtenant  
30 thereto, by accepting the bond or coupon shall be conclusively  
31 deemed to have agreed that the bond or coupon is and shall be fully  
32 negotiable within the meaning and for all purposes of Title 12A.  
33 (cf: P.L.2000, c.72, s.54)

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

37 15. The exercise of the powers granted by this act **【and】**,  
38 P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L. , c. (C. )  
39 (pending before the Legislature as this bill) shall constitute the  
40 performance of an essential governmental function and the authority  
41 shall not be required to pay any taxes or assessments upon or in  
42 respect of a project or school facilities project, or any property or  
43 moneys of the authority, and the authority, its projects and school  
44 facilities projects, property and moneys and any bonds and notes  
45 issued under the provisions of this act **【and】**, P.L.2000, c.72  
46 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending before the  
47 Legislature as this bill), their transfer and the income therefrom,  
48 including any profit made on the sale thereof, shall at all times be

1 free from taxation of every kind by the State except for transfer,  
2 inheritance and estate taxes and by any political subdivision of the  
3 State; provided, that any person occupying a project whether as  
4 lessee, vendee or otherwise shall, as long as title thereto shall  
5 remain in the authority, pay to the political subdivision in which  
6 such project is located a payment in lieu of taxes which shall equal  
7 the taxes on real and personal property, including water and sewer  
8 service charges or assessments, which such person would have been  
9 required to pay had it been the owner of such property during the  
10 period for which such payment is made and neither the authority  
11 nor its projects, properties, money or bonds and notes shall be  
12 obligated, liable or subject to lien of any kind for the enforcement,  
13 collection or payment thereof. If and to the extent the proceedings  
14 under which the bonds authorized to be issued under the provisions  
15 of this act so provide, the authority may agree to cooperate with  
16 such person occupying a project, in connection with any  
17 administrative or judicial proceedings for determining the validity  
18 or amount of such payments and may agree to appoint or designate  
19 and reserve the right in and for such person to take all action which  
20 the authority may lawfully take in respect of such payments and all  
21 matters relating thereto, provided such person shall bear and pay all  
22 costs and expenses of the authority thereby incurred at the request  
23 of such person or by reason of any such action taken by such person  
24 in behalf of the authority. If such person occupying a project has  
25 paid the amounts in lieu of taxes required by this section to be paid  
26 such person shall not be required to pay any such taxes as to which  
27 a payment in lieu thereof has been made to the State or to any  
28 political subdivision, any other statute to the contrary  
29 notwithstanding.

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

31

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

34 19. Preparation; contents; modification.

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

39 b. The master plan shall generally comprise a report or  
40 statement and land use and development proposals, with maps,  
41 diagrams and text, presenting, at least the following elements (1)  
42 and (2) and, where appropriate, the following elements (3) through  
43 (14):

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

47 (2) A land use plan element (a) taking into account and stating  
48 its relationship to the statement provided for in paragraph (1)

1 hereof, and other master plan elements provided for in paragraphs  
2 (3) through (14) hereof and natural conditions, including, but not  
3 necessarily limited to, topography, soil conditions, water supply,  
4 drainage, flood plain areas, marshes, and woodlands; (b) showing  
5 the existing and proposed location, extent and intensity of  
6 development of land to be used in the future for varying types of  
7 residential, commercial, industrial, agricultural, recreational,  
8 educational and other public and private purposes or combination of  
9 purposes; and stating the relationship thereof to the existing and any  
10 proposed zone plan and zoning ordinance; and (c) showing the  
11 existing and proposed location of any airports and the boundaries of  
12 any airport safety zones delineated pursuant to the "Air Safety and  
13 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)  
14 including a statement of the standards of population density and  
15 development intensity recommended for the municipality;

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

20 (4) A circulation plan element showing the location and types of  
21 facilities for all modes of transportation required for the efficient  
22 movement of people and goods into, about, and through the  
23 municipality, taking into account the functional highway  
24 classification system of the Federal Highway Administration and  
25 the types, locations, conditions and availability of existing and  
26 proposed transportation facilities, including air, water, road and rail;

27 (5) A utility service plan element analyzing the need for and  
28 showing the future general location of water supply and distribution  
29 facilities, drainage and flood control facilities, sewerage and waste  
30 treatment, solid waste disposal and provision for other related  
31 utilities, and including any storm water management plan required  
32 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).  
33 If a municipality prepares a utility service plan element as a  
34 condition for adopting a development transfer ordinance pursuant to  
35 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan  
36 element shall address the provision of utilities in the receiving zone  
37 as provided thereunder;

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

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

45 (8) A conservation plan element providing for the preservation,  
46 conservation, and utilization of natural resources, including, to the  
47 extent appropriate, energy, open space, water supply, forests, soil,  
48 marshes, wetlands, harbors, rivers and other waters, fisheries,

1 endangered or threatened species wildlife and other resources, and  
2 which systemically analyzes the impact of each other component  
3 and element of the master plan on the present and future  
4 preservation, conservation and utilization of those resources;

5 (9) An economic plan element considering all aspects of  
6 economic development and sustained economic vitality, including  
7 (a) a comparison of the types of employment expected to be  
8 provided by the economic development to be promoted with the  
9 characteristics of the labor pool resident in the municipality and  
10 nearby areas and (b) an analysis of the stability and diversity of the  
11 economic development to be promoted;

12 (10) A historic preservation plan element: (a) indicating the  
13 location and significance of historic sites and historic districts; (b)  
14 identifying the standards used to assess worthiness for historic site  
15 or district identification; and (c) analyzing the impact of each  
16 component and element of the master plan on the preservation of  
17 historic sites and districts;

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

20 (12) A recycling plan element which incorporates the State  
21 Recycling Plan goals, including provisions for the collection,  
22 disposition and recycling of recyclable materials designated in the  
23 municipal recycling ordinance, and for the collection, disposition  
24 and recycling of recyclable materials within any development  
25 proposal for the construction of 50 or more units of single-family  
26 residential housing or 25 or more units of multi-family residential  
27 housing and any commercial or industrial development proposal for  
28 the utilization of 1,000 square feet or more of land;

29 (13) A farmland preservation plan element, which shall include:  
30 an inventory of farm properties and a map illustrating significant  
31 areas of agricultural land; a statement showing that municipal  
32 ordinances support and promote agriculture as a business; and a  
33 plan for preserving as much farmland as possible in the short term  
34 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-  
35 1 et al.) through a variety of mechanisms including, but not limited  
36 to, utilizing option agreements, installment purchases, and  
37 encouraging donations of permanent development easements; **[and]**

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

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

46 c. The master plan and its plan elements may be divided into  
47 subplans and subplan elements projected according to periods of  
48 time or staging sequences.

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

12 In the case of a municipality situated within the Highlands  
13 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the  
14 master plan shall include a specific policy statement indicating the  
15 relationship of the proposed development of the municipality, as  
16 developed in the master plan, to the Highlands regional master plan  
17 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).  
18 (cf: P.L.2004, c.120, s.60)

19  
20 60. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to  
21 read as follows:

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

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

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

31 c. (1) Where: (a) by reason of exceptional narrowness,  
32 shallowness or shape of a specific piece of property, or (b) by  
33 reason of exceptional topographic conditions or physical features  
34 uniquely affecting a specific piece of property, or (c) by reason of  
35 an extraordinary and exceptional situation uniquely affecting a  
36 specific piece of property or the structures lawfully existing  
37 thereon, the strict application of any regulation pursuant to article 8  
38 of this act would result in peculiar and exceptional practical  
39 difficulties to, or exceptional and undue hardship upon, the  
40 developer of such property, grant, upon an application or an appeal  
41 relating to such property, a variance from such strict application of  
42 such regulation so as to relieve such difficulties or hardship; (2)  
43 where in an application or appeal relating to a specific piece of  
44 property the purposes of this act or the purposes of the "Educational  
45 Facilities Construction and Financing Act," P.L.2000, c.72  
46 (C.18A:7G-1 et al.), would be advanced by a deviation from the  
47 zoning ordinance requirements and the benefits of the deviation  
48 would substantially outweigh any detriment, grant a variance to

1 allow departure from regulations pursuant to article 8 of this act;  
2 provided, however, that the fact that a proposed use is an inherently  
3 beneficial use shall not be dispositive of a decision on a variance  
4 under this subsection and provided that no variance from those  
5 departures enumerated in subsection d. of this section shall be  
6 granted under this subsection; and provided further that the  
7 proposed development does not require approval by the planning  
8 board of a subdivision, site plan or conditional use, in conjunction  
9 with which the planning board has power to review a request for a  
10 variance pursuant to subsection a. of section 47 of this act; and

11 d. In particular cases for special reasons, grant a variance to  
12 allow departure from regulations pursuant to article 8 of this act to  
13 permit: (1) a use or principal structure in a district restricted against  
14 such use or principal structure, (2) an expansion of a  
15 nonconforming use, (3) deviation from a specification or standard  
16 pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining  
17 solely to a conditional use, (4) an increase in the permitted floor  
18 area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-  
19 4), (5) an increase in the permitted density as defined in section 3.1  
20 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required  
21 lot area for a lot or lots for detached one or two dwelling unit  
22 buildings, which lot or lots either an isolated undersized lot or lots  
23 resulting from a minor subdivision or (6) a height of a principal  
24 structure which exceeds by 10 feet or 10% the maximum height  
25 permitted in the district for a principal structure. A variance under  
26 this subsection shall be granted only by affirmative vote of at least  
27 five members, in the case of a municipal board, or two-thirds of the  
28 full authorized membership, in the case of a regional board,  
29 pursuant to article 10 of this act.

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

34 No variance or other relief may be granted under the terms of  
35 this section, including a variance or other relief involving an  
36 inherently beneficial use, without a showing that such variance or  
37 other relief can be granted without substantial detriment to the  
38 public good and will not substantially impair the intent and the  
39 purpose of the zone plan and zoning ordinance. In respect to any  
40 airport safety zones delineated under the "Air Safety and Zoning  
41 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or  
42 other relief may be granted under the terms of this section,  
43 permitting the creation or establishment of a nonconforming use  
44 which would be prohibited under standards promulgated pursuant to  
45 that act, except upon issuance of a permit by the Commissioner of  
46 Transportation. An application under this section may be referred  
47 to any appropriate person or agency for its report; provided that

1 such reference shall not extend the period of time within which the  
2 zoning board of adjustment shall act.

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

4

5 61. The following sections are repealed:

6 Sections 51, 52, and 53 of P.L.2000, c.72 (C.34:1B-5.6, 34:1B-  
7 5.7, and 34:1B-5.8).

8

9 62. This act shall take effect immediately.

10

11

12

### STATEMENT

13

14 This bill revises the school construction program established  
15 under the "Educational Facilities Construction and Financing Act,"  
16 (EFCFA) P.L.2000, c.72, as enacted in July of 2000. The bill  
17 implements a number of the recommendations made by the  
18 Interagency Working Group on School Construction which was  
19 formed pursuant to Executive Order No. 3 of 2006. The charge of  
20 the working group was to review the entire school construction  
21 program and develop recommendations to reform the program and  
22 improve its operation and management.

23 Under the provisions of this bill the New Jersey Economic  
24 Development Authority (EDA) will continue to provide the  
25 financing for school facilities projects, but a new State authority is  
26 established to focus solely on the construction of schools. The New  
27 Jersey Schools Development Authority will be in, but not of, the  
28 Department of the Treasury and will consist of the Commissioner of  
29 Education, the Commissioner of Community Affairs, the executive  
30 director of the Economic Development Authority, the State  
31 Treasurer, and 11 public members. The public members will be  
32 appointed by the Governor with the advice and consent of the  
33 Senate and will serve five-year terms. At least one of the public  
34 members must have knowledge or expertise in the area of law  
35 enforcement and the remaining public members must have  
36 knowledge or expertise in real estate development, construction  
37 management, finance, architectural or building design, or any  
38 related field.

39 The New Jersey Schools Construction Corporation (SCC), which  
40 was a subsidiary corporation of the EDA established by executive  
41 order to carry out the obligations of the EDA in undertaking the  
42 construction of school facilities projects, is abolished under the bill.  
43 All the functions, powers, duties, and employees of the SCC are  
44 transferred to the new authority. The bill stipulates that whenever  
45 reference is made to the SCC in any law, rule, regulation, order,  
46 contract, document, or judicial proceeding, it will mean the New  
47 Jersey Schools Development Authority. As a result, the existing  
48 contract between the SCC and the Office of the Inspector General

1 which provides for monitoring of the school construction program  
2 will be continued under the development authority.

3 The bill also continues the prevailing wage and affirmative  
4 action requirements outlined in regard to the school construction  
5 program under EFCFA. The bill stipulates that the development  
6 authority may allocate up to one-half of one percent of the annual  
7 value of its construction program to the financing of minority and  
8 women worker outreach and training programs.

9 The bill also maintains the current requirements and standards in  
10 regard to the award of contracts under the school construction  
11 program. The development authority is authorized to award a  
12 contract that will exceed \$25,000 to the bidder whose bid will be  
13 the most advantageous to the development authority, price and other  
14 factors considered. Unlike the original provisions of EFCFA, the  
15 bill establishes a process for the adjustment of the \$25,000 amount  
16 every five years in direct proportion to the rise or fall of the “index  
17 rate.” The bill also provides that: 1) a contract may be negotiated  
18 or awarded without public bid when the public exigency requires; 2)  
19 a contract may be negotiated or awarded without public bid when  
20 the authority has advertised for bids on two occasions and received  
21 no bids on both occasions; and 3) may be negotiated after public  
22 advertising when the authority receives only a single responsive  
23 bid, however the negotiation with the responsive bidder will be  
24 limited to price.

25 The bill also:

26 1) eliminates the requirement that the school facilities projects  
27 of Level II districts and district’s with a district aid percentage of  
28 55% or greater be constructed by the development authority, as well  
29 as the option for a district with a district aid percentage of less than  
30 55% to elect to have the development authority construct a school  
31 facilities project. These districts will be eligible to finance their  
32 projects in the same manner as all other nonAbbott school districts.  
33 Under the bill, the development authority will only construct the  
34 school facilities projects of Abbott districts. The bill does however  
35 have a “grandfather” provision that would allow the projects of the  
36 above districts to be constructed by the development authority if  
37 they had been approved by the commissioner and the SCC to be  
38 constructed by the SCC prior to the effective date of the bill;

39 2) provides that the Commissioner of Education will revise the  
40 facilities efficiency standards periodically through publication in  
41 the New Jersey Register. Under current law, the facilities  
42 efficiency standards are to be revised in the Biennial Report on the  
43 Cost of Providing a Thorough and Efficient Education;

44 3) establishes a process for the sequencing of the construction  
45 of school facilities projects in the Abbott districts. The bill directs  
46 the commissioner to establish, in consultation with an Abbott  
47 district, an educational priority ranking of all school facilities  
48 projects in the district based upon the commissioner’s determination



1 of critical need in accordance with the priority project categories  
2 developed by the commissioner. Upon the establishment of the  
3 priority ranking, the development authority, in consultation with the  
4 commissioner, the Abbott districts, and the governing bodies of the  
5 municipalities in which the districts are located, will establish a  
6 Statewide strategic plan to be used in the sequencing of Abbott  
7 district school facilities projects. The strategic plan will be based  
8 upon the educational priority ranking of projects as well as issues  
9 which impact the development authority's ability to complete a  
10 project;

11 4) provides that the commissioner may authorize the  
12 development authority to undertake preconstruction activities prior  
13 to commissioner approval of an Abbott district's school facilities  
14 project but in accordance with the project's educational priority  
15 ranking and the Statewide strategic plan. These activities could  
16 include site identification, investigation, and acquisition, feasibility  
17 studies, design work, site remediation, demolition, and acquisition  
18 of temporary facilities;

19 5) provides that the preliminary eligible costs of an Abbott  
20 district school facilities project will be the costs as estimated by the  
21 development authority. Under current law, the preliminary eligible  
22 costs are calculated in accordance with the formula for unhoused  
23 students established under the law, although current law does  
24 establish procedures for increases in those costs;

25 6) provides that in the event that the development authority  
26 funds 100% of the cost of the acquisition of land for the  
27 construction of a school facilities project and as a result of the  
28 construction of that project a school building located in the district  
29 and the land upon which the school building is situate are no longer  
30 necessary for educational purposes, title to the land and the school  
31 building will be conveyed to the development authority when the  
32 development authority determines that it is in its best interest. If  
33 the development authority elects to sell the land and the building,  
34 the proceeds of the sale must be applied to the cost of school  
35 facilities projects in that district;

36 7) provides that if it is necessary to acquire land for an Abbott  
37 district school facilities project, the board of education and the  
38 municipality in which the Abbott district is located must jointly  
39 submit to the commissioner and to the development authority a  
40 complete inventory of all district- and municipal-owned land  
41 located in the municipality. The board and the governing body  
42 must also provide an analysis of why any of that land would not be  
43 suitable as a site for a school facilities project included in the  
44 district's long range facilities plan;

45 8) establishes procedures to ensure that if a site has been  
46 identified as a proposed preferred site for an Abbott district school  
47 facilities project, upon submission of that information to the county  
48 clerk and the municipal clerk, a municipal approving authority may

1 not exercise any approval authority for the development or  
2 improvement of that site unless notice is given to the development  
3 authority. The development authority will have 45 days from  
4 receipt of that notice to inform the municipal approving authority of  
5 its intention to acquire the site, and the approving authority may  
6 take no further action for a further period of 180 days;

7 9) provides that within one year of the bill's effective date the  
8 commissioner, in consultation with the development authority, will  
9 adopt regulations by which the commissioner may determine  
10 whether an Abbott district is eligible to be considered by the  
11 development authority to manage a school facilities project or  
12 projects. Within that same one-year period, the development  
13 authority, in consultation with the commissioner, will adopt  
14 regulations by which the development authority will determine if an  
15 eligible Abbott district has the capacity to manage a project or  
16 projects. In the case of Abbott districts which are determined to  
17 lack that capacity, the development authority, in consultation with  
18 the commissioner, will develop training programs, seminars, or  
19 symposia to provide technical assistance in the development of  
20 capacity; and

21 10) eliminates the category of community provider early  
22 childhood education facilities projects. These are school facilities  
23 projects consisting of facilities which are owned and operated by a  
24 community provider and in which early childhood education  
25 programs are provided to three- or four-year olds pursuant to a  
26 contract between the community provider and a school district  
27 which receives early childhood program aid. No such projects have  
28 been initiated since the enactment of EFCFA.

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 4336**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 2007

The Assembly Education Committee favorably reports Assembly Bill No. 4336 with committee amendments.

As amended, this bill revises the school construction program established under the "Educational Facilities Construction and Financing Act," (EFCFA) P.L.2000, c.72, as enacted in July of 2000. The bill implements a number of the recommendations made by the Interagency Working Group on School Construction which was formed pursuant to Executive Order No. 3 of 2006. The charge of the working group was to review the entire school construction program and develop recommendations to reform the program and improve its operation and management.

Under the provisions of this bill the New Jersey Economic Development Authority (EDA) will continue to provide the financing for school facilities projects, but a new State authority is established to focus solely on the construction of schools. The New Jersey Schools Development Authority will be in, but not of, the Department of the Treasury and will consist of the Commissioner of Education, the Commissioner of Community Affairs, the executive director of the Economic Development Authority, the State Treasurer, and 11 public members. The public members will be appointed by the Governor with the advice and consent of the Senate and will serve five-year terms. At least one of the public members must have knowledge or expertise in the area of law enforcement and the remaining public members must have knowledge or expertise in real estate development, construction management, finance, architectural or building design, or any related field.

The New Jersey Schools Construction Corporation (SCC), which was a subsidiary corporation of the EDA established by executive order to carry out the obligations of the EDA in undertaking the construction of school facilities projects, is abolished under the bill. All the functions, powers, duties, and employees of the SCC are transferred to the new authority. The bill stipulates that whenever reference is made to the SCC in any law, rule, regulation, order, contract, document, or judicial proceeding, it will mean the New Jersey Schools Development Authority. As a result, the existing

contract between the SCC and the Office of the Inspector General which provides for monitoring of the school construction program will be continued under the development authority.

The bill also continues the prevailing wage and affirmative action requirements outlined in regard to the school construction program under EFCFA. The bill stipulates that the development authority may allocate up to one-half of one percent of the annual value of its construction program to the financing of minority and women worker outreach and training programs.

The bill also maintains the current requirements and standards in regard to the award of contracts under the school construction program. The development authority is authorized to award a contract that will exceed \$25,000 to the bidder whose bid will be the most advantageous to the development authority, price and other factors considered. Unlike the original provisions of EFCFA, the bill establishes a process for the adjustment of the \$25,000 amount every five years in direct proportion to the rise or fall of the "index rate." The bill also provides that: 1) a contract may be negotiated or awarded without public bid when the public exigency requires; 2) a contract may be negotiated or awarded without public bid when the authority has advertised for bids on two occasions and received no bids on both occasions; and 3) may be negotiated after public advertising when the authority receives only a single responsive bid, however the negotiation with the responsive bidder will be limited to price.

The bill also:

1) eliminates the requirement that the school facilities projects of Level II districts and district's with a district aid percentage of 55% or greater be constructed by the development authority, as well as the option for a district with a district aid percentage of less than 55% to elect to have the development authority construct a school facilities project. These districts will be eligible to finance their projects in the same manner as all other school districts. Under the bill, the development authority will only construct the school facilities projects of Abbott districts. The bill does however have a "grandfather" provision that would allow the projects of the above districts to be constructed by the development authority if they had been approved by the commissioner and the SCC to be constructed by the SCC prior to the effective date of the bill;

2) provides that the Commissioner of Education will revise the facilities efficiency standards periodically through publication in the New Jersey Register. Under current law, the facilities efficiency standards are to be revised in the Biennial Report on the Cost of Providing a Thorough and Efficient Education;

3) establishes a process for the sequencing of the construction of school facilities projects in the Abbott districts. The bill directs the commissioner to establish, in consultation with an Abbott district, an educational priority ranking of all school facilities projects in the

district based upon the commissioner's determination of critical need in accordance with the priority project categories developed by the commissioner. Upon the establishment of the priority ranking, the development authority, in consultation with the commissioner, the Abbott districts, and the governing bodies of the municipalities in which the districts are located, will establish a Statewide strategic plan to be used in the sequencing of Abbott district school facilities projects. The strategic plan will be based upon the educational priority ranking of projects as well as issues which impact the development authority's ability to complete a project;

4) provides that the commissioner may authorize the development authority to undertake preconstruction activities prior to commissioner approval of an Abbott district's school facilities project but in accordance with the project's educational priority ranking and the Statewide strategic plan. These activities could include site identification, investigation, and acquisition, feasibility studies, design work, site remediation, demolition, and acquisition of temporary facilities;

5) provides that the preliminary eligible costs of an Abbott district school facilities project will be the costs as estimated by the development authority. Under current law, the preliminary eligible costs for new construction are calculated in accordance with a formula that considers the approved area for unhoused students and the area cost allowance, although current law does establish procedures for increases in those costs;

6) provides that in the event that the development authority funds 100% of the cost of the acquisition of land for the construction of a school facilities project and as a result of the construction of that project a school building located in the district and the land upon which the school building is situate are no longer necessary for educational purposes, title to the land and the school building will be conveyed to the development authority when the development authority determines that it is in its best interest. If the development authority elects to sell the land and the building, the proceeds of the sale must be applied to the cost of school facilities projects in that district;

7) provides that if it is necessary to acquire land for an Abbott district school facilities project, the board of education and the municipality in which the Abbott district is located must jointly submit to the commissioner and to the development authority a complete inventory of all district- and municipal-owned land located in the municipality. The board and the governing body must also provide an analysis of why any of that land would not be suitable as a site for a school facilities project included in the district's long range facilities plan;

8) establishes procedures to ensure that if a site has been identified as a proposed preferred site for an Abbott district school facilities

project, upon submission of that information to the county clerk and the municipal clerk, a municipal approving authority may not exercise any approval authority for the development or improvement of that site unless notice is given to the development authority. The development authority will have 45 days from receipt of that notice to inform the municipal approving authority of its intention to acquire the site, and the approving authority may take no further action for a further period of 180 days;

9) provides that within one year of the bill's effective date the commissioner, in consultation with the development authority, will adopt regulations by which the commissioner will determine whether an Abbott district is eligible to be considered by the development authority to manage a school facilities project or projects. Within that same one-year period, the development authority, in consultation with the commissioner, will adopt regulations by which the development authority will determine if an eligible Abbott district has the capacity to manage a project or projects. In the case of Abbott districts which are determined to lack that capacity, the development authority, in consultation with the commissioner, will develop training programs, seminars, or symposia to provide technical assistance in the development of capacity; and

10) eliminates the category of community provider early childhood education facilities projects. These are school facilities projects consisting of facilities which are owned and operated by a community provider and in which early childhood education programs are provided to three- or four-year olds pursuant to a contract between the community provider and a school district which receives early childhood program aid. No such projects have been initiated since the enactment of EFCFA.

The committee amended the bill to: 1) delete reference to a "nonAbbott" district and insert reference to a district "other than an Abbott district" in various provisions of the bill; 2) include in the legislative findings section the fact that the initiatives included in the bill will provide Abbott districts, the public, and stakeholders with the opportunity to provide input during the various phases of the construction of school facilities projects; 3) require that development authority advertisements for bids be published in a legal newspaper or posted on the development authority's website no less than 10 days prior to the date fixed for receiving bids, as opposed to the seven days included in the original bill; 4) provide that the biannual reports on the school construction program required under the bill will be submitted on June 1 and December 1 as opposed to January 15 and July 15; and 5) provide that any amendment to an Abbott district's long-range facilities plan submitted in the period between the five-year updates of that plan will be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan. The amendments delineate factors that the

development authority will take into consideration when making its determination.

Minority Statement  
by  
Assemblymen Malone, Wolfe, and Baroni

This legislation is an attempt to revise the school construction program established under the “Educational Facilities Construction and Financing Act” (EFCFA), which led to the creation of the Schools Construction Corporation (SCC). The bill, however, merely recreates the SCC under a different name; there is little or no fundamental change in the way contracts are awarded or in the management of projects.

Despite the very serious and complex nature of the problems with the State’s school construction program, this bill was presented to the committee without adequate opportunity for review and without bipartisan input into the development of its provisions that are intended to bring about reform. The record of abuse and mismanagement at the SCC has been an enormous tragedy for children in New Jersey as well as for taxpayers. Any reform of the law authorizing school construction must be carefully reviewed to ensure that adequate safeguards are in place to prevent the waste, fraud and abuse that have plagued the school construction program in the past.

In June 2005, bipartisan legislation was enacted (P.L.2005, c.117) which created the School Construction Review Commission to examine the school construction program and recommend reforms. The commission was to have bipartisan membership, which was intended to bring to bear a broad range of viewpoints in order to develop the best possible solutions. Unfortunately, the commission was never organized. This inclusive, bipartisan approach should have been employed as the law directed.

To date there has not been any accountability for the gross mismanagement and potentially criminal activity at the SCC. The school construction program is in need of a major overhaul, and this bill may not prevent similar serious abuses from being repeated in the future.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 4336**

with Senate Floor Amendments  
(Proposed By Senators DORIA and TURNER)

ADOPTED: JUNE 21, 2007

These floor amendments: 1) provide that a copy of the annual audit of the New Jersey Schools Development Authority will be filed with the State Auditor; and 2) require that the biannual report on the school construction program submitted to the Governor and the Legislature include a comparison of the costs of school facilities projects undertaken and funded by the development authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor. The development authority must also include an explanation of the methodology used in making the comparison.



# SENATE, No. 2796

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JUNE 14, 2007

**Sponsored by:**

**Senator JOSEPH V. DORIA, JR.**

**District 31 (Hudson)**

**Senator SHIRLEY K. TURNER**

**District 15 (Mercer)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



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

3

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

6

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

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

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

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

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

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

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

Matter underlined thus is new matter.

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

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

15 h. The initiatives provided herein implement the  
16 recommendations of the Interagency Working Group on School  
17 Construction with regard to the creation of a new school  
18 construction authority and the undertaking of projects for and by  
19 Abbott districts so as to ensure that the agency undertaking the  
20 school construction program has adequate internal controls,  
21 processes, and procedures to undertake additional school facilities  
22 projects.

23

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

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

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

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

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

46 "Other facilities" means athletic stadiums, swimming pools, any  
47 associated structures or related equipment tied to such facilities  
48 including, but not limited to, grandstands and night field lights,

1 greenhouses, facilities used for non-instructional or non-educational  
2 purposes, and any structure, building or facility used solely for  
3 school administration;

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

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

20

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

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

41 c. Each public member shall serve for a term of five years and  
42 shall hold office for the term of the member's appointment and until  
43 the member's successor shall have been appointed and qualified. A  
44 member shall be eligible for reappointment. Any vacancy in the  
45 membership occurring other than by expiration of term shall be  
46 filled in the same manner as the original appointment but for the  
47 unexpired term only.

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

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

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

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

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

45       h. Each ex officio member of the development authority may  
46 designate an officer or employee of the member's department to  
47 represent the member at meetings of the development authority, and  
48 each such designee may lawfully vote and otherwise act on behalf

1 of the member for whom the person constitutes the designee. Any  
2 such designation shall be in writing delivered to the development  
3 authority and shall continue in effect until revoked or amended by  
4 writing delivered to the development authority.

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

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

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

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

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

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

43 o. No member, officer, employee or agent of the development  
44 authority shall be interested, either directly or indirectly, in any  
45 school facilities project, or in any contract, sale, purchase, lease or  
46 transfer of real or personal property to which the development  
47 authority is a party.

- 1       4. (New section) The development authority shall have the  
2 following powers:
- 3       a. To adopt bylaws for the regulation of its affairs and the  
4 conduct of its business;
- 5       b. To adopt and have a seal and to alter the same at pleasure;
- 6       c. To sue and be sued;
- 7       d. To acquire in the name of the development authority by  
8 purchase or otherwise, on such terms and conditions and such  
9 manner as it may deem proper, or by the exercise of the power of  
10 eminent domain in the manner provided by the "Eminent Domain  
11 Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or  
12 interests therein or other property which it may determine is  
13 reasonably necessary for any school facilities project;
- 14       e. To enter into contracts with a person upon such terms and  
15 conditions as the development authority shall determine to be  
16 reasonable, including, but not limited to, for the planning, design,  
17 construction, reconstruction, improvement, equipping, furnishing,  
18 operation and maintenance of a school facilities project and the  
19 reimbursement thereof, and to pay or compromise any claims  
20 arising therefrom;
- 21       f. To sell, convey or lease to any person all or any portion of its  
22 property, for such consideration and upon such terms as the  
23 development authority may determine to be reasonable;
- 24       g. To mortgage, pledge or assign or otherwise encumber all or  
25 any portion of any property or revenues, whenever it shall find such  
26 action to be in furtherance of the purposes of P.L.2000, c.72  
27 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
28 Legislature as this bill);
- 29       h. To grant options to purchase or renew a lease for any of its  
30 property on such terms as the development authority may determine  
31 to be reasonable;
- 32       i. To contract for and to accept any gifts or grants or loans of  
33 funds or property or financial or other aid in any form from the  
34 United States of America or any agency or instrumentality thereof,  
35 or from the State or any agency, instrumentality or political  
36 subdivision thereof, or from any other source and to comply,  
37 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and  
38 P.L. , c. (C. ) (pending before the Legislature as this bill), with  
39 the terms and conditions thereof;
- 40       j. In connection with any application for assistance under  
41 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L. , c. (C. ) (pending  
42 before the Legislature as this bill) or commitments therefor, to  
43 require and collect such fees and charges as the development  
44 authority shall determine to be reasonable;
- 45       k. To adopt, amend and repeal regulations to carry out the  
46 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and  
47 P.L. , c. (C. ) (pending before the Legislature as this bill);

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



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

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

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

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

26

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

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

42 c. The rules and regulations concerning the prevailing wage rate  
43 in connection with school facilities projects which have been  
44 adopted by the New Jersey Schools Construction Corporation  
45 pursuant to the provisions of P.L.2000, c. 72 (C.18A:7G-1 et al.)  
46 shall remain in full force and effect unless subsequently revised by  
47 the development authority following the enactment of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

39  
40       8. (New section) a. No municipality shall modify or change the  
41 drawings, plans or specifications for the construction,  
42 reconstruction, rehabilitation, alteration or improvement of any  
43 school facilities project of the development authority, or the  
44 construction, plumbing, heating, lighting or other mechanical  
45 branch of work necessary to complete the work in question, nor to  
46 require that any person, firm or corporation employed on any such  
47 work shall perform the work in any other or different manner than  
48 that provided by the drawings, plans and specifications, nor to

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

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

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

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

45  
46 9. (New section) a. In undertaking any school facilities projects  
47 where the cost of construction, reconstruction, rehabilitation or  
48 improvement will exceed \$25,000, the development authority may

1 prepare, or cause to be prepared, separate plans and specifications  
2 for: (1) the plumbing and gas fitting and all work and materials  
3 kindred thereto, (2) the steam and hot water heating and ventilating  
4 apparatus, steam power plants and all work and materials kindred  
5 thereto, (3) the electrical work, (4) structural steel and  
6 miscellaneous iron work and materials, and (5) all general  
7 construction, which shall include all other work and materials  
8 required to complete the building.

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

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

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

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

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

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

35 e. The development authority shall require from all contractors  
36 to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-  
37 1 et al.) and P.L. , c. (C. ) (pending before the Legislature as  
38 this bill), the delivery of a payment and performance bond issued in  
39 accordance with N.J.S.2A:44-143 et seq.

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

46 The rules and regulations promulgated by the New Jersey  
47 Schools Construction Corporation pursuant to the provisions of  
48 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and

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

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

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

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

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

42  
43 10. (New section) a. If the development authority shall find it  
44 necessary in connection with the undertaking of any school  
45 facilities project to change the location of any portion of any public  
46 highway or road, it may contract with any government agency, or  
47 public or private corporation which may have jurisdiction over the  
48 public highway or road to cause the public highway or road to be

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

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

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

1 locations. In all undertakings authorized by this subsection the  
2 development authority shall consult and obtain the approval of the  
3 Board of Public Utilities.

4  
5 11. (New section) The exercise of the powers granted by  
6 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
7 P.L.2000, c.72 (C.18A:7G-1 et al.) shall constitute the performance  
8 of an essential governmental function and the development  
9 authority shall not be required to pay any taxes or assessments upon  
10 or in respect of a school facilities project, or any property or  
11 moneys of the development authority, and the development  
12 authority, its school facilities projects, property, and moneys and  
13 any bonds and notes issued under the provisions of  
14 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
15 P.L.2000, c.72 (C.18A:7G-1 et al.), their transfer and the income  
16 therefrom, including any profit made on the sale thereof, shall at all  
17 times be free from taxation of every kind by the State except for  
18 transfer, inheritance and estate taxes and by any political  
19 subdivision of the State.

20  
21 12. (New section) All property of the development authority  
22 shall be exempt from levy and sale by virtue of an execution and no  
23 execution or other judicial process shall issue against the same nor  
24 shall any judgment against the development authority be a charge or  
25 lien upon its property.

26  
27 13. (New section) a. The New Jersey Schools Construction  
28 Corporation established pursuant to section 16 of P.L.1997, c.150  
29 (C.34:1B-159) and Executive Order No. 24 of 2002 is abolished and  
30 all its functions, powers, duties, and employees are transferred to  
31 the New Jersey Schools Development Authority in, but not of, the  
32 Department of the Treasury.

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

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

41  
42 14. (New section) a. In the event that the development authority  
43 funds 100% of the cost of the acquisition of land for the  
44 construction of a school facilities project and as a result of the  
45 construction of that project a school building located in the district  
46 and the land upon which the school building is situate are no longer  
47 necessary for educational purposes, title to the land together with  
48 the school building on the land shall be conveyed to and shall vest



1 in the New Jersey Schools Development Authority established  
2 pursuant to section 3 of P.L. , c. (C. ) (pending before the  
3 Legislature as this bill) when it is determined by the development  
4 authority that such conveyance is in the best interest of the  
5 development authority. The district shall execute any documents  
6 including, but not limited to, a deed of conveyance necessary to  
7 accomplish the transfer of title.

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

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

20

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

35

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

46 b. Whenever a map, plan, or report indicating a proposed  
47 preferred site for the construction of an Abbott district school  
48 facilities project is filed by the development authority pursuant to

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

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

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

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

36  
37 17. (New section) Notwithstanding any provision of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill) to  
39 the contrary, a school facilities project of a nonAbbott district with  
40 a district aid percentage equal to or greater than 55% or of a  
41 nonAbbott district with a district aid percentage of less than 55%  
42 that had been approved by the Commissioner of Education and the  
43 New Jersey Schools Construction Corporation prior to the effective  
44 date of P.L. , c. (C. ) (pending before the Legislature as this  
45 bill) to be constructed by the corporation, shall be constructed and  
46 financed in accordance with the provisions of P.L. 2000, c.72  
47 (C.18A:7G-1 et al.) as the same read before the effective date of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

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

37 "Commissioner" means the Commissioner of Education;

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

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

46 "Debt service" means and includes payments of principal and  
47 interest upon school bonds issued to finance the acquisition of  
48 school sites and the purchase or construction of school facilities,

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

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

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

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

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

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

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

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

47 "Final eligible costs" means for school facilities projects to be  
48 constructed by the development authority, the final eligible costs of

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

15 “Financing authority” means the New Jersey Economic  
16 Development Authority established pursuant to P.L.1974, c.80  
17 (C.34:1B-1 et seq.);

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

41 "Functional capacity" means the number of students that can be  
42 housed in a building in order to have sufficient space for it to be  
43 educationally adequate for the delivery of programs and services  
44 necessary for student achievement of the core curriculum content  
45 standards. Functional capacity is determined by dividing the  
46 existing gross square footage of a school building by the minimum  
47 area allowance per FTE student pursuant to subsection b. of section  
48 8 of this act for the grade level students contained therein. The

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

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

24 "Local share" means, in the case of a school facilities project to  
25 be constructed by the development authority, the total costs less the  
26 State share as determined pursuant to section 5 of this act; in the  
27 case of a demonstration project, the total costs less the State share  
28 as determined pursuant to sections 5 and 6 of this act; and in the  
29 case of a school facilities project **【not to be constructed by the**  
30 **authority, but】** which shall be financed pursuant to section 15 of  
31 this act, the total costs less the State share as determined pursuant to  
32 that section;

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

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

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

45 "Maintenance" means expenditures which are approved for  
46 repairs and replacements for the purpose of keeping a school  
47 facility open and safe for use or in its original condition, including  
48 repairs and replacements to a school facility's heating, lighting,

1 ventilation, security and other fixtures to keep the facility or  
2 fixtures in effective working condition. Maintenance shall not  
3 include capital maintenance or contracted custodial or janitorial  
4 services, expenditures for the cleaning of a school facility or its  
5 fixtures, the care and upkeep of grounds or parking lots, and the  
6 cleaning of, or repairs and replacements to, movable furnishings or  
7 equipment, or other expenditures which are not required to maintain  
8 the original condition over the school facility's useful life.  
9 Approved maintenance expenditures shall be as determined by the  
10 commissioner pursuant to regulations to be adopted by the  
11 commissioner pursuant to section 26 of this act;

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

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

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

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

37 ["Report on the Cost of Providing a Thorough and Efficient  
38 Education" or "Report" means the report issued by the  
39 commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-  
40 4);]

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

1 bonds, notes or other obligations issued by a district to finance the  
2 total costs;

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

8 "School facility" means and includes any structure, building or  
9 facility used wholly or in part for **[academic]** educational purposes  
10 by a district and facilities that physically support such structures,  
11 buildings and facilities, such as district wastewater treatment  
12 facilities, power generating facilities, and steam generating  
13 facilities, but shall exclude **[athletic stadiums, grandstands, and any**  
14 **structure, building or facility used solely for school administration]**  
15 other facilities;

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

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

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

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

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



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

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

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

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

21

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

24 4. a. **【Beginning in the 1999-2000 school year and in every**  
25 **school year thereafter ending with a "0" or a "5"】** By December 15,  
26 2000 and by October 1, 2005, each district shall prepare and submit  
27 to the commissioner a long-range facilities plan that details the  
28 district's school facilities needs and the district's plan to address  
29 those needs for the ensuing five years. Following the approval of  
30 the 2005 long-range facilities plan, each district shall amend its  
31 long-range facilities plan at least once every five years to update  
32 enrollment projections, building capacities, and health and safety  
33 conditions. The long-range facilities plan shall incorporate the  
34 facilities efficiency standards and shall be filed with the  
35 commissioner **【no later than December 15, 2000 and no later than**  
36 **October 1 of the other filing years】** for approval in accordance with  
37 those standards. For those Abbott districts that have submitted  
38 long-range facilities plans to the commissioner prior to the effective  
39 date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not  
40 be read to require an additional filing by October 1, 2000.

41 b. Notwithstanding any other law or regulation to the contrary,  
42 an application for a school facilities project pursuant to section 5 of  
43 this act shall not be approved unless the district has filed a long-  
44 range facilities plan that is consistent with the application and the  
45 plan has been approved by the commissioner; except that prior to  
46 October 1, 2000, the commissioner may approve an application if  
47 the project is necessary to protect the health or safety of occupants  
48 of the school facility, or is related to required early childhood

1 education programs, or is related to a school facility in which the  
2 functional capacity is less than 90% of the facilities efficiency  
3 standards based on current school enrollment, or the district  
4 received bids on the school facilities project prior to the effective  
5 date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district  
6 demonstrates that further delay will negatively affect the cost of the  
7 project.

8 c. An amendment to a long-range facilities plan may be  
9 submitted at any time to the commissioner for review and  
10 **[approval]** determination on the approval or disapproval of the  
11 amendment.

12 d. Each long-range facilities plan shall include a cohort  
13 survival methodology or other methodology approved by the  
14 commissioner, accompanied by a certification by a qualified  
15 demographer retained by the district that serves as the basis for  
16 identifying the capacity and program needs detailed in the long-  
17 range facilities plan.

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

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

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

38 h. The commissioner shall develop, for the March 2002 Report  
39 on the Cost of Providing a Thorough and Efficient Education **[and**  
40 **for subsequent reports]** issued by the commissioner pursuant to  
41 section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency  
42 standards for elementary, middle, and high schools consistent with  
43 the core curriculum school delivery assumptions in the report and  
44 sufficient for the achievement of the core curriculum content  
45 standards, including the provision of required programs in Abbott  
46 districts and early childhood education programs in the districts in  
47 which these programs are required by the State. The area  
48 allowances per FTE student in each class of the district shall be

1 derived from these facilities efficiency standards. The  
2 commissioner shall revise the facilities efficiency standards in  
3 accordance with such schedule as the commissioner deems  
4 necessary. The commissioner shall publish the revised facilities  
5 efficiency standards in the New Jersey Register and, within a  
6 reasonable period of time after 30 days following publication, shall  
7 file the revised facilities efficiency standards with the Office of  
8 Administrative Law for publication in the New Jersey Register and  
9 those standards shall become effective immediately upon filing.  
10 During the 30-day period the commissioner shall provide an  
11 opportunity for public comment on the proposed facilities  
12 efficiency standards.

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

30 Within a reasonable period of time after the effective date of  
31 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish  
32 the facilities efficiency standards developed for the 2000-2001,  
33 2001-2002, and 2002-2003 school years in the New Jersey Register.  
34 Within a reasonable period of time after 30 days after publication in  
35 the New Jersey Register, the commissioner shall file the facilities  
36 efficiency standards with the Office of Administrative Law and  
37 those standards shall become effective immediately upon filing with  
38 the Office of Administrative Law. During the 30-day period the  
39 commissioner shall provide an opportunity for public comment on  
40 the proposed facilities efficiency standards.

41 i. Within 90 days of the commissioner's receipt of a long-range  
42 facilities plan for review, the commissioner shall determine whether  
43 the plan is fully and accurately completed and whether all  
44 information necessary for a decision on the plan has been filed by  
45 the district. If the commissioner determines that the plan is  
46 complete, the commissioner shall promptly notify the district in  
47 writing and shall have 60 days from the date of that notification to  
48 determine whether to approve the plan or not. If the commissioner

1 determines that the plan is not complete, the commissioner shall  
2 notify the district in writing. The district shall provide to the  
3 commissioner whatever information the commissioner determines is  
4 necessary to make the plan accurate and complete. The district  
5 shall submit that information to the commissioner, and the  
6 commissioner shall have 60 days from the date of receipt of  
7 accurate and complete information to determine whether to approve  
8 the plan or not.

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

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

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

36 m. By July 1, 2001, the commissioner shall study the Safe  
37 Schools Design Guidelines, prepared by the Florida Center for  
38 Community Design and Research, which address the issues of  
39 school safety and security through the design of school facilities.  
40 Based upon the commissioner's study, the commissioner shall issue  
41 recommendations to districts on the appropriateness of including  
42 the Safe Schools Design Guidelines in the design and construction  
43 of school facilities projects.

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

45  
46 20. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to  
47 read as follows:

1       5. a. The development authority shall **【construct】** undertake and  
2 the financing authority shall finance the school facilities projects of  
3 Abbott districts**【,** districts in level II monitoring pursuant to section  
4 14 of P.L.1975, c.212 (C.18A:7A-14) as of the effective date of  
5 P.L.2000, c.72 (C.18A:7G-1 et al.), and districts with a district aid  
6 percentage equal to or greater than 55% **】**.

7       b. **【**Any district whose district aid percentage is less than 55%  
8 may elect to have the authority undertake the construction of a  
9 school facilities project in the district and the State share shall be  
10 determined pursuant to this section. In the event that the district  
11 elects not to have the authority undertake the construction of the  
12 project **】** In the case of a nonAbbott district, State support for the  
13 project shall be determined pursuant to section 9 or section 15 of  
14 this act, as applicable.

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

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

35       (2) In the case of an Abbott district school facilities project,  
36 based upon its educational priority ranking and the Statewide  
37 strategic plan established pursuant to subsection m. of this section,  
38 the commissioner may authorize the development authority to  
39 undertake preconstruction activities which may include, but need  
40 not be limited to, site identification, investigation, and acquisition,  
41 feasibility studies, land-related design work, design work, site  
42 remediation, demolition, and acquisition of temporary facilities.  
43 Upon receipt of the authorization, the development authority may  
44 initiate the preconstruction activities required to prepare the  
45 application for commissioner approval of the school facilities  
46 project.

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

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

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

42 (1) The commissioner shall approve area allowances in excess  
43 of the area allowances per FTE student derived from the facilities  
44 efficiency standards if the board of education or State district  
45 superintendent, as appropriate, demonstrates that school facilities  
46 needs related to required programs cannot be addressed within the  
47 facilities efficiency standards and that all other proposed spaces are  
48 consistent with those standards. The commissioner shall approve

1 area allowances in excess of the area allowances per FTE student  
2 derived from the facilities efficiency standards if the additional area  
3 allowances are necessary to accommodate centralized facilities to  
4 be shared among two or more school buildings within the district  
5 and the centralized facilities represent a more cost effective  
6 alternative.

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

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

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

34 (4) The commissioner shall approve spaces in excess of, or  
35 inconsistent with, the facilities efficiency standards, hereinafter  
36 referred to as nonconforming spaces, upon a determination by the  
37 district that the spaces are necessary to comply with State or federal  
38 law concerning individuals with disabilities, including that the  
39 spaces are necessary to provide in-district programs and services for  
40 current disabled pupils who are being served in out-of-district  
41 placements or in-district programs and services for the projected  
42 disabled pupil population. A district may apply for additional State  
43 aid for nonconforming spaces that will permit pupils with  
44 disabilities to be educated to the greatest extent possible in the same  
45 buildings or classes with their nondisabled peers. The  
46 nonconforming spaces may: (a) allow for the return of pupils with  
47 disabilities from private facilities; (b) permit the retention of pupils  
48 with disabilities who would otherwise be placed in private facilities;

1 (c) provide space for regional programs in a host school building  
2 that houses both disabled and nondisabled pupils; and (d) provide  
3 space for the coordination of regional programs by a county special  
4 services school district, educational services commission, jointure  
5 commission, or other agency authorized by law to provide regional  
6 educational services in a school building that houses both disabled  
7 and nondisabled pupils. A district's State support ratio shall be  
8 adjusted to equal the lesser of the sum of its district aid percentage  
9 as defined in section 3 of this act plus 0.25, or 100% for any  
10 nonconforming spaces approved by the commissioner pursuant to  
11 this paragraph.

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

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

31 The appeal shall outline the reasons why the preliminary eligible  
32 costs calculated for the project are inadequate and estimate the  
33 amount of the adjustment which needs to be made to the  
34 preliminary eligible costs. The commissioner shall forward the  
35 appeal information to the development authority for its review and  
36 recommendation. If the additional costs are the result of factors  
37 that are within the control of the district or are the result of design  
38 factors that are not required to meet the facilities efficiency  
39 standards, the development authority shall recommend to the  
40 commissioner that the preliminary eligible costs be accepted as the  
41 final eligible costs. If the development authority determines the  
42 additional costs are not within the control of the district or are the  
43 result of design factors required to meet the facilities efficiency  
44 standards, the development authority shall recommend to the  
45 commissioner a final eligible cost based on its experience for  
46 districts with similar characteristics, provided that, notwithstanding  
47 anything to the contrary, the commissioner shall not approve an  
48 adjustment to the preliminary eligible costs which exceeds 10% of



1 the preliminary eligible costs. The commissioner shall make a  
2 determination on the appeal within 30 days of its receipt. If the  
3 commissioner does not approve an adjustment to the school  
4 facilities project's preliminary eligible costs, the commissioner shall  
5 issue his findings in writing on the reasons for the denial and on  
6 why the preliminary eligible costs as originally calculated are  
7 sufficient.

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

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

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

39 (2) In the event that the development authority determines that  
40 the school facilities project cannot be completed within the  
41 preliminary eligible costs, prior to the submission of **【the**  
42 **authority's】** its recommendations to the commissioner, the  
43 development authority shall, in consultation with the district and the  
44 commissioner, determine whether changes can be made in the  
45 project which will result in a reduction in costs while at the same  
46 time meeting the facilities efficiency standards approved by the  
47 commissioner.

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

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

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

37 (d) For a school facilities project **【constructed】** undertaken by  
38 the development authority, the development authority shall be  
39 responsible for any costs of construction, but only from the  
40 proceeds of bonds issued by the financing authority pursuant to  
41 **【this act】** P.L.2000, c.72 (C.18A:7G-1 et al. and P.L. , c. (C. )  
42 (pending before the Legislature as this bill), which exceed the  
43 amount originally projected by the development authority and  
44 approved for financing by the development authority, provided that  
45 the excess is the result of an underestimate of labor or materials  
46 costs by the development authority. After receipt by the  
47 development authority of the final project report, the district shall  
48 be responsible only for the costs associated with changes, if any,

1 made at the request of the district to the scope of the school  
2 facilities project.

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

13 k. For the Abbott districts, the State share shall be 100% of the  
14 final eligible costs. For all other districts, the State share shall be  
15 an amount equal to 115% of the district aid percentage; except that  
16 the State share shall not be less than 40% of the final eligible costs.

17 If any district which is included in district factor group A or B,  
18 other than an Abbott district, is having difficulty financing the local  
19 share of a school facilities project, the district may apply to the  
20 commissioner to receive 100% State support for the project and the  
21 commissioner may request the approval of the Legislature to  
22 increase the State share of the project to 100%.

23 l. The local share for school facilities projects constructed by  
24 the authority or a redevelopment entity shall equal the final eligible  
25 costs plus any excess costs less the State share.

26 m. **【The commissioner shall establish, in consultation with the**  
27 **Abbott districts, a priority ranking of all school facilities projects in**  
28 **the Abbott districts based upon his determination of critical need,**  
29 **and shall establish priority categories for all school facilities**  
30 **projects in non-Abbott districts. The commissioner shall rank**  
31 **projects from Tier I to Tier IV in terms of critical need according to**  
32 **the following prioritization:**

33 Tier I: health and safety, including electrical system upgrades;  
34 required early childhood education programs; unhoused  
35 students/class size reduction as required to meet the standards of the  
36 "Comprehensive Educational Improvement and Financing Act of  
37 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.);

38 Tier II: educational adequacy - specialized instructional spaces,  
39 media centers, cafeteriums, and other non-general classroom spaces  
40 contained in the facilities efficiency standards; special education  
41 spaces to achieve the least restrictive environment;

42 Tier III: technology projects; regionalization or consolidation  
43 projects;

44 Tier IV: other local objectives **】** (1) Within 90 days of the  
45 effective date of P.L. , c. (C. ) (pending before the  
46 Legislature as this bill), the commissioner shall develop an  
47 educational facilities needs assessment for each Abbott district.  
48 The assessment shall be updated periodically by the commissioner

1 in accordance with the schedule the commissioner deems  
2 appropriate for the district; except that each assessment shall at a  
3 minimum be updated within five years of the development of  
4 district's most recent prior educational needs assessment. The  
5 assessment shall be transmitted to the development authority to be  
6 used to initiate the planning activities required prior to the  
7 establishment of the educational priority ranking of school facilities  
8 projects pursuant to paragraph (2) of this subsection.

9 (2) Following the approval of an Abbott district's long range  
10 facilities plan or of an amendment to that plan, but prior to  
11 authorization of preconstruction activities for a school facilities  
12 project included in the plan or amendment, the commissioner shall  
13 establish, in consultation with the Abbott district, an educational  
14 priority ranking of all school facilities projects in the Abbott district  
15 based upon the commissioner's determination of critical need in  
16 accordance with priority project categories developed by the  
17 commissioner. The priority project categories shall include, but not  
18 be limited to, health and safety, overcrowding in the early  
19 childhood, elementary, middle, and high school grade levels, spaces  
20 necessary to provide in-district programs and services for current  
21 disabled students who are being served in out-of-district placements  
22 or in-district programs and services for the projected disabled  
23 student population, rehabilitation, and educational adequacy.

24 (3) Upon the commissioner's determination of the educational  
25 priority ranking of school facilities projects in Abbott districts  
26 pursuant to paragraph (2) of this subsection, the development  
27 authority, in consultation with the commissioner, the Abbott  
28 districts, and the governing bodies of the municipalities in which  
29 the Abbott districts are situate, shall establish a Statewide strategic  
30 plan to be used in the sequencing of Abbott district school facilities  
31 projects based upon the projects' educational priority rankings and  
32 issues which impact the development authority's ability to complete  
33 the projects including, but not limited to, the construction schedule  
34 and other appropriate factors. The development authority shall  
35 revise the Statewide strategic plan and the sequencing of Abbott  
36 district school facilities projects in accordance with that plan no less  
37 than once every five years.

38 n. The provisions of the "Public School Contracts Law,"  
39 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities  
40 project constructed by a district but shall not be applicable to  
41 projects constructed by the development authority or a  
42 redevelopment entity pursuant to the provisions of this act.

43 o. In the [event that a district whose district aid percentage is  
44 less than 55% elects not to have the authority undertake  
45 construction of a school facilities project] case of a nonAbbott  
46 district school facilities project, any proceeds of school bonds  
47 issued by the district for the purpose of funding the project which  
48 remain unspent upon completion of the project shall be used by the

1 district to reduce the outstanding principal amount of the school  
2 bonds.

3 p. Upon completion by the development authority of a school  
4 facilities project, if the cost of construction and completion of the  
5 project is less than the total costs, the district shall be entitled to  
6 receive a portion of the local share based on a pro rata share of the  
7 difference based on the ratio of the State share to the local share.

8 q. The development authority shall determine the cause of any  
9 costs of construction which exceed the amount originally projected  
10 by the development authority and approved for financing by the  
11 financing authority.

12 r. **【In the event that a district has engaged architectural**  
13 **services to prepare the documents required for initial proposal of a**  
14 **school facilities project, the district shall, if permitted by the terms**  
15 **of the district's contract for architectural services, and at the option**  
16 **of the authority assign the contract for architectural services to the**  
17 **authority if the authority determines that the assignment would be**  
18 **in the best interest of the school facilities project.】 Deleted by**  
19 **amendment, P.L. , c. (pending before the Legislature as this bill)**

20 s. **【Notwithstanding anything to the contrary contained in**  
21 **P.L.2000, c.72 (C.18A:7G-1 et al.), an ECPA district, at its option,**  
22 **may provide in its long-range facilities plan submitted pursuant to**  
23 **section 4 of this act, for one or more community early childhood**  
24 **education facilities projects. If the district has requested**  
25 **designation of a demonstration project pursuant to section 6 of this**  
26 **act and is eligible to submit a plan for a community early childhood**  
27 **education facilities project pursuant to this section, the district shall**  
28 **be permitted to include the community early childhood education**  
29 **facilities project as part of the demonstration project.**

30 (1) An ECPA district seeking to initiate a community early  
31 childhood education facilities project shall apply to the  
32 commissioner for approval of the project. The application shall, at  
33 a minimum, contain the following information: the name of the  
34 community provider; evidence that the community provider is  
35 licensed by the Department of Children and Families pursuant to  
36 P.L.1983, c.492 (C.30:5B-1 et seq.) and is a tax exempt nonprofit  
37 organization; evidence that the community provider is or shall  
38 provide early childhood education programs for the district; a  
39 description of the community early childhood education facilities  
40 project; a schematic drawing of the project, or at the option of the  
41 district, preliminary plans and specifications; a delineation and  
42 description of each of the functional components of the project;  
43 identification of those portions of the proposed project which shall  
44 be devoted in whole or in part to the provision of early childhood  
45 education programs to 3 or 4-year old children from the ECPA  
46 district; the estimated cost to complete the project as determined by  
47 the district in consultation with the community provider; and  
48 whether the facility provides services other than early childhood

1 education programs for 3 and 4-year old children, pursuant to a  
2 contract with the ECPA district.

3 (2) The commissioner shall review the proposed early childhood  
4 education facilities project to determine whether it is consistent  
5 with the district's long-range facilities plan, whether it will provide  
6 a facility which is structurally adequate and safe and capable of  
7 providing a program which will enable preschool children being  
8 served pursuant to the ECPA district's approved early childhood  
9 education operational plan to meet the standards for early childhood  
10 education programs established by the department and whether  
11 there is a need for increased capacity or to rehabilitate existing  
12 space to meet these standards. Only those facilities which are used  
13 for 3 or 4-year old children pursuant to a contract with the ECPA  
14 district shall be eligible for approval, provided that facilities which  
15 are jointly used by 3 or 4-year old children from the ECPA district  
16 and from other districts shall also be eligible for approval.

17 (3) If the commissioner approves the project, the commissioner  
18 shall determine, in consultation with the authority, the cost to  
19 complete the approved project, which shall be the reasonable,  
20 estimated cost of the renovation or new construction necessary to  
21 provide a facility which is structurally adequate and safe and  
22 capable of providing a program which will enable preschool  
23 children being served pursuant to the ECPA district's approved  
24 early childhood education operation plan to meet the standards for  
25 early childhood education programs established by the department.  
26 For projects initiated by an Abbott district, the State support shall  
27 be 100% of such reasonable, estimated cost. For projects initiated  
28 by an ECPA district that is not an Abbott district, the State support  
29 shall be an amount equal to 115% of the district aid percentage of  
30 that ECPA district, of such reasonable, estimated cost, except that  
31 the State support shall not be less than 40% of such reasonable,  
32 estimated cost. The commissioner shall issue a final project report  
33 to the authority which shall contain a complete description of the  
34 project, the actual location of the project, the total square footage of  
35 the project together with a breakdown of total square footage by  
36 functional component; any other factors to be considered by the  
37 authority in undertaking the project; the names and addresses of the  
38 people to contact from the district and the community provider; the  
39 amount of State support for the project; and the amount of local  
40 support required from the community provider to pay for costs, if  
41 any, of the project which have not been approved by the  
42 commissioner for State support.

43 (4) Upon submission to the authority of a final project report,  
44 the authority shall undertake the financing, acquisition, construction  
45 and all other appropriate actions necessary to complete the  
46 community early childhood education facilities project, provided,  
47 that if there is local support required for the project, such actions  
48 shall not commence until the authority receives the local support

1 from the community provider. The authority may, in its discretion,  
2 and upon consultation with the commissioner, authorize a  
3 community provider to undertake the acquisition, construction and  
4 all other appropriate action necessary to complete the project, in  
5 which case the authority shall not provide State support until the  
6 community provider provides the local support, if any.

7 (5) In order to implement the arrangements established for  
8 community early childhood education facilities projects, the  
9 authority shall enter into an agreement with the district, the  
10 commissioner and the community provider containing the terms and  
11 conditions determined by the parties to be necessary to effectuate  
12 the project.

13 (6) The authority shall require as a condition of providing State  
14 support for any community early childhood education facilities  
15 project that the State support must be repaid by the community  
16 provider in the event that (a) the commissioner determines that the  
17 project is no longer being used for the purposes for which it was  
18 intended; or (b) the project is sold, leased or otherwise conveyed to  
19 an individual or organization that does not have tax exempt  
20 nonprofit or government status.] Deleted by amendment,  
21 P.L. , c. (pending before the Legislature as this bill)  
22 (cf: P.L.2006, c.47, s.91)

23

24 21. Section 6 of P.L.2000, c.72 (C.18A:7G-6) is amended to  
25 read as follows:

26 6. The provisions of section 5 of P.L.2000, c.72 (C.18A:7G-5)  
27 shall pertain to school facilities projects designated to be  
28 demonstration projects except as otherwise provided in this section.

29 a. For the initial three full fiscal years following the effective  
30 date of **[this act]** P.L.2000, c.72 (C.18A:7G-1 et al.), the State  
31 Treasurer may designate up to six school facilities projects which  
32 the State Treasurer determines to be in the best interests of the State  
33 and of the districts to be demonstration projects pursuant to the  
34 provisions of this section. As used in this section, "authority"  
35 means the New Jersey Economic Development Authority which  
36 was designated as both the financing and construction agency for  
37 school facilities projects prior to the enactment of  
38 P.L. , c. (C. ) (pending before the Legislature as this bill);  
39 except that in the event that any actions required to be taken  
40 pursuant to this section by the New Jersey Economic Development  
41 Authority or its subsidiary, the New Jersey Schools Construction  
42 Corporation, have not been taken prior to the effective date of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 authority shall mean the New Jersey Schools Development  
45 Authority.

46 b. A district and municipality may apply to the authority for the  
47 designation of a school facilities project contained in a long-range  
48 facilities plan submitted to the commissioner pursuant to section 4

1 of P.L.2000, c.72 (C.18A:7G-4) to be a demonstration project to  
2 provide for the coordination of local economic development,  
3 redevelopment or community development with a school facilities  
4 project. The application shall be accompanied by resolutions  
5 requesting the designation adopted by the board of education of the  
6 district and the governing body of the municipality. The  
7 application shall set forth:

8 (1) a plan for carrying out the redevelopment project as a whole,  
9 including the construction of the school facilities project;

10 (2) the name of the redevelopment entity to undertake the  
11 project under the "Local Redevelopment and Housing Law"  
12 P.L.1992, c.79 (C.40A:12A-1 et seq.);

13 (3) a description of how the project fits into a redevelopment  
14 plan adopted or to be adopted by the municipal governing body  
15 pursuant to section 7 of P.L.1992, c.79 (C.40A:12A-7); and

16 (4) a description of the community design features to be  
17 included in the school facilities project.

18 c. The authority shall evaluate the request to determine  
19 whether the school facilities project is suitable for designation as a  
20 demonstration project and whether the proposed redevelopment  
21 entity is suitable for designation as the entity to construct the  
22 demonstration project based upon consideration of the following  
23 factors:

24 (1) whether the demonstration project furthers definite local  
25 objectives as to appropriate land uses, density of population, and  
26 improved traffic and public transportation, public utilities,  
27 recreational and community facilities and other public  
28 improvements;

29 (2) whether the demonstration project provides significant social  
30 and economic benefits to the municipality, its neighborhoods and  
31 residents;

32 (3) whether the development of the school facilities project is  
33 consistent with the local development plan;

34 (4) the extent to which the school facilities project contains  
35 community design features which can be used by the community;

36 (5) whether the redevelopment entity has the current capacity to  
37 construct the demonstration project;

38 (6) whether the redevelopment entity has the appropriate prior  
39 experience in developing similar types of projects; and

40 (7) whether there exist donations from private entities for the  
41 purpose of the demonstration project.

42 d. The authority's review of the proposed school facilities  
43 project for designation as a demonstration project under this section  
44 shall commence upon approval by the commissioner of the school  
45 facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-  
46 5). Upon approval by the commissioner of the school facilities  
47 project, and recommendation by the authority that the school  
48 facilities project be a demonstration project, the recommendation of



1 the authority shall be forwarded to the State Treasurer who shall  
2 determine whether the school facilities project should be designated  
3 as a demonstration project. At the same time as the authority  
4 forwards its recommendation to the State Treasurer, the authority  
5 shall forward its recommendation to the Urban Coordinating  
6 Council for review pursuant to subsection i. of this section.

7 e. In addition to the requirements set forth in section 5 of this  
8 act, a demonstration project may request inclusion in the final  
9 eligible costs of the school facilities project, of all or any portion of  
10 the cost of any community design features including any area,  
11 rooms, equipment, recreational area or playground included in the  
12 school facilities project which are to be used in common by students  
13 of the district and by residents of the community, but there shall not  
14 be included in the final eligible costs any portion of the cost of any  
15 features which are not an integral part of the school building and  
16 grounds or exceed the facilities efficiency standards. The  
17 commissioner shall approve the inclusion of the community design  
18 features as part of the school facilities project if he finds that the  
19 inclusion of the community design features as part of the school  
20 facilities project would be conducive to the usefulness and success  
21 of the project for both the students of the district and the residents  
22 of the community. The commissioner may condition his approval  
23 upon the adoption by the district of policies suitable for assuring  
24 continuing community or educational access to the community  
25 design features.

26 f. The cost of the community design features approved by the  
27 commissioner shall be reviewed by the authority. The district shall  
28 submit the documentation required by the authority for the authority  
29 to make its determination. The authority shall, in its  
30 recommendation to the commissioner pursuant to section 5 of this  
31 act, include its recommendation with respect to the cost of the  
32 community design features. The commissioner shall make the final  
33 determination with respect to the inclusion of the cost of  
34 community design features in the final eligible costs.

35 g. The authority shall provide funding for the State's share of  
36 the final eligible costs of a school facilities project to be constructed  
37 as part of a demonstration project pursuant to an agreement among  
38 the authority, the redevelopment entity and the district which shall,  
39 in addition to any other terms and conditions, set forth the terms for  
40 disbursement of the State share and provide for the monitoring of  
41 construction by the authority.

42 h. Upon completion of a demonstration project by a  
43 redevelopment entity, the district shall submit to the commissioner  
44 a plan to provide for the maintenance of the project and shall enter  
45 into a contract which provides for that maintenance.

46 i. The Urban Coordinating Council shall review the  
47 recommendations of the authority with respect to the demonstration  
48 projects and shall advise the authority, redevelopment entity and the

1 district regarding the potential availability of funding for the  
2 demonstration project, including, but not limited to, sources of  
3 funds for acquisition, clearance, site remediation, and assemblage  
4 of land and the development, redevelopment, construction or  
5 rehabilitation of any structure or improvement included in the  
6 project.

7 j. Any district may consult with the Urban Coordinating  
8 Council with respect to the potential availability of funding for  
9 aspects of the school facilities project, including, but not limited to,  
10 sources of funds for acquisition, clearance, site remediation, and  
11 assemblage of land and the development, redevelopment,  
12 construction or rehabilitation of any structure or improvement  
13 included in the project.

14 (cf: P.L.2000, c.72, s.6)

15

16 22. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to  
17 read as follows:

18 9. a. State debt service aid for capital investment in school  
19 facilities for a nonAbbott district [whose district aid percentage is  
20 less than 55% and] which elects not to [have the authority  
21 construct a school facilities project or to] finance the project under  
22 section 15 of this act, shall be distributed upon a determination of  
23 preliminary eligible costs by the commissioner, according to the  
24 following formula:

25 Aid is the sum of A for each issuance of school bonds issued for  
26 a school facilities project approved by the commissioner after the  
27 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.)

28 where

29  $A = B \times AC/P \times (DAP \times 1.15) \times M$ , with  $AC/P = 1$

30 whenever  $AC/P$  would otherwise yield a number greater than one,

31 and where:

32 B is the district's debt service for the individual issuance for the  
33 fiscal year;

34 AC is the preliminary eligible costs determined pursuant to  
35 section 7 of this act;

36 P is the principal of the individual issuance plus any other  
37 funding sources approved for the school facilities project;

38 DAP is the district's district aid percentage as defined pursuant to  
39 section 3 of this act and where (DAP x 1.15) shall not be less than  
40 40%; and

41 M is a factor representing the degree to which a district has  
42 fulfilled maintenance requirements for a school facilities project  
43 determined pursuant to subsection b. of this section.

44 For county special services school districts, DAP shall be that of  
45 the county vocational school district in the same county.

46 [Notwithstanding any provision of this subsection to the contrary,

1 State debt service aid shall not be less than 40% of the preliminary  
2 eligible costs.】

3 b. The maintenance factor (M) shall be 1.0 except when one of  
4 the following conditions applies, in which case the maintenance  
5 factor shall be as specified:

6 (1) Effective ten years from the date of the enactment of  
7 P.L.2000, c.72 (C.18A:7G-1 et al.), the maintenance factor for aid  
8 for reconstruction, remodeling, alteration, modernization,  
9 renovation or repair, or for an addition to a school facility, shall be  
10 zero for all school facilities projects for which the district fails to  
11 demonstrate over the ten years preceding issuance a net investment  
12 in maintenance of the related school facility of at least 2% of the  
13 replacement cost of the school facility, determined pursuant to  
14 subsection b. of section 7 of this act using the area cost allowance  
15 of the year ten years preceding the year in which the school bonds  
16 are issued.

17 (2) For new construction, additions, and school facilities aided  
18 under subsection b. of section 7 of this act supported by financing  
19 issued for projects approved by the commissioner after the effective  
20 date of P.L.2000, c.72 (C.18A:7G-1 et al.), beginning in the fourth  
21 year after occupancy of the school facility, the maintenance factor  
22 shall be reduced according to the following schedule for all school  
23 facilities projects for which the district fails to demonstrate in the  
24 prior fiscal year an investment in maintenance of the related school  
25 facility of at least two-tenths of 1% of the replacement cost of the  
26 school facility, determined pursuant to subsection b. of section 7 of  
27 this act.

28 Maintenance Percentage	Maintenance Factor (M)
29 .199% - .151%	75%
30 .150% - .100%	50%
31 Less than .100%	Zero

32 (3) Within one year of the enactment of P.L.2000, c.72  
33 (C.18A:7G-1 et al.), the commissioner shall promulgate rules  
34 requiring districts to develop a long-range maintenance plan and  
35 specifying the expenditures that qualify as an appropriate  
36 investment in maintenance for the purposes of this subsection.

37 c. Any district which obtained approval from the commissioner  
38 since September 1, 1998 and prior to the effective date of P.L.2000,  
39 c.72 (C.18A:7G-1 et al.) of the educational specifications for a  
40 school facilities project or obtained approval from the Department  
41 of Community Affairs or the appropriately licensed municipal code  
42 official since September 1, 1998 of the final construction plans and  
43 specifications, and the district has issued debt, may elect to have the  
44 final eligible costs of the project determined pursuant to section 5 of  
45 this act and to receive debt service aid under this section or under  
46 section 10 of this act.

47 Any district which received approval from the commissioner for  
48 a school facilities project at any time prior to the effective date of

1 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other  
2 than short term notes, may submit an application pursuant to section  
3 5 of this act to have the final eligible costs of the project determined  
4 pursuant to that section and to have the **[authority]** New Jersey  
5 Economic Development Authority construct the project; or, at its  
6 discretion, the district may choose to receive debt service aid under  
7 this section or under section 10 of this act or to receive a grant  
8 under section 15 of this act.

9 For the purposes of this subsection, the "issuance of debt" shall  
10 include lease purchase agreements in excess of five years.

11 (cf: P.L.2000, c.72, s.9)

12

13 23. Section 12 of P.L.2000, c.72 (C.18A:7G-12) is amended to  
14 read as follows:

15 12. A district, other than a **[State-operated school]** district under  
16 full State intervention, that sought approval pursuant to section 11  
17 of this act of a school facilities project without excess costs but  
18 failed to receive that approval, and within the three years prior to  
19 that, sought and failed to receive approval of that school facilities  
20 project with or without excess costs, may submit the project to the  
21 commissioner and request that the commissioner approve the  
22 project and authorize the issuance of school bonds for the local  
23 share of the project. Upon receipt of the request, the commissioner  
24 shall review the school facilities project and determine whether the  
25 project is necessary for the provision of a thorough and efficient  
26 system of education in the district. If the commissioner concludes  
27 that the project is necessary, the commissioner may approve the  
28 project without excess costs and authorize the issuance of school  
29 bonds to fund the local share. In addition to the amount of taxes  
30 determined by the legal voters of the district at the annual school  
31 election, the secretary of the board of education shall certify the  
32 amount required for the repayment of the interest and principal of  
33 the bonds required to fund the local share amount approved by the  
34 commissioner in the same manner required for interest and debt  
35 redemption charges pursuant to N.J.S.18A:22-33, and the amount so  
36 certified shall be included in the taxes assessed, levied and collected  
37 in the municipality or municipalities comprising the school district  
38 for those purposes.

39 Any school facilities project authorized pursuant to this section  
40 shall be **[constructed]** undertaken by the development authority in  
41 accordance with an agreement between the development authority  
42 and the district. Nothing in this section shall preclude a **[State-**  
43 **operated]** school district under full State intervention from using  
44 the process established pursuant to section 2 of P.L.1991, c.139  
45 (C.18A:7A-46.2) to obtain the approval of the commissioner to  
46 undertake a school facilities project.

47 (cf: P.L.2000, c.72, s.12)

1       24. Section 13 of P.L.2000, c.72 (C.18A:7G-13) is amended to  
2 read as follows:

3       13. a. The financing authority shall be responsible for the  
4 【financing,】 issuance of bonds pursuant to section 14 of P.L.2000,  
5 c.72 (C.18A:7G-14) and the development authority shall be  
6 responsible for the planning, design, construction management,  
7 acquisition, construction, and completion of school facilities  
8 projects. 【Upon submission to the authority of a final project  
9 report, the authority shall undertake the acquisition, construction,  
10 and all other appropriate actions necessary to complete the project.  
11 When the final eligible costs of a school facilities project are less  
12 than or equal to \$500,000】 In the case of a capital maintenance  
13 project, the development authority may, in its discretion, authorize  
14 【a】 an Abbott district to undertake the design, acquisition,  
15 construction and all other appropriate actions necessary to complete  
16 the capital maintenance project and shall enter into a grant  
17 agreement with the district for the payment of the State share. The  
18 development authority may also authorize an Abbott district to  
19 undertake the design, acquisition, construction and all other  
20 appropriate actions necessary to complete any other school facilities  
21 project in accordance with the procedures established pursuant to  
22 subsection e. of this section.

23       b. The financing authority shall undertake the financing of  
24 school facilities projects pursuant to the provisions of this act. The  
25 financing authority shall finance the State share of a school  
26 facilities project and may, in its discretion and upon consultation  
27 with the district, finance 【only the State share of the school  
28 facilities project or the State share and】 the local share of the  
29 project. In the event that the financing authority finances only the  
30 State share of a project, the development authority shall not  
31 commence acquisition or construction of the project until the  
32 development authority receives the local share from the district.

33       c. In order to implement the arrangements established for  
34 school facilities projects which are to be constructed by the  
35 development authority and financed pursuant to this section, a  
36 district shall enter into an agreement with the development  
37 authority and the commissioner containing the terms and conditions  
38 determined by the parties to be necessary to effectuate the project.

39       d. Upon completion by the development authority of a school  
40 facilities project, the district shall enter into an agreement with the  
41 development authority to provide for the maintenance of the project  
42 by the district. In the event that the school facilities project is  
43 constructed by a district, upon the completion of the project, the  
44 district shall submit to the commissioner a plan to provide for the  
45 maintenance of the project by the district. Any agreement or plan  
46 shall contain, in addition to any other terms and provisions, a  
47 requirement for the establishment of a maintenance reserve fund

1 consistent with the appropriation and withdrawal requirements for  
2 capital reserve accounts established pursuant to section 57 of  
3 P.L.2000, c.72 (C.18A:7G-31), the funding levels of which shall be  
4 as set forth in regulations adopted by the commissioner pursuant to  
5 section 26 of this act.

6 e. (1) Within one year of the effective date of  
7 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
8 commissioner, in consultation with the development authority, shall  
9 adopt pursuant to the “Administrative Procedure Act,” P.L.1968,  
10 c.410 (C.52:14B-1 et seq.), rules and regulations by which the  
11 commissioner shall determine whether an Abbott district is eligible  
12 to be considered by the development authority to manage a school  
13 facilities project or projects. In making the determination, the  
14 commissioner shall consider the district’s fiscal integrity and  
15 operations, the district’s performance in each of the five key  
16 components of school district effectiveness under the New Jersey  
17 Quality Single Accountability Continuum (NJQSAC) in accordance  
18 with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other  
19 relevant factors.

20 (2) Within one year of the effective date of P.L. , c. (C. )  
21 (pending before the Legislature as this bill), the development  
22 authority, in consultation with the commissioner, shall adopt  
23 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
24 (C.52:14B-1 et seq.), rules and regulations by which the  
25 development authority shall determine the capacity of an Abbott  
26 district, deemed eligible by the commissioner pursuant to paragraph  
27 (1) of this subsection, to manage a school facilities project or  
28 projects identified by the development authority. In making the  
29 determination, the development authority shall consider the  
30 experience of the Abbott district, the size, complexity, and cost of  
31 the project, time constraints, and other relevant factors.

32 (3) The development authority, in consultation with the  
33 commissioner, shall develop and implement training programs,  
34 seminars, or symposia to provide technical assistance to Abbott  
35 districts deemed to lack the capacity to manage a school facility  
36 project or projects; except that nothing herein shall be construed to  
37 require the development authority or the commissioner to authorize  
38 an Abbott district to hire additional staff in order to achieve  
39 capacity.

40 (4) If the development authority determines to delegate a school  
41 facilities project to an Abbott district in accordance with paragraph  
42 (2) of this subsection, the development authority, the commissioner,  
43 and the district shall enter into a grant agreement.

44 (cf: P.L. 2004, c.73, s.4)

45  
46 25. Section 14 of P.L.2000, c.72 (C.18A:7G-14) is amended to  
47 read as follows:

48 14. Notwithstanding any other provisions of law to the contrary:

1 a. The financing authority shall have the power, pursuant to the  
2 provisions of this act **[and]** , P.L.1974, c.80 (C.34:1B-1 et seq.) and  
3 P.L. , c. (C. ) (pending before the Legislature as this bill), to  
4 issue bonds and refunding bonds, incur indebtedness and borrow  
5 money secured, in whole or in part, by moneys received pursuant to  
6 sections 17, 18 and 19 of this act for the purposes of: financing all  
7 or a portion of the costs of school facilities projects and any costs  
8 related to the issuance thereof, including, but not limited to, the  
9 administrative, insurance, operating and other expenses of the  
10 **[facilities]** financing authority to undertake the financing, and the  
11 development authority to undertake the planning, design, and  
12 construction [and maintenance] of school facilities projects;  
13 lending moneys to local units to pay the costs of all or a portion of  
14 school facilities projects and any costs related to the issuance  
15 thereof; funding the grants to be made pursuant to section 15 of this  
16 act; and financing the acquisition of school facilities projects to  
17 permit the refinancing of debt by the district pursuant to section 16  
18 of this act. The aggregate principal amount of the bonds, notes or  
19 other obligations issued by the **[facilities]** financing authority shall  
20 not exceed: \$100,000,000 for the State share of costs for county  
21 vocational school district school facilities projects; \$6,000,000,000  
22 for the State share of costs for Abbott district school facilities  
23 projects; and \$2,500,000,000 for the State share of costs for school  
24 facilities projects in all other districts. This limitation shall not  
25 include any bonds, notes or other obligations issued for refunding  
26 purposes.

27 The financing authority may establish reserve funds to further  
28 secure bonds and refunding bonds issued pursuant to this section  
29 and may issue bonds to pay for the administrative, insurance and  
30 operating costs of the financing authority and the development  
31 authority in carrying out the provisions of this act. In addition to its  
32 bonds and refunding bonds, the financing authority shall have the  
33 power to issue subordinated indebtedness, which shall be  
34 subordinate in lien to the lien of any or all of its bonds or refunding  
35 bonds as the financing authority may determine.

36 b. The financing authority shall issue the bonds or refunding  
37 bonds in such manner as it shall determine in accordance with the  
38 provisions of this act **[and]**, P.L.1974, c.80 (C.34:1B-1 et seq.) and  
39 P.L. , c. (C. ) (pending before the Legislature as this bill);  
40 provided that notwithstanding any other law to the contrary, no  
41 resolution adopted by the financing authority authorizing the  
42 issuance of bonds or refunding bonds pursuant to this section shall  
43 be adopted or otherwise made effective without the approval in  
44 writing of the State Treasurer; and refunding bonds issued to  
45 refund bonds issued pursuant to this section shall be issued on such  
46 terms and conditions as may be determined by the financing  
47 authority and the State Treasurer. The financing authority may, in

1 any resolution authorizing the issuance of bonds or refunding bonds  
2 issued pursuant to this section, pledge the contract with the State  
3 Treasurer provided for pursuant to section 18 of this act, or any part  
4 thereof, or may pledge all or any part of the repayments of loans  
5 made to local units pursuant to section 19 of this act for the  
6 payment or redemption of the bonds or refunding bonds, and  
7 covenant as to the use and disposition of money available to the  
8 financing authority for payment of the bonds and refunding bonds.  
9 All costs associated with the issuance of bonds and refunding bonds  
10 by the financing authority for the purposes set forth in this act may  
11 be paid by the financing authority from amounts it receives from the  
12 proceeds of the bonds or refunding bonds, and from amounts it  
13 receives pursuant to sections 17, 18, and 19 of this act. The costs  
14 may include, but shall not be limited to, any costs relating to the  
15 issuance of the bonds or refunding bonds, administrative costs of  
16 the financing authority attributable to the making and administering  
17 of loans and grants to fund school facilities projects, and costs  
18 attributable to the agreements entered into pursuant to subsection d.  
19 of this section.

20 c. Each issue of bonds or refunding bonds of the financing  
21 authority shall be special obligations of the financing authority  
22 payable out of particular revenues, receipts or funds, subject only to  
23 any agreements with the holders of bonds or refunding bonds, and  
24 may be secured by other sources of revenue, including, but not  
25 limited to, one or more of the following:

26 (1) Pledge of the revenues and other receipts to be derived from  
27 the payment of local unit obligations and any other payment made  
28 to the financing authority pursuant to agreements with any local  
29 unit, or a pledge or assignment of any local unit obligations, and the  
30 rights and interest of the financing authority therein;

31 (2) Pledge of rentals, receipts and other revenues to be derived  
32 from leases or other contractual arrangements with any person or  
33 entity, public or private, including one or more local units, or a  
34 pledge or assignment of those leases or other contractual  
35 arrangements and the rights and interests of the financing authority  
36 therein;

37 (3) Pledge of all moneys, funds, accounts, securities and other  
38 funds, including the proceeds of the bonds;

39 (4) Pledge of the receipts to be derived from payments of State  
40 aid to the financing authority pursuant to section 21 of this act;

41 (5) Pledge of the contract or contracts with the State Treasurer  
42 pursuant to section 18 of this act;

43 (6) Pledge of any sums remitted to the local unit by donation  
44 from any person or entity, public or private, subject to the approval  
45 of the State Treasurer;

46 (7) A mortgage on all or any part of the property, real or  
47 personal, comprising a school facilities project then owned or  
48 thereafter to be acquired, or a pledge or assignment of mortgages



1 made to the financing authority by any person or entity, public or  
2 private, including one or more local units and rights and interests of  
3 the financing authority therein; and

4 (8) The receipt of any grants, reimbursements or other payments  
5 from the federal government.

6 d. The resolution authorizing the issuance of bonds or  
7 refunding bonds pursuant to this section may also provide for the  
8 financing authority to enter into any revolving credit agreement,  
9 agreement establishing a line of credit or letter of credit,  
10 reimbursement agreement, interest rate exchange agreement,  
11 currency exchange agreement, interest rate floor or cap, options,  
12 puts or calls to hedge payment, currency, rate, spread or similar  
13 exposure or similar agreements, float agreements, forward  
14 agreements, insurance contracts, surety bonds, commitments to  
15 purchase or sell bonds, purchase or sale agreements, or  
16 commitments or other contracts or agreements and other security  
17 agreements approved by the financing authority in connection with  
18 the issuance of the bonds or refunding bonds pursuant to this  
19 section. In addition, the financing authority may, in anticipation of  
20 the issuance of the bonds or the receipt of appropriations, grants,  
21 reimbursements or other funds, including, without limitation, grants  
22 from the federal government for school facilities projects, issue  
23 notes, the principal of or interest on which, or both, shall be payable  
24 out of the proceeds of notes, bonds or other obligations of the  
25 financing authority or appropriations, grants, reimbursements or  
26 other funds or revenues of the financing authority.

27 e. The financing authority is authorized to engage, subject to  
28 the approval of the State Treasurer and in such manner as the State  
29 Treasurer shall determine, the services of financial advisors and  
30 experts, placement agents, underwriters, appraisers, and other  
31 advisors, consultants and agents as may be necessary to effectuate  
32 the financing of school facilities projects.

33 f. Bonds and refunding bonds issued by the financing authority  
34 pursuant to this section shall be special and limited obligations of  
35 the financing authority payable from, and secured by, funds and  
36 moneys determined by the financing authority in accordance with  
37 this section. Notwithstanding any other provision of law or  
38 agreement to the contrary, any bonds and refunding bonds issued by  
39 the financing authority pursuant to this section shall not be secured  
40 by the same property as bonds and refunding bonds issued by the  
41 financing authority to finance projects other than school facilities  
42 projects. Neither the members of the financing authority nor any  
43 other person executing the bonds or refunding bonds shall be  
44 personally liable with respect to payment of interest and principal  
45 on these bonds or refunding bonds. Bonds or refunding bonds  
46 issued pursuant to this section shall not be a debt or liability of the  
47 State or any agency or instrumentality thereof, except as otherwise  
48 provided by this subsection, either legal, moral or otherwise, and

1 nothing contained in this act shall be construed to authorize the  
2 financing authority to incur any indebtedness on behalf of or in any  
3 way to obligate the State or any political subdivision thereof, and  
4 all bonds and refunding bonds issued by the financing authority  
5 shall contain a statement to that effect on their face.

6 g. The State hereby pledges and covenants with the holders of  
7 any bonds or refunding bonds issued pursuant to this act that it will  
8 not limit or alter the rights or powers vested in the financing  
9 authority by this act, nor limit or alter the rights or powers of the  
10 State Treasurer in any manner which would jeopardize the interest  
11 of the holders or any trustee of the holders, or inhibit or prevent  
12 performance or fulfillment by the financing authority or the State  
13 Treasurer with respect to the terms of any agreement made with the  
14 holders of the bonds or refunding bonds or agreements made  
15 pursuant to subsection d. of this section; except that the failure of  
16 the Legislature to appropriate moneys for any purpose of this act  
17 shall not be deemed a violation of this section.

18 h. The financing authority and the development authority may  
19 charge to and collect from local units, districts, the State and any  
20 other person, any fees and charges in connection with the financing  
21 authority's or development authority's actions undertaken with  
22 respect to school facilities projects, including, but not limited to,  
23 fees and charges for the financing authority's administrative,  
24 organization, insurance, operating and other expenses incident to  
25 the financing of school facilities projects, and the development  
26 authority's administrative, organization, insurance, operating,  
27 planning, design, construction management, acquisition,  
28 construction, completion and placing into service and maintenance  
29 of school facilities projects. Notwithstanding any provision of this  
30 act to the contrary, no Abbott district **【in Level II monitoring**  
31 **pursuant to section 14 of P.L.1975, c.212 (C.18A:7A-14) as of the**  
32 **effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), or a district**  
33 **whose district aid percentage is greater than or equal to 55% but**  
34 **less than 100%】 shall be responsible for the payment of any fees**  
35 **and charges related to the development authority's operating**  
36 **expenses.**

37 i. Upon the issuance by the financing authority of bonds  
38 pursuant to this section, other than refunding bonds, the net  
39 proceeds of the bonds shall be transferred to the development  
40 authority.

41 (cf: P.L.2005, c.235, s.33)

42

43 26. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to  
44 read as follows:

45 5. In the case of a nonAbbott district **【whose district aid**  
46 **percentage is less than 55% and which elects not to have the**  
47 **authority undertake the construction of the school facilities**  
48 **project】**, for any project approved by the commissioner after the

1 effective date of this act, the district may elect to receive a one-time  
2 grant for the State share of the project rather than annual debt  
3 service aid under section 9 of this act. The State share payable to  
4 the district shall equal the product of the project's final eligible  
5 costs and 115% of the district aid percentage or 40%, whichever is  
6 greater. The development authority shall provide grant funding for  
7 the State's share of the final eligible costs of a school facilities  
8 project pursuant to an agreement between the district and the  
9 development authority which shall, in addition to other terms and  
10 conditions, set forth the terms of disbursement of the State share.  
11 The funding of the State share shall not commence until the district  
12 secures financing for the local share.  
13 (cf: P.L.2000, c.72, s.15)

14

15 27. Section 16 of P.L.2000, c.72 (C.18A:7G-16) is amended to  
16 read as follows:

17 16. In addition to the other powers and duties which have been  
18 granted to the financing authority, whenever any local unit finances  
19 the construction or acquisition of a school facilities project which  
20 would otherwise qualify under this act except that the debt was  
21 issued prior to the effective date of this act, the financing authority  
22 may refinance the debt issued by the local unit through the issuance  
23 of bonds secured by repayments of loans made to the local units and  
24 may purchase the work or improvement and lease the same to the  
25 district, subject to the approval of the State Treasurer; except that  
26 the amount of the purchase price for a school facilities project shall  
27 not exceed the original cost. Each loan to a local unit pursuant to  
28 this section shall be evidenced by local unit obligations and shall be  
29 authorized and issued as provided by law. Notwithstanding the  
30 provisions of any law to the contrary, the local unit obligations may  
31 be sold at private sale to the financing authority at any price,  
32 whether or not less than par value, and shall be subject to  
33 redemption prior to maturity at any times and at any prices as the  
34 financing authority and the local unit may agree. All powers, rights,  
35 obligations and duties granted to or imposed upon the financing  
36 authority, districts, State departments and agencies or others by this  
37 act in respect to school facilities projects shall apply to the same  
38 extent with respect to any refinance of debt pursuant to this section;  
39 except that any action otherwise required to be taken at a particular  
40 time in the implementation of a school facilities project may, when  
41 the circumstances require in connection with a refinance of debt  
42 pursuant to this section, be taken with the same effect as if taken at  
43 that particular time. Upon repayment of the bonds or provision for  
44 repayment of bonds issued by the financing authority to refinance  
45 the debt of the local unit, the school facilities project shall be  
46 transferred to the district.

47 (cf: P.L.2000, c.72, s.16)

1       28. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to  
2 read as follows:

3       17. In each fiscal year the State Treasurer shall pay from the  
4 General Fund to the financing authority, in accordance with a  
5 contract between the State Treasurer and the financing authority as  
6 authorized pursuant to section 18 of this act, an amount equal to the  
7 debt service amount due to be paid in the State fiscal year on the  
8 bonds or refunding bonds of the financing authority issued or  
9 incurred pursuant to section 14 of this act and any additional costs  
10 authorized pursuant to that section; provided that all such payments  
11 from the General Fund shall be subject to and dependent upon  
12 appropriations being made from time to time by the Legislature for  
13 those purposes, and provided further that all payments shall be used  
14 only to pay for the costs of school facilities projects and the costs of  
15 financing those projects.

16 (cf: P.L.2000, c.72, s.17)

17

18       29. Section 18 of P.L.2000, c.72 (C.18A:7G-18) is amended to  
19 read as follows:

20       18. The State Treasurer and the financing authority are  
21 authorized to enter into one or more contracts to implement the  
22 payment arrangement provided for in section 17 of this act. The  
23 contract shall provide for payment by the State Treasurer of the  
24 amounts required pursuant to section 17 of this act and shall set  
25 forth the procedure for the transfer of moneys for the purpose of  
26 that payment. The contract shall contain terms and conditions as  
27 determined by the parties and shall, where appropriate, contain  
28 terms and conditions necessary and desirable to secure any bonds or  
29 refunding bonds of the financing authority issued or incurred  
30 pursuant to this act; provided that notwithstanding any other  
31 provision of law or regulation of the financing authority to the  
32 contrary, the financing authority shall be paid only such funds as  
33 shall be determined by the contract, and the incurrence of any  
34 obligation of the State under the contract, including any payments  
35 to be made thereunder from the General Fund, shall be subject to  
36 and dependent upon appropriations being made from time to time  
37 by the Legislature for the purposes of this act.

38 (cf: P.L.2000, c.72, s.18)

39

40       30. Section 19 of P.L.2000, c.72 (C.18A:7G-19) is amended to  
41 read as follows:

42       19. a. The financing authority may make and contract to make  
43 loans to local units in accordance with and subject to the provisions  
44 of this act to finance all or any portion of the cost of a school  
45 facilities project which the local unit may lawfully undertake or  
46 acquire and for which the local unit is authorized by law to borrow  
47 money; or to refund obligations of the local unit which were issued  
48 to provide funds to pay for the cost of a school facilities project.

1 The loans may be made subject to the terms and conditions the  
2 financing authority determines to be consistent with the purposes of  
3 this act. Each loan by the financing authority and the terms and  
4 conditions thereof shall be subject to approval by the State  
5 Treasurer.

6 b. Each loan to a local unit shall be evidenced by local unit  
7 obligations and shall be authorized and issued as provided by law.  
8 Notwithstanding the provisions of any other law to the contrary, the  
9 local unit obligations may be sold at private sale to the financing  
10 authority at any price, whether or not less than par value, and shall  
11 be subject to redemption prior to maturity at any times and at any  
12 prices as the financing authority and the local unit may agree. Each  
13 loan to a local unit and the local unit obligations issued to evidence  
14 the loan shall bear interest at a rate or rates per annum, including  
15 zero interest, and shall be repaid in whole or in part, as the  
16 financing authority and the local unit may agree, with the approval  
17 of the State Treasurer.

18 (cf: P.L.2000, c.72, s.19)

19

20 31. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to  
21 read as follows:

22 20. A local unit may purchase, lease, rent, sublease or otherwise  
23 acquire any school facilities project or any space within a project  
24 and pay the amounts as may be agreed upon between the local unit  
25 and the development authority as the purchase price, rent or other  
26 charge therefor; provided that the terms and conditions of the  
27 agreement between the development authority and the local unit  
28 relating to the purchase, lease, rental or sublease shall be subject to  
29 the approval of the State Treasurer.

30 (cf: P.L.2000, c.72, s.20)

31

32 32. Section 21 of P.L.2000, c.72 (C.18A:7G-21) is amended to  
33 read as follows:

34 21. a. In the event that a local unit has failed or is unable to pay  
35 to the financing authority or the development authority in full when  
36 due any local unit obligations issued by the local unit to the  
37 financing authority, including, but not limited to, any lease or  
38 sublease obligations, or any other moneys owed by the district to  
39 the financing authority, to assure the continued operation and  
40 solvency of the authority, the State Treasurer shall pay directly to  
41 the financing authority an amount sufficient to satisfy the  
42 deficiency from State aid payable to the local unit; provided that if  
43 the local unit is a school district, the State aid shall not include any  
44 State aid which may otherwise be restricted pursuant to the  
45 provisions of P.L.1996, c.138 (C.18A:7F-1 et seq.). As used in this  
46 section, local unit obligations include the principal or interest on  
47 local unit obligations or payment pursuant to a lease or sublease of  
48 a school facilities project to a local unit, including the subrogation

1 of the financing authority to the right of the holders of those  
2 obligations, any fees or charges payable to the financing authority,  
3 and any amounts payable by a local unit under a service contract or  
4 other contractual arrangement the payments under which are  
5 pledged to secure any local unit obligations issued to the financing  
6 authority by another local unit.

7 b. If the financing authority requires, and if there has been a  
8 failure or inability of a local unit to pay its local unit obligations to  
9 the financing authority for a period of 30 days, the chairman or the  
10 executive director of the financing authority shall certify to the  
11 State Treasurer, with written notice to the fiscal officer of the local  
12 unit, the amount remaining unpaid, and the State Treasurer shall  
13 pay that amount to the financing authority; or if the right to receive  
14 those payments has been pledged or assigned to a trustee for the  
15 benefit of the holders of bonds or refunding bonds of the financing  
16 authority, to that trustee, out of the State aid payable to the local  
17 unit, until the amount so certified has been paid. Notwithstanding  
18 any provision of this act to the contrary, the State Treasurer's  
19 obligation to pay the financing authority pursuant to this section  
20 shall not extend beyond the amount of State aid payable to the local  
21 unit.

22 c. The amount paid to the financing authority pursuant to this  
23 section shall be deducted from the appropriation or apportionment  
24 of State aid payable to the local unit and shall not obligate the State  
25 to make, nor entitle the local unit to receive, any additional  
26 appropriation or apportionment. The obligation of the State  
27 Treasurer to make payments to the financing authority or trustee  
28 and the right of the financing authority or trustee to receive those  
29 payments shall be subject and subordinate to the rights of holders of  
30 qualified bonds issued prior to the effective date of this act pursuant  
31 to P.L.1976, c.38 (C.40A:3-1 et seq.) and P.L.1976, c.39  
32 (C.18A:24-85 et seq.).  
33 (cf: P.L.2000, c.72 , s.21)

34

35 33. Section 22 of P.L.2000, c.72 (C.18A:7G-22) is amended to  
36 read as follows:

37 22. a. The financing authority and the development authority  
38 shall have the power to accept and use any funds appropriated and  
39 paid by the State to the financing authority and the development  
40 authority for the purposes for which the appropriations are made.  
41 The financing authority and the development authority shall have  
42 the power to apply for and receive and accept appropriations or  
43 grants of property, money, services or reimbursements for money  
44 previously spent and other assistance offered or made available to it  
45 by or from any person, government agency, public authority or any  
46 public or private entity whatever for any lawful corporate purpose  
47 of the financing authority or the development authority, including,  
48 without limitation, grants, appropriations or reimbursements from

1 the federal government, and to apply and negotiate for the same  
2 upon such terms and conditions as may be required by any person,  
3 government agency, authority or entity as the financing authority or  
4 the development authority may determine to be necessary,  
5 convenient or desirable.

6 b. The development authority **[shall]** and the State Treasurer  
7 may establish a financial incentive program for the purpose of  
8 promoting donations to school facilities projects. Any entity which  
9 makes a donation approved by the State Treasurer to the  
10 preliminary eligible costs of a school facilities project shall receive  
11 an incentive payment pursuant to the provisions of this subsection.  
12 The amount of the incentive payment shall equal 50% of the fair  
13 market value of the donation but shall not in any one year exceed  
14 one-half of the amount of taxes paid or otherwise due from the  
15 donor pursuant to the provisions of the "New Jersey Gross Income  
16 Tax Act," P.L.1976, c.47 (C.54A:1-1 et seq.), or the "Corporation  
17 Business Tax Act," P.L.1945, c.162 (C.54:10A-1 et seq.), as  
18 applicable, for the tax year in which the donation is made. The fair  
19 market value of a non-cash donation shall be determined by the  
20 State Treasurer. The carry-forward for incentive payments shall not  
21 be inconsistent with that allowed by P.L.1976, c.47 (C.54A:1-1 et  
22 seq.) in the case of a donation by an individual, or P.L.1945, c.162  
23 (C.54:10A-1 et seq.) in the case of a donation by a corporation.

24 All incentive payments made pursuant to this section shall be  
25 funded by and shall be subject to annual appropriations **[to the**  
26 **authority]** for this purpose, and shall in no way rely upon funds  
27 raised by the issuance of bonds for school facilities projects.  
28 (cf: P.L.2000, c.72, s.22)

29

30 34. Section 23 of P.L.2000, c.72 (C.18A:7G-23) is amended to  
31 read as follows:

32 23. a. Not less than the prevailing wage rate determined by the  
33 Commissioner of Labor pursuant to the provisions of P.L.1963,  
34 c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in  
35 the performance of construction contracts in connection with any  
36 school facilities project that is undertaken by the development  
37 authority, a redevelopment entity, or a district and any contractor  
38 who violates the provisions of this subsection shall be prohibited  
39 from subsequently bidding on any State or district contract.

40 b. Registration fees collected pursuant to P.L.1999, c.238  
41 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and  
42 administrative costs of the Division of Workplace Standards, Office  
43 of Wage and Hour Compliance, Public Contracts section and  
44 Registration section within the Department of Labor.  
45 (cf: P.L.2000, c.72, s.23)

46

47 35. Section 24 of P.L.2000, c.72 (C.18A:7G-24) is amended to  
48 read as follows:

1       24. The **[commissioner]** development authority, in consultation  
2 with the State Treasurer, the financing authority, and the  
3 commissioner, shall **[annually]** biannually submit to the Governor,  
4 the Joint Budget Oversight Committee, the President of the Senate  
5 and the Speaker of the General Assembly a report on the school  
6 facilities construction program established pursuant to the  
7 provisions of this act. The report shall be submitted no later than  
8 **[August 1 ]** January 15 and July 15 of each year and shall include,  
9 but not be limited to, the following information for the prior **[fiscal**  
10 **year]** six-month period: the number of school facilities projects  
11 approved by the commissioner pursuant to section 5 of this act; the  
12 number of projects **[constructed]** undertaken and funded by the  
13 development authority **[and the amount of time that it has taken the**  
14 **authority to complete those projects]**; the aggregate principal  
15 amount of bonds, notes or other obligations issued by the financing  
16 authority for the State share of construction and renovation of  
17 school facilities and whether there is a need to adjust the aggregate  
18 principal amount of bonds, notes or other obligations authorized  
19 for issuance pursuant to subsection a. of section 14 of this act; **[the**  
20 **number of projects constructed by districts; the number of**  
21 **demonstration projects approved;]** the number of approved projects  
22 which exceeded the facilities efficiency standards, the components  
23 of those projects which exceeded the standards, and the amount of  
24 construction by individual districts and Statewide estimated to have  
25 exceeded the standards; and recommendations for changes in the  
26 school facilities construction program established pursuant to this  
27 act which have been formulated as a result of its experience with  
28 the program or through collaboration with program stakeholders.  
29 (cf: P.L.2000, c.72, s.24)  
30

31       36. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to  
32 read as follows:

33       26. a. The commissioner shall adopt, pursuant to the  
34 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.), rules and regulations necessary to implement the provisions  
36 of sections 1 through 12 and 57 and 58 and 64 of **[this act]**  
37 P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. )  
38 (pending before the Legislature as this bill); except that  
39 notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et  
40 seq.) to the contrary, the commissioner may adopt, immediately  
41 upon filing with the Office of Administrative Law, such rules and  
42 regulations as the commissioner deems necessary to implement the  
43 provisions of sections 1 through 12 and 57 and 58 and 64 of this act  
44 which shall be effective for a period not to exceed 12 months.  
45 Determinations made by the commissioner pursuant to this act and  
46 the rules and regulations adopted by the commissioner to implement  
47 this act shall be considered to be final agency action and appeal of



1 that action shall be directly to the Appellate Division of the  
2 Superior Court. The regulations shall thereafter be amended,  
3 adopted or re-adopted by the State Board of Education in  
4 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et  
5 seq.).

6 b. The development authority shall adopt, pursuant to the  
7 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
8 seq.), rules and regulations necessary to implement the provisions  
9 of 【this act】 P.L.2000, c.72 (C.18A:7G-1 et al) and  
10 P.L. , c. (C. ) (pending before the Legislature as this bill) that  
11 apply to the development authority; except that notwithstanding any  
12 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,  
13 the development authority may adopt immediately upon filing with  
14 the Office of Administrative Law, such rules and regulations as the  
15 development authority deems necessary which shall be effective for  
16 a period not to exceed 12 months and shall thereafter be amended,  
17 adopted or re-adopted by the authority, in accordance with the  
18 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

19 The rules and regulations promulgated by the New Jersey  
20 Schools Construction Corporation pursuant to the provisions of  
21 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and  
22 effect unless subsequently revised by the development authority  
23 following the enactment of P.L. , c. (C. ) (pending before the  
24 Legislature as this bill).

25 c. Any regulations adopted to implement this act shall include  
26 provisions to ensure that all programs necessary to comply with  
27 Abbott v. Burke, 153 N.J. 480 (1998) (Abbott V), are approved.  
28 (cf: P.L.2000, c.72, s.26)  
29

30 37. Section 27 of P.L.2000, c.72 (C.18A:7G-27) is amended to  
31 read as follows:

32 27. All property of the development authority and the financing  
33 authority shall be exempt from levy and sale by virtue of an  
34 execution and no execution of other judicial process shall issue  
35 against the same nor shall any judgment against the development  
36 authority or the financing authority be a charge or lien upon its  
37 property; provided that nothing herein contained shall apply to or  
38 limit the rights of the holder of any bonds, notes or other  
39 obligations to pursue any remedy for the enforcement of any pledge  
40 or lien given by the development authority or the financing  
41 authority on or with respect to any project, school facilities project,  
42 or any revenues or other moneys.

43 (cf: P.L.2000, c.72, s.27)  
44

45 38. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to  
46 read as follows:

47 59. The development authority shall establish a process for the  
48 prequalification of contractors that desire to bid on school facilities

1 projects. A contractor shall not be permitted to bid on such a school  
2 facilities project unless the contractor has been prequalified  
3 pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.).

4 The prequalification process shall apply to general contractors,  
5 construction managers, and contractors including those in the  
6 following areas:

7 (1) plumbing and gas fitting and all work and materials kindred  
8 thereto;

9 (2) steam and hot water heating and ventilating apparatus, steam  
10 power plants and all work and materials kindred thereto;

11 (3) electrical work; and

12 (4) structural steel and miscellaneous iron work and materials.

13 The prequalification process established by the New Jersey  
14 Schools Construction Corporation pursuant to the provisions of  
15 P.L.2000, c.72 (C.18A:7G-1 et al.) shall remain in full force and  
16 effect unless subsequently revised by the development authority  
17 following the enactment of P.L. , c. (C. ) (pending before the  
18 Legislature as this bill).

19 (cf: P.L.2000, c.72, s.59)

20

21 39. Section 60 of P.L.2000, c.72 (C.18A:7G-34) is amended to  
22 read as follows:

23 60. a. The prequalification process shall include a requirement  
24 that the contractor proposing to submit bids on a school facilities  
25 project submit a statement under oath on a form designated by the  
26 development authority. The form shall fully describe and establish  
27 the financial ability, responsibility, plant and equipment,  
28 organization, ownership, relationships and prior experience of the  
29 prospective bidder and any other pertinent and material facts as may  
30 be deemed necessary by the development authority. The submission  
31 shall include:

32 (1) A certified, audited financial statement or compilation of  
33 financial statements or other documentation of financial status  
34 acceptable to the development authority;

35 (2) Proof of any contractor or trade license required by law for  
36 any trade or specialty area in which the contractor is seeking  
37 prequalification and a statement as to whether any contractor or  
38 trade license has been revoked;

39 (3) A statement as to bonding capacity, which shall be from a  
40 surety authorized to issue bid, performance and payment bonds in  
41 the State of New Jersey in accordance with N.J.S.2A:44-143  
42 through N.J.S.2A:44-147 to the contractor, and shall indicate  
43 aggregate bonding limits;

44 (4) A list of the names and titles of all individuals who own  
45 10% or more of any class of stock in the corporation or are a 10%  
46 or more partner in the firm. If any of the aforementioned  
47 stockholders or partners is itself a corporation, or a partnership, that  
48 entity shall also provide the information specified herein;

- 1 (5) Disclosure of any judgments, convictions or criminal  
2 indictments for any conduct constituting a crime under local, State  
3 or federal law;
- 4 (6) Disclosure of any unsatisfied judgments, injunctions or liens  
5 obtained by a governmental agency including, but not limited to,  
6 judgments based on taxes owed and fines and penalties assessed by  
7 any government agency;
- 8 (7) Disclosure of any determination for violations of federal,  
9 State or local laws, rules or regulations, including health laws,  
10 unemployment insurance or workers' compensation coverage or  
11 claim requirements, the "Employee Retirement Income Security Act  
12 of 1974" (Pub.L.93-406, 29 U.S.C. s. 1001 et seq.), security laws,  
13 environmental laws, safety laws, licensing laws, tax laws and  
14 antitrust laws;
- 15 (8) Disclosure of any federal, State or local debarments, non-  
16 responsibility findings or denials of prequalification;
- 17 (9) Disclosure of any bankruptcy filings or proceedings;
- 18 (10) A statement as to past performance, which shall give an  
19 accurate and complete record of work completed in the past five  
20 years by the contractor giving the names of the projects, type of  
21 work, location, contract price, bid and final contract amount paid  
22 and the names of the owner and of the architect or engineer in  
23 charge for the owner. This statement shall also disclose any labor  
24 problems experienced, any failure to complete a contract on  
25 schedule, any penalties, judgments, orders or liens imposed by  
26 reason of any contract undertaken within the five-year period and  
27 whether the contractor has been defaulted for cause on any project  
28 as determined by an unappealed or nonappealable decision. This  
29 statement shall also indicate the status of any litigation pending  
30 against the potential bidder. The contractor shall be required to  
31 attach to this statement all performance evaluations in his  
32 possession for any work performed by the contractor on any public  
33 or private projects;
- 34 (11) A statement as to organization, which shall demonstrate the  
35 adequacy of such organization to undertake a school facilities  
36 project. This statement shall include the resumes of the  
37 management and professional staff;
- 38 (12) A statement setting forth the contractor's equipment  
39 inventory and technical resources; and
- 40 (13) A statement on staffing capabilities, including labor sources,  
41 staffing plans, turnover rates, and any use of registered  
42 apprenticeship programs and journeyman training programs.
- 43 b. After the receipt of the submission provided for in  
44 subsection a. of this section, the development authority may verify  
45 information provided in the contractor's submission, including  
46 applicable license and certificate requirements, federal or State  
47 debarments and violations of law. The development authority may

1 also conduct random inquiries or surveys of the contractor's prior  
2 customers.

3 c. Based upon the submission provided for in subsection a. of  
4 this section the development authority shall assign a contractor the  
5 following classification and limits for the purpose of determining  
6 the types of projects for which a contractor is entitled to bid:

7 (1) a trade or work classification; and

8 (2) an aggregate rating limit.

9 To effectuate these requirements of the prequalification process,  
10 the development authority shall develop rules and regulations for  
11 assigning classifications and aggregate limits.

12 d. The classification shall be made and an immediate notice  
13 thereof shall be sent to the contractor by registered or certified mail  
14 or other legally valid methods.

15 e. The development authority shall establish procedures to  
16 permit contractors to challenge a classification made pursuant to  
17 this section.

18 f. The prequalification submission shall include an affidavit  
19 which acknowledges receipt of information regarding the  
20 appropriate federal Bureau of Apprenticeship and Training  
21 apprenticeship laws and regulations as adopted by the State and  
22 information regarding the county apprenticeship coordinators and  
23 the federal Bureau of Apprenticeship and Training.

24 g. The development authority shall maintain a registry of all  
25 contractors prequalified to bid on school facilities projects. The  
26 registry shall include the classification of the bidder and aggregate  
27 building limit.

28 (cf: P.L.2000, c.72, s.60)

29

30 40. Section 61 of P.L.2000, c.72 (C.18A:7G-35) is amended to  
31 read as follows:

32 61. a. A contractor's prequalification classification shall be valid  
33 for 24 months. A contractor shall be reclassified after the 24-month  
34 period in order to remain eligible to bid on school facilities projects.

35 b. Any material changes relevant to the prequalification  
36 process shall be reported by the contractor to the development  
37 authority in writing within 10 days. Based on the information  
38 provided, the development authority may change the classification  
39 or revoke prequalification for cause.

40 (cf: P.L.2000, c.72, s.61)

41

42 41. Section 62 of P.L.2000, c.72 (C.18A:7G-36) is amended to  
43 read as follows:

44 62. a. A mandatory uniform performance evaluation shall be  
45 conducted on all school facilities projects undertaken by the  
46 development authority. The evaluation shall, at a minimum, include  
47 cost, schedule adherence and quality.

1       b. A contractor shall be notified of a performance evaluation.  
2 The contractor shall be afforded an opportunity to respond to an  
3 adverse evaluation.

4       c. The contractor performance evaluations shall be utilized in  
5 reviewing bid submissions.

6 (cf: P.L.2000, c.72, s.62)

7

8       42. Section 66 of P.L.2000, c.72 (C.18A:7G-40) is amended to  
9 read as follows:

10       66. A contractor who has been prequalified as a bidder on school  
11 facilities projects in accordance with the process established by the  
12 development authority pursuant to section 59 of this act shall not be  
13 required to undergo any other prequalification process to bid on a  
14 school facilities project.

15 (cf: P.L.2000, c.72, s.66)

16

17       43. Section 71 of P.L.2000, c.72 (C.18A:7G-44) is amended to  
18 read as follows:

19       71. a. In the case of any school facilities project which has a  
20 State share of 100%, the development authority may require the use  
21 of wrap-up insurance coverage for the project and shall establish the  
22 terms and requirements for any such coverage.

23       b. For any school facilities project which has a State share of  
24 less than 100% **],** the authority, in the case of a project being  
25 constructed by the authority, may require the use of, or the district,  
26 in the case of a project being constructed by the district **],** the  
27 district may elect to purchase **[,]** wrap-up insurance coverage for  
28 the school facilities project. A district may purchase the coverage  
29 on its own or may enter into a joint purchasing agreement with one  
30 or more other districts to purchase coverage.

31       c. As used in this section, "wrap-up insurance coverage" means  
32 a single insurance and loss control program for all parties involved  
33 in the school facilities project, including the owners, administrators,  
34 contractors and all tiers of subcontractors, which is controlled and  
35 authorized by the owner or financing administrator and applicable  
36 to defined construction work sites. Wrap-up insurance coverage  
37 may include, but not be limited to, workers' compensation and  
38 employers' liability, commercial general liability, umbrella/excess  
39 liability, builder's risk, architects' and engineers' errors and  
40 omissions, liability, environmental liability, and force majeure.

41 (cf: P.L.2000, c.72, s.71)

42

43       44. N.J.S.18A:20-5 is amended to read as follows:

44       18A:20-5. **[The]** Except as otherwise provided pursuant to  
45 section 14 of P.L. , c. (C. ) (pending before the Legislature  
46 as this bill), the board of education of any district by a recorded roll  
47 call majority vote of its full membership may dispose, by sale or  
48 otherwise, in the manner prescribed in this chapter, of any lands or

1 any rights or interest therein, owned by it, which cease to be  
2 suitable or convenient for the use for which they were acquired or  
3 which are no longer needed for school purposes, whether acquired  
4 by purchase or through condemnation proceedings and the  
5 purchaser thereof shall acquire title thereto free from any use or  
6 purpose for which it may have been acquired by the board.  
7 (cf: N.J.S.18A:20-5)

8

9 45. N.J.S.18A:20-8 is amended to read as follows:

10 18A:20-8. 【The】 Except as otherwise provided pursuant to  
11 section 14 of P.L. , c. (C. ) (pending before the Legislature  
12 as this bill), the board of education of any school district, by a  
13 recorded roll call majority vote of its full membership, may  
14 exchange any lands owned by it and not needed for school purposes  
15 for lands located in the school district and at least equal in value to  
16 the lands conveyed by the board in such exchange.  
17 (cf: N.J.S.18A:20-8)

18

19 46. Section 1 of P.L.1970, c.106 (C.18A:20-8.1) is amended to  
20 read as follows:

21 1. 【The】 Except as otherwise provided pursuant to section 14 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill), the  
23 board of education of any school district or regional school district  
24 may, by resolution, transfer land to the board of education of a  
25 county vocational school district for the purpose of constructing a  
26 vocational school on such land.  
27 (cf: P.L.1970, c.106, s.1)

28

29 47. Section 1 of P.L.1978, c.91 (C.18A:20-8.2) is amended to  
30 read as follows:

31 1. a. 【Whenever】 Except as otherwise provided pursuant to  
32 section 14 of P.L. , c. (C. ) (pending before the Legislature as  
33 this bill), whenever any board of education shall by resolution  
34 determine that any tract of land, whether there is a building thereon  
35 or not, or part or all of a school building, is not necessary for school  
36 purposes, but which it does not desire to dispose of for reason that  
37 the property may, at some future time, again be required for school  
38 purposes, it may authorize the lease thereof for a term extending  
39 beyond the official life of the board; provided that the  
40 noneducational uses of such building or tract of land are compatible  
41 with the establishment and operation of a school, as determined by  
42 the Commissioner of Education, if joint occupancy of such site is  
43 considered. The lease shall be binding upon the successor board as  
44 follows:

45 (1) After advertisement of the request for bids to lease to the  
46 highest bidder in a newspaper published in the school district, or, if  
47 none is published therein, then in a newspaper circulating in the  
48 district in which the same is situate, at least once a week for two

1 weeks prior to the date fixed for the receipt and opening of bids,  
2 unless:

3 (2) The same is leased to the federal government, State, a  
4 political subdivision thereof, another school district, any board,  
5 body or commission of a municipality within the school district, any  
6 volunteer fire company or rescue squad actively engaged in the  
7 protection of life and property and duly incorporated under the laws  
8 of the State of New Jersey, or to any American Legion post,  
9 Veterans of Foreign Wars, or other recognized veterans'  
10 organization of the United States of America, located in the  
11 municipality or the county, as a meeting place for such  
12 organization, or to a nonprofit child care service organization duly  
13 incorporated under the laws of the State of New Jersey, or to a  
14 nonprofit hospital duly licensed under the laws of the State of New  
15 Jersey, or to a nonprofit organization duly licensed under the laws  
16 of the State of New Jersey to provide emergency shelter for the  
17 homeless, or to a nonprofit senior citizen organization, or to a  
18 nonprofit historic preservation organization duly incorporated under  
19 the laws of the State of New Jersey, in which case the same may be  
20 leased by private agreement for a nominal fee without  
21 advertisement for bids.

22 b. Any lease in excess of five years shall be approved by the  
23 Commissioner of Education.

24 (cf: P.L.1991, c.172, s.1)

25

26 48. N.J.S.18A:20-9 is amended to read as follows:

27 18A:20-9. **【Whenever】** Except as other wise provided pursuant  
28 to section 14 of P.L. (C. ) (pending before the Legislature as  
29 this bill, whenever any board of education shall by resolution  
30 determine that any tract of land is no longer desirable or necessary  
31 for school purposes it may authorize the conveyance thereof,  
32 whether there is a building thereon or not, for a nominal  
33 consideration, to the municipality or any board, body or  
34 commission thereof, or to any volunteer fire company or rescue  
35 squad actively engaged in the protection of life and property and  
36 duly incorporated under the laws of the State of New Jersey, or to  
37 any American Legion post, Veterans of Foreign Wars, or other  
38 recognized veterans' organization of the United States of America,  
39 located in the municipality or the county, as a meeting place for  
40 such organization, or to a nonprofit child care service organization  
41 duly incorporated under the laws of the State of New Jersey, to a  
42 nonprofit hospital duly licensed under the laws of the State, or to a  
43 nonprofit organization duly licensed under the laws of the State of  
44 New Jersey to provide emergency shelter for the homeless, or to a  
45 nonprofit historic preservation organization duly incorporated under  
46 the laws of the State of New Jersey to provide a place for  
47 educational, cultural and musical functions. The president and  
48 secretary of the board shall be authorized to execute and deliver a

1 conveyance for the same in the name and under the seal of the  
2 board, which conveyance may, in the discretion of the board, be  
3 made subject to a condition or limitation that said land shall be used  
4 by such municipality, board, body or commission thereof for public  
5 purposes and by any such fire company for fire company purposes  
6 or by such rescue squad for rescue squad purposes or to any  
7 veterans' organization, or to any child care service organization, or  
8 to any nonprofit hospital, or to any provider of emergency shelter  
9 for the homeless, or to any nonprofit historic preservation  
10 organization, and in the event that the property shall cease to be  
11 used for any of the purposes contemplated by this section, such  
12 property shall thereupon revert to and the title thereof shall vest in  
13 the board of education making the conveyance thereof hereunder.

14 (cf: P.L.1995, c.29)

15

16 49. Section 1 of P.L.1990, c.35 (C.18A:20-9.2) is amended to  
17 read as follows:

18 1. **【Whenever】** Except as otherwise provided pursuant to section  
19 14 of P.L. , c. (C. ) (pending before the Legislature as this  
20 bill), whenever, any board of education shall by resolution  
21 determine that any tract of land is no longer desirable or necessary  
22 for public school purposes it may authorize the conveyance thereof,  
23 at no less than the fair market price, whether there is a building  
24 thereon or not, to a nonprofit private school for the handicapped  
25 duly incorporated under the laws of the State of New Jersey. As  
26 used in this section, market price shall equal the median of two or  
27 more appraisals conducted by qualified real estate appraisers. The  
28 president and secretary of the board shall be authorized to execute  
29 and deliver a conveyance for the same in the name and under the  
30 seal of the board, which conveyance may, in the discretion of the  
31 board, be made subject to a condition or limitation that said land  
32 shall be used by such nonprofit private school for the handicapped  
33 and in the event that the property shall cease to be used for the  
34 purposes contemplated by this section, such property shall first be  
35 offered for resale to the board of education making the conveyance  
36 thereof hereunder at the market price current at the time of resale.

37 (cf: P.L.1990, c.35, s.1)

38

39 50. N.J.S.18A:22-39 is amended to read as follows:

40 18A:22-39. Whenever the undertaking of any capital project or  
41 projects to be paid for from the proceeds of an issue or issue of  
42 bonds is submitted to the voters of a type II district at an annual or  
43 special school election for their approval or disapproval, the board  
44 shall frame and adopt by a recorded roll call majority vote of its full  
45 membership the question or questions to be submitted so that each  
46 project is submitted in a separate question, or all or any number of  
47 them are submitted in one question, which shall state the project or  
48 projects so submitted and the amounts to be raised for each of the



1 projects so separately submitted or for each or for all of the projects  
2 so jointly submitted, as the case may be, but any proposal for the  
3 purchase of land shall be sufficient to authorize the taking and  
4 condemning of such land. If the project is to be constructed by the  
5 New Jersey **[Economic] Schools** Development Authority or a  
6 redevelopment entity or by the district with a grant pursuant to  
7 section 15 of P.L.2000, c.72 (C.18A:7G-15), the referendum shall,  
8 when framed as a single question, request approval for the local  
9 share and shall disclose the final eligible costs of the project as  
10 approved by the commissioner pursuant to section 5 of P.L.2000,  
11 c.72 (C.18A:7G-5) and in the case of a demonstration project  
12 pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and  
13 C.18A:7G-6), and, if applicable, the amount of any costs of the  
14 project which are in addition to the final eligible costs. If the school  
15 facilities project is not to be constructed by the New Jersey  
16 **[Economic] Schools** Development Authority or a redevelopment  
17 entity or by the district with a grant pursuant to section 15 of  
18 P.L.2000, c.72 (C.18A:7G-15), the referendum shall, when framed  
19 as a single question, request approval for the total costs of the  
20 project, shall disclose State debt service aid for the project and, if  
21 applicable, the amount of any costs of the project which are in  
22 addition to the final eligible costs of the project. When a project is  
23 framed in more than one question, a summary shall be included in  
24 the explanatory statement which accompanies the questions that  
25 includes the total costs of the project, total State debt service aid,  
26 and, if applicable, the amount of the costs of the project which are  
27 in addition to the final eligible costs of the project, and any  
28 individual question containing costs in addition to the final eligible  
29 costs shall include the amount of those additional costs.

30 The statement of additional costs in any ballot question and in  
31 any explanatory statement that accompanies a ballot question shall  
32 describe the additional costs as follows: "This project includes  
33 \$(insert amount) for school facility construction elements in  
34 addition to the facilities efficiency standards developed by the  
35 Commissioner of Education."

36 (cf: P.L. 2000, c.72, s.42)

37

38 51. Section 2 of P.L.1974, c.80 (C.34:1B-2) is amended to read  
39 as follows:

40 2. The Legislature hereby finds and determines that:

41 a. Department of Labor statistics of recent years indicate a  
42 continuing decline in manufacturing employment within the State,  
43 which is a contributing factor to the drastic unemployment existing  
44 within the State, which far exceeds the national average, thus  
45 adversely affecting the economy of the State and the prosperity,  
46 safety, health and general welfare of its inhabitants and their  
47 standard of living; that there is an urgent need to protect and  
48 enhance the quality of the natural environment and to reduce, abate

1 and prevent environmental pollution derived from the operation of  
2 industry, utilities and commerce within the State; and that the  
3 availability of financial assistance and suitable facilities are  
4 important inducements to new and varied employment promoting  
5 enterprises to locate in the State, to existing enterprises to remain  
6 and expand in the State, and to industry, utilities and commerce to  
7 reduce, abate and prevent environmental pollution.

8 b. The provision of buildings, structures and other facilities to  
9 increase opportunity for employment in manufacturing, industrial,  
10 commercial, recreational, retail and service enterprises in the State  
11 is in the public interest and it is a public purpose for the State to  
12 induce and to accelerate opportunity for employment in such  
13 enterprises.

14 c. In order to aid in supplying these needs and to assist in the  
15 immediate reduction of unemployment and to provide sufficient  
16 employment for the citizens of the State in the future, it is necessary  
17 and in the public interest to aid and encourage the immediate  
18 commencement of new construction projects of all types, to induce  
19 and facilitate the acquisition and installation at an accelerated rate  
20 of such devices, equipment and facilities as may be required to  
21 reduce, abate and prevent environmental pollution by industry,  
22 utilities and commerce.

23 d. The availability of financial assistance by the State will  
24 reduce present unemployment and improve future employment  
25 opportunities by encouraging and inducing the undertaking of such  
26 construction projects, the location, retaining or expanding of  
27 employment promoting enterprises within the State, and the  
28 accelerated acquisition and installation of energy saving  
29 improvements and pollution control devices, equipment and  
30 facilities.

31 e. In many municipalities in our State substantial and persistent  
32 unemployment exists; and many existing residential, industrial,  
33 commercial and manufacturing facilities within such municipalities  
34 are either obsolete, inefficient, dilapidated or are located without  
35 regard to the master plans of such municipalities; and the  
36 obsolescence and abandonment of existing facilities will increase  
37 with further technological advances, the provision of modern,  
38 efficient facilities in other states and the difficulty which many  
39 municipalities have in attracting new facilities; and that many  
40 existing and planned employment promoting facilities are far from  
41 or not easily accessible to the places of residence of substantial  
42 numbers of unemployed and underemployed persons.

43 f. By virtue of their architectural and cultural heritage, their  
44 positions as principal centers of communication and transportation  
45 and their concentration of productive and energy efficient facilities,  
46 many municipalities are capable of ameliorating the conditions of  
47 deterioration which impede sound community growth and  
48 development; and that building a proper balance of housing,

1 industrial and commercial facilities and increasing the  
2 attractiveness of such municipalities to persons of all income levels  
3 is essential to restoring such municipalities as desirable places to  
4 live, work, shop and enjoy life's amenities; that the accomplishment  
5 of these objectives is beyond remedy solely by the regulatory  
6 process in the exercise of the police power and cannot be dealt with  
7 effectively by the ordinary operations of private enterprise without  
8 the powers provided herein, and that the exercise of the powers  
9 herein provided is critical to continuing the process of revitalizing  
10 such municipalities and will serve an urgent public use and purpose.

11 The Legislature further determines that in order to aid in  
12 remedying the aforesaid conditions and to further and implement  
13 the purposes of this act, that there shall be created a body politic  
14 and corporate having the powers, duties and functions provided in  
15 this act; and that the authority and powers conferred under this act,  
16 and the expenditure of moneys pursuant thereto constitute a serving  
17 of a valid public purpose; and that the enactment of the provisions  
18 hereinafter set forth is in the public interest and for the public  
19 benefit and good, and is hereby so declared to be as a matter of  
20 express legislative determination.

21 The Legislature further finds and determines that:

22 g. It is essential that this and future generations of young  
23 people be given the fullest opportunity to learn and develop their  
24 intellectual capacities; that institutions of public elementary and  
25 secondary education within the State be provided with the  
26 appropriate additional means required to assist these young citizens  
27 in achieving the required levels of learning and the complete  
28 development of their intellectual abilities; and that the resources of  
29 the State be employed to meet the tremendous demand for public  
30 elementary and secondary educational opportunities.

31 h. Public elementary and secondary educational facilities are an  
32 integral part of the effort in this State to provide educational  
33 opportunities; it is the purpose of P.L.2000, c.72 (C.18A:7G-1 et  
34 al.) and P.L. , c. (C. ) (pending before the Legislature as this  
35 bill) to provide a measure of assistance and an alternative method of  
36 financing to enable school districts to provide the facilities which  
37 are so critically needed; the inventory of public elementary and  
38 secondary school buildings and the equipment and capital resources  
39 currently available are aging, both chronologically and  
40 technologically; and the current funding at the federal, State, and  
41 local levels and the current mechanisms for construction of these  
42 capital projects are inadequate to meet the demonstrated need for  
43 school facilities, and these inadequacies necessitate additional  
44 sources of funding and the coordination of construction activities at  
45 the State level to meet those needs.

46 i. While the credit status of New Jersey's school districts is  
47 sound, it can be economically more reasonable to finance the costs  
48 of developing the educational infrastructure of the State's public

1 elementary and secondary schools by providing for the funding of  
2 capital projects through the issuance of bonds, notes or other  
3 obligations by the New Jersey Economic Development Authority, to  
4 be retired through annual payments made by the State subject to  
5 appropriation by the State Legislature, and to provide for the use of  
6 the proceeds of those bonds, notes or other obligations to pay for  
7 educational infrastructure projects; and such a structure would  
8 substantially reduce the costs of financing and provide for a more  
9 efficient use of the funds available for the development of the  
10 educational infrastructure.

11 j. **【**The New Jersey Economic Development Authority has  
12 substantial and significant experience in undertaking major capital  
13 construction projects, has a system of internal controls and  
14 procedures to ensure the integrity of construction activities, and is  
15 therefore the appropriate entity to undertake the planning, design,  
16 construction, and operation of educational infrastructure projects;  
17 and by authorizing the New Jersey Economic Development  
18 Authority to undertake these activities, there will be achieved  
19 economies of scale, better coordination of resources, more effective  
20 financial management and control and increased monitoring and  
21 quality control of school district construction.**】** (Deleted by  
22 amendment, P.L. , c. ) (pending before the Legislature as this  
23 bill)

24 (cf: P.L.2000, c.72, s.43)

25

26 52. Section 3 of P.L.1974, c.80 (C.34:1B-3) is amended to read  
27 as follows:

28 3. As used in the provisions of P.L.1974, c.80 (C.34:1B-1 et  
29 seq.), P.L.1979, c.303 (C.34:1B-5.1 et seq.), sections 50 through 54  
30 of P.L.2000, c.72 (C.34:1B-5.5 through 34:1B-5.9), P.L.1981, c.505  
31 (C.34:1B-7.1 et seq.), P.L.1986, c.127 (C.34:1B-7.7 et seq.),  
32 P.L.1992, c.16 (C.34:1B-7.10 et seq.) **【and】** , section 6 of P.L.2001,  
33 c.401 (C.34:1B-4.1), and P.L. , c. (C. ) (pending before the  
34 Legislature as this bill), unless a different meaning clearly appears  
35 from the context:

36 "Authority" means the New Jersey Economic Development  
37 Authority, created by section 4 of P.L.1974, c.80 (C.34:1B-4).

38 "Bonds" means bonds or other obligations issued by the  
39 authority pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.), "Economic  
40 Recovery Bonds or Notes" issued pursuant to P.L.1992, c.16  
41 (C.34:1B-7.10 et al.), or bonds, notes, other obligations and  
42 refunding bonds issued by the authority pursuant to P.L.2000, c.72  
43 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
44 Legislature as this bill).

45 "Cost" means the cost of the acquisition, construction,  
46 reconstruction, repair, alteration, improvement and extension of any  
47 building, structure, facility including water transmission facilities,  
48 or other improvement; the cost of machinery and equipment; the

1 cost of acquisition, construction, reconstruction, repair, alteration,  
2 improvement and extension of energy saving improvements or  
3 pollution control devices, equipment or facilities; the cost of lands,  
4 rights-in-lands, easements, privileges, agreements, franchises,  
5 utility extensions, disposal facilities, access roads and site  
6 development deemed by the authority to be necessary or useful and  
7 convenient for any project or school facilities project or in  
8 connection therewith; discount on bonds; cost of issuance of bonds;  
9 engineering and inspection costs; costs of financial, legal,  
10 professional and other estimates and advice; organization,  
11 administrative, insurance, operating and other expenses of the  
12 authority or any person prior to and during any acquisition or  
13 construction, and all such expenses as may be necessary or incident  
14 to the financing, acquisition, construction or completion of any  
15 project or school facilities project or part thereof, and also such  
16 provision for reserves for payment or security of principal of or  
17 interest on bonds during or after such acquisition or construction as  
18 the authority may determine.

19 "County" means any county of any class.

20 "County solid waste facility" means a solid waste facility that is  
21 designated by a public authority or county in its adopted district  
22 solid waste management plan as approved by the department prior  
23 to November 10, 1997 as the in-county facility to which solid waste  
24 generated within the boundaries of the county is transported for  
25 final disposal, or transfer for transportation to an offsite solid waste  
26 facility or designated out-of-district disposal site for disposal, as  
27 appropriate, pursuant to interdistrict or intradistrict waste flow  
28 orders issued by the department, regardless of whether the county  
29 solid waste facility was acquired, constructed, operated, abandoned  
30 or canceled.

31 "Department" means the Department of Environmental  
32 Protection.

33 "Development property" means any real or personal property,  
34 interest therein, improvements thereon, appurtenances thereto and  
35 air or other rights in connection therewith, including land,  
36 buildings, plants, structures, systems, works, machinery and  
37 equipment acquired or to be acquired by purchase, gift or otherwise  
38 by the authority within an urban growth zone.

39 "Person" means any person, including individuals, firms,  
40 partnerships, associations, societies, trusts, public or private  
41 corporations, or other legal entities, including public or  
42 governmental bodies, as well as natural persons. "Person" shall  
43 include the plural as well as the singular.

44 "Pollution control project" means any device, equipment,  
45 improvement, structure or facility, or any land and any building,  
46 structure, facility or other improvement thereon, or any combination  
47 thereof, whether or not in existence or under construction, or the  
48 refinancing thereof in order to facilitate improvements or additions

1 thereto or upgrading thereof, and all real and personal property  
2 deemed necessary thereto, having to do with or the end purpose of  
3 which is the control, abatement or prevention of land, sewer, water,  
4 air, noise or general environmental pollution, including, but not  
5 limited to, any air pollution control facility, noise abatement  
6 facility, water management facility, thermal pollution control  
7 facility, radiation contamination control facility, wastewater  
8 collection system, wastewater treatment works, sewage treatment  
9 works system, sewage treatment system or solid waste facility or  
10 site; provided that the authority shall have received from the  
11 Commissioner of the State Department of Environmental Protection  
12 or the commissioner's duly authorized representative a certificate  
13 stating the opinion that, based upon information, facts and  
14 circumstances available to the State Department of Environmental  
15 Protection and any other pertinent data, (1) the pollution control  
16 facilities do not conflict with, overlap or duplicate any other  
17 planned or existing pollution control facilities undertaken or  
18 planned by another public agency or authority within any political  
19 subdivision, and (2) the facilities, as designed, will be a pollution  
20 control project as defined in the provisions of P.L.1974, c.80  
21 (C.34:1B-1 et seq.) and are in furtherance of the purpose of abating  
22 or controlling pollution.

23 "Project" means: (1) (a) acquisition, construction, reconstruction,  
24 repair, alteration, improvement and extension of any building,  
25 structure, facility, including water transmission facilities or other  
26 improvement, whether or not in existence or under construction, (b)  
27 purchase and installation of equipment and machinery, (c)  
28 acquisition and improvement of real estate and the extension or  
29 provision of utilities, access roads and other appurtenant facilities;  
30 and (2) (a) the acquisition, financing, or refinancing of inventory,  
31 raw materials, supplies, work in process, or stock in trade, or (b) the  
32 financing, refinancing or consolidation of secured or unsecured  
33 debt, borrowings, or obligations, or (c) the provision of financing  
34 for any other expense incurred in the ordinary course of business;  
35 all of which are to be used or occupied by any person in any  
36 enterprise promoting employment, either for the manufacturing,  
37 processing or assembly of materials or products, or for research or  
38 office purposes, including, but not limited to, medical and other  
39 professional facilities, or for industrial, recreational, hotel or motel  
40 facilities, public utility and warehousing, or for commercial and  
41 service purposes, including, but not limited to, retail outlets, retail  
42 shopping centers, restaurant and retail food outlets, and any and all  
43 other employment promoting enterprises, including, but not limited  
44 to, motion picture and television studios and facilities and  
45 commercial fishing facilities, commercial facilities for recreational  
46 fishermen, fishing vessels, aquaculture facilities and marketing  
47 facilities for fish and fish products and (d) acquisition of an equity  
48 interest in, including capital stock of, any corporation; or any

1 combination of the above, which the authority determines will: (i)  
2 tend to maintain or provide gainful employment opportunities  
3 within and for the people of the State, or (ii) aid, assist and  
4 encourage the economic development or redevelopment of any  
5 political subdivision of the State, or (iii) maintain or increase the  
6 tax base of the State or of any political subdivision of the State, or  
7 (iv) maintain or diversify and expand employment promoting  
8 enterprises within the State; and (3) the cost of acquisition,  
9 construction, reconstruction, repair, alteration, improvement and  
10 extension of an energy saving improvement or pollution control  
11 project which the authority determines will tend to reduce the  
12 consumption in a building devoted to industrial or commercial  
13 purposes, or in an office building, of nonrenewable sources of  
14 energy or to reduce, abate or prevent environmental pollution  
15 within the State; and (4) the acquisition, construction,  
16 reconstruction, repair, alteration, improvement, extension,  
17 development, financing or refinancing of infrastructure and  
18 transportation facilities or improvements related to economic  
19 development and of cultural, recreational and tourism facilities or  
20 improvements related to economic development and of capital  
21 facilities for primary and secondary schools and of mixed use  
22 projects consisting of housing and commercial development; and  
23 (5) the establishment, acquisition, construction, rehabilitation,  
24 improvement, and ownership of port facilities as defined in section  
25 3 of P.L.1997, c.150 (C.34:1B-146). Project may also include: (i)  
26 reimbursement to any person for costs in connection with any  
27 project, or the refinancing of any project or portion thereof, if  
28 determined by the authority as necessary and in the public interest  
29 to maintain employment and the tax base of any political  
30 subdivision and will facilitate improvements thereto or the  
31 completion thereof, and (ii) development property and any  
32 construction, reconstruction, improvement, alteration, equipment or  
33 maintenance or repair, or planning and designing in connection  
34 therewith. For the purpose of carrying out mixed use projects  
35 consisting of both housing and commercial development, the  
36 authority may enter into agreements with the New Jersey Housing  
37 and Mortgage Finance Agency for loan guarantees for any such  
38 project in accordance with the provisions of P.L.1995, c.359  
39 (C.55:14K-64 et al.), and for that purpose shall allocate to the New  
40 Jersey Housing and Mortgage Finance Agency, under such  
41 agreements, funding available pursuant to subsection a. of section 4  
42 of P.L.1992, c.16 (C.34:1B-7.13). Project shall not include a school  
43 facilities project.

44 "Public authority" means a municipal or county utilities authority  
45 created pursuant to the "municipal and county utilities authorities  
46 law," P.L.1957, c.183 (C.40:14B-1 et seq.); a county improvement  
47 authority created pursuant to the "county improvement authorities  
48 law," P.L.1960, c.183 (C.40:37A-44 et seq.); or a pollution control

1 financing authority created pursuant to the "New Jersey Pollution  
2 Control Financing Law," P.L.1973, c.376 (C.40:37C-1 et seq.) that  
3 has issued solid waste facility bonds or that has been designated by  
4 the county pursuant to section 12 of P.L.1975, c.326 (C.13:1E-21)  
5 to supervise the implementation of the district solid waste  
6 management plan.

7 "Revenues" means receipts, fees, rentals or other payments to be  
8 received on account of lease, mortgage, conditional sale, or sale,  
9 and payments and any other income derived from the lease, sale or  
10 other disposition of a project, moneys in such reserve and insurance  
11 funds or accounts or other funds and accounts, and income from the  
12 investment thereof, established in connection with the issuance of  
13 bonds or notes for a project or projects, and fees, charges or other  
14 moneys to be received by the authority in respect of projects or  
15 school facilities projects and contracts with persons.

16 "Resolution" means any resolution adopted or trust agreement  
17 executed by the authority, pursuant to which bonds of the authority  
18 are authorized to be issued.

19 "Solid waste" means garbage, refuse, and other discarded  
20 materials resulting from industrial, commercial and agricultural  
21 operations, and from domestic and community activities, and shall  
22 include all other waste materials including liquids, except for source  
23 separated recyclable materials or source separated food waste  
24 collected by livestock producers approved by the State Department  
25 of Agriculture to collect, prepare and feed such wastes to livestock  
26 on their own farms.

27 "Solid waste disposal" means the storage, treatment, utilization,  
28 processing, or final disposal of solid waste.

29 "Solid waste facility bonds" means the bonds, notes or other  
30 evidences of financial indebtedness issued by, or on behalf of, any  
31 public authority or county related to the planning, design,  
32 acquisition, construction, renovation, installation, operation or  
33 management of a county solid waste facility.

34 "Solid waste facilities" means, and includes, the plants,  
35 structures and other real and personal property acquired,  
36 constructed or operated by, or on behalf of, any county or public  
37 authority pursuant to the provisions of the "Solid Waste  
38 Management Act," P.L.1970, c.39 (C.13:1E-1 et seq.) or any other  
39 act, including transfer stations, incinerators, resource recovery  
40 facilities, including co-composting facilities, sanitary landfill  
41 facilities or other plants for the disposal of solid waste, and all  
42 vehicles, equipment and other real and personal property and rights  
43 therein and appurtenances necessary or useful and convenient for  
44 the collection or disposal of solid waste in a sanitary manner.

45 "Energy saving improvement" means the construction, purchase  
46 and installation in a building devoted to industrial or commercial  
47 purposes of any of the following, designed to reduce the amount of  
48 energy from nonrenewable sources needed for heating and cooling



1 that building: insulation, replacement burners, replacement high  
2 efficiency heating and air conditioning units, including modular  
3 boilers and furnaces, water heaters, central air conditioners with or  
4 without heat recovery to make hot water for industrial or  
5 commercial purposes or in office buildings, and any solar heating or  
6 cooling system improvement, including any system which captures  
7 solar radiation to heat a fluid which passes over or through the  
8 collector element of that system and then transfers that fluid to a  
9 point within the system where the heat is withdrawn from the fluid  
10 for direct usage or storage. These systems shall include, but not  
11 necessarily be limited to, systems incorporating flat plate, evacuated  
12 tube or focusing solar collectors.

13 The foregoing list shall not be construed to be exhaustive, and  
14 shall not serve to exclude other improvements consistent with the  
15 legislative intent of the provisions of P.L.1983, c.282.

16 "Urban growth zone" means any area within a municipality  
17 receiving State aid pursuant to the provisions of P.L.1978, c.14  
18 (C.52:27D-178 et seq.) or a municipality certified by the  
19 Commissioner of Community Affairs to qualify under such law in  
20 every respect except population, which area has been so designated  
21 pursuant to an ordinance of the governing body of such  
22 municipality.

23 "District" means a local or regional school district established  
24 pursuant to chapter 8 or chapter 13 of Title 18A of the New Jersey  
25 Statutes, a county special services school district established  
26 pursuant to article 8 of chapter 46 of Title 18A of the New Jersey  
27 Statutes, a county vocational school district established pursuant to  
28 article 3 of chapter 54 of Title 18A of the New Jersey Statutes, and  
29 a **[State-operated]** school district under full State intervention  
30 **[established]** pursuant to P.L.1987, c.399 (C.18A:7A-34 et seq.).

31 "Local unit" means a county, municipality, board of education or  
32 any other political entity authorized to construct, operate and  
33 maintain a school facilities project and to borrow money for those  
34 purposes pursuant to law.

35 "Other facilities" means athletic stadiums, swimming pools, any  
36 associated structures or related equipment tied to such facilities  
37 including, but not limited to, grandstands and night field lights,  
38 greenhouses, facilities used for non-instructional or non-educational  
39 purposes, and any structure, building, or facility used solely for  
40 school administration.

41 "Refunding bonds" means bonds, notes or other obligations  
42 issued to refinance bonds previously issued by the authority  
43 pursuant to P.L.1974, c.80 (C.34:1B-1 et seq.) **[and]**, P.L.2000,  
44 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
45 Legislature as this bill).

46 "School facilities project" means the planning, acquisition,  
47 demolition, construction, improvement, **[repair,]** alteration,  
48 modernization, renovation, reconstruction or capital maintenance of

1 all or any part of a school facility or of any other personal property  
2 necessary for, or ancillary to, any school facility, and shall include  
3 fixtures, furnishings and equipment, and shall also include, but is  
4 not limited to, site acquisition, site development, the services of  
5 design professionals, such as engineers and architects, construction  
6 management, legal services, financing costs and administrative  
7 costs and expenses incurred in connection with the project.

8 "School facility" means and includes any structure, building or  
9 facility used wholly or in part for **[academic]** educational purposes  
10 by a district and facilities that physically support such structures,  
11 buildings, and facilities such as district wastewater treatment  
12 facilities, power generating facilities, and steam generating  
13 facilities, but shall exclude **[athletic stadiums, grandstands, and any**  
14 **structure, building or facility used solely for school administration]**  
15 other facilities.

16 (cf: P.L.2001, c.401, s.1)

17

18 53. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read  
19 as follows:

20 5. The authority shall have the following powers:

21 a. To adopt bylaws for the regulation of its affairs and the  
22 conduct of its business;

23 b. To adopt and have a seal and to alter the same at pleasure;

24 c. To sue and be sued;

25 d. To acquire in the name of the authority by purchase or  
26 otherwise, on such terms and conditions and such manner as it may  
27 deem proper, or by the exercise of the power of eminent domain in  
28 the manner provided by the "Eminent Domain Act of 1971,"  
29 P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or  
30 other property which it may determine is reasonably necessary for  
31 any project **[or school facilities project]**; provided, however, that  
32 the authority in connection with any project shall not take by  
33 exercise of the power of eminent domain any real property except  
34 upon consent thereto given by resolution of the governing body of  
35 the municipality in which such real property is located; and  
36 provided further that the authority shall be limited in its exercise of  
37 the power of eminent domain in connection with any project to  
38 municipalities receiving State aid under the provisions of P.L.1978,  
39 c.14 (C.52:27D-178 et seq.), or to municipalities which had a  
40 population, according to the latest federal decennial census, in  
41 excess of 10,000;

42 e. To enter into contracts with a person upon such terms and  
43 conditions as the authority shall determine to be reasonable,  
44 including, but not limited to, reimbursement for the planning,  
45 designing, financing, construction, reconstruction, improvement,  
46 equipping, furnishing, operation and maintenance of the project **[or**

- 1 the school facilities project] and to pay or compromise any claims  
2 arising therefrom;
- 3 f. To establish and maintain reserve and insurance funds with  
4 respect to the financing of the project or the school facilities project  
5 and any project financed pursuant to the "Municipal Rehabilitation  
6 and Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et  
7 al.);
- 8 g. To sell, convey or lease to any person all or any portion of a  
9 project [or school facilities project,] for such consideration and  
10 upon such terms as the authority may determine to be reasonable;
- 11 h. To mortgage, pledge or assign or otherwise encumber all or  
12 any portion of a project, [school facilities project] or revenues,  
13 whenever it shall find such action to be in furtherance of the  
14 purposes of this act, P.L.2000, c.72 (C.18A:7G-1 et al.), [and] the  
15 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
16 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before  
17 the Legislature as this bill);
- 18 i. To grant options to purchase or renew a lease for any of its  
19 projects [or school facilities projects] on such terms as the  
20 authority may determine to be reasonable;
- 21 j. To contract for and to accept any gifts or grants or loans of  
22 funds or property or financial or other aid in any form from the  
23 United States of America or any agency or instrumentality thereof,  
24 or from the State or any agency, instrumentality or political  
25 subdivision thereof, or from any other source and to comply,  
26 subject to the provisions of P.L.1974, c.80 (C.34:1B-1 et seq.),  
27 section 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72  
28 (C.18A:7G-1 et al.), [and] the "Municipal Rehabilitation and  
29 Economic Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.),  
30 and P.L. , c. (C. ) (pending before the Legislature as this bill),  
31 with the terms and conditions thereof;
- 32 k. In connection with any application for assistance under  
33 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
34 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.) [or], the  
35 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
36 c.43 (C.52:27BBB-1 et al.), or P.L. , c. (C. ) (pending before  
37 the Legislature as this bill) or commitments therefor, to require and  
38 collect such fees and charges as the authority shall determine to be  
39 reasonable;
- 40 l. To adopt, amend and repeal regulations to carry out the  
41 provisions of P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of  
42 P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.),  
43 [and] the "Municipal Rehabilitation and Economic Recovery Act,"  
44 P.L.2002, c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. )  
45 (pending before the Legislature as this bill);
- 46 m. To acquire, purchase, manage and operate, hold and dispose  
47 of real and personal property or interests therein, take assignments

- 1 of rentals and leases and make and enter into all contracts, leases,  
2 agreements and arrangements necessary or incidental to the  
3 performance of its duties;
- 4 n. To purchase, acquire and take assignments of notes,  
5 mortgages and other forms of security and evidences of  
6 indebtedness;
- 7 o. To purchase, acquire, attach, seize, accept or take title to any  
8 project or school facilities project by conveyance or by foreclosure,  
9 and sell, lease, manage or operate any project or school facilities  
10 project for a use specified in this act, P.L.2000, c.72 (C.18A:7G-1  
11 et al.), **[and]** the "Municipal Rehabilitation and Economic  
12 Recovery Act," P.L.2002, c.43 (C.52:27BBB-1 et al.), and  
13 P.L. , c. (C. ) (pending before the Legislature as this bill);
- 14 p. To borrow money and to issue bonds of the authority and to  
15 provide for the rights of the holders thereof, as provided in  
16 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
17 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the  
18 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
19 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before  
20 the Legislature as this bill);
- 21 q. To extend credit or make loans to any person for the  
22 planning, designing, acquiring, constructing, reconstructing,  
23 improving, equipping and furnishing of a project or school facilities  
24 project, which credits or loans may be secured by loan and security  
25 agreements, mortgages, leases and any other instruments, upon such  
26 terms and conditions as the authority shall deem reasonable,  
27 including provision for the establishment and maintenance of  
28 reserve and insurance funds, and to require the inclusion in any  
29 mortgage, lease, contract, loan and security agreement or other  
30 instrument, such provisions for the construction, use, operation and  
31 maintenance and financing of a project or school facilities project as  
32 the authority may deem necessary or desirable;
- 33 r. To guarantee up to 90% of the amount of a loan to a person,  
34 if the proceeds of the loan are to be applied to the purchase and  
35 installation, in a building devoted to industrial or commercial  
36 purposes, or in an office building, of an energy improvement  
37 system;
- 38 s. To employ consulting engineers, architects, attorneys, real  
39 estate counselors, appraisers, and such other consultants and  
40 employees as may be required in the judgment of the authority to  
41 carry out the purposes of P.L.1974, c.80 (C.34:1B-1 et seq.), section  
42 6 of P.L.2001, c.401 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et  
43 al.), **[and]** the "Municipal Rehabilitation and Economic Recovery  
44 Act," P.L.2002, c.43 (C.52:27BBB-1 et al.) and P.L. , c. (C. )  
45 (pending before the Legislature as this bill), and to fix and pay their  
46 compensation from funds available to the authority therefor, all  
47 without regard to the provisions of Title 11A of the New Jersey  
48 Statutes;

- 1 t. To do and perform any acts and things authorized by  
2 P.L.1974, c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401  
3 (C.34:1B-4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the  
4 "Municipal Rehabilitation and Economic Recovery Act," P.L.2002,  
5 c.43 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before  
6 the Legislature as this bill), under, through or by means of its own  
7 officers, agents and employees, or by contract with any person;
- 8 u. To procure insurance against any losses in connection with  
9 its property, operations or assets in such amounts and from such  
10 insurers as it deems desirable;
- 11 v. To do any and all things necessary or convenient to carry out  
12 its purposes and exercise the powers given and granted in P.L.1974,  
13 c.80 (C.34:1B-1 et seq.), section 6 of P.L.2001, c.401 (C.34:1B-  
14 4.1), P.L.2000, c.72 (C.18A:7G-1 et al.), **[and]** the "Municipal  
15 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
16 (C.52:27BBB-1 et al.), and P.L. , c. (C. ) (pending before the  
17 Legislature as this bill);
- 18 w. To construct, reconstruct, rehabilitate, improve, alter, equip,  
19 maintain or repair or provide for the construction, reconstruction,  
20 improvement, alteration, equipping or maintenance or repair of any  
21 development property and lot, award and enter into construction  
22 contracts, purchase orders and other contracts with respect thereto,  
23 upon such terms and conditions as the authority shall determine to  
24 be reasonable, including, but not limited to, reimbursement for the  
25 planning, designing, financing, construction, reconstruction,  
26 improvement, equipping, furnishing, operation and maintenance of  
27 any such development property and the settlement of any claims  
28 arising therefrom and the establishment and maintenance of reserve  
29 funds with respect to the financing of such development property;
- 30 x. When authorized by the governing body of a municipality  
31 exercising jurisdiction over an urban growth zone, to construct,  
32 cause to be constructed or to provide financial assistance to projects  
33 in an urban growth zone which shall be exempt from the terms and  
34 requirements of the land use ordinances and regulations, including,  
35 but not limited to, the master plan and zoning ordinances, of such  
36 municipality;
- 37 y. To enter into business employment incentive agreements as  
38 provided in the "Business Employment Incentive Program Act,"  
39 P.L.1996, c.26 (C.34:1B-124 et al.);
- 40 z. To **[undertake school facilities projects and to]** enter into  
41 agreements or contracts, execute instruments, and do and perform  
42 all acts or things necessary, convenient or desirable for the purposes  
43 of the authority to carry out any power expressly provided pursuant  
44 to P.L.1974, c.80 (C.34:1B-1 et seq.) **[and]**, P.L.2000, c.72  
45 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending before the  
46 Legislature as this bill), including, but not limited to, entering into  
47 contracts with the State Treasurer, the Commissioner of Education,  
48 districts, the New Jersey Schools Development Authority, and any

1 other entity which may be required in order to carry out the  
2 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), and  
3 P.L. , c. (C. ) (pending before the Legislature as this bill);

4 aa. **【To enter into leases, rentals or other disposition of a real**  
5 **property interest in and of any school facilities project to or from**  
6 **any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.)】**  
7 **(Deleted by amendment, P.L. , c. ) (pending before the**  
8 **Legislature as this bill);**

9 bb. To make and contract to make loans **【or leases and to make**  
10 **grants】** to local units to finance the cost of school facilities projects  
11 and to acquire and contract to acquire bonds, notes or other  
12 obligations issued or to be issued by local units to evidence the  
13 loans **【or leases】**, all in accordance with the provisions of P.L.2000,  
14 c.72 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending before the  
15 Legislature as this bill);

16 cc. Subject to any agreement with holders of its bonds issued to  
17 finance a project or school facilities project, obtain as security or to  
18 provide liquidity for payment of all or any part of the principal of  
19 and interest and premium on the bonds of the authority or for the  
20 purchase upon tender or otherwise of the bonds, lines of credit,  
21 letters of credit, reimbursement agreements, interest rate exchange  
22 agreements, currency exchange agreements, interest rate floors or  
23 caps, options, puts or calls to hedge payment, currency, rate, spread  
24 or similar exposure or similar agreements, float agreements,  
25 forward agreements, insurance contract, surety bond, commitment  
26 to purchase or sell bonds, purchase or sale agreement, or  
27 commitments or other contracts or agreements, and other security  
28 agreements or instruments in any amounts and upon any terms as  
29 the authority may determine and pay any fees and expenses required  
30 in connection therewith;

31 dd. To charge to and collect from local units, the State and any  
32 other person, any fees and charges in connection with the  
33 authority's actions undertaken with respect to school facilities  
34 projects, including, but not limited to, fees and charges for the  
35 authority's administrative, organization, insurance, operating and  
36 other expenses incident to the financing**【, construction and placing**  
37 **into service and maintenance】** of school facilities projects;

38 ee. To make loans to refinance solid waste facility bonds  
39 through the issuance of bonds or other obligations and the execution  
40 of any agreements with counties or public authorities to effect the  
41 refunding or rescheduling of solid waste facility bonds, or otherwise  
42 provide for the payment of all or a portion of any series of solid  
43 waste facility bonds. Any county or public authority refunding or  
44 rescheduling its solid waste facility bonds pursuant to this  
45 subsection shall provide for the payment of not less than fifty  
46 percent of the aggregate debt service for the refunded or  
47 rescheduled debt of the particular county or public authority for the

1 duration of the loan; except that, whenever the solid waste facility  
2 bonds to be refinanced were issued by a public authority and the  
3 county solid waste facility was utilized as a regional county solid  
4 waste facility, as designated in the respective adopted district solid  
5 waste management plans of the participating counties as approved  
6 by the department prior to November 10, 1997, and the utilization  
7 of the facility was established pursuant to tonnage obligations set  
8 forth in their respective interdistrict agreements, the public  
9 authority refunding or rescheduling its solid waste facility bonds  
10 pursuant to this subsection shall provide for the payment of a  
11 percentage of the aggregate debt service for the refunded or  
12 rescheduled debt of the public authority not to exceed the  
13 percentage of the specified tonnage obligation of the host county for  
14 the duration of the loan. Whenever the solid waste facility bonds  
15 are the obligation of a public authority, the relevant county shall  
16 execute a deficiency agreement with the authority, which shall  
17 provide that the county pledges to cover any shortfall and to pay  
18 deficiencies in scheduled repayment obligations of the public  
19 authority. All costs associated with the issuance of bonds pursuant  
20 to this subsection may be paid by the authority from the proceeds of  
21 these bonds. Any county or public authority is hereby authorized to  
22 enter into any agreement with the authority necessary, desirable or  
23 convenient to effectuate the provisions of this subsection.

24 The authority shall not issue bonds or other obligations to effect  
25 the refunding or rescheduling of solid waste facility bonds after  
26 December 31, 2002. The authority may refund its own bonds issued  
27 for the purposes herein at any time;

28 ff. To pool loans for any local government units that are  
29 refunding bonds and do and perform any and all acts or things  
30 necessary, convenient or desirable for the purpose of the authority  
31 to achieve more favorable interest rates and terms for those local  
32 governmental units;

33 gg. To finance projects approved by the board, provide staff  
34 support to the board, oversee and monitor progress on the part of  
35 the board in carrying out the revitalization, economic development  
36 and restoration projects authorized pursuant to the "Municipal  
37 Rehabilitation and Economic Recovery Act," P.L.2002, c.43  
38 (C.52:27BBB-1 et al.) and otherwise fulfilling its responsibilities  
39 pursuant thereto; and

40 hh. To offer financial assistance to qualified film production  
41 companies as provided in the "New Jersey Film Production  
42 Assistance Act," P.L.2003, c.182 (C.34:1B-178 et al.).  
43 (cf: P.L.2003, c.182, s.8)

44  
45 54. Section 1 of P.L.1979, c.303 (C.34:1B-5.1) is amended to  
46 read as follows:

47 1. The New Jersey Economic Development Authority shall  
48 adopt rules and regulations requiring that not less than the

1 prevailing wage rate be paid to workers employed in the  
2 performance of any construction contract undertaken in connection  
3 with any of its projects, those projects which it undertakes pursuant  
4 to P.L.2002, c.43 (C.52:27BBB-1 et al.) **【or school facilities**  
5 **projects】**, or undertaken to fulfill any condition of receiving  
6 authority financial assistance. The prevailing wage rate shall be the  
7 rate determined by the Commissioner of Labor pursuant to the  
8 provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.). For the  
9 purposes of this section, "authority financial assistance" means any  
10 loan, loan guarantee, grant, incentive, tax exemption or other  
11 financial assistance approved, funded, authorized, administered or  
12 provided by the authority to any entity, including but not limited to,  
13 all authority financial assistance received by the entity pursuant to  
14 P.L.1996, c.26 (C.34:1B-124 et seq.) that enables the entity to  
15 engage in a construction contract, but this shall not be construed as  
16 requiring the payment of the prevailing wage for construction  
17 commencing more than two years after the assistance is received.  
18 (cf: P.L.2002, c.78, s.1)

19

20 55. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to  
21 read as follows:

22 4. a. The New Jersey Economic Development Authority shall  
23 adopt rules and regulations to establish an affirmative action  
24 program for the hiring of minority workers employed in the  
25 performance of construction contracts undertaken in connection  
26 with any of its projects **【and school facilities projects】**, and to  
27 expand the business opportunities of socially and economically  
28 disadvantaged contractors and vendors seeking to provide materials  
29 and services for those contracts, consistent with the provisions of  
30 the "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et  
31 seq.) and the authority shall provide for the proper enforcement and  
32 administration of such rules and regulations.

33 b. **【Within 180 days of the effective date of P.L.2000, c.72**  
34 **(C.18A:7G-1 et al.), but before adoption of its rules and regulations**  
35 **concerning its affirmative action program, the authority shall**  
36 **submit the proposed rules and regulations to the presiding officers**  
37 **and the standing committees on State government of both houses of**  
38 **the Legislature for their review.】** (Deleted by amendment,  
39 P.L. , c. ) (pending before the Legislature as this bill)  
40 (cf: P.L.2000, c.72, s.48)

41

42 56. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to  
43 read as follows:

44 50. In the exercise of powers granted by P.L.2000, c.72  
45 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
46 Legislature as this bill) in connection with any school facilities  
47 project, any and all claims, damages, losses, liabilities or costs that



1 the authority may incur shall be payable only from the amounts  
2 made available to the authority pursuant to **[that act]** P.L.2000,  
3 c.72 (C.18A:7G-1 et al.) and P.L. , c. (C. ) (pending before the  
4 Legislature as this bill). In connection with any agreement or  
5 contract entered into by the authority relating to any school  
6 facilities project, there shall be no recovery against the authority for  
7 punitive or consequential damages arising out of contract nor shall  
8 there be any recovery against the authority for claims based upon  
9 implied warranties or upon contracts implied in law.  
10 (cf: P.L.2000, c.72, s.50)

11  
12 57. Section 54 of P.L.2000, c.72 (C.34:1B-5.9) is amended to  
13 read as follows:

14 54. Notwithstanding the provisions of any law to the contrary,  
15 any bonds issued pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or  
16 P.L. , c. (C. ) (pending before the Legislature as this bill) shall  
17 be fully negotiable within the meaning and for all purposes of Title  
18 12A of the New Jersey Statutes, and each holder or owner of such a  
19 bond or other obligation, or of any coupon appurtenant thereto, by  
20 accepting the bond or coupon shall be conclusively deemed to have  
21 agreed that the bond or coupon is and shall be fully negotiable  
22 within the meaning and for all purposes of Title 12A.  
23 (cf: P.L.2000, c.72, s.54)

24  
25 58. Section 15 of P.L.1974, c.80 (C.34:1B-15) is amended to  
26 read as follows:

27 15. The exercise of the powers granted by this act **[and]**,  
28 P.L.2000, c.72 (C.18A:7G-1 et al.), and P.L. , c. (C. ) (pending  
29 before the Legislature as this bill) shall constitute the performance  
30 of an essential governmental function and the authority shall not be  
31 required to pay any taxes or assessments upon or in respect of a  
32 project or school facilities project, or any property or moneys of the  
33 authority, and the authority, its projects and school facilities  
34 projects, property and moneys and any bonds and notes issued  
35 under the provisions of this act **[and]**, P.L.2000, c.72 (C.18A:7G-1  
36 et al.), and P.L. , c. (C. ) (pending before the Legislature as this  
37 bill), their transfer and the income therefrom, including any profit  
38 made on the sale thereof, shall at all times be free from taxation of  
39 every kind by the State except for transfer, inheritance and estate  
40 taxes and by any political subdivision of the State; provided, that  
41 any person occupying a project whether as lessee, vendee or  
42 otherwise shall, as long as title thereto shall remain in the authority,  
43 pay to the political subdivision in which such project is located a  
44 payment in lieu of taxes which shall equal the taxes on real and  
45 personal property, including water and sewer service charges or  
46 assessments, which such person would have been required to pay  
47 had it been the owner of such property during the period for which  
48 such payment is made and neither the authority nor its projects,

1 properties, money or bonds and notes shall be obligated, liable or  
2 subject to lien of any kind for the enforcement, collection or  
3 payment thereof. If and to the extent the proceedings under which  
4 the bonds authorized to be issued under the provisions of this act so  
5 provide, the authority may agree to cooperate with such person  
6 occupying a project, in connection with any administrative or  
7 judicial proceedings for determining the validity or amount of such  
8 payments and may agree to appoint or designate and reserve the  
9 right in and for such person to take all action which the authority  
10 may lawfully take in respect of such payments and all matters  
11 relating thereto, provided such person shall bear and pay all costs  
12 and expenses of the authority thereby incurred at the request of such  
13 person or by reason of any such action taken by such person in  
14 behalf of the authority. If such person occupying a project has paid  
15 the amounts in lieu of taxes required by this section to be paid such  
16 person shall not be required to pay any such taxes as to which a  
17 payment in lieu thereof has been made to the State or to any  
18 political subdivision, any other statute to the contrary  
19 notwithstanding.

20 (cf: P.L.2000, c.72, s.49)

21

22 59. Section 19 of P.L.1975, c.291 (C.40:55D-28) is amended to  
23 read as follows:

24 19. Preparation; contents; modification.

25 a. The planning board may prepare and, after public hearing,  
26 adopt or amend a master plan or component parts thereof, to guide  
27 the use of lands within the municipality in a manner which protects  
28 public health and safety and promotes the general welfare.

29 b. The master plan shall generally comprise a report or  
30 statement and land use and development proposals, with maps,  
31 diagrams and text, presenting, at least the following elements (1)  
32 and (2) and, where appropriate, the following elements (3) through  
33 (14):

34 (1) A statement of objectives, principles, assumptions, policies  
35 and standards upon which the constituent proposals for the physical,  
36 economic and social development of the municipality are based;

37 (2) A land use plan element (a) taking into account and stating  
38 its relationship to the statement provided for in paragraph (1)  
39 hereof, and other master plan elements provided for in paragraphs  
40 (3) through (14) hereof and natural conditions, including, but not  
41 necessarily limited to, topography, soil conditions, water supply,  
42 drainage, flood plain areas, marshes, and woodlands; (b) showing  
43 the existing and proposed location, extent and intensity of  
44 development of land to be used in the future for varying types of  
45 residential, commercial, industrial, agricultural, recreational,  
46 educational and other public and private purposes or combination of  
47 purposes; and stating the relationship thereof to the existing and any  
48 proposed zone plan and zoning ordinance; and (c) showing the

1 existing and proposed location of any airports and the boundaries of  
2 any airport safety zones delineated pursuant to the "Air Safety and  
3 Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.); and (d)  
4 including a statement of the standards of population density and  
5 development intensity recommended for the municipality;

6 (3) A housing plan element pursuant to section 10 of P.L.1985,  
7 c.222 (C.52:27D-310), including, but not limited to, residential  
8 standards and proposals for the construction and improvement of  
9 housing;

10 (4) A circulation plan element showing the location and types of  
11 facilities for all modes of transportation required for the efficient  
12 movement of people and goods into, about, and through the  
13 municipality, taking into account the functional highway  
14 classification system of the Federal Highway Administration and  
15 the types, locations, conditions and availability of existing and  
16 proposed transportation facilities, including air, water, road and rail;

17 (5) A utility service plan element analyzing the need for and  
18 showing the future general location of water supply and distribution  
19 facilities, drainage and flood control facilities, sewerage and waste  
20 treatment, solid waste disposal and provision for other related  
21 utilities, and including any storm water management plan required  
22 pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et seq.).  
23 If a municipality prepares a utility service plan element as a  
24 condition for adopting a development transfer ordinance pursuant to  
25 subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan  
26 element shall address the provision of utilities in the receiving zone  
27 as provided thereunder;

28 (6) A community facilities plan element showing the existing  
29 and proposed location and type of educational or cultural facilities,  
30 historic sites, libraries, hospitals, firehouses, police stations and  
31 other related facilities, including their relation to the surrounding  
32 areas;

33 (7) A recreation plan element showing a comprehensive system  
34 of areas and public sites for recreation;

35 (8) A conservation plan element providing for the preservation,  
36 conservation, and utilization of natural resources, including, to the  
37 extent appropriate, energy, open space, water supply, forests, soil,  
38 marshes, wetlands, harbors, rivers and other waters, fisheries,  
39 endangered or threatened species wildlife and other resources, and  
40 which systemically analyzes the impact of each other component  
41 and element of the master plan on the present and future  
42 preservation, conservation and utilization of those resources;

43 (9) An economic plan element considering all aspects of  
44 economic development and sustained economic vitality, including  
45 (a) a comparison of the types of employment expected to be  
46 provided by the economic development to be promoted with the  
47 characteristics of the labor pool resident in the municipality and

1 nearby areas and (b) an analysis of the stability and diversity of the  
2 economic development to be promoted;

3 (10) A historic preservation plan element: (a) indicating the  
4 location and significance of historic sites and historic districts; (b)  
5 identifying the standards used to assess worthiness for historic site  
6 or district identification; and (c) analyzing the impact of each  
7 component and element of the master plan on the preservation of  
8 historic sites and districts;

9 (11) Appendices or separate reports containing the technical  
10 foundation for the master plan and its constituent elements;

11 (12) A recycling plan element which incorporates the State  
12 Recycling Plan goals, including provisions for the collection,  
13 disposition and recycling of recyclable materials designated in the  
14 municipal recycling ordinance, and for the collection, disposition  
15 and recycling of recyclable materials within any development  
16 proposal for the construction of 50 or more units of single-family  
17 residential housing or 25 or more units of multi-family residential  
18 housing and any commercial or industrial development proposal for  
19 the utilization of 1,000 square feet or more of land;

20 (13) A farmland preservation plan element, which shall include:  
21 an inventory of farm properties and a map illustrating significant  
22 areas of agricultural land; a statement showing that municipal  
23 ordinances support and promote agriculture as a business; and a  
24 plan for preserving as much farmland as possible in the short term  
25 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-  
26 1 et al.) through a variety of mechanisms including, but not limited  
27 to, utilizing option agreements, installment purchases, and  
28 encouraging donations of permanent development easements; **[and]**

29 (14) A development transfer plan element which sets forth the  
30 public purposes, the locations of sending and receiving zones and  
31 the technical details of a development transfer program based on the  
32 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

33 (15) An educational facilities plan element which incorporates  
34 the purposes and goals of the "long-range facilities plan" required to  
35 be submitted to the Commissioner of Education by a school district  
36 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4).

37 c. The master plan and its plan elements may be divided into  
38 subplans and subplan elements projected according to periods of  
39 time or staging sequences.

40 d. The master plan shall include a specific policy statement  
41 indicating the relationship of the proposed development of the  
42 municipality, as developed in the master plan to (1) the master plans  
43 of contiguous municipalities, (2) the master plan of the county in  
44 which the municipality is located, (3) the State Development and  
45 Redevelopment Plan adopted pursuant to the "State Planning Act,"  
46 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)  
47 and (4) the district solid waste management plan required pursuant  
48 to the provisions of the "Solid Waste Management Act," P.L.1970,

1 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is  
2 located.

3 In the case of a municipality situated within the Highlands  
4 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the  
5 master plan shall include a specific policy statement indicating the  
6 relationship of the proposed development of the municipality, as  
7 developed in the master plan, to the Highlands regional master plan  
8 adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).  
9 (cf: P.L.2004, c.120, s.60)

10

11 60. Section 57 of P.L.1975, c.291 (C.40:55D-70) is amended to  
12 read as follows:

13 57. Powers. The board of adjustment shall have the power to:

14 a. Hear and decide appeals where it is alleged by the appellant  
15 that there is error in any order, requirement, decision or refusal  
16 made by an administrative officer based on or made in the  
17 enforcement of the zoning ordinance;

18 b. Hear and decide requests for interpretation of the zoning map  
19 or ordinance or for decisions upon other special questions upon  
20 which such board is authorized to pass by any zoning or official  
21 map ordinance, in accordance with this act;

22 c. (1) Where: (a) by reason of exceptional narrowness,  
23 shallowness or shape of a specific piece of property, or (b) by  
24 reason of exceptional topographic conditions or physical features  
25 uniquely affecting a specific piece of property, or (c) by reason of  
26 an extraordinary and exceptional situation uniquely affecting a  
27 specific piece of property or the structures lawfully existing  
28 thereon, the strict application of any regulation pursuant to article 8  
29 of this act would result in peculiar and exceptional practical  
30 difficulties to, or exceptional and undue hardship upon, the  
31 developer of such property, grant, upon an application or an appeal  
32 relating to such property, a variance from such strict application of  
33 such regulation so as to relieve such difficulties or hardship; (2)  
34 where in an application or appeal relating to a specific piece of  
35 property the purposes of this act or the purposes of the "Educational  
36 Facilities Construction and Financing Act," P.L.2000, c.72  
37 (C.18A:7G-1 et al.), would be advanced by a deviation from the  
38 zoning ordinance requirements and the benefits of the deviation  
39 would substantially outweigh any detriment, grant a variance to  
40 allow departure from regulations pursuant to article 8 of this act;  
41 provided, however, that the fact that a proposed use is an inherently  
42 beneficial use shall not be dispositive of a decision on a variance  
43 under this subsection and provided that no variance from those  
44 departures enumerated in subsection d. of this section shall be  
45 granted under this subsection; and provided further that the  
46 proposed development does not require approval by the planning  
47 board of a subdivision, site plan or conditional use, in conjunction

1 with which the planning board has power to review a request for a  
2 variance pursuant to subsection a. of section 47 of this act; and

3 d. In particular cases for special reasons, grant a variance to  
4 allow departure from regulations pursuant to article 8 of this act to  
5 permit: (1) a use or principal structure in a district restricted against  
6 such use or principal structure, (2) an expansion of a  
7 nonconforming use, (3) deviation from a specification or standard  
8 pursuant to section 54 of P.L.1975, c.291 (C.40:55D-67) pertaining  
9 solely to a conditional use, (4) an increase in the permitted floor  
10 area ratio as defined in section 3.1. of P.L.1975, c.291 (C.40:55D-  
11 4), (5) an increase in the permitted density as defined in section 3.1  
12 of P.L.1975, c.291 (C.40:55D-4), except as applied to the required  
13 lot area for a lot or lots for detached one or two dwelling unit  
14 buildings, which lot or lots either an isolated undersized lot or lots  
15 resulting from a minor subdivision or (6) a height of a principal  
16 structure which exceeds by 10 feet or 10% the maximum height  
17 permitted in the district for a principal structure. A variance under  
18 this subsection shall be granted only by affirmative vote of at least  
19 five members, in the case of a municipal board, or two-thirds of the  
20 full authorized membership, in the case of a regional board,  
21 pursuant to article 10 of this act.

22 If an application development requests one or more variances but  
23 not a variance for a purpose enumerated in subsection d. of this  
24 section, the decision on the requested variance or variances shall be  
25 rendered under subsection c. of this section.

26 No variance or other relief may be granted under the terms of  
27 this section, including a variance or other relief involving an  
28 inherently beneficial use, without a showing that such variance or  
29 other relief can be granted without substantial detriment to the  
30 public good and will not substantially impair the intent and the  
31 purpose of the zone plan and zoning ordinance. In respect to any  
32 airport safety zones delineated under the "Air Safety and Zoning  
33 Act of 1983," P.L.1983, c.260 (C.6:1-80 et seq.), no variance or  
34 other relief may be granted under the terms of this section,  
35 permitting the creation or establishment of a nonconforming use  
36 which would be prohibited under standards promulgated pursuant to  
37 that act, except upon issuance of a permit by the Commissioner of  
38 Transportation. An application under this section may be referred  
39 to any appropriate person or agency for its report; provided that  
40 such reference shall not extend the period of time within which the  
41 zoning board of adjustment shall act.

42 (cf: P.L.1997, c.145, s.1)

43

44 61. The following sections are repealed:

45 Sections 51, 52, and 53 of P.L.2000, c.72 (C.34:1B-5.6, 34:1B-  
46 5.7, and 34:1B-5.8).

47

48 62. This act shall take effect immediately.

## STATEMENT

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This bill revises the school construction program established under the “Educational Facilities Construction and Financing Act,” (EFCFA) P.L.2000, c.72, as enacted in July of 2000. The bill implements a number of the recommendations made by the Interagency Working Group on School Construction which was formed pursuant to Executive Order No. 3 of 2006. The charge of the working group was to review the entire school construction program and develop recommendations to reform the program and improve its operation and management.

Under the provisions of this bill the New Jersey Economic Development Authority (EDA) will continue to provide the financing for school facilities projects, but a new State authority is established to focus solely on the construction of schools. The New Jersey Schools Development Authority will be in, but not of, the Department of the Treasury and will consist of the Commissioner of Education, the Commissioner of Community Affairs, the executive director of the Economic Development Authority, the State Treasurer, and 11 public members. The public members will be appointed by the Governor with the advice and consent of the Senate and will serve five-year terms. At least one of the public members must have knowledge or expertise in the area of law enforcement and the remaining public members must have knowledge or expertise in real estate development, construction management, finance, architectural or building design, or any related field.

The New Jersey Schools Construction Corporation (SCC), which was a subsidiary corporation of the EDA established by executive order to carry out the obligations of the EDA in undertaking the construction of school facilities projects, is abolished under the bill. All the functions, powers, duties, and employees of the SCC are transferred to the new authority. The bill stipulates that whenever reference is made to the SCC in any law, rule, regulation, order, contract, document, or judicial proceeding, it will mean the New Jersey Schools Development Authority. As a result, the existing contract between the SCC and the Office of the Inspector General which provides for monitoring of the school construction program will be continued under the development authority.

The bill also continues the prevailing wage and affirmative action requirements outlined in regard to the school construction program under EFCFA. The bill stipulates that the development authority may allocate up to one-half of one percent of the annual value of its construction program to the financing of minority and women worker outreach and training programs.

The bill also maintains the current requirements and standards in regard to the award of contracts under the school construction program. The development authority is authorized to award a

1 contract that will exceed \$25,000 to the bidder whose bid will be  
2 the most advantageous to the development authority, price and other  
3 factors considered. Unlike the original provisions of EFCFA, the  
4 bill establishes a process for the adjustment of the \$25,000 amount  
5 every five years in direct proportion to the rise or fall of the “index  
6 rate.” The bill also provides that: 1) a contract may be negotiated  
7 or awarded without public bid when the public exigency requires; 2)  
8 a contract may be negotiated or awarded without public bid when  
9 the authority has advertised for bids on two occasions and received  
10 no bids on both occasions; and 3) may be negotiated after public  
11 advertising when the authority receives only a single responsive  
12 bid, however the negotiation with the responsive bidder will be  
13 limited to price.

14 The bill also:

15 1) eliminates the requirement that the school facilities projects  
16 of Level II districts and district’s with a district aid percentage of  
17 55% or greater be constructed by the development authority, as well  
18 as the option for a district with a district aid percentage of less than  
19 55% to elect to have the development authority construct a school  
20 facilities project. These districts will be eligible to finance their  
21 projects in the same manner as all other nonAbbott school districts.  
22 Under the bill, the development authority will only construct the  
23 school facilities projects of Abbott districts. The bill does however  
24 have a “grandfather” provision that would allow the projects of the  
25 above districts to be constructed by the development authority if  
26 they had been approved by the commissioner and the SCC to be  
27 constructed by the SCC prior to the effective date of the bill;

28 2) provides that the Commissioner of Education will revise the  
29 facilities efficiency standards periodically through publication in  
30 the New Jersey Register. Under current law, the facilities  
31 efficiency standards are to be revised in the Biennial Report on the  
32 Cost of Providing a Thorough and Efficient Education;

33 3) establishes a process for the sequencing of the construction of  
34 school facilities projects in the Abbott districts. The bill directs the  
35 commissioner to establish, in consultation with an Abbott district,  
36 an educational priority ranking of all school facilities projects in the  
37 district based upon the commissioner’s determination of critical  
38 need in accordance with the priority project categories developed by  
39 the commissioner. Upon the establishment of the priority ranking,  
40 the development authority, in consultation with the commissioner,  
41 the Abbott districts, and the governing bodies of the municipalities  
42 in which the districts are located, will establish a Statewide strategic  
43 plan to be used in the sequencing of Abbott district school facilities  
44 projects. The strategic plan will be based upon the educational  
45 priority ranking of projects as well as issues which impact the  
46 development authority’s ability to complete a project;

47 4) provides that the commissioner may authorize the  
48 development authority to undertake preconstruction activities prior



1 to commissioner approval of an Abbott district's school facilities  
2 project but in accordance with the project's educational priority  
3 ranking and the Statewide strategic plan. These activities could  
4 include site identification, investigation, and acquisition, feasibility  
5 studies, design work, site remediation, demolition, and acquisition  
6 of temporary facilities;

7 5) provides that the preliminary eligible costs of an Abbott  
8 district school facilities project will be the costs as estimated by the  
9 development authority. Under current law, the preliminary eligible  
10 costs are calculated in accordance with the formula for unhoused  
11 students established under the law, although current law does  
12 establish procedures for increases in those costs;

13 6) provides that in the event that the development authority  
14 funds 100% of the cost of the acquisition of land for the  
15 construction of a school facilities project and as a result of the  
16 construction of that project a school building located in the district  
17 and the land upon which the school building is situate are no longer  
18 necessary for educational purposes, title to the land and the school  
19 building will be conveyed to the development authority when the  
20 development authority determines that it is in its best interest. If  
21 the development authority elects to sell the land and the building,  
22 the proceeds of the sale must be applied to the cost of school  
23 facilities projects in that district;

24 7) provides that if it is necessary to acquire land for an Abbott  
25 district school facilities project, the board of education and the  
26 municipality in which the Abbott district is located must jointly  
27 submit to the commissioner and to the development authority a  
28 complete inventory of all district- and municipal-owned land  
29 located in the municipality. The board and the governing body  
30 must also provide an analysis of why any of that land would not be  
31 suitable as a site for a school facilities project included in the  
32 district's long range facilities plan;

33 8) establishes procedures to ensure that if a site has been  
34 identified as a proposed preferred site for an Abbott district school  
35 facilities project, upon submission of that information to the county  
36 clerk and the municipal clerk, a municipal approving authority may  
37 not exercise any approval authority for the development or  
38 improvement of that site unless notice is given to the development  
39 authority. The development authority will have 45 days from  
40 receipt of that notice to inform the municipal approving authority of  
41 its intention to acquire the site, and the approving authority may  
42 take no further action for a further period of 180 days;

43 9) provides that within one year of the bill's effective date the  
44 commissioner, in consultation with the development authority, will  
45 adopt regulations by which the commissioner may determine  
46 whether an Abbott district is eligible to be considered by the  
47 development authority to manage a school facilities project or  
48 projects. Within that same one-year period, the development

1 authority, in consultation with the commissioner, will adopt  
2 regulations by which the development authority will determine if an  
3 eligible Abbott district has the capacity to manage a project or  
4 projects. In the case of Abbott districts which are determined to  
5 lack that capacity, the development authority, in consultation with  
6 the commissioner, will develop training programs, seminars, or  
7 symposia to provide technical assistance in the development of  
8 capacity; and  
9 10) eliminates the category of community provider early  
10 childhood education facilities projects. These are school facilities  
11 projects consisting of facilities which are owned and operated by a  
12 community provider and in which early childhood education  
13 programs are provided to three- or four-year olds pursuant to a  
14 contract between the community provider and a school district  
15 which receives early childhood program aid. No such projects have  
16 been initiated since the enactment of EFCFA.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 2796**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 21, 2007

The Senate Education Committee favorably reports Senate Bill No. 2796 with committee amendments.

As amended, this bill revises the school construction program established under the "Educational Facilities Construction and Financing Act," (EFCFA) P.L.2000, c.72, as enacted in July of 2000. The bill implements a number of the recommendations made by the Interagency Working Group on School Construction which was formed pursuant to Executive Order No. 3 of 2006. The charge of the working group was to review the entire school construction program and develop recommendations to reform the program and improve its operation and management.

Under the provisions of this bill the New Jersey Economic Development Authority (EDA) will continue to provide the financing for school facilities projects, but a new State authority is established to focus solely on the construction of schools. The New Jersey Schools Development Authority will be in, but not of, the Department of the Treasury and will consist of the Commissioner of Education, the Commissioner of Community Affairs, the executive director of the Economic Development Authority, the State Treasurer, and 11 public members. The public members will be appointed by the Governor with the advice and consent of the Senate and will serve five-year terms. At least one of the public members must have knowledge or expertise in the area of law enforcement and the remaining public members must have knowledge or expertise in real estate development, construction management, finance, architectural or building design, or any related field.

The New Jersey Schools Construction Corporation (SCC), which was a subsidiary corporation of the EDA established by executive order to carry out the obligations of the EDA in undertaking the construction of school facilities projects, is abolished under the bill. All the functions, powers, duties, and employees of the SCC are transferred to the new authority. The bill stipulates that whenever reference is made to the SCC in any law, rule, regulation, order, contract, document, or judicial proceeding, it will mean the New Jersey Schools Development Authority. As a result, the existing

contract between the SCC and the Office of the Inspector General which provides for monitoring of the school construction program will be continued under the development authority.

The bill also continues the prevailing wage and affirmative action requirements outlined in regard to the school construction program under EFCFA. The bill stipulates that the development authority may allocate up to one-half of one percent of the annual value of its construction program to the financing of minority and women worker outreach and training programs.

The bill also maintains the current requirements and standards in regard to the award of contracts under the school construction program. The development authority is authorized to award a contract that will exceed \$25,000 to the bidder whose bid will be the most advantageous to the development authority, price and other factors considered. Unlike the original provisions of EFCFA, the bill establishes a process for the adjustment of the \$25,000 amount every five years in direct proportion to the rise or fall of the "index rate." The bill also provides that: 1) a contract may be negotiated or awarded without public bid when the public exigency requires; 2) a contract may be negotiated or awarded without public bid when the authority has advertised for bids on two occasions and received no bids on both occasions; and 3) may be negotiated after public advertising when the authority receives only a single responsive bid, however the negotiation with the responsive bidder will be limited to price.

The bill also:

1) eliminates the requirement that the school facilities projects of Level II districts and district's with a district aid percentage of 55% or greater be constructed by the development authority, as well as the option for a district with a district aid percentage of less than 55% to elect to have the development authority construct a school facilities project. These districts will be eligible to finance their projects in the same manner as all other school districts. Under the bill, the development authority will only construct the school facilities projects of Abbott districts. The bill does however have a "grandfather" provision that would allow the projects of the above districts to be constructed by the development authority if they had been approved by the commissioner and the SCC to be constructed by the SCC prior to the effective date of the bill;

2) provides that the Commissioner of Education will revise the facilities efficiency standards periodically through publication in the New Jersey Register. Under current law, the facilities efficiency standards are to be revised in the Biennial Report on the Cost of Providing a Thorough and Efficient Education;

3) establishes a process for the sequencing of the construction of school facilities projects in the Abbott districts. The bill directs the commissioner to establish, in consultation with an Abbott district, an educational priority ranking of all school facilities projects in the

district based upon the commissioner's determination of critical need in accordance with the priority project categories developed by the commissioner. Upon the establishment of the priority ranking, the development authority, in consultation with the commissioner, the Abbott districts, and the governing bodies of the municipalities in which the districts are located, will establish a Statewide strategic plan to be used in the sequencing of Abbott district school facilities projects. The strategic plan will be based upon the educational priority ranking of projects as well as issues which impact the development authority's ability to complete a project;

4) provides that the commissioner may authorize the development authority to undertake preconstruction activities prior to commissioner approval of an Abbott district's school facilities project but in accordance with the project's educational priority ranking and the Statewide strategic plan. These activities could include site identification, investigation, and acquisition, feasibility studies, design work, site remediation, demolition, and acquisition of temporary facilities;

5) provides that the preliminary eligible costs of an Abbott district school facilities project will be the costs as estimated by the development authority. Under current law, the preliminary eligible costs for new construction are calculated in accordance with a formula that considers the approved area for unhoused students and the area cost allowance, although current law does establish procedures for increases in those costs;

6) provides that in the event that the development authority funds 100% of the cost of the acquisition of land for the construction of a school facilities project and as a result of the construction of that project a school building located in the district and the land upon which the school building is situate are no longer necessary for educational purposes, title to the land and the school building will be conveyed to the development authority when the development authority determines that it is in its best interest. If the development authority elects to sell the land and the building, the proceeds of the sale must be applied to the cost of school facilities projects in that district;

7) provides that if it is necessary to acquire land for an Abbott district school facilities project, the board of education and the municipality in which the Abbott district is located must jointly submit to the commissioner and to the development authority a complete inventory of all district- and municipal-owned land located in the municipality. The board and the governing body must also provide an analysis of why any of that land would not be suitable as a site for a school facilities project included in the district's long range facilities plan;

8) establishes procedures to ensure that if a site has been identified as a proposed preferred site for an Abbott district school facilities

project, upon submission of that information to the county clerk and the municipal clerk, a municipal approving authority may not exercise any approval authority for the development or improvement of that site unless notice is given to the development authority. The development authority will have 45 days from receipt of that notice to inform the municipal approving authority of its intention to acquire the site, and the approving authority may take no further action for a further period of 180 days;

9) provides that within one year of the bill's effective date the commissioner, in consultation with the development authority, will adopt regulations by which the commissioner will determine whether an Abbott district is eligible to be considered by the development authority to manage a school facilities project or projects. Within that same one-year period, the development authority, in consultation with the commissioner, will adopt regulations by which the development authority will determine if an eligible Abbott district has the capacity to manage a project or projects. In the case of Abbott districts which are determined to lack that capacity, the development authority, in consultation with the commissioner, will develop training programs, seminars, or symposia to provide technical assistance in the development of capacity; and

10) eliminates the category of community provider early childhood education facilities projects. These are school facilities projects consisting of facilities which are owned and operated by a community provider and in which early childhood education programs are provided to three- or four-year olds pursuant to a contract between the community provider and a school district which receives early childhood program aid. No such projects have been initiated since the enactment of EFCFA.

The committee amended the bill to: 1) delete reference to a "nonAbbott" district and insert reference to a district "other than an Abbott district" in various provisions of the bill; 2) include in the legislative findings section the fact that the initiatives included in the bill will provide Abbott districts, the public, and stakeholders with the opportunity to provide input during the various phases of the construction of school facilities projects; 3) require that development authority advertisements for bids be published in a legal newspaper or posted on the development authority's website no less than 10 days prior to the date fixed for receiving bids, as opposed to the seven days included in the original bill; 4) provide that the biannual reports on the school construction program required under the bill will be submitted on June 1 and December 1 as opposed to January 15 and July 15 and will include a comparison of the costs of school facilities projects undertaken and funded by the development authority to similar school facilities projects constructed in the New York City Metropolitan Statistical Area and the Philadelphia Metropolitan Statistical Area as defined by the United States Department of Labor; 5) provide that any

amendment to an Abbott district's long-range facilities plan submitted in the period between the five-year updates of that plan will be considered by the development authority, in consultation with the commissioner, for incorporation into the Statewide strategic plan; and 6) provide that a copy of the annual audit of the New Jersey Schools Development Authority will be filed with the State auditor.

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## Aug-6-07 Governor Corzine Signs Legislation Replacing New Jersey Schools Construction Corporation

**NEWS RELEASE:**Governor Jon S. Corzine  
August 6, 2007**FOR MORE INFORMATION:**

Press Office - 609-777-2600

### GOVERNOR CORZINE SIGNS LEGISLATION REPLACING NEW JERSEY SCHOOLS CONSTRUCTION CORPORATION

TRENTON - Governor Jon S. Corzine today signed legislation dissolving the New Jersey Schools Construction Corporation (SCC) and replacing it with the New Jersey Schools Development Authority (SDA). The reorganization is immediate and places the new SDA in but not of the Department of Treasury.

"The reorganization of the SCC is testimony to the commitment of this administration to implement reforms that put an end to the waste and mismanagement of the past," said Governor Corzine. "We now have a more streamlined entity with the proper controls in place. This will ensure more efficient delivery of quality schools which are greatly needed across the state."

The New Jersey Schools Development Authority will focus solely on the construction of schools in the Abbott districts while the New Jersey Economic Development Authority retains the responsibility to provide financing for school facilities projects.

Also contained in the legislation are other reforms that will strengthen the school construction program, including changes to land acquisition policies and procedures and a new process to sequence projects in the Abbott districts based on educational priorities and needs. Furthermore, the legislation provides greater authority to the Abbott districts to manage their own projects if they successfully demonstrate the capacity to do so.

The new authority will consist of the Commissioner of Education, the Commissioner of Community Affairs, the CEO of the New Jersey Economic Development Authority, the State Treasurer, and 11 public members, up from the original seven. The public members will be appointed by the Governor with the advice and consent of the Senate and will serve five-year terms.

Barry Zubrow, who served as chairman of the SCC Board of Directors, has been appointed to continue as the Chairman of the Authority. He and four other public members of the SCC board will immediately begin serving in an interim capacity on the new SDA board. Their nominations for a full term will be submitted to the State Senate when it reconvenes in the fall. The four other public members are: Joseph McNamara, Laurence M. Downes, Gabriella Morris and Carmen Twillie Ambar.

Scott Weiner will head the SDA, continuing in his capacity as CEO. Weiner was appointed in February 2006 as the Governor's Special Counsel on School Construction and was appointed permanent CEO in September 2006.

"We need to put a system in place to ensure that the previous mistakes of the old Schools Construction Corporation never happen again," said Assemblyman Craig Stanley (D-Essex), chairman of the Assembly Education Committee. "These structural reforms will go a long way toward restoring public confidence in the state's efforts to provide New Jersey students with modern school buildings and quality educations."

"Before the state spends another dime on school construction, we need an accountability system to protect taxpayer dollars," said Assemblyman Jeff Van Drew (D-Cape May/Cumberland/Atlantic). "The state needs a structure in place to build better schools while preventing new scandals of waste, fraud, and abuse."

"One of our most important responsibilities is to provide an adequate education to all of New Jersey's students, and part-and-parcel with that obligation comes the need to provide safe, up-to-date buildings for that education to take place," said Senator Joseph V. Doria, D-Hudson. "With the Schools Construction Corporation, greed and internal abuse ultimately damaged a worthwhile program beyond



repair. By establishing the Schools Development Authority, we can begin a new model for building schools in New Jersey, free from the tainted past of the SCC."

"The mission of the old SCC remains as urgent as ever, but it was clear that we needed to reform the way in which we build those schools before the State could afford to spend another dime in building new schools. The NJSDA will bring the transparency and accountability to the schools construction process that had been sorely missed," added Senator Turner, D-Mercer and Chair of the Senate Education Committee.

Sponsors of the legislation were Assemblyman Craig Stanley (District 28); Assemblyman Wilfredo Caraballo (District 29); Assemblywoman Nellie Pou (District 35); Assemblyman Jeff Van Drew (District 1); Assemblyman Joseph Vas (District 19) and Assemblyman Gary Schaer (District 36). The Senate sponsors were Senator Joseph Doria (District 31) and Senator Shirley Turner (District 15).

###

Photos and audio and video clips from Governor Corzine's public events are available in the Governor's Newsroom section on the State of New Jersey web page, <http://www.nj.gov/governor/news/>



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