

§8 –
C.18A:7G-14.1
§9 –
C.18A:7G-13.1
§10 - T&E &
Note to
C.18A:7G-24
§11 –
C.18A:7G-15.1

P.L. 2008, CHAPTER 39, *approved July 9, 2008*
Assembly Committee Substitute for
Assembly, No. 2873

1 **AN ACT** concerning State support for school facilities projects and
2 amending and supplementing P.L.2000, c.72.

3

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

6

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

9 1. Sections 1 through 30 and 57 through 71 of **[this act]**
10 P.L.2000, c.72 (C.18A:7G-1 et al.), sections 14 through 17 of
11 P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections
12 8 through 11 of P.L. , c. (C. through C.) (pending before
13 the Legislature as this bill) shall be known and may be cited as the
14 "Educational Facilities Construction and Financing Act."
15 (cf: P.L.2000, c.72, s.1)

16

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

19 5. a. The development authority shall undertake and the
20 financing authority shall finance the school facilities projects of
21 SDA districts.

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

26 c. Notwithstanding any provision of N.J.S.18A:18A-16 to the
27 contrary, the procedures for obtaining approval of a school facilities
28 project shall be as set forth in this act; provided that any district
29 whose school facilities project is not constructed by the
30 development authority shall also be required to comply with the
31 provisions of N.J.S.18A:18A-16.

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (1) In the case of a district other than an SDA district, the
44 commissioner shall notify the district whether the school facilities
45 project is approved and, if so approved, the preliminary eligible
46 costs and the excess costs, if any. Following the determination of
47 preliminary eligible costs and the notification of project approval,

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

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

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

1 and address of the person from the district to contact in regard to
2 the project.

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

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

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

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

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

1 eligible costs plus the increase recommended by the development
2 authority; give final approval to the project; and issue a final project
3 report to the development authority pursuant to subsection j. of this
4 section.

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

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

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

42 k. For the SDA districts, the State share shall be 100% of the
43 final eligible costs. For all other districts, the State share shall be
44 an amount equal to **[115% of]** the district aid percentage; except
45 that the State share shall not be less than 40% of the final eligible
46 costs.

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

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

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

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

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

1 the Statewide strategic plan and the sequencing of SDA district
2 school facilities projects in accordance with that plan no less than
3 once every five years.

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

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

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

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

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

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

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

1 s. (Deleted by amendment, P.L.2007, c.137).
2 (cf: P.L.2007, c.260, s.41)

3
4 3. Section 9 of P.L.2000, c.72 (C.18A:7G-9) is amended to
5 read as follows:

6 9. a. State debt service aid for capital investment in school
7 facilities for a district other than an SDA district which elects not to
8 finance the project under section 15 of P.L.2000, c.72 (C.18A:7G-
9 15), shall be distributed upon a determination of preliminary
10 eligible costs by the commissioner, according to the following
11 formula:

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

15 where

16 $A = B \times AC/P \times [(DAP \times 1.15)] \underline{DAP} \times M$, with $AC/P = 1$

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

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

21 AC is the preliminary eligible costs determined pursuant to
22 section 7 of P.L.2000, c.72 (C.18A:7G-7);

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

25 DAP is the district's district aid percentage as defined pursuant to
26 section 3 of P.L.2000, c.72 (C.18A:7G-3) and where $[(DAP \times$
27 $1.15)] \underline{DAP}$ shall not be less than 40%; and

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

31 For county special services school districts, DAP shall be that of
32 the county vocational school district in the same county.

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

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

1 (2) For new construction, additions, and school facilities aided
 2 under subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-7)
 3 supported by financing issued for projects approved by the
 4 commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-
 5 1 et al.), beginning in the fourth year after occupancy of the school
 6 facility, the maintenance factor shall be reduced according to the
 7 following schedule for all school facilities projects for which the
 8 district fails to demonstrate in the prior fiscal year an investment in
 9 maintenance of the related school facility of at least two-tenths of
 10 1% of the replacement cost of the school facility, determined
 11 pursuant to subsection b. of section 7 of P.L.2000, c.72 (C.18A:7G-
 12 7).

13 Maintenance Percentage	Maintenance Factor (M)
14 .199% - .151%	75%
15 .150% - .100%	50%
16 Less than .100%	Zero

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

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

32 Any district which received approval from the commissioner for
 33 a school facilities project at any time prior to the effective date of
 34 P.L.2000, c.72 (C.18A:7G-1 et al.), and has not issued debt, other
 35 than short term notes, may submit an application pursuant to section
 36 5 of P.L.2000, c.72 (C.18A:7G-5) to have the final eligible costs of
 37 the project determined pursuant to that section and to have the New
 38 Jersey Economic Development Authority construct the project; or,
 39 at its discretion, the district may choose to receive debt service aid
 40 under this section or under section 10 of P.L.2000, c.72 (C.18A:7G-
 41 10) or to receive a grant under section 15 of P.L.2000, c.72
 42 (C.18A:7G-15).

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

45 d. For school bonds issued for a school facilities project after the
 46 effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the
 47 effective date of P.L. , c. (C.) (pending before the Legislature

1 as this bill), State debt service aid shall be calculated in accordance
2 with the provisions of this section as the same read before the
3 effective date of P.L. , c. (C.) (pending before the Legislature as
4 this bill).

5 (cf: P.L.2007, c.260, s.42)

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

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

10 a. The financing authority shall have the power, pursuant to the
11 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
12 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to
13 issue bonds and refunding bonds, incur indebtedness and borrow
14 money secured, in whole or in part, by moneys received pursuant to
15 sections 17, 18 and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-
16 18 and C.18A:7G-19) for the purposes of: financing all or a portion
17 of the costs of school facilities projects and any costs related to the
18 issuance thereof, including, but not limited to, the administrative,
19 insurance, operating and other expenses of the financing authority
20 to undertake the financing, and the development authority to
21 undertake the planning, design, and construction of school facilities
22 projects; lending moneys to local units to pay the costs of all or a
23 portion of school facilities projects and any costs related to the
24 issuance thereof; funding the grants to be made pursuant to section
25 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition
26 of school facilities projects to permit the refinancing of debt by the
27 district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16).
28 The aggregate principal amount of the bonds, notes or other
29 obligations issued by the financing authority as authorized pursuant
30 to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed:
31 \$100,000,000 for the State share of costs for county vocational
32 school district school facilities projects; \$6,000,000,000 for the
33 State share of costs for Abbott district school facilities projects; and
34 \$2,500,000,000 for the State share of costs for school facilities
35 projects in all other districts. The aggregate principal amount of the
36 bonds, notes or other obligations issued by the financing authority
37 as authorized pursuant to P.L. , c. (C.) (pending before the
38 Legislature as this bill) shall not exceed: \$2,900,000,000 for the
39 State share of costs of SDA district school facilities projects; and
40 \$1,000,000,000 for the State share of costs for school facilities
41 projects in all other districts, \$50,000,000 of which shall be
42 allocated for the State share of costs for county vocational school
43 district school facilities projects. This limitation shall not include
44 any bonds, notes or other obligations issued for refunding purposes.

45 The financing authority may establish reserve funds to further
46 secure bonds and refunding bonds issued pursuant to this section
47 and may issue bonds to pay for the administrative, insurance and

1 operating costs of the financing authority and the development
2 authority in carrying out the provisions of this act. In addition to its
3 bonds and refunding bonds, the financing authority shall have the
4 power to issue subordinated indebtedness, which shall be
5 subordinate in lien to the lien of any or all of its bonds or refunding
6 bonds as the financing authority may determine.

7 b. The financing authority shall issue the bonds or refunding
8 bonds in such manner as it shall determine in accordance with the
9 provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80
10 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.);
11 provided that notwithstanding any other law to the contrary, no
12 resolution adopted by the financing authority authorizing the
13 issuance of bonds or refunding bonds pursuant to this section shall
14 be adopted or otherwise made effective without the approval in
15 writing of the State Treasurer; and refunding bonds issued to refund
16 bonds issued pursuant to this section shall be issued on such terms
17 and conditions as may be determined by the financing authority and
18 the State Treasurer. The financing authority may, in any resolution
19 authorizing the issuance of bonds or refunding bonds issued
20 pursuant to this section, pledge the contract with the State Treasurer
21 provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-
22 18), or any part thereof, or may pledge all or any part of the
23 repayments of loans made to local units pursuant to section 19 of
24 P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the
25 bonds or refunding bonds, and covenant as to the use and
26 disposition of money available to the financing authority for
27 payment of the bonds and refunding bonds. All costs associated
28 with the issuance of bonds and refunding bonds by the financing
29 authority for the purposes set forth in this act may be paid by the
30 financing authority from amounts it receives from the proceeds of
31 the bonds or refunding bonds, and from amounts it receives
32 pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-
33 17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but
34 shall not be limited to, any costs relating to the issuance of the
35 bonds or refunding bonds, administrative costs of the financing
36 authority attributable to the making and administering of loans and
37 grants to fund school facilities projects, and costs attributable to the
38 agreements entered into pursuant to subsection d. of this section.

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

45 (1) Pledge of the revenues and other receipts to be derived from
46 the payment of local unit obligations and any other payment made
47 to the financing authority pursuant to agreements with any local

- 1 unit, or a pledge or assignment of any local unit obligations, and the
2 rights and interest of the financing authority therein;
- 3 (2) Pledge of rentals, receipts and other revenues to be derived
4 from leases or other contractual arrangements with any person or
5 entity, public or private, including one or more local units, or a
6 pledge or assignment of those leases or other contractual
7 arrangements and the rights and interests of the financing authority
8 therein;
- 9 (3) Pledge of all moneys, funds, accounts, securities and other
10 funds, including the proceeds of the bonds;
- 11 (4) Pledge of the receipts to be derived from payments of State
12 aid to the financing authority pursuant to section 21 of P.L.2000,
13 c.72 (C.18A:7G-21);
- 14 (5) Pledge of the contract or contracts with the State Treasurer
15 pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);
- 16 (6) Pledge of any sums remitted to the local unit by donation
17 from any person or entity, public or private, subject to the approval
18 of the State Treasurer;
- 19 (7) A mortgage on all or any part of the property, real or
20 personal, comprising a school facilities project then owned or
21 thereafter to be acquired, or a pledge or assignment of mortgages
22 made to the financing authority by any person or entity, public or
23 private, including one or more local units and rights and interests of
24 the financing authority therein; and
- 25 (8) The receipt of any grants, reimbursements or other payments
26 from the federal government.
- 27 d. The resolution authorizing the issuance of bonds or
28 refunding bonds pursuant to this section may also provide for the
29 financing authority to enter into any revolving credit agreement,
30 agreement establishing a line of credit or letter of credit,
31 reimbursement agreement, interest rate exchange agreement,
32 currency exchange agreement, interest rate floor or cap, options,
33 puts or calls to hedge payment, currency, rate, spread or similar
34 exposure or similar agreements, float agreements, forward
35 agreements, insurance contracts, surety bonds, commitments to
36 purchase or sell bonds, purchase or sale agreements, or
37 commitments or other contracts or agreements and other security
38 agreements approved by the financing authority in connection with
39 the issuance of the bonds or refunding bonds pursuant to this
40 section. In addition, the financing authority may, in anticipation of
41 the issuance of the bonds or the receipt of appropriations, grants,
42 reimbursements or other funds, including, without limitation, grants
43 from the federal government for school facilities projects, issue
44 notes, the principal of or interest on which, or both, shall be payable
45 out of the proceeds of notes, bonds or other obligations of the
46 financing authority or appropriations, grants, reimbursements or
47 other funds or revenues of the financing authority.

- 1 e. The financing authority is authorized to engage, subject to
2 the approval of the State Treasurer and in such manner as the State
3 Treasurer shall determine, the services of financial advisors and
4 experts, placement agents, underwriters, appraisers, and other
5 advisors, consultants and agents as may be necessary to effectuate
6 the financing of school facilities projects.
- 7 f. Bonds and refunding bonds issued by the financing authority
8 pursuant to this section shall be special and limited obligations of
9 the financing authority payable from, and secured by, funds and
10 moneys determined by the financing authority in accordance with
11 this section. Notwithstanding any other provision of law or
12 agreement to the contrary, any bonds and refunding bonds issued by
13 the financing authority pursuant to this section shall not be secured
14 by the same property as bonds and refunding bonds issued by the
15 financing authority to finance projects other than school facilities
16 projects. Neither the members of the financing authority nor any
17 other person executing the bonds or refunding bonds shall be
18 personally liable with respect to payment of interest and principal
19 on these bonds or refunding bonds. Bonds or refunding bonds
20 issued pursuant to this section shall not be a debt or liability of the
21 State or any agency or instrumentality thereof, except as otherwise
22 provided by this subsection, either legal, moral or otherwise, and
23 nothing contained in this act shall be construed to authorize the
24 financing authority to incur any indebtedness on behalf of or in any
25 way to obligate the State or any political subdivision thereof, and
26 all bonds and refunding bonds issued by the financing authority
27 shall contain a statement to that effect on their face.
- 28 g. The State hereby pledges and covenants with the holders of
29 any bonds or refunding bonds issued pursuant to this act that it will
30 not limit or alter the rights or powers vested in the financing
31 authority by this act, nor limit or alter the rights or powers of the
32 State Treasurer in any manner which would jeopardize the interest
33 of the holders or any trustee of the holders, or inhibit or prevent
34 performance or fulfillment by the financing authority or the State
35 Treasurer with respect to the terms of any agreement made with the
36 holders of the bonds or refunding bonds or agreements made
37 pursuant to subsection d. of this section; except that the failure of
38 the Legislature to appropriate moneys for any purpose of this act
39 shall not be deemed a violation of this section.
- 40 h. The financing authority and the development authority may
41 charge to and collect from local units, districts, the State and any
42 other person, any fees and charges in connection with the financing
43 authority's or development authority's actions undertaken with
44 respect to school facilities projects, including, but not limited to,
45 fees and charges for the financing authority's administrative,
46 organization, insurance, operating and other expenses incident to
47 the financing of school facilities projects, and the development

1 authority's administrative, organization, insurance, operating,
2 planning, design, construction management, acquisition,
3 construction, completion and placing into service and maintenance
4 of school facilities projects. Notwithstanding any provision of this
5 act to the contrary, no SDA district shall be responsible for the
6 payment of any fees and charges related to the development
7 authority's operating expenses.

8 i. Upon the issuance by the financing authority of bonds
9 pursuant to this section, other than refunding bonds, the net
10 proceeds of the bonds shall be transferred to the development
11 authority.

12 (cf: P.L. 2007, c.260, s.45)

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

16 15. a. In the case of a district other than an SDA district, for any
17 project approved by the commissioner after the effective date of this
18 act, the district may elect to receive a one-time grant for the State
19 share of the project in accordance with the provisions of subsection
20 b. of this section rather than annual debt service aid under section 9
21 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the
22 district shall equal the product of the project's final eligible costs
23 and **[115% of]** the district aid percentage or 40%, whichever is
24 greater.

25 b. The commissioner shall establish a process for the annual
26 allocation of grant funding. Under that process, the commissioner
27 shall annually notify districts of the date on which the
28 commissioner shall begin to receive applications for grant funding.
29 A district shall have 90 days from that date to submit an application
30 to the commissioner. The commissioner shall make a decision on a
31 district's application within 90 days of the submission of all such
32 applications and shall allocate the grant funding in accordance with
33 the priority process established pursuant to paragraph (4) of
34 subsection m. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

35 c. The development authority shall provide grant funding for the
36 State's share of the final eligible costs of a school facilities project
37 pursuant to an agreement between the district and the development
38 authority which shall, in addition to other terms and conditions, set
39 forth the terms of disbursement of the State share. The funding of
40 the State share shall not commence until the district secures
41 financing for the local share.

42 (cf: P.L. 2007, c.260, s.46)

43
44 6. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to
45 read as follows:

46 17. In each fiscal year the State Treasurer shall pay from the
47 General Fund to the financing authority, in accordance with a

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

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

26 (cf: P.L.2007, c.137, s.28)

27

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

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

40 (cf: P.L. 2007, c.137, s.57)

41

42 8. (New section) The school facilities projects of a county
43 vocational school district that did not receive State support for its
44 projects from the \$100,000,000 of bond proceeds originally
45 allocated for the State share of county vocational school district
46 school facilities projects pursuant to section 14 of P.L.2000, c.72
47 (C.18A:7G-14) shall receive priority in the allocation of the bond

1 proceeds authorized for the State share of county vocational school
2 district school facilities projects pursuant to P.L. , c. (C.)
3 (pending before the Legislature as this bill) provided that the county
4 vocational school district demonstrates to the commissioner the
5 need for the school facilities projects.

6
7 9. (New section) The development authority, in consultation
8 with the State Comptroller, shall cause an audit to be conducted of a
9 school facilities project financed pursuant to P.L.2000, c.72
10 (C.18A:7G-1 et al.) which has a State share that exceeds
11 \$10,000,000. This provision shall not be construed to limit the
12 authority of the development authority or the State Comptroller to
13 conduct audits of other school facilities projects as provided by law.

14
15 10. (New section) The development authority, in consultation
16 with the commissioner and program stakeholders, shall conduct a
17 study on the potential cost savings in the school construction
18 program in SDA and other school districts that could be realized
19 through the use of standardized design elements, components, and
20 construction materials. The study shall include, but not be limited
21 to, consideration of the opportunities to save design time, facilitate
22 construction inspections, and ensure maintenance protocol ease
23 through:

24 a. utilization of standard building details including, but not
25 limited to, gymnasias, media centers, and cafeterias;

26 b. use of bulk supply agreements with original manufacturers;
27 and,

28 c. use of consistent preventive maintenance protocols to ensure
29 maximum efficiency and lifespan of building components and
30 systems.

31 The development authority shall submit the report on or before
32 April 1, 2009 to the Governor, the Joint Budget Oversight
33 Committee, the President of the Senate, the Speaker of the General
34 Assembly, and the commissioner.

35
36 11. (New section) Notwithstanding any provision of P.L.1968,
37 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner may
38 adopt, immediately upon filing with the Office of Administrative
39 Law, such rules and regulations as the commissioner deems
40 necessary to implement the process for the allocation of grant
41 funding as established pursuant to subsection b. of section 15 of
42 P.L.2000, c.72 (C.18A:7G-15) which shall be effective for a period
43 not to exceed 12 months. The regulations shall thereafter be
44 amended, adopted, or readopted by the State Board of Education in
45 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et
46 seq.).

1 12. This act shall take effect immediately.

2

3

4

5

6 Increases EDA bonding limit for State share of school facilities
7 projects; specifies debt service for these bonds will first be payable
8 from revenues received from gross income tax; establishes priority
9 categories for non-SDA district projects.