

SENATE, No. 200

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 17, 2000

Sponsored by:

Senator WILLIAM L. GORMLEY

District 2 (Atlantic)

Senator JOHN A. LYNCH

District 17 (Middlesex, Somerset and Union)

SYNOPSIS

The "Educational Facilities Construction and Financing Act."

CURRENT VERSION OF TEXT

As introduced.



S200 GORMLEY, LYNCH

2

1 AN ACT concerning the construction and financing of public school
2 facilities, revising parts of the statutory law and making an
3 appropriation.

4

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

7

8 1. (New section) Sections 1 through 30 of this act shall be known
9 and may be cited as the “Educational Facilities Construction and
10 Financing Act.”

11

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

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

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

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

39 d. While providing that the educational infrastructure meets the
40 requirements of a thorough and efficient education, the State must also
41 protect the interests of taxpayers who will bear the burden of this
42 obligation. Design of school facilities should incorporate maximum
43 operating efficiencies and new technologies to advance the energy

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 efficiency of school facilities and the efficiency of other school
2 building systems, construction should be achieved in as efficient a
3 manner as possible, and a mechanism to assure proper maintenance of
4 new facilities should be established and implemented, in order to
5 reduce the overall cost of the program and to preserve this
6 infrastructure investment.

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

18

19 3. (New section) As used in sections 1 through 30 of this act,
20 unless the context clearly requires a different meaning:

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

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

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

34 "Commissioner" means the Commissioner of Education;

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

40 "Community redevelopment entity" means a redevelopment entity
41 authorized by a municipal governing body to implement redevelopment
42 plans and to carry out redevelopment projects in the municipality
43 pursuant to the "Local Redevelopment and Housing Law," P.L.1992,
44 c.79 (C.40A:12A-1 et seq.), a county improvement authority
45 designated by the municipality to implement redevelopment plans or
46 carry out redevelopment projects pursuant to section 34 of P.L.1979,

1 c.275 (C.40:37A-55.1), or the New Jersey Redevelopment Authority,
2 where the municipality has designated that authority as its
3 redevelopment agency pursuant to subsection y. of section 5 of
4 P.L.1996, c.62 (C.55:19-24);

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

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

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

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

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

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

46 "Facilities authority" means the New Jersey Educational Facilities

1 Authority created pursuant to N.J.S.18A:72A-1 et seq.;

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

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

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-16),
21 each student in grades kindergarten through 12 shall be counted at
22 100% 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 for
25 an approved half-day or full-day program, respectively; in districts that
26 do not qualify for early childhood program aid pursuant to section 16
27 of P.L.1996, c.138 (C.18A:7F-16), each student in grades 1 through
28 12 shall be counted at 100% of the actual count of students, in the
29 case of districts which operate a half-day kindergarten program each
30 kindergarten student shall be counted at 50% of the actual count of
31 kindergarten students, in the case of districts which operate a full-day
32 kindergarten program or which currently operate a half-day
33 kindergarten program but propose to build facilities to house a full-
34 day kindergarten program each kindergarten student shall be counted
35 at 100% of the actual count of kindergarten students, and preschool
36 students shall not be counted. In addition, each preschool
37 handicapped child who is entitled to receive a full-time program
38 pursuant to N.J.S.18A:46-6 shall be counted at 100% of the actual
39 count of these students in the district;

40 "Functional capacity" means the number of students that can be
41 housed in a building in order to have sufficient space for it to be
42 educationally adequate for the delivery of programs and services
43 necessary for student achievement of the core curriculum content
44 standards. Functional capacity is determined by dividing the existing
45 gross square footage of a school building by the minimum area
46 allowance per FTE student pursuant to subsection b. of section 8 of

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

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

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

27 "Local share" means, in the case of a school facilities project to be
28 constructed by the building authority or a community redevelopment
29 entity, the total costs less the State share as determined pursuant to
30 sections 5 and 6 of this act; and in the case of a school facilities
31 project not to be constructed by the building authority or a community
32 redevelopment entity, the total costs less State debt service aid;

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 local
39 unit which are issued or entered into for the purpose of paying for all
40 or a portion of the costs of a school facilities project, including
41 moneys payable to the authority;

42 "Long-range facilities plan" means the plan required to be submitted
43 to the commissioner and where appropriate to the Urban Coordinating
44 Council by a district pursuant to section 4 of this act;

45 "Maintenance" means expenditures which are approved for repairs
46 and replacements for the purpose of keeping a school facility open and

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

13 "Preliminary eligible costs" means the initial eligible costs of a
14 school facilities project as calculated pursuant to the formulas set forth
15 in section 7 of this act;

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

19 "School bonds" means, in the case of a school facilities project
20 which is to be constructed by the building authority or a community
21 redevelopment entity, bonds, notes or other obligations issued by a
22 district to finance the local share; and, in the case of a school facilities
23 project which is not to be constructed by the building authority or a
24 community redevelopment entity, bonds, notes or other obligations
25 issued by a district to finance the total costs;

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

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

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

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

1 Statutes;

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

3 "State debt service aid" means for school bonds issued for school
4 facilities projects approved by the commissioner after the effective
5 date of P.L. , c. (C.) (now pending before the Legislature as this
6 bill) of districts which elect not to have the building authority or a
7 community redevelopment entity construct the project, the amount of
8 State aid determined pursuant to section 9 of this act; and for school
9 bonds or certificates of participation issued for school facilities
10 projects approved by the commissioner prior to the effective date of
11 P.L. , c. (C.) (now pending before the Legislature as this bill)

12 the amount of State aid determined pursuant to section 10 of this act;
13 "State municipal aid" means business personal property tax
14 replacement revenues, State urban aid and State revenue sharing, as
15 these terms are defined in section 2 of P.L.1976, c.38 (C.40A:3-3), or
16 other similar forms of State aid payable to the local unit and to the
17 extent permitted by federal law, federal moneys appropriated or
18 apportioned to the municipality or county by the State;

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

22 "State share" means the State's proportionate share of the final
23 eligible costs of a school facilities project to be constructed by the
24 building authority as determined pursuant to section 5 of this act, and
25 in the case of a community development school project the State's
26 proportionate share of the final eligible costs of the community
27 development school project as determined pursuant to sections 5 and
28 6 of this act;

29 "Total costs" means, in the case of a school facilities project which
30 is to be constructed by the building authority or a community
31 redevelopment entity, the final eligible costs plus excess costs if any;
32 and in the case of a school facilities project which is not to be
33 constructed by the building authority or a community redevelopment
34 entity, the total cost of the project as determined by the district;

35 "Urban Coordinating Council" means the Urban Coordinating
36 Council established pursuant to section 45 of P.L.1996, c.62 (C.55:19-
37 60);

38 "Urban development municipality" means a municipality qualifying
39 for assistance from the Urban Coordinating Council.

40

41 4. (New section) a. (1) Beginning in the 1999-2000 school year
42 and in every school year thereafter ending with a "0" or a "5", each
43 district shall prepare and submit to the commissioner a long-range
44 facilities plan that details the district's school facilities needs and the
45 district's plan to address those needs for the ensuing five years. The
46 long-range facilities plan shall incorporate the facilities efficiency

1 standards and shall be filed with the commissioner no later than
2 October 1, 2000 and no later than October 1 of the other filing years
3 for approval in accordance with those standards. For all Abbott
4 districts that have submitted long-range facilities plans to the
5 commissioner prior to the effective date of P.L. , c. (C.)(now
6 pending before the Legislature as this bill), the commissioner shall
7 within 10 days of the effective date of P.L. , c. (C.)(now pending
8 before the Legislature as this bill) submit the plan to the appropriate
9 local planning board for review pursuant to subsection b. of this
10 section and the 90-day review period established by that subsection
11 shall begin on the date of the planning board's receipt of the plan. For
12 those Abbott districts, this paragraph shall not be read to require an
13 additional filing by October 1, 2000.

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

28 (3) An amendment to a long-range facilities plan may be submitted
29 at any time to the commissioner for review and approval. An
30 amendment to include a community development school project in the
31 plan shall be appropriate at any time unless construction or acquisition
32 of the school facilities project affected by the amendment has been
33 initiated by the building authority pursuant to section 5 of this act.

34 (4) Each long-range facilities plan shall include a cohort survival
35 methodology or other methodology approved by the commissioner,
36 accompanied by a certification by a qualified demographer retained by
37 the district that serves as the basis for identifying the capacity and
38 program needs detailed in the long-range facilities plan.

39 (5) The long-range facilities plan shall include an educational
40 adequacy inventory of all existing school facilities in the district, the
41 identification of all deficiencies in the district's current inventory of
42 school facilities, which includes the identification of those deficiencies
43 that involve emergent health and safety concerns, and the district's
44 proposed plan for future construction and renovation. The long-range
45 facilities plan submissions shall conform to the guidelines, criteria and
46 format prescribed by the commissioner.

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

4 b. (1) Notwithstanding subsection a. of this section, prior to the
5 submission of a long-range facilities plan to the commissioner pursuant
6 to subsection a. of this section, a district located in an urban
7 development municipality and any district which is a Level II district
8 on the effective date of P.L. , c. (C.) (now pending before the
9 Legislature as this bill) shall submit the long-range facilities plan to
10 the planning board of the municipality pursuant to section 22 of
11 P.L.1975, c.291 (C.40:55D-31) for the planning board's review, which
12 shall include an assessment of the extent to which the plan takes
13 account of the land use and development proposals contained within
14 the municipal master plan adopted pursuant to section 19 of P.L.1975,
15 c.291 (C.40:55D-28) and recommendations as to the community
16 development impact of individual school facilities projects contained
17 in the long-range facilities plan. The commissioner shall not approve
18 any long-range facilities plan submitted by a district located in an
19 urban development municipality or by a Level II district, whether
20 submitted before or after the effective date of P.L. , c. (C.)
21 (now pending before the Legislature as this bill), unless the plan
22 submitted for approval includes a resolution of the municipal planning
23 board reviewed by the Urban Coordinating Council, setting forth the
24 board's findings respecting the coordination of land use and
25 development proposals for the municipality and school facilities
26 planning and the anticipated impact of the school facilities projects
27 contained in the plan on community development and redevelopment
28 efforts and plans in the municipality or the period established by
29 paragraph (2) of this subsection has expired. The commissioner shall
30 not consider any resolution that is not submitted to him in accordance
31 with the requirements established by paragraph (2) of this subsection.
32 The requirements of this subsection shall not bar the commissioner
33 from approving individual school projects in urban development
34 municipalities or in any district which is a Level II district on the
35 effective date of P.L. , c. (C.) (now pending before the
36 Legislature as this bill) if those projects could otherwise be approved
37 without the commissioner's approval of a long-range facilities plan as
38 provided in paragraph (2) of subsection a. of this section.

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

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

45 (b) the board's findings as to the extent to which the long-range
46 facilities plan is informed by, and consistent with, the land use and

1 development proposals contained within the municipal master plan
2 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28);

3 (c) the board's findings respecting the anticipated impact of the
4 school facilities projects contained in the long-range facilities plan on
5 community development and redevelopment efforts and plans in the
6 municipality;

7 (d) the board's recommendations with respect to any school
8 facilities project contained in the plan which the board finds to be
9 appropriate for undertaking as a community development school
10 project consistent with existing or proposed community development
11 and redevelopment plans and projects in the municipality. The
12 municipal planning board shall transmit the adopted resolution to the
13 district as an attachment to the long-range facilities plan.

14 (3) On the first business day following adoption of the resolution,
15 the planning board shall transmit copies of the plan and the resolution
16 to the council and to the commissioner.

17 (4) Any district which is not located in an urban development
18 municipality or which is not a Level II district on the effective date of
19 P.L. , c. (C.) (now pending before the Legislature as this bill)
20 may elect to have its long-range facilities plan reviewed by the
21 municipal planning board pursuant to this subsection, and the
22 municipal planning board shall undertake that review and adopt a
23 resolution as set forth in paragraphs (1) and (2) of this subsection.

24 (5) The Urban Coordinating Council shall provide technical
25 assistance to municipal planning boards in urban development
26 municipalities and in Level II district municipalities to assist in their
27 review of long-range facilities plans and in formulating
28 recommendations pursuant to this subsection. The council shall
29 facilitate cooperative efforts of districts and planning boards by
30 identifying or suggesting opportunities for community development
31 school projects in the municipality.

32 (6) Within 45 days of the council's receipt of a long-range facilities
33 plan with an accompanying resolution of the municipal planning board
34 pursuant to this subsection, the council shall review the resolution to
35 determine if the findings of the municipal planning board demonstrate
36 a good faith effort to consult with the district with regard to the
37 coordination of land use and educational facilities planning and with
38 pertinent redevelopment entities with respect to the anticipated impact
39 of school facilities projects on community development and
40 redevelopment efforts and plans in the municipality.

41 c. The commissioner shall develop, for the March 2002 and
42 subsequent Reports on the Cost of Providing a Thorough and Efficient
43 Education, facilities efficiency standards for elementary, middle, and
44 high schools consistent with the core curriculum school delivery
45 assumptions in the report and sufficient for the achievement of the
46 core curriculum content standards, and for the provision of required

1 programs in Abbott districts and early childhood education programs
2 in the districts in which these programs are required by the State. The
3 area allowances per FTE student in each class of the district shall be
4 derived from these facilities efficiency standards.

5 The facilities efficiency standards developed by the commissioner
6 shall not be construction design standards but rather shall represent the
7 instructional spaces, specialized instructional areas, and administrative
8 spaces that are determined by the commissioner to be educationally
9 adequate to support the achievement of the core curriculum content
10 standards and for the provision of required programs in Abbott
11 districts and early childhood education programs in the districts in
12 which these programs are required. A district may design, at its
13 discretion, the educational and other spaces to be included within the
14 school facilities project. The design of the project may eliminate
15 spaces in the facilities efficiency standards, include spaces not in the
16 facilities efficiency standards, or size spaces differently than in the
17 facilities efficiency standards upon a demonstration of the adequacy of
18 the school facilities project to deliver the core curriculum content
19 standards pursuant to paragraph (2) of subsection g. of section 5 of
20 this act.

21 Within a reasonable period of time after the effective date of P.L. ,
22 c. (C.) (now pending before the Legislature as this bill), the
23 commissioner shall publish the facilities efficiency standards developed
24 for the 2000-2001, 2001-2002, and 2002-2003 school years in the
25 New Jersey Register. Within a reasonable period of time after 30 days
26 after publication in the New Jersey Register, the commissioner shall
27 file the facilities efficiency standards with the Office of Administrative
28 Law and those standards shall become effective immediately upon
29 filing with the Office of Administrative Law. During the 30-day
30 period the commissioner shall provide an opportunity for public
31 comment on the proposed facilities efficiency standards.

32 d. Within 90 days of the commissioner's receipt of a long-range
33 facilities plan for review, the commissioner shall determine whether the
34 plan is fully and accurately completed and whether all information
35 necessary for a decision on the plan has been filed by the district.
36 Where pertinent, this 90-day period shall commence at the same time
37 as the 45-day period for council review provided in paragraph (6) of
38 subsection b. of this section. If the commissioner determines that the
39 plan is complete, the commissioner shall promptly notify the district in
40 writing and shall have 60 days from the date of that notification to
41 determine whether to approve the plan or not. If the commissioner
42 determines that the plan is not complete, the commissioner shall notify
43 the district in writing. The district shall provide to the commissioner
44 whatever information the commissioner determines is necessary to
45 make the plan accurate and complete. The district shall submit that
46 information to the commissioner, and the commissioner shall have 60

1 days from the date of receipt of accurate and complete information to
2 determine whether to approve the plan or not.

3 e. Notwithstanding any provision in subsection d. of this section,
4 if at any time the number of long-range facilities plans filed by school
5 districts with the commissioner and pending review exceeds 20 % of
6 the number of school districts in New Jersey, the commissioner may
7 extend by 60 days the deadline for reviewing each plan pending at that
8 time.

9
10 5. (New section) a. The building authority shall construct and the
11 facilities authority shall finance the school facilities projects of Abbott
12 districts, level II districts, and districts with a district aid percentage
13 equal to or greater than 50%.

14 b. (1) Any district whose district aid percentage is less than 50%
15 may elect to have the facilities authority undertake the financing and
16 the building authority undertake the construction of a school facilities
17 project in the district and the State share shall be determined pursuant
18 to this section. In the event that the district elects not to have the
19 building authority undertake the construction of the project, State debt
20 service aid for the project shall be determined pursuant to section 9 of
21 this act.

22 (2) A district whose district aid percentage is less than 50% may
23 enter into an agreement with a county, municipality, other political
24 entity, or public agency authorized to construct a school facilities
25 project to undertake the design, planning, and construction of a school
26 facilities project provided that the entity is subject to the "Local Public
27 Contracts Law," P.L.1971, c.79 (C.40A:11-1 et seq.), the "Local
28 Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et
29 seq.), or the "Public School Contracts Law, N.J.S.18A:18A-1 et
30 seq.)."

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 50%, which elects not to
35 have the building authority or a community redevelopment entity
36 undertake the construction of the project, shall also be required to
37 comply with the provisions of N.J.S.18A:18A-16.

38 d. Any district seeking to initiate a school facilities project shall
39 apply to the commissioner for approval of the project. The application
40 shall, at a minimum, contain the following information: a description
41 of the school facilities project; a schematic drawing of the project or,
42 at the option of the district, preliminary plans and specifications; a
43 delineation and description of each of the functional components of the
44 project; the number of unhoused students to be housed in the project;
45 the area allowances per FTE student as calculated pursuant to section
46 8 of this act; and the estimated cost to complete the project as

1 determined by the district.

2 e. The commissioner shall review each proposed school facilities
3 project to determine whether it is consistent with the district's long-
4 range facilities plan and whether it complies with the facilities
5 efficiency standards and the area allowances per FTE student derived
6 from those standards. The commissioner shall make a decision on a
7 district's application within 90 days from the date he determines that
8 the application is fully and accurately completed and that all
9 information necessary for a decision has been filed by the district, or
10 from the date of the last revision made by the district. If the
11 commissioner is not able to make a decision within 90 days, he shall
12 notify the district in writing explaining the reason for the delay and
13 indicating the date on which a decision on the project will be made.
14 If the decision is not made by the subsequent date indicated by the
15 commissioner, then the project shall be deemed approved and the
16 preliminary eligible costs shall equal the proposed cost of the project.

17 f. If the commissioner determines that the school facilities project
18 complies with the facilities efficiency standards and the district's long-
19 range facilities plan and does not exceed the area allowance per FTE
20 student derived from those standards, the commissioner shall calculate
21 the preliminary eligible costs of the project pursuant to the formulas
22 set forth in section 7 of this act; except that in the case of a county
23 special services school district or a county vocational school district,
24 the commissioner shall calculate the preliminary eligible costs to equal
25 the amount determined by the board of school estimate and approved
26 by the board of chosen freeholders pursuant to section 14 of P.L.1971,
27 c.271 (C.18A:46-42) or N.J.S.18A:54-31 as appropriate. The
28 preliminary eligible costs for all school facilities projects shall also
29 include, in addition to the capital costs of construction, other
30 allowable costs associated with the project.

31 g. If the commissioner determines that the school facilities project
32 is inconsistent with the facilities efficiency standards or exceeds the
33 area allowances per FTE student derived from those standards, the
34 commissioner shall notify the district.

35 (1) The commissioner may approve area allowances in excess of
36 the area allowances per FTE student derived from the facilities
37 efficiency standards if the board of education or State district
38 superintendent, as appropriate, demonstrates that school facilities
39 needs related to required programs cannot be addressed within the
40 facilities efficiency standards and that all other proposed spaces are
41 consistent with those standards. The commissioner shall approve area
42 allowances in excess of the area allowances per FTE student derived
43 from the facilities efficiency standards if the additional area allowances
44 are necessary to accommodate centralized facilities to be shared
45 among two or more school buildings within the district and the
46 centralized facilities represent a more cost effective alternative.

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

7 (3) To house the district's central administration, a district may
8 request an adjustment to the approved areas for unhoused students of
9 2.17 square feet for each FTE student in the projected total district
10 school enrollment if the proposed administrative offices will be housed
11 in a school facility and the district demonstrates either that the existing
12 central administrative offices are obsolete or that it is more practical
13 to convert those offices to instructional space. To the extent that
14 existing administrative space will continue to be used for
15 administrative purposes, the space shall be included in the formulas set
16 forth in section 7 of this act.

17 If the commissioner approves excess facilities efficiency standards
18 or additional area allowances pursuant to paragraphs (1), (2), or (3)
19 of this subsection, the commissioner shall calculate the preliminary
20 eligible costs based upon the additional area allowances or excess
21 facilities efficiency standards pursuant to the formulas set forth in
22 section 7 of this act. In the event that the commissioner does not
23 approve the excess facilities efficiency standards or additional area
24 allowances, the district may either: modify its submission so that the
25 school facilities project meets the facilities efficiency standards; or pay
26 for the excess costs.

27 (4) The commissioner shall approve spaces in excess of, or
28 inconsistent with, the facilities efficiency standards, hereinafter
29 referred to as nonconforming spaces, upon a determination by the
30 district that the spaces are necessary to comply with State or federal
31 law concerning individuals with disabilities. A district may apply for
32 additional State aid for nonconforming spaces that will permit pupils
33 with learning disabilities to be educated to the greatest extent possible
34 in the same buildings or classes with their nondisabled peers. The
35 nonconforming spaces may: (a) allow for the return of pupils with
36 learning disabilities from private facilities; (b) permit the retention of
37 pupils with learning disabilities who would otherwise be placed in
38 private facilities; (c) provide space for regional programs in a host
39 school building that houses both disabled and nondisabled pupils; and
40 (d) provide space for the coordination of regional programs by a
41 county special services school district, educational services
42 commission, jointure commission, or other agency authorized by law
43 to provide regional educational services in a school building that
44 houses both disabled and nondisabled pupils. A district's State support
45 ratio shall be adjusted to equal the lesser of the sum of
46 CCSAID/TEBUD as defined in section 9 of this act plus 0.25, or

1 100% for any nonconforming spaces approved by the commissioner
2 pursuant to this paragraph.

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

5 (1) In the case of a district whose district aid percentage is less
6 than 50% and which has elected not to have the building authority
7 undertake the construction of the school facilities project, the
8 commissioner shall notify the district whether the school facilities
9 project is approved and, if so approved, the preliminary eligible costs
10 and the excess costs, if any. Following the determination of
11 preliminary eligible costs and the notification of project approval, the
12 district may appeal to the commissioner for an increase in those costs
13 if the detailed plans and specifications completed by a design
14 professional for the school facilities project indicate that the cost of
15 constructing that portion of the project which is consistent with the
16 facilities efficiency standards and does not exceed the area allowances
17 per FTE student exceeds the preliminary eligible costs as determined
18 by the commissioner for the project by 10% or more. The district shall
19 file its appeal within 30 days of the preparation of the plans and
20 specifications. The appeal shall outline the reasons why the
21 preliminary eligible costs calculated for the project are inadequate and
22 estimate the amount of the adjustment which needs to be made to the
23 preliminary eligible costs. The commissioner shall forward the appeal
24 information to the building authority for its review and
25 recommendation. If the additional costs are the result of factors that
26 are within the control of the district or are the result of design factors
27 that are not required to meet the facilities efficiency standards, the
28 building authority shall recommend to the commissioner that the
29 preliminary eligible costs be accepted as the final eligible costs. If the
30 building authority determines the additional costs are not within the
31 control of the district or are the result of design factors required to
32 meet the facilities efficiency standards, the building authority shall
33 recommend to the commissioner a final eligible cost based on its
34 experience for districts with similar characteristics. The commissioner
35 shall make a determination on the appeal within 30 days of its receipt.
36 If the commissioner does not approve an adjustment to the school
37 facilities project's preliminary eligible costs, the commissioner shall
38 issue his findings in writing on the reasons for the denial and on why
39 the preliminary eligible costs as originally calculated are sufficient.

40 (2) In all other cases, the commissioner shall promptly prepare and
41 submit to the building authority a preliminary project report which
42 shall consist, at a minimum, of the following information: a complete
43 description of the school facilities project; the actual location of the
44 project; the total square footage of the project together with a
45 breakdown of total square footage by functional component; the
46 preliminary eligible costs of the project; the project's priority ranking

1 determined pursuant to subsection m. of this section; any other
2 factors to be considered by the building authority in undertaking the
3 project; and the name and address of the person from the district to
4 contact in regard to the project.

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

16 (1) In the event that the building authority advises the commissioner
17 that the school facilities project can be completed within the
18 preliminary eligible costs, the commissioner shall: calculate the final
19 eligible costs to equal the preliminary eligible costs; give final approval
20 to the project; and issue a final project report to the building authority
21 pursuant to subsection j. of this section.

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

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

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

1 eligible costs to equal the sum of the preliminary eligible costs plus the
2 increase recommended by the building authority; give final approval
3 to the project; and issue a final project report to the building authority
4 pursuant to subsection j. of this 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, the building
8 authority shall recommend to the commissioner that the preliminary
9 eligible costs be accepted, whereupon the commissioner shall:
10 calculate the final eligible costs to equal the preliminary eligible costs
11 and specify the excess costs which are to be borne by the district; give
12 final approval to the school facilities project; and issue a final project
13 report to the building authority pursuant to subsection j. of this
14 section; provided that the commissioner may approve final eligible
15 costs which are in excess of the preliminary eligible costs if, in his
16 judgment, the action is necessary to meet the educational needs of the
17 district.

18 (d) For a school facilities project constructed by the building
19 authority, the building authority shall be responsible for any costs of
20 construction, but only from the proceeds of bonds issued by the
21 facilities authority pursuant to this act, which exceed the amount
22 originally projected by the building authority and approved for
23 financing by the facilities authority, provided that the excess is the
24 result of an underestimate of labor or materials costs by the building
25 authority. After receipt by the building authority of the final project
26 report, the district shall be responsible only for the costs associated
27 with changes, if any, made at the request of the district to the scope
28 of the school facilities project.

29 j. The building authority shall not commence the acquisition or
30 construction of a school facilities project unless the commissioner
31 transmits to the building authority a final project report and the district
32 complies with the approval requirements for the local share, if any,
33 pursuant to section 11 of this act. The final project report shall
34 contain all of the information contained in the preliminary project
35 report and, in addition, shall contain: the final eligible costs; the excess
36 costs, if any; the total costs which equals the final eligible costs plus
37 excess costs, if any; the State share; and the local share.

38 k. For the Abbott districts, the State share shall be 100% of the
39 final eligible costs. For all other districts, the State share shall be an
40 amount equal to 115% of the district aid percentage; except that the
41 State share shall not be less than 10% of the final eligible costs.

42 l. The local share for school facilities projects constructed by the
43 building authority or a community redevelopment entity shall equal
44 the final eligible costs plus any excess costs less the State share.

45 m. The commissioner shall establish, in consultation with the
46 Abbott districts, a priority ranking of all school facilities projects in the

1 Abbott districts based upon his determination of critical need, and shall
2 establish priority categories for all school facilities projects in non-
3 Abbott districts. The commissioner shall rank projects from Tier I to
4 Tier IV in terms of critical need according to the follow prioritization:

5 Tier I: health and safety, including electrical system upgrades;
6 required early childhood education programs; unhoused students/class
7 size reduction as required to meet the standards of the
8 "Comprehensive Educational Improvement and Financing Act of
9 1996," P.L.1996, c.138 (C.18A:7F-1 et seq.).

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

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

15 Tier IV: other local objectives.

16 n. Except as otherwise provided in paragraph (2) of subsection b.
17 of this section, the provisions of the "Public School Contracts Law,"
18 N.J.S.18A:18A-1 et seq., shall be applicable to any school facilities
19 project constructed by a district but shall not be applicable to projects
20 constructed by the building authority or a community redevelopment
21 entity pursuant to the provisions of this act.

22 o. In the event that a district whose district aid percentage is less
23 than 50% elects not to have the building authority undertake
24 construction of a school facilities project, any proceeds of school
25 bonds issued by the district for the purpose of funding the project
26 which remain unspent upon completion of the project shall be used
27 by the district to reduce the outstanding principal amount of the school
28 bonds.

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

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

38 r. In the event that a district has engaged architectural services
39 that have been prequalified by the building authority to prepare the
40 documents required for initial proposal of a school facilities project,
41 the district shall, if permitted by the terms of the district's contract for
42 architectural services, assign the contract for architectural services to
43 the building authority, provided that the fees for the architectural
44 services shall not exceed the fees normally paid by the building
45 authority for such services.

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

5 a. A district and municipality may request that the Urban
6 Coordinating Council designate as a community development school
7 project a school facilities project contained in a long-range facilities
8 plan for which a planning board resolution was reviewed by the
9 council pursuant to subsection b. of section 4 of P.L. , c. (C.)
10 (now pending before the Legislature as this bill) and determined by the
11 council to demonstrate a good faith effort as provided in that
12 subsection or which was added to the long-range facilities plan by
13 amendment approved by the commissioner subsequent to adoption of
14 the plan. The request shall set forth: (1) a project plan for carrying
15 out the redevelopment project as a whole, including the construction
16 of the school facility; (2) the name of the community redevelopment
17 entity to undertake the project; and (3) a description of how the
18 project fits into a redevelopment plan adopted or to be adopted by the
19 municipal governing body pursuant to section 7 of P.L.1992, c.79
20 (C.40A:12A-7). The council shall designate the project as a
21 community development school project if it determines that:

22 (a) the project furthers definite local objectives as to appropriate
23 land uses, density of population, and improved traffic and public
24 transportation, public utilities, recreational and community facilities
25 and other public improvements;

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

28 (c) based upon the past experience of the community
29 redevelopment entity in undertaking similar projects and the financial
30 capability of that redevelopment entity, there is a high degree of
31 assurance that the project will be undertaken and completed
32 successfully by the community redevelopment entity.

33 With the agreement of the district and the municipality, the council
34 may designate the building authority as the redevelopment entity which
35 shall undertake the community development school project. The
36 designation shall be made if the council determines that neither the
37 community redevelopment entity proposed by the district and
38 municipality or any other redevelopment entity authorized to
39 undertake redevelopment projects in the municipality is financially
40 capable to do so, or possesses appropriate experience in undertaking
41 similar projects.

42 In the event that the council designates the building authority as the
43 redevelopment entity which shall undertake the community
44 development school project, the building authority shall operate under
45 the "Local Redevelopment and Housing Law," P.L.1992, c.79
46 (C.40A:12A-1 et seq.) in undertaking the project.

1 The council's review of the proposed community development
2 school project for designation under this section shall proceed at the
3 same time as the commissioner's review of the school facilities project
4 for approval under section 5 of P.L. , c. (C.) (now pending
5 before the Legislature as this bill). The council's designation or
6 decision not to make a designation shall precede approval by the
7 commissioner.

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

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

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

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

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

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

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

42 (7) priority for any transportation infrastructure funds administered
43 by the State for which the community development school project may
44 otherwise be eligible, including any moneys available through
45 reauthorization of the "New Jersey Transportation Trust Fund"
46 pursuant to the "New Jersey Transportation Trust Fund Authority Act

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

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

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

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

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

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

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

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

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

25 e. Upon completion of a community development school project by
26 a community redevelopment entity, the district shall submit to the
27 commissioner a plan to provide for the maintenance of the project and
28 shall enter into a contract which provides for that maintenance.

29
30 7. (New section) a. Preliminary eligible costs for construction of
31 new school facilities and additions to school facilities, characterized by
32 an increase in the square footage of the school facility, shall be
33 approved only if necessary for reasons of unhoused students.
34 Unhoused students are the number of students to be housed in a
35 school building, but which cannot be housed in an existing building
36 without additional space or a new building in order to maintain
37 educational adequacy. Unhoused students are calculated by
38 subtracting the projected enrollment for a school building from its
39 functional capacity.

40 Preliminary eligible costs = AU x C plus other allowable costs

41 where

42 AU is the approved area for unhoused students; and

43 C is the area cost allowance;

44 b. Preliminary eligible costs shall be calculated as follows for
45 reconstruction, remodeling, alteration, modernization, renovation or
46 repair of school facilities that were originally constructed by the

1 district or that the district purchased more than five years prior to the
 2 date of application for approval to the commissioner and that have not
 3 been previously approved by the commissioner pursuant to this act
 4 within the prior 10 years; provided that the 10-year requirement may
 5 be waived by the commissioner if the district satisfactorily
 6 demonstrates that extraordinary circumstances apply.

7 Preliminary eligible costs = $R \times A$ plus other allowable costs

8 where

9 R = the replacement costs of the facility = $GA \times C$

10 and where

11 GA is the gross area (square footage) of the existing school facility
 12 being reconstructed, remodeled, altered, modernized, renovated or
 13 repaired;

14 C is the area cost allowance; and

15 A is a factor determined by the age of the school facility, the
 16 measure of which commences with occupancy of the school facility,
 17 according to the following table:

18

19 Age of the School Facility	A
20 10 years or less	zero
21 11 years or more and less than 26 years	50%
22 26 years or more and less than 41 years	60%
23 41 years or more	85%

24

25 For the purposes of this section the age of the school facility shall be
 26 a composite measure of the age of individual sections of the building
 27 determined in accordance with a method approved by the
 28 commissioner. The commissioner may adjust "A" for a district that
 29 demonstrates that additional renovation expenditures are necessary to
 30 address health and safety conditions, the "Americans with Disabilities
 31 Act of 1990," Pub.L.101-336 (42 U.S.C. s.12101 et seq.), or
 32 obsolescence.

33 Notwithstanding the provisions of this subsection, all school
 34 facilities shall be deemed suitable for rehabilitation unless a pre-
 35 construction evaluation undertaken by the district demonstrates to the
 36 satisfaction of the commissioner that the structure might pose a risk to
 37 the safety of the occupants even after rehabilitation, or that
 38 rehabilitation is not cost-effective.

39 c. Preliminary eligible costs for new construction done in lieu of
 40 renovations shall be determined in accordance with the methodology
 41 for new construction, with preliminary eligible costs determined
 42 pursuant to subsection a. of this section, only when the decision to
 43 replace a school facility is supported by a feasibility study conducted
 44 by the district, and either the age of the building being replaced is 41
 45 years or greater or the commissioner determines that extraordinary
 46 circumstances apply. When new construction done in lieu of

1 renovations qualifies as new construction, the approved area for
2 unhoused students shall be determined by the commissioner, with
3 consideration of the existing school facilities in the district.

4 d. Preliminary eligible costs for new construction done in lieu of
5 renovations which does not meet the requirements of subsection c. of
6 this section shall be determined in accordance with the methodology
7 for aiding renovations, with the preliminary eligible costs determined
8 pursuant to subsection b. of this section.

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

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

17 Preliminary eligible costs = $(ACP-PC) \times (C/CP)$ plus other
18 allowable costs

19 where

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

22 PC is the purchase cost for the facility;

23 C is the area cost allowance at the time of application for the
24 renovation; and

25 CP is the area cost allowance at the time of purchase of the
26 facility.

27 Preliminary eligible costs so calculated shall not be less than
28 zero.

29 g. Other allowable costs shall include the costs of site
30 development, acquisition of land or other real property interests
31 necessary to effectuate the school facilities project, fees for the
32 services of design professionals, including architects, engineers,
33 construction managers and other design professionals, legal fees, and
34 the costs associated with financing the school facilities project. Other
35 allowable costs for school facilities projects to be undertaken by the
36 building authority shall be determined by the building authority. Other
37 allowable costs for school facilities projects to be undertaken by a
38 district or a community redevelopment entity shall be equal to the
39 actual costs unless the commissioner, in consultation with the building
40 authority, determines these costs to be unreasonable in light of the
41 experience of similarly situated districts.

42
43 8. (New section) a. The number of unhoused students shall be
44 calculated as the number of FTE students who are projected to be
45 enrolled in preschool handicapped, preschool, kindergarten, grades 1
46 through 12, and special education services pupil educational programs

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

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

$$22 \quad AU = (UEC \times SEC) + (UE \times SE) + (UM \times SM) + (UH \times SH)$$

23 where

24 UEC, UE, UM, UH are the numbers of unhoused students in the
 25 early childhood, elementary, middle, and high school enrollment
 26 categories, respectively; and

27 SEC, SE, SM, SH are the area allowances per FTE student in
 28 preschool and kindergarten, grades 1 through 5, grades 6 through 8,
 29 and grades 9 through 12, respectively. Area allowances shall be
 30 determined based on the grade level of a student regardless of the
 31 grade configurations used in the school buildings of the district.

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

33		
34	Preschool through grade 5	125 sq. ft.
35	Grades 6 through 8	136 sq. ft.
36	Grades 9 through 12	151 sq. ft.

37

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

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

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

11 where

12 $A = B \times AC/P \times (CCSAID/TEBUD \times 1.15) \times M$, with $AC/P = 1$
13 whenever AC/P would otherwise yield a number greater than one,
14 and where:

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

17 AC is the preliminary eligible costs determined pursuant to section
18 7 of this act;

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

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

25 TEBUD is the district's T&E budget determined pursuant to section
26 13 of P.L.1996, c.138 (C.18A:7F-13) as of the date of the
27 commissioner's determination of the preliminary eligible costs; and

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

31 For county special services school districts, CCSAID/TEBUD shall
32 be that of the county vocational school district in the same county.
33 Notwithstanding any provision of this subsection to the contrary, State
34 debt service aid shall not be less than 10% of the preliminary eligible
35 costs.

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

39 (1) Effective ten years from the date of the enactment of P.L. ,
40 c. (C.) (now pending before the Legislature as this bill), the
41 maintenance factor for aid for reconstruction, remodeling, alteration,
42 modernization, renovation or repair, or for an addition to a school
43 facility, shall be zero for all school facilities projects for which the
44 district fails to demonstrate over the ten years preceding issuance a net
45 investment in maintenance of the related school facility of at least 2%
46 of the replacement cost of the school facility, determined pursuant to

1 subsection b. of section 7 of this act using the area cost allowance of
 2 the year ten years preceding the year in which the school bonds are
 3 issued.

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

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

20
 21 (3) Within one year of the enactment of P.L. , c. (C.) (now
 22 pending before the Legislature as this bill), the commissioner shall
 23 promulgate rules requiring districts to develop a long-range
 24 maintenance plan and specifying the expenditures that qualify as an
 25 appropriate investment in maintenance for the purposes of this
 26 subsection.

27 Any district which obtained approval from the commissioner for
 28 a school facilities project since September 1, 1998 and prior to the
 29 effective date of P.L. , c. (C.) (now pending before the
 30 Legislature as this bill) may elect to have the commissioner re-
 31 calculate its State aid as if the project were subject to the provisions
 32 of this act; provided that a district which received approval from the
 33 commissioner for a school facilities project prior to the effective date
 34 of P.L. , c. (C.) (now pending before the Legislature as this
 35 bill), but has not issued debt, other than short term notes, or entered
 36 into construction contracts, shall not be precluded from deciding not
 37 to proceed with the project and instead submitting an application
 38 pursuant to section 5 of this act.

39
 40 10. (New section) For each issuance of school bonds or
 41 certificates of participation issued for a school facilities project
 42 approved by the commissioner prior to the effective date of P.L. ,
 43 c. (C.) (now pending before the Legislature as this bill):

44 Aid is the sum of A

45 where

46 $A = B \times \text{CCSAID/TEBUD}$

1 and where

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

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

9 TEBUD is the district's T&E budget determined pursuant to section
10 13 of P.L.1996, c.138(C.18A:7F-13).

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

13

14 11. (New section) A school facilities project shall not be
15 constructed unless the local share of the project, if any, is approved
16 in accordance with the provisions for the approval of capital projects
17 pursuant to N.J.S.18A:22-1 et seq., N.J.S.18A:24-1 et seq. and
18 P.L.1991, c.139 (C.18A:7A-46.1 et seq.), as applicable to the district.

19

20 12. (New section) A district, other than a State-operated school
21 district, that sought approval pursuant to section 11 of this act of a
22 school facilities project without excess costs but failed to receive that
23 approval, and within the three years prior to that, sought and failed to
24 receive approval of that school facilities project with or without excess
25 costs, may submit the project to the commissioner and request that the
26 commissioner approve the project and authorize the issuance of school
27 bonds for the local share of the project. Upon receipt of the request,
28 the commissioner shall review the school facilities project and
29 determine whether the project is necessary for the provision of a
30 thorough and efficient system of education in the district. If the
31 commissioner concludes that the project is necessary, the
32 commissioner may approve the project without excess costs and
33 authorize the issuance of school bonds to fund the local share. In
34 addition to the amount of taxes determined by the legal voters of the
35 district at the annual school election, the secretary of the board of
36 education shall certify the amount required for the repayment of the
37 interest and principal of the bonds required to fund the local share
38 amount approved by the commissioner in the same manner required
39 for interest and debt redemption charges pursuant to N.J.S.18A:22-33,
40 and the amount so certified shall be included in the taxes assessed,
41 levied and collected in the municipality or municipalities comprising
42 the school district for those purposes.

43 Any school facilities project authorized pursuant to this section
44 shall be constructed by the building authority. Nothing in this section
45 shall preclude a State-operated school district from using the process
46 established pursuant to section 2 of P.L.1991, c.139 (C.18A:7A-46.2)

1 to obtain the approval of the commissioner to undertake a school
2 facilities project.

3

4 13. (New section) a. The facilities authority shall be responsible
5 for the financing of school facilities projects and the building authority
6 shall be responsible for the planning, design, construction
7 management, acquisition, construction, and completion of school
8 facilities projects. Upon submission to the building authority of a final
9 project report and financing by the facilities authority, the building
10 authority shall undertake the acquisition, construction, and all other
11 appropriate actions necessary to complete the project. When the final
12 eligible costs of a school facilities project are less than or equal to
13 \$250,000, the building authority may, in its discretion, authorize a
14 district to undertake the acquisition, construction and all other
15 appropriate actions necessary to complete the project and enter into
16 a grant agreement with the district for the payment of the State share.

17 b. The facilities authority shall undertake the financing of school
18 facilities projects pursuant to the provisions of this act. The facilities
19 authority may, in its discretion and upon consultation with the district,
20 finance only the State share of the school facilities project or the State
21 share and the local share of the project. In the event that the facilities
22 authority finances only the State share of a project, the building
23 authority shall not commence acquisition or construction of the project
24 until the building authority receives the local share from the district.

25 c. In order to implement the construction and finance arrangements
26 established for school facilities projects which are to be constructed by
27 the building authority and financed by the facilities authority pursuant
28 to this section, a district shall enter into an agreement with the building
29 authority, the facilities authority, and the commissioner containing the
30 terms and conditions determined by the parties to be necessary to
31 effectuate the project.

32 d. Upon completion by the building authority of a school facilities
33 project, the district shall enter into an agreement with the building
34 authority to provide for the maintenance of the project by the district.
35 In the event that the school facilities project is constructed by a
36 district, upon the completion of the project, the district shall submit to
37 the commissioner a plan to provide for the maintenance of the project
38 by the district. Any agreement or plan shall contain, in addition to any
39 other terms and provisions, a requirement for the establishment of a
40 maintenance reserve fund, the funding levels of which shall be as set
41 forth in regulations adopted by the commissioner pursuant to section
42 25 of this act.

43 e. There is hereby established a separate fund entitled the "School
44 Facilities Construction Fund." This fund shall be maintained by the
45 building authority separate and apart from any other funds of the
46 building authority and may be held in depositaries as may be selected

1 by the building authority and invested and reinvested as other funds in
2 the custody of the building authority, subject to the approval of the
3 State Treasurer. All interest or other income or earnings derived from
4 the investment or reinvestment of moneys in the fund shall be credited
5 to the fund. Any grants, contributions, donations and reimbursements
6 from federal aid programs and from other public or private sources as
7 may be used lawfully for the purposes of this act shall also be held in
8 the fund, but shall be expended in accordance with any conditions or
9 requirements attached thereto. The moneys in the fund are specifically
10 dedicated and shall be applied to the cost of school facilities projects
11 undertaken by the building authority pursuant to this act. The fund
12 shall be credited with the proceeds of bonds issued pursuant to section
13 14 of this act; any moneys appropriated or otherwise made available
14 to it by the Legislature; net earnings received from the investment or
15 deposit of monies in the fund, and any other moneys which the
16 building authority determines to deposit therein.

17 f. Upon the issuance by the facilities authority of bonds pursuant
18 to section 14 of this act, the proceeds of the bonds less costs of
19 issuance shall be transferred to the building authority for deposit into
20 the School Facilities Construction Fund.

21 g. In order to implement the arrangements provided for in this act,
22 the State Treasurer, the facilities authority and the building authority
23 are hereby authorized to enter into one or more contracts. The
24 contracts shall provide, in addition to other terms and conditions, for
25 the payment by the facilities authority to the building authority
26 pursuant to subsection f. of this section in order for the building
27 authority to carry out its responsibilities as set forth in this act. The
28 contract or contracts shall be on terms and conditions as determined
29 by the parties, provided that the incurrence of any obligations of the
30 State under the contract or contracts, if any, shall be subject to and
31 dependent upon appropriations being made from time to time by the
32 Legislature for the purposes of this act.

33

34 14. (New section) Notwithstanding any other provisions of law
35 to the contrary:

36 a. The facilities authority shall have the power, pursuant to the
37 provisions of this act and N.J.S.18A:72A-1 et seq., to issue bonds and
38 refunding bonds, incur indebtedness and borrow money secured, in
39 whole or in part, by monies received pursuant to sections 17, 18 and
40 19 of this act for the purposes of: financing all or a portion of the
41 costs of school facilities projects and any costs related to the issuance
42 thereof, including, but not limited to, the administrative, insurance,
43 operating and other expenses of the facilities authority to undertake
44 the financing of school facilities projects and the administrative,
45 insurance and operating expenses of the building authority to
46 undertake the design, construction and maintenance of school facilities

1 projects; lending moneys to local units to pay the costs of all or a
2 portion of school facilities projects and any costs related to the
3 issuance thereof; funding the school facilities project revolving loan
4 fund pursuant to the provisions of section 15 of this act; and financing
5 the acquisition of school facilities projects to permit the refinancing of
6 debt by the district pursuant to section 16 of this act.

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

16 b. The facilities authority shall issue the bonds or refunding bonds
17 in such manner as it shall determine in accordance with the provisions
18 of this act and N.J.S.18A:72A-1 et seq.; provided that notwithstanding
19 any other law to the contrary, no resolution adopted by the facilities
20 authority authorizing the issuance of bonds or refunding bonds
21 pursuant to this section shall be adopted or otherwise made effective
22 without the approval in writing of the State Treasurer; and refunding
23 bonds issued to refund bonds issued pursuant to this section shall be
24 issued on such terms and conditions as may be determined by the
25 facilities authority and the State Treasurer. The facilities authority
26 may, in any resolution authorizing the issuance of bonds or refunding
27 bonds issued pursuant to this section, pledge the contract with the
28 State Treasurer provided for pursuant to section 18 of this act, or any
29 part thereof, or may pledge all or any part of the repayments of loans
30 made to local units pursuant to section 19 of this act for the payment
31 or redemption of the bonds or refunding bonds, and covenant as to the
32 use and disposition of money available to the facilities authority for
33 payment of the bonds and refunding bonds. All costs associated with
34 the issuance of bonds and refunding bonds by the facilities authority
35 for the purposes set forth in this act may be paid by the facilities
36 authority from amounts it receives from the proceeds of the bonds or
37 refunding bonds, and from amounts it receives pursuant to sections
38 17, 18, and 19 of this act. The costs may include, but shall not be
39 limited to, any costs relating to the issuance of the bonds or refunding
40 bonds, administrative costs of the facilities authority attributable to the
41 making and administering of loans to fund school facilities projects,
42 and costs attributable to the agreements entered into pursuant to
43 subsection d. of this section.

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

1 with the holders of bonds or refunding bonds, and may be secured by
2 other sources of revenue, including, but not limited to, one or more of
3 the following:

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

9 (2) Pledge of rentals, receipts and other revenues to be derived
10 from leases or other contractual arrangements with any person or
11 entity, public or private, including one or more local units, or a pledge
12 or assignment of those leases or other contractual arrangements and
13 the rights and interests of the facilities authority 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 aid
17 to the facilities 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 from
21 any person or entity, public or private, subject to the approval of the
22 State Treasurer;

23 (7) A mortgage on all or any part of the property, real or personal,
24 comprising a school facilities project then owned or thereafter to be
25 acquired, or a pledge or assignment of mortgages made to the facilities
26 authority by any person or entity, public or private, including one or
27 more local units and rights and interests of the facilities authority
28 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 refunding
32 bonds pursuant to this section may also provide for the facilities
33 authority to enter into any revolving credit agreement, agreement
34 establishing a line of credit or letter of credit, reimbursement
35 agreement, interest rate exchange agreement, currency exchange
36 agreement, interest rate floor or cap, options, puts or calls to hedge
37 payment, currency, rate, spread or similar exposure or similar
38 agreements, float agreements, forward agreements, insurance
39 contracts, surety bonds, commitments to purchase or sell bonds,
40 purchase or sale agreements, or commitments or other contracts or
41 agreements and other security agreements approved by the facilities
42 authority in connection with the issuance of the bonds or refunding
43 bonds pursuant to this section. In addition, the facilities authority
44 may, in anticipation of the issuance of the bonds or the receipt of
45 appropriations, grants, reimbursements or other funds, including,
46 without limitation, grants from the federal government for school

1 facilities projects, issue notes, the principal of or interest on which, or
2 both, shall be payable out of the proceeds of notes, bonds or other
3 obligations of the facilities authority or appropriations, grants,
4 reimbursements or other funds or revenues of the facilities authority.

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

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

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

44 h. The facilities authority and the building authority may charge to
45 and collect from local units, districts, the State and any other person,
46 any fees and charges in connection with the facilities authority's or

1 building authority's actions undertaken with respect to school facilities
2 projects, including, but not limited to, fees and charges for the
3 facilities authority's administrative, organization, insurance, operating
4 and other expenses incident to the financing of school facilities
5 projects and the building authority's administrative, organization,
6 insurance, operating and other expenses incident to the planning,
7 design, construction management, acquisition, construction,
8 completion and placing into service and maintenance of school
9 facilities projects. Notwithstanding any provision of this act to the
10 contrary, no Level II district or a district whose district aid percentage
11 is greater than or equal to 50% but less than 100% shall be responsible
12 for the payment of any fees and charges related to the building
13 authority's operating expenses.

14

15 15. (New section) a. The facilities authority shall establish and
16 maintain a special nonlapsing revolving loan fund to be known as the
17 "School Facilities Project Revolving Loan Fund," hereinafter referred
18 to as the "loan fund," which shall be credited with: (1) the proceeds of
19 the sale of bonds pursuant to subsection b. of this section; (2) any
20 moneys that shall be received by the facilities authority from the
21 repayment of loans made from the fund; (3) any moneys appropriated
22 or otherwise made available to it by the Legislature; (4) net earnings
23 received from the investment or deposit of monies in the fund; and (5)
24 any other moneys which the facilities authority determines to deposit
25 therein.

26 b. In addition to any bonds which the facilities authority is
27 authorized to issue pursuant to this act, the facilities authority is
28 authorized to issue bonds in an aggregate principal amount not
29 exceeding \$1,000,000,000 the proceeds from which shall be deposited
30 into the loan fund. The bonds shall be secured in whole or in part by
31 monies received pursuant to sections 17, 18 and 19 of this act.

32 c. The facilities authority shall use the monies in the loan fund
33 exclusively for making loans to local units for the purposes of
34 financing the final eligible costs of school facilities projects in
35 accordance with the provisions of this section. The amount of loans
36 that may be made in the first fiscal year shall not exceed
37 \$400,000,000, in the second fiscal year, \$300,000,000, and in the third
38 fiscal year, \$200,000,000. In any fiscal year in which the dollar value
39 of the loans made is less than the amount permitted herein, the excess
40 amount shall be carried forward and shall be available for loans in the
41 following fiscal year. Each loan to a local unit from the loan fund shall
42 be evidenced by local unit obligations and shall be authorized and
43 issued as provided by law. Notwithstanding the provisions of any law
44 to the contrary, the local unit obligations may be sold at private sale
45 to the facilities authority at any price, whether or not less than par
46 value, and shall be subject to redemption prior to maturity at any times

1 and at any prices as the facilities authority and the local unit may
2 agree.

3 d. Loans from the fund may be made to districts whose district aid
4 percentage is less than 50% and which have elected not to have the
5 building authority construct a school facilities project. Loans from the
6 fund shall be for time periods that are customary for the financing of
7 the construction of school facilities. The facilities authority shall
8 establish other terms of the loan which shall include, but not be limited
9 to, a schedule for drawing down the loan, and a repayment schedule;
10 provided that the interest rate shall be 2% per annum for a minimum
11 period of two years following the effective date of this act, or such
12 other rate as the State Treasurer may, from time to time, approve
13 following the minimum two-year period. Any loan interest rate
14 approved by the State Treasurer pursuant to this subsection shall be
15 no greater than 4% below The Bond Buyer Municipal Bond Index
16 Rate on the date of the establishment of the new loan interest rate.
17 Each loan by the facilities authority, and the terms and conditions of
18 the loan, shall be subject to approval by the State Treasurer.

19 In the event that the dollar value of the loan applications in any
20 fiscal year exceeds the amount of loan funds available, the facilities
21 authority may apportion the loan funds among eligible school facilities
22 projects to finance such percentage as determined by the State
23 Treasurer of each project's final eligible costs, and the district shall
24 be eligible to receive State debt service aid pursuant to section 9 of
25 this act on that portion of the school facilities project's final eligible
26 costs for which loan funds are not available.

27 e. Loans made from the fund to finance school facilities projects
28 shall be allocated to districts in accordance with the critical need for
29 the project. The commissioner shall rank school facilities projects
30 from Tier I to Tier IV in terms of critical need according to the
31 following prioritization:

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

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

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

42 Tier IV: other local objectives.

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

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

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

8 i. The facilities authority shall promulgate as part of the regulations
9 adopted pursuant to subsection b. of section 26 of this act, the
10 procedures to be followed by districts in submitting loan applications,
11 which shall include the dates within each fiscal year by which a district
12 is required to submit its application in order to be eligible to receive
13 loan funds.

14
15 16. (New section) In addition to the other powers and duties
16 which have been granted to the facilities authority, whenever any local
17 unit finances the construction or acquisition of a school facilities
18 project which would otherwise qualify under this act except that the
19 debt was issued prior to the effective date of this act, the facilities
20 authority may refinance the debt issued by the local unit through the
21 issuance of bonds secured by repayments of loans made to the local
22 units and may purchase the work or improvement and lease the same
23 to the district, subject to the approval of the State Treasurer; except
24 that the amount of the purchase price for a school facilities project
25 shall not exceed the original cost. Each loan to a local unit pursuant
26 to this section shall be evidenced by local unit obligations and shall be
27 authorized and issued as provided by law. Notwithstanding the
28 provisions of any law to the contrary, the local unit obligations may be
29 sold at private sale to the facilities authority at any price, whether or
30 not less than par value, and shall be subject to redemption prior to
31 maturity at any times and at any prices as the facilities authority and
32 the local unit may agree. All powers, rights, obligations and duties
33 granted to or imposed upon the facilities authority, districts, State
34 departments and agencies or others by this act in respect to school
35 facilities projects shall apply to the same extent with respect to any
36 refinance of debt pursuant to this section; except that any action
37 otherwise required to be taken at a particular time in the
38 implementation of a school facilities project may, when the
39 circumstances require in connection with a refinance of debt pursuant
40 to this section, be taken with the same effect as if taken at that
41 particular time. Upon repayment of the bonds or provision for
42 repayment of bonds issued by the facilities authority to refinance the
43 debt of the local unit, the school facilities project shall be transferred
44 to the district.

45
46 17. (New section) In each fiscal year the State Treasurer shall pay

1 from the General Fund to the facilities authority and the building
2 authority, in accordance with a contract among the State Treasurer,
3 the facilities authority and the building authority as authorized
4 pursuant to section 18 of this act, an amount equal to the debt service
5 amount due to be paid in the State fiscal year on the bonds or
6 refunding bonds of the facilities authority issued or incurred pursuant
7 to section 14 of this act and any additional costs authorized pursuant
8 to that section; provided that all such payments from the General Fund
9 shall be subject to and dependent upon appropriations being made
10 from time to time by the Legislature for those purposes, and provided
11 further that all payments shall be used only to pay for the costs of
12 school facilities projects and the costs of financing those projects.

13

14 18. (New section) The State Treasurer, the facilities authority and
15 the building authority are authorized to enter into one or more
16 contracts to implement the payment arrangement provided for in
17 section 17 of this act. The contract shall provide for payment by the
18 State Treasurer of the amounts required pursuant to section 17 of this
19 act and shall set forth the procedure for the transfer of monies for the
20 purpose of that payment. The contract shall contain terms and
21 conditions as determined by the parties and shall, where appropriate,
22 contain terms and conditions necessary and desirable to secure any
23 bonds or refunding bonds of the facilities authority issued or incurred
24 pursuant to this act; provided that notwithstanding any other provision
25 of law or regulation of the facilities authority to the contrary, the
26 facilities authority and the building authority shall be paid only such
27 funds as shall be determined by the contract, and the incurrence of any
28 obligation of the State under the contract, including any payments to
29 be made thereunder from the General Fund, shall be subject to and
30 dependent upon appropriations being made from time to time by the
31 Legislature for the purposes of this act.

32

33 19. (New section) a. In addition to loans authorized pursuant to
34 section 15 of this act, the facilities authority may make and contract
35 to make loans to local units in accordance with and subject to the
36 provisions of this act to finance all or any portion of the cost of a
37 school facilities project which the local unit may lawfully undertake or
38 acquire and for which the local unit is authorized by law to borrow
39 money; or to refund obligations of the local unit which were issued to
40 provide funds to pay for the cost of a school facilities project. The
41 loans may be made subject to the terms and conditions the facilities
42 authority determines to be consistent with the purposes of this act.
43 Each loan by the facilities authority and the terms and conditions
44 thereof shall be subject to approval by the State Treasurer.

45 b. Each loan to a local unit shall be evidenced by local unit
46 obligations and shall be authorized and issued as provided by law.

1 Notwithstanding the provisions of any other law to the contrary, the
2 local unit obligations may be sold at private sale to the facilities
3 authority at any price, whether or not less than par value, and shall be
4 subject to redemption prior to maturity at any times and at any prices
5 as the facilities authority and the local unit may agree. Each loan to
6 a local unit and the local unit obligations issued to evidence the loan
7 shall bear interest at a rate or rates per annum, including zero interest,
8 and shall be repaid in whole or in part, as the facilities authority and
9 the local unit may agree, with the approval of the State Treasurer.

10

11 20. (New section) A local unit may purchase, lease, rent, sublease
12 or otherwise acquire any school facilities project or any space within
13 a project and pay the amounts as may be agreed upon between the
14 local unit and the facilities authority as the purchase price, rent or
15 other charge therefor; provided that the terms and conditions of the
16 agreement between the facilities authority and the local unit relating
17 to the purchase, lease, rental or sublease shall be subject to the
18 approval of the State Treasurer.

19

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

40 b. If the facilities authority requires, and if there has been a failure
41 or inability of a local unit to pay its local unit obligations to the
42 facilities authority for a period of 30 days, the chairman or the
43 executive director of the facilities authority shall certify to the State
44 Treasurer, with written notice to the fiscal officer of the local unit, the
45 amount remaining unpaid, and the State Treasurer shall pay that
46 amount to the facilities authority; or if the right to receive those

1 payments has been pledged or assigned to a trustee for the benefit of
2 the holders of bonds or refunding bonds of the facilities authority, to
3 that trustee, out of the State aid payable to the local unit, until the
4 amount so certified has been paid. Notwithstanding any provision of
5 this act to the contrary, the State Treasurer's obligation to pay the
6 facilities authority pursuant to this section shall not extend beyond the
7 amount of State aid payable to the local unit.

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

18

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

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

1 of a non-cash donation shall be determined by the State Treasurer. The
2 carry-forward for incentive payments shall not be inconsistent with
3 that allowed by P.L.1976, c.47 (C.54A:1-1 et seq) in the case of a
4 donation by an individual, or P.L.1945, c.162 (C.54:10A-1 et seq.) in
5 the case of a donation by a corporation.

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

10
11 23. (New section) Not less than the prevailing wage rate
12 determined by the Commissioner of Labor and Industry pursuant to
13 the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid
14 to workers employed in the performance of construction contracts in
15 connection with any school facilities project that is undertaken by the
16 building authority, a community redevelopment entity, a district, or
17 a county, municipality, other political entity or public agency
18 designated by a school district.

19
20 24. (New section) The commissioner, in consultation with the State
21 Treasurer, shall annually submit to the Governor and the Legislature
22 a report on the school facilities construction program established
23 pursuant to the provisions of this act. The report shall be submitted
24 no later than August 1 of each year and shall include, but not be
25 limited to, the following information for the prior fiscal year: the
26 number of school facilities projects approved by the commissioner
27 pursuant to section 5 of this act; the number of projects constructed
28 by the building authority and the amount of time that it has taken the
29 building authority to complete those projects; the number of projects
30 constructed by districts; the number of projects constructed by entities
31 designated by districts; the number of community development school
32 projects approved; the number of loans made to districts from the
33 School Facilities Project Revolving Loan Fund; the percentage of the
34 final eligible costs of each project which was supported through loan
35 funding; the number, if any, of eligible school facilities projects for
36 which loan funds were requested but not available; the number of
37 approved projects which exceeded the facilities efficiency standards,
38 the components of those projects which exceeded the standards, and
39 the amount of construction by individual districts and Statewide
40 estimated to have exceeded the standards; and recommendations for
41 changes in the school facilities construction program established
42 pursuant to this act.

43
44 25. (New section) Notwithstanding the provisions of P.L.1999,
45 c.138 to the contrary concerning the conditions on the appropriation
46 and reappropriation of the balance in the School Construction and

1 Renovation Fund, the unexpended balance in the School Construction
2 and Renovation Fund on the effective date of this act is appropriated
3 to the building authority for deposit in the School Facilities
4 Construction Fund established pursuant to subsection e. of section 13
5 of this act.

6
7 26. (New section) a. The commissioner shall adopt, pursuant to the
8 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
9 seq.), rules and regulations necessary to implement the provisions of
10 sections 1 through 12 of this act; except that notwithstanding any
11 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
12 commissioner may adopt, immediately upon filing with the Office of
13 Administrative Law, such rules and regulations as the commissioner
14 deems necessary to implement the provisions of sections 1 through 12
15 of this act which shall be effective for a period not to exceed 12
16 months. Determinations made by the commissioner pursuant to this
17 act and the rules and regulations adopted by the commissioner to
18 implement this act shall be considered to be final agency action and
19 appeal of that action shall be directly to the Appellate Division of the
20 Superior Court. The regulations shall thereafter be amended, adopted
21 or re-adopted by the State Board of Education in accordance with the
22 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

23 b. The facilities authority shall adopt, pursuant to the
24 "Administrative Procedure Act", P.L.1968, c.410 (C.52:14B-1 et
25 seq.), and in consultation with the State Treasurer, rules and
26 regulations necessary to implement the provisions of sections 13
27 through 22 of this act; except that notwithstanding any provision of
28 P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the facilities
29 authority may adopt, immediately upon filing with the Office of
30 Administrative Law, such rules and regulations as the facilities
31 authority deems necessary to implement the provisions of sections 13
32 through 22 of this act which shall be effective for a period not to
33 exceed six months and shall thereafter be amended, adopted or re-
34 adopted by the facilities authority, in accordance with the provisions
35 of P.L.1968, c.410 (C.52:14B-1 et seq.).

36 c. The building authority shall adopt, pursuant to the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
38 seq.), and in consultation with the State Treasurer, rules and
39 regulations necessary to implement the provisions of this act as they
40 apply to the building authority; except that notwithstanding any
41 provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
42 building authority may adopt, immediately upon filing with the Office
43 of Administrative Law, such rules and regulations as the building
44 authority deems necessary to implement the provisions of this act as
45 they apply to the building authority which shall be effective for a
46 period not to exceed six months and shall thereafter be amended,

1 adopted or readopted by the building authority in accordance with the
2 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

3 d. Any regulations adopted to implement this act shall include
4 provisions to ensure that all programs necessary to comply with
5 Abbott V are approved.

6
7 27. (New section) All property of the facilities authority and the
8 building authority shall be exempt from levy and sale by virtue of an
9 execution and no execution of other judicial process shall issue against
10 the same nor shall any judgment against the facilities authority and the
11 building authority be a charge or lien upon their property; provided
12 that nothing herein contained shall apply to or limit the rights of the
13 holder of any bonds, notes or other obligations to pursue any remedy
14 for the enforcement of any pledge or lien given by the facilities
15 authority and building authority on or with respect to any project,
16 school facilities project, or any revenues or other moneys.

17
18 28. (New section) If any clause, sentence, paragraph, section or
19 part of this act shall be adjudged by any court of competent
20 jurisdiction to be invalid, the judgment shall not affect, impair or
21 invalidate the remainder thereof, but shall be confined in its operation
22 to the clause, sentence, paragraph, section or part thereof directly
23 involved in the controversy in which the judgment shall have been
24 rendered.

25
26 29. (New section) This act shall be construed liberally to effectuate
27 the legislative intent and the purposes of this act as complete and
28 independent authority for the performance of each act and thing herein
29 authorized and all powers herein granted shall be broadly interpreted
30 to effectuate the intent and purposes and not as a limitation of
31 powers.

32
33 30. (New section) There shall be appropriated annually for the
34 purposes of this act up to \$100,000,000 from monies made available
35 to the State from tobacco companies under the nationwide settlement
36 of the respective actions by the various states against those companies,
37 entered into by this State in the Master Settlement Agreement in State
38 of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior
39 Court, Chancery Division, Middlesex County, No.C.254-96.

40
41 31. Section 11 of P.L.1975, c.212 (C.18A:7A-11) is amended to
42 read as follows:

43 11. Each school district and county vocational school district shall
44 make an annual report of its progress in conforming to the standards
45 for the evaluation of school performance adopted pursuant to section
46 10 of P.L.1975, c.212 (C.18A:7A-10). Each district's annual report
47 shall include but not be limited to:

- 1 a. Demographic data related to each school;
- 2 b. Results of designated assessment programs, including Statewide
3 assessment programs established pursuant to law and regulation;
- 4 c. Information on each school's fiscal operation, including the
5 budget of each school;
- 6 d. (Deleted by amendment, P.L.1996, c.138).
- 7 e. Plans and programs for professional improvement;
- 8 f. Plans to carry out innovative educational programs designed to
9 improve the quality of education;
- 10 g. Recommendations for school improvements during the ensuing
11 year; and
- 12 h. Such additional information as may be prescribed by the
13 commissioner.

14 [Additionally, the State Board of Education may require each district
15 to submit a facilities survey, including current use practices and
16 projected capital project needs.]

17 The district reports shall be submitted to the commissioner annually
18 on a date to be prescribed by the commissioner, who shall make them
19 the basis for an annual report to the Governor and the Legislature,
20 describing the condition of education in New Jersey, the efforts of
21 New Jersey schools in meeting the standards of a thorough and
22 efficient education, the steps underway to correct deficiencies in
23 school performance, and the progress of New Jersey schools in
24 comparison to other state education systems in the United States.

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

26

27 32. Section 1 of P.L.1991, c.139 (C.18A:7A-46.1) is amended to
28 read as follows:

- 29 1. a. In any State-operated school district created pursuant to the
30 provisions of P.L.1975, c.212 (C.18A:7A-1 et seq.) there shall be
31 established a Capital Project Control Board, hereinafter the board,
32 which shall be responsible for the review of any capital project
33 proposed by the State district superintendent provided that the State
34 district superintendent proposes that the capital project be financed in
35 whole or in part by school bonds or notes, or through a lease purchase
36 agreement pursuant to subsection f. of N.J.S.18A:20-4.2. The board
37 shall also be responsible for the certification to the State district
38 superintendent of schools and the Commissioner of Education of the
39 necessity for the capital project and the certification of the
40 appropriation to be made by the governing body of the municipality.
- 41 b. The board shall consist of five voting members. One member
42 shall be appointed by the Commissioner of Education and two
43 members shall be appointed by the chief executive officer with the
44 consent of a majority of the full membership of the local governing
45 body of the municipality or municipalities in which the school district
46 is located. If the school district is comprised of two municipalities,

1 each municipality shall be entitled to one member, appointed by the
2 executive officer with the consent of the governing body. If the school
3 district is comprised of more than two municipalities, each of the two
4 municipalities with the largest population according to the most recent
5 federal decennial census shall be entitled to one member, appointed by
6 the executive officer with the consent of the governing body.
7 However, if a local governing body fails to agree upon the selection of
8 either board member appointed by an executive officer, then the
9 Commissioner of Education shall make the appointment. One member
10 shall be appointed by the Director of the Division of Local
11 Government Services in the Department of Community Affairs who
12 shall have experience in the area of local finance and capital projects.
13 The fifth member shall be the State district superintendent of schools
14 who shall serve ex-officio and shall act as chairperson of the board.
15 The board members, except for the State district superintendent, shall
16 each serve for a term of one year commencing on July 1 of each year
17 and expiring on June 30 of the following year. Any vacancy in the
18 membership of the board shall be filled for the unexpired term in the
19 manner provided by the original appointment. Members of the board
20 may be employees of the State or any subdivision thereof. All
21 members of the board shall serve without compensation.

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

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

30

31 33. Section 2 of P.L.1991, c.139 (C.18A:7A-46.2) is amended to
32 read as follows:

33 2. The board shall hear the recommendation of the State district
34 superintendent concerning any proposed capital project, which is to be
35 financed in whole or in part by school bonds or notes, or through a
36 lease purchase agreement pursuant to subsection f. of
37 N.J.S.18A:20-4.2, and shall undertake all actions necessary to review
38 the proposed capital project to determine whether the project will
39 assist the State-operated school district in providing a thorough and
40 efficient system of education in that district. In making this
41 determination it may take into consideration factors such as the
42 conditions in the school district, any applicable educational goals, the
43 objectives and standards established by the State, the need for the
44 capital project, the reasonableness of the amount to be expended for
45 the capital project, the estimated time for the undertaking and
46 completion of the capital project, and any other factors which the

1 board may deem necessary including the relationship of the capital
2 project to the long-term capital budget or plan of the school district
3 and the fiscal implications thereof.

4 Following its review and within 60 days of the date on which the
5 State district superintendent submits the recommendation to the board,
6 the board shall adopt a resolution as to whether the State-operated
7 school district should undertake the capital project and providing its
8 reasons therefor. The board shall adopt a resolution indicating the
9 necessity for the capital project and shall also fix and determine by
10 resolution the amount necessary to be raised locally for the capital
11 project. If the board fails to act within 60 days of the submission date,
12 the State district superintendent shall submit the recommendation to
13 the commissioner who shall approve or disapprove the capital project.
14 If the board makes a decision which is contrary to the recommendation
15 of the superintendent, the superintendent may, within 30 days from the
16 date of the board's action, submit the matter to the commissioner for
17 final decision. If the commissioner determines that a capital project
18 should be undertaken, the commissioner shall so notify the board and
19 shall indicate the amount necessary to be raised locally for the capital
20 project. Upon notification, the board shall adopt a resolution
21 indicating the necessity for the capital project and shall also fix and
22 determine by resolution the amount necessary for the capital project
23 as indicated by the commissioner. Certified copies of any resolution
24 requesting the authorization and issuance of bonds and notes or the
25 authorization of a lease purchase agreement shall be delivered to the
26 State district superintendent, the Commissioner of Education, the
27 Director of the Division of Local Government Services in the
28 Department of Community Affairs and the governing body of the
29 municipality or municipalities in which the school district is located.
30 The board shall not approve or recommend any capital project which
31 is inconsistent with the provisions of N.J.S.18A:21-1.

32 (cf: P.L.1991, c.139, s.2)

33

34 34. Section 3 of P.L.1991, c.139 (C.18A:7A-46.3) is amended to
35 read as follows:

36 3. Notwithstanding the provisions of any law to the contrary, the
37 cost of any capital project authorized pursuant to this act which is to
38 be funded by bonds or notes and certified by the board to the State
39 district superintendent, the Commissioner of Education, the Director
40 of the Division of Local Government Services in the Department of
41 Community Affairs and the governing body of the municipality or
42 municipalities in which the school district is located shall be financed
43 by the issuance of school bonds or notes pursuant to the provisions of
44 chapter 24 of Title 18A of the New Jersey Statutes and the "Local
45 Bond Law," (N.J.S.40A:2-1 et seq.) and the notes, school bonds or
46 other obligations shall be authorized, issued, sold and delivered in the

1 manner prescribed by the "Local Bond Law," (N.J.S.40A:2-1 et seq.).
2 (cf: P.L.1991, c.139, s.3)

3

4 35. N.J.S.18A:20-4.2 is amended to read as follows:

5 18A:20-4.2 The board of education of any school district may, for
6 school purposes:

7 (a) Purchase, take and condemn lands within the district and lands
8 not exceeding 50 acres in extent without the district but situate in a
9 municipality or municipalities adjoining the district, but no more than
10 25 acres may be so acquired in any one such municipality, without the
11 district, except with the consent, by ordinance, of such municipality;

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

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

16 (d) Borrow money therefor, with or without mortgage; in the case
17 of a type II district without a board of school estimate, when
18 authorized so to do at any annual or special school election; and in the
19 case of a type II district having a board of school estimate, when the
20 amount necessary to be provided therefor shall have been fixed,
21 determined and certified by the board of school estimate; and in the
22 case of a type I district, when an ordinance authorizing expenditures
23 for such purpose is finally adopted by the governing body of a
24 municipality comprised within the district; provided, however, that no
25 such election shall be held nor shall any such resolution of a school
26 estimate board or ordinance of a municipal governing body be
27 introduced to authorize any lease of any building for a term exceeding
28 one year, until the proposed terms of such lease have been reviewed
29 and approved by the Commissioner of Education and the Local
30 Finance Board in the Department of Community Affairs;

31 (e) Construct, purchase, lease or otherwise acquire a building with
32 the federal government, the State, a political subdivision thereof or any
33 other individual or entity properly authorized to do business in the
34 State; provided that: (1) the noneducational uses of the building are
35 compatible with the establishment and operation of a school, as
36 determined by the Commissioner of Education; (2) the portion of the
37 building to be used as a school meets regulations of the Department of
38 Education; (3) the board of education has complied with the
39 provisions of law and regulations relating to the selection and approval
40 of sites; and (4) in the case of a lease, that any lease in excess of five
41 years shall be approved by the Commissioner of Education and the
42 Local Finance Board in the Department of Community Affairs;

43 (f) Acquire [by lease purchase agreement a site and school
44 building; provided that the site and building meet guidelines and
45 regulations of the Department of Education and that any lease
46 purchase agreement in excess of five years shall be approved by the

1 Commissioner of Education as in the best interest of the school district
2 after determining that the relationship of the proposed lease purchase
3 project to the district's goals and objectives established pursuant to
4 P.L.1975, c.212 (C.18A:7A-1 et seq.) has clearly been established; and
5 provided that for any lease purchase agreement in excess of five years
6 the Local Finance Board in the Department of Community Affairs shall
7 determine within 30 days that the cost and the financial terms and
8 conditions of the agreement are reasonable], with the approval of
9 either the commissioner, or voters or board of school estimate, as
10 applicable, equipment or improvements or additions to school
11 buildings through lease purchase agreements not in excess of five
12 years. The agreement shall be recorded as an expenditure of the
13 General Fund of the district. The commissioner shall approve the
14 agreement only upon a demonstration by the district that the lease
15 purchase payments and any operating expenses related to the
16 agreement can be included within the district's net budget spending
17 growth limitation and will not result in the need for approval by the
18 voters or board of school estimate, as appropriate, of additional
19 spending proposals to maintain existing instructional programs and
20 extracurricular activities. If the commissioner cannot approve the
21 agreement, the board of education may frame a separate question to
22 authorize the lease purchase agreement and obtain voter or board of
23 school estimate approval to enter into the agreement. A lease
24 purchase agreement for equipment shall not require approval by the
25 commissioner unless the aggregate value of the agreement exceeds in
26 any school year 1% of the district's net budget or \$250,000, whichever
27 is less. As used herein, a "lease purchase agreement" refers to any
28 agreement which gives the board of education as lessee the option of
29 purchasing the leased [premises] equipment or improvements or
30 additions to existing school buildings during or upon termination of
31 the lease, with credit toward the purchase price of all or part of rental
32 payments which have been made by the board of education in
33 accordance with the lease. As part of such a transaction [approved by
34 the Commissioner of Education], the board of education may transfer
35 or lease land or rights in land, including any building thereon, after
36 publicly advertising for proposals for the transfer for nominal or fair
37 market value, to the party selected by the board of education, by
38 negotiation or otherwise, after determining that the proposal is in the
39 best interest of the taxpayers of the district, to construct or to improve
40 and to lease or to own or to have ownership interests in the site and
41 the school building to be leased pursuant to such lease purchase
42 agreement, notwithstanding the provisions of any other law to the
43 contrary. The land and any building thereon which is described in a
44 lease purchase agreement entered into pursuant to this amendatory act,
45 shall be deemed to be and treated as property of the school district,
46 used for school purposes pursuant to R.S.54:4-3.3, and shall not be

1 considered or treated as property leased to another whose property is
2 not exempt, and shall not be assessed as real estate pursuant to section
3 1 of P.L.1949, c.177 (C.54:4-2.3). Any lease purchase agreement
4 authorized by this section shall contain a provision making payments
5 thereunder subject to the annual appropriation of funds sufficient to
6 meet the required payments or shall contain an annual cancellation
7 clause and shall require all construction contracts let by public school
8 districts or let by developers or owners of property used for school
9 purposes to be competitively bid, pursuant to P.L.1977, c.114
10 (N.J.S.18A:18A-1 et seq.);

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

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

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

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

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

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

29 (6) Any such agreement shall be approved by the Commissioner
30 of Education and the Local Finance Board in the Department of
31 Community Affairs;

32 (h) Acquire through sale and lease-back textbooks and
33 non-consumable instructional materials provided that the sale price and
34 principal amount of the lease-back do not exceed the fair market value
35 of the textbooks and instructional materials and that the interest rate
36 applied in the lease-back is consistent with prevailing market rates or
37 is less.

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

39

40 36. N.J.S.18A:22-18 is amended to read as follows:

41 18A:22-18. When a board of education of a type I district shall
42 determine by resolution that it is necessary to sell school bonds to
43 raise money for any capital project authorized by law, it shall prepare
44 and deliver to each member of the board of school estimate a
45 statement of the amount of money estimated to be necessary for such
46 purpose. The statement shall include the amount needed to be raised

1 by school bonds, the final eligible costs of the project as approved by
2 the commissioner pursuant to section 5 of P.L. , c. (C.) (now
3 pending before the Legislature as this bill) and in the case of a
4 community development school project by the Urban Coordinating
5 Council pursuant to section 6 of P.L. , c. (C.) (now pending
6 before the Legislature as this bill), and, if applicable, the amount of
7 any costs of the project which are in addition to the final eligible costs.
8 (cf: P.L.1993, c.83, s.6)

9

10 37. N.J.S.18A:22-19 is amended to read as follows:

11 18A:22-19. The board of school estimate shall fix and determine the
12 local share amount necessary for said purpose and shall certify such
13 amount separately to the board of education and to the governing body
14 of the municipality.

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

16

17 38. N.J.S.18A:22-27 is amended to read as follows:

18 18A:22-27. Whenever the board of education in a type II school
19 district having a board of school estimate shall, by resolution adopted
20 by recorded roll call affirmative vote of two thirds of its full
21 membership, determine that it is necessary to sell school bonds to raise
22 money for any capital project, it shall, by such resolution, estimate the
23 amount necessary to be raised for such project or projects, itemizing
24 such estimate so as to make it readily understandable, and the
25 secretary of the board of education shall certify a copy of such
26 resolution to each member of the board of school estimate of the
27 district. The resolution shall include the amount needed to be raised
28 by school bonds, the final eligible costs of the project as approved by
29 the commissioner pursuant to section 5 of P.L. , c. (C.) (now
30 pending before the Legislature as this bill) and in the case of a
31 community development school project by the Urban Coordinating
32 Council pursuant to section 6 of P.L. , c. (C.) (now pending
33 before the Legislature as this bill), and, if applicable, the amount of
34 any costs of the project which are in addition to the final eligible costs.

35 (cf: P.L.1993, c.83, s.8)

36

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

38 18A:22-28. The board of education of such district shall also, upon
39 delivery of such certificate to the members of the board of school
40 estimate, fix a date, place and time for the holding of a public hearing
41 by the board of school estimate with respect to the amount of money
42 to be raised locally for such project or projects, which date shall be not
43 less than 15 nor more than 30 days after the date of such delivery, and
44 shall cause notice of such public hearing and such resolution, including
45 a statement that said resolution will be on file and open to
46 examination to the public between reasonable hours to be fixed and at

1 a place to be named therein from the date of such notice until the date
2 of said public hearing, to be published at least once and not less than
3 seven days before such public hearing in at least one newspaper,
4 published in each municipality comprised within the school district,
5 and if no newspaper is published in any such municipality, then, as to
6 such municipality, in at least one newspaper circulating in the
7 municipality, and said board of education shall cause said resolution
8 to be on file and open to the examination of the public accordingly and
9 to be produced at said public hearing for the information of those
10 attending the same.

11 (cf: N.J.S.18A:22-28)

12

13 40. N.J.S.18A:22-29 is amended to read as follows:

14 18A:22-29. On the date and at the time and place so fixed for such
15 public hearing, the board of school estimate shall grant the taxpayers
16 and other interested persons an opportunity to present objections and
17 to be heard with respect to said resolution and the amount of money
18 necessary to be raised locally for such project or projects and with
19 respect to the various items and projects for which the same is to be
20 raised.

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

22

23 41. N.J.S.18A:22-30 is amended to read as follows:

24 18A:22-30. At or after such hearing the board of school estimate
25 shall fix and determine the amount of money necessary to be raised
26 locally for said project or projects, and the secretary of said board
27 shall certify said amount to the board of education of the district and
28 to the board or body of each municipality comprised therein which has
29 power to make appropriations of money to be raised by taxes in such
30 municipality. The board of education of the district and the governing
31 body of each such municipality comprising the district shall apportion
32 the amount so to be appropriated, assessed, levied and raised in each
33 of such municipalities, as nearly as may be, on the same basis and by
34 the application of the same standards as are provided by law for
35 apportionment of appropriations by county tax boards.

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

37

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

39 18A:22-39. Whenever the undertaking of any capital project or
40 projects to be paid for from the proceeds of an issue or issue of bonds
41 is submitted to the voters of a type II district at an annual or special
42 school election for their approval or disapproval, the board shall frame
43 and adopt by a recorded roll call majority vote of its full membership
44 the question or questions to be submitted so that each project is
45 submitted in a separate question, or all or any number of them are
46 submitted in one question, which shall state the project or projects so

1 submitted and the amounts to be raised for each of the projects so
2 separately submitted or for each or for all of the projects so jointly
3 submitted, as the case may be, but any proposal for the purchase of
4 land shall be sufficient to authorize the taking and condemning of such
5 land. If the project is to be constructed by the New Jersey Building
6 Authority or a community redevelopment entity, the referendum shall,
7 when framed as a single question, request approval for the local share
8 and shall disclose the final eligible costs of the project as approved by
9 the commissioner pursuant to section 5 of P.L. , c. (C.) (now
10 pending before the Legislature as this bill) and in the case of a
11 community development school project by the Urban Coordinating
12 Council pursuant to section 6 of P.L. , c. (C.) (now pending
13 before the Legislature as this bill), and, if applicable, the amount of
14 any costs of the project which are in addition to the final eligible costs.
15 If the school facilities project is not to be constructed by the New
16 Jersey Building Authority or a community redevelopment entity, the
17 referendum shall, when framed as a single question, request approval
18 for the total costs of the project, shall disclose State debt service aid
19 for the project and, if applicable, the amount of any costs of the
20 project which are in addition to the final eligible costs of the project.
21 When a project is framed in more than one question, a summary shall
22 be included in the explanatory statement which accompanies the
23 questions that includes the total costs of the project, total State debt
24 service aid, and, if applicable, the amount of the costs of the project
25 which are in addition to the final eligible costs of the project, and any
26 individual question containing costs in addition to the final eligible
27 costs shall include the amount of those additional costs.

28 The statement of additional costs in any ballot question and in any
29 explanatory statement that accompanies a ballot question shall describe
30 the additional costs as follows: "This project includes \$(insert
31 amount) for school facility construction elements in addition to the
32 facilities efficiency standards developed by the Commissioner of
33 Education."

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

35

36 43. N.J.S.18A:72A-1 is amended to read as follows:

37 18A:72A-1. [It is hereby declared] The Legislature finds and
38 declares that a serious public emergency exists affecting and
39 threatening the welfare, comfort, health, safety and prosperity of the
40 people of the state and resulting from the fact that financial resources
41 are lacking with which to construct required dormitory and other
42 educational facilities at public and private institutions of higher
43 education and to construct public elementary and secondary school
44 facilities; that it is essential that this and future generations of youth
45 be given the fullest opportunity to learn and to develop their
46 intellectual and mental capacities; that it is essential that institutions

1 for higher education and school districts within the state be provided
2 with appropriate additional means to assist such youth in achieving
3 the required levels of learning and development of their intellectual
4 and mental capacities; that it is essential that all resources of the state
5 be employed in order to meet the tremendous demand for higher
6 educational opportunities and public school facilities; that all
7 institutions of higher education in the state, both public and private,
8 and all public elementary and secondary educational institutions, are
9 an integral part of the total educational effort in the state for
10 providing higher educational opportunities, and that it is the purpose
11 of this chapter and P.L. , c. (C.) (now pending before the
12 Legislature as this bill) to provide a measure of assistance and an
13 alternative method of financing to enable institutions of higher
14 education and public school districts in the state to provide the
15 facilities which are sorely needed to accomplish the purposes of this
16 chapter and P.L. , c. (C.) (now pending before the Legislature as
17 this bill), all to the public benefit and good, to the extent and manner
18 provided herein and in P.L. , c. (C.) (now pending before the
19 Legislature as this bill).

20 The Legislature further finds that the inventory of public
21 elementary and secondary school buildings and the equipment and
22 capital resources currently available are aging, both chronologically
23 and technologically; that the current funding at the federal, State, and
24 local levels and the current mechanisms for construction of these
25 capital projects is inadequate to meet the demonstrated need for public
26 school facilities and these inadequacies necessitate additional sources
27 of funding and the coordination of construction activities at the State
28 level to meet those needs; that while the credit status of New Jersey's
29 school districts is sound, it can be economically more reasonable to
30 finance the costs of developing the educational infrastructure of the
31 State's public elementary and secondary schools, by providing for the
32 funding of capital projects through the issuance of bonds, notes or
33 other obligations by the New Jersey Educational Facilities Authority,
34 to be retired through annual payments made by the State subject to
35 appropriation by the State Legislature, and to provide for the use of
36 the proceeds of those bonds, notes or other obligations to pay for
37 educational infrastructure projects; that such a structure would
38 substantially reduce the costs of financing and provide for a more
39 efficient use of the funds available for the development of the
40 educational infrastructure; that the New Jersey Building Authority has
41 substantial and significant experience in undertaking major capital
42 construction projects, has a system of internal controls and procedures
43 to ensure the integrity of construction activities, and is therefore the
44 appropriate entity to undertake the planning, design, construction and
45 operation of elementary and secondary educational infrastructure
46 projects; and that by authorizing the New Jersey Educational Facilities

1 Authority and the New Jersey Building Authority to undertake these
2 activities, there will be achieved economies of scale, better
3 coordination of resources, effective financial management and
4 reporting, and increased monitoring and quality control of school
5 district instruction.

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

7
8 44. N.J.S.18A:72A-3 is amended to read as follows:

9 18A:72A-3. As used in this act, the following words and terms
10 shall have the following meanings, unless the context indicates or
11 requires another or different meaning or intent:

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

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

21 "Cost" means in connection with a school facilities project, all costs
22 and expenses necessary or incident to all or part of a school facilities
23 project, including the costs associated with financing and
24 administrative fees and expenses;

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

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

38 "Dormitory" means a housing unit with necessary and usual
39 attendant and related facilities and equipment;

40 "Educational facility" means a structure suitable for use as a
41 dormitory, dining hall, student union, administration building,
42 academic building, library, laboratory, research facility, classroom,
43 athletic facility, health care facility, teaching hospital, and parking
44 maintenance storage or utility facility and other structures or facilities
45 related thereto or required or useful for the instruction of students or
46 the conducting of research or the operation of an institution for higher

1 education, and public libraries, and the necessary and usual attendant
2 and related facilities and equipment, but shall not include any facility
3 used or to be used for sectarian instruction or as a place for religious
4 worship;

5 "Emerging needs program" means a program at one or more public
6 or private institutions of higher education directed to meeting new and
7 advanced technology needs or to supporting new academic programs
8 in science and technology;

9 "Higher education equipment" means any property consisting of, or
10 relating to, scientific, engineering, technical, computer,
11 communications or instructional equipment;

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

16 "Participating college" means a public institution of higher
17 education or private college which, pursuant to the provisions of this
18 chapter, participates with the authority in undertaking the financing
19 and construction or acquisition of a project;

20 "Project" means a dormitory or an educational facility or any
21 combination thereof, or a county college capital project, but shall not
22 include a school facilities project;

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

27 "Private institution of higher education" means independent colleges
28 or universities incorporated and located in New Jersey, which by virtue
29 of law or character or license, are nonprofit educational institutions
30 authorized to grant academic degrees and which provide a level of
31 education which is equivalent to the education provided by the State's
32 public institutions of higher education as attested by the receipt of and
33 continuation of regional accreditation by the Middle States Association
34 of Colleges and Schools, and which are eligible to receive State aid;

35 "Public institution of higher education" means Rutgers, The State
36 University, the State colleges, the New Jersey Institute of Technology,
37 the University of Medicine and Dentistry of New Jersey, the county
38 colleges and any other public university or college now or hereafter
39 established or authorized by law;

40 "School facilities project" means the acquisition, demolition,
41 construction, improvement, repair, alteration, modernization,
42 renovation, reconstruction or maintenance of all or any part of any
43 school facility or of any other personal property necessary for or
44 ancillary to any school facility, and shall include fixtures, furnishings
45 and equipment, and shall include, but is not limited to, site
46 acquisition, site development, the services of design professionals such

1 as engineers and architects, construction management, legal services,
2 financing costs and administrative fees and expenses incurred in
3 connection with the school facilities project.

4 "School facility" means and includes any structure, building or
5 facility used wholly or in part for academic purposes by a district, but
6 shall exclude athletic stadiums, grandstands, and any structure,
7 building or facility used solely for school administration.

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

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

14

15 45. N.J.S.18A:72A-4 is amended to read as follows:

16 18A:72A-4. (a) There is hereby established in but not of the
17 Department of the Treasury a public body corporate and politic, with
18 corporate succession to be known as the "New Jersey educational
19 facilities authority." Notwithstanding this allocation, the authority shall
20 be independent of any supervision or control by the department or any
21 officer thereof. The authority shall constitute a political subdivision of
22 the State established as an instrumentality exercising public and
23 essential governmental functions, and the exercise by the authority of
24 the powers conferred by this chapter and P.L. , c. (C.) (now
25 pending before the Legislature as this bill) shall be deemed and held
26 to be an essential governmental function of the State.

27 (b) The authority shall consist of seven members, two of whom
28 shall be the chairman of the Commission on Higher Education, ex
29 officio, and the State Treasurer, ex officio, or when so designated by
30 them, their deputies; one person to be appointed by the Governor upon
31 the recommendation of the President of the Senate and one person
32 appointed by the Governor upon the recommendation of the Speaker
33 of the General Assembly who shall serve during the two year
34 legislative term in which they are appointed and until their successors
35 are appointed and qualified; and [five] three citizens of the State to be
36 appointed by the Governor [with the advice and consent of the Senate]
37 no more than two of whom shall be of the same political party for
38 terms of five years[; provided that the terms of the members first
39 appointed shall be arranged by the Governor so that one of such terms
40 shall expire on April 30 in each successive year ensuing after such
41 appointments]. Each member shall hold office for the term of his
42 appointment and shall continue to serve during the term of his
43 successor unless and until his successor shall have been appointed and
44 qualified. Any vacancy among the members appointed by the
45 Governor shall be filled by appointment for the unexpired term only.
46 A member of the authority shall be eligible for reappointment.

1 The terms of office of members of the authority appointed by the
2 Governor who are serving on the effective date of P.L. , c. (C.)
3 (now pending before the Legislature as this bill) shall expire upon the
4 appointment by the Governor of five members of the authority as
5 provided by this section. The five members initially appointed by the
6 Governor pursuant to this section shall be as follows: one member
7 upon the recommendation of the President of the Senate and one
8 member upon the recommendation of the Speaker of the General
9 Assembly, who shall serve during the two-year legislative term in
10 which they are appointed; and three members whose terms shall be
11 arranged so that a term of one of the members expires on April 30 in
12 each successive year ensuing after the appointments.

13 (c) Any member of the authority appointed by the Governor may
14 be removed from office by the Governor for cause after a public
15 hearing.

16 (d) The members of the authority shall serve without
17 compensation, but the authority may reimburse its members for
18 necessary expenses incurred in the discharge of their duties.

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

29 (f) The powers of the authority shall be vested in the members
30 thereof in office from time to time and a majority of the total
31 authorized membership of the authority shall constitute a quorum at
32 any meeting thereof. Action may be taken and motions and resolutions
33 adopted by the authority at any meeting thereof by the affirmative vote
34 of a majority of the members present, unless in any case the bylaws of
35 the authority shall require a larger number. No vacancy in the
36 membership of the authority shall impair the right of a quorum to
37 exercise all the rights and perform all the duties of the authority.

38 (g) Before the issuance of any bonds under the provisions of this
39 chapter or P.L. , c. (C.) (now pending before the Legislature as
40 this bill), the members and the officer of the authority charged with
41 the handling of the authority's moneys shall be covered by a surety
42 bond or bonds in a penal sum of not less than \$25,000.00 per person
43 conditioned upon the faithful performance of the duties of their
44 respective offices, and executed by a surety company authorized to
45 transact business in the State of New Jersey as surety. Each such bond
46 shall be submitted to the attorney general for his approval and upon his

1 approval shall be filed in the Office of the Secretary of State prior to
2 the issuance of any bonds by the authority. At all times after the
3 issuance of any bonds by the authority the officer of the authority and
4 each member charged with the handling of the authority's moneys shall
5 maintain such surety bonds in full force and effect. All costs of such
6 surety bonds shall be borne by the authority.

7 (h) Notwithstanding any other law to the contrary, it shall not be
8 or constitute a conflict of interest for a trustee, director, officer or
9 employee of a participating college or a member or employee of a
10 board of education to serve as a member of the authority; provided
11 such trustee, director, officer, member or employee shall abstain from
12 discussion, deliberation, action and vote by the authority under this
13 chapter or P.L. , c. (C.) (now pending before the Legislature as
14 this bill) in specific respect to such participating college or board of
15 education of which such member is a trustee, director, officer,
16 member or employee.

17 (i) A true copy of the minutes of every meeting of the authority
18 shall be forthwith delivered by and under the certification of the
19 secretary thereof, to the Governor. No action taken at such meeting
20 by the authority shall have force or effect until 10 days, Saturdays,
21 Sundays and public holidays excepted, after such copy of the minutes
22 shall have been so delivered. If, in said 10-day period, the Governor
23 returns such copy of the minutes with veto of any action taken by the
24 authority or any member thereof at such meeting, such action shall be
25 null and of no effect. If the Governor shall not return the minutes
26 within said 10-day period, any action therein recited shall have force
27 and effect according to the wording thereof. At any time prior to the
28 expiration of the said 10-day period, the Governor may sign a
29 statement of approval of any such action of the authority, in which
30 case the action so approved shall not thereafter be disapproved.

31 Notwithstanding the foregoing provisions of this subsection (i),
32 with regard to the authorization or sale of bonds of the authority, the
33 authority shall furnish to the Governor a certified copy of the minutes
34 of the meeting at which the bonds are authorized or sold and the
35 Governor shall indicate approval or disapproval of the action upon
36 receipt of the certified copy of the minutes.

37 The powers conferred in this subsection (i) upon the Governor shall
38 be exercised with due regard for the rights of the holders of bonds of
39 the authority at any time outstanding, and nothing in, or done pursuant
40 to, this subsection (i) shall in any way limit, restrict or alter the
41 obligation or powers of the authority or any representative or officer
42 of the authority to carry out and perform in every detail each and
43 every covenant, agreement or contract at any time made or entered
44 into by or on behalf of the authority with respect to its bonds or for
45 the benefit, protection or security of the holders thereof.

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

- 1 46. N.J.S.18A:72A-5 is amended to read as follows:
2 18A:72A-5. The authority shall have power:
3 (a) To adopt bylaws for the regulation of its affairs and the conduct
4 of its business;
5 (b) To adopt and have an official common seal and alter the same
6 at pleasure;
7 (c) To maintain an office at such place or places within the State
8 as it may designate;
9 (d) To sue and be sued in its own name, and plead and be
10 impleaded;
11 (e) To borrow money and to issue bonds and notes and other
12 obligations of the authority and to provide for the rights of the holders
13 thereof as provided in this chapter and P.L. , c. (C.) (now
14 pending before the Legislature as this bill);
15 (f) To acquire, lease as lessee, hold and dispose of real and
16 personal property or any interest therein, in the exercise of its powers
17 and the performance of its duties under this chapter and P.L. , c.
18 (C.) (now pending before the Legislature as this bill);
19 (g) To acquire in the name of the authority by purchase or
20 otherwise, on such terms and conditions and in such manner as it may
21 deem proper, or by the exercise of the power of eminent domain, any
22 land or interest therein and other property which it may determine is
23 reasonably necessary for any project , including any lands held by any
24 county, municipality or other governmental subdivision of the State;
25 and to hold and use the same and to sell, convey, lease or otherwise
26 dispose of property so acquired, no longer necessary for the authority's
27 purposes;
28 (h) To receive and accept, from any federal or other public agency
29 or governmental entity, grants or loans for or in aid of the acquisition
30 or construction of any project or school facilities project, and to
31 receive and accept aid or contributions from any other source, of
32 either money, property, labor or other things of value, to be held, used
33 and applied only for the purposes for which such grants, loans and
34 contributions may be made consistent with this chapter and section 22
35 of P.L. , c. (C.) (now pending before the Legislature as this bill);
36 (i) To prepare or cause to be prepared plans, specifications, designs
37 and estimates of costs for the construction and equipment of projects
38 for participating colleges under the provisions of this chapter, and
39 from time to time to modify such plans, specifications, designs or
40 estimates;
41 (j) By contract or contracts or by its own employees to construct,
42 acquire, reconstruct, rehabilitate and improve, and furnish and equip,
43 projects for participating colleges and, pursuant to the provisions of
44 P.L. ,c. (C.) (now pending before the Legislature as this bill), to
45 finance the planning, design, and construction of school facilities
46 projects; however, in any contract or contracts undertaken by the

1 authority for the construction, reconstruction, rehabilitation or
2 improvement of any public college project where the cost of such
3 work will exceed \$25,000, the contracting agent shall advertise for and
4 receive in the manner provided by law:

- 5 (1) separate bids for the following categories of work;
 - 6 (a) the plumbing and gas fitting work;
 - 7 (b) the heating and ventilating systems and equipment;
 - 8 (c) the electrical work, including any electrical power plants;
 - 9 (d) the structural steel and ornamental iron work;
 - 10 (e) all other work and materials required for the completion of the
11 project, or
- 12 (2) bids for all work and materials required to complete the entire
13 project if awarded as a single contract; or
- 14 (3) both (1) and (2) above.

15 All bids submitted shall set forth the names and license numbers of,
16 and evidence of performance security from, all subcontractors to
17 whom the bidder will subcontract the work described in the foregoing
18 categories (1)(a) through (1)(e).

19 Contracts shall be awarded to the lowest responsible bidder whose
20 bid, conforming to the invitation for bids, will be the most
21 advantageous to the authority;

22 (k) To determine the location and character of any project to be
23 undertaken pursuant to the provisions of this chapter and to
24 construct, reconstruct, maintain, repair, operate, lease, as lessee or
25 lessor, and regulate the same pursuant to this chapter in the case of
26 any project, and as authorized pursuant to the provisions of P.L. , c.
27 (C.) (now pending before the Legislature as this bill) in the case of
28 any school facilities project; to enter into contracts for any or all such
29 purposes; to enter into contracts for the management and operation of
30 a project and the financing of a school facilities project, and to
31 designate a participating college as its agent to determine the location
32 and character of a project undertaken by such participating college
33 under the provisions of this chapter and, as the agent of the authority,
34 to construct, reconstruct, maintain, repair, operate, lease, as lessee or
35 lessor, and regulate the same, and, as agent of the authority, to enter
36 into contracts for any and all such purposes including contracts for the
37 management and operation of such project;

38 (l) To establish rules and regulations for the use of a project or any
39 portion thereof and to designate a participating college as its agent to
40 establish rules and regulations for the use of a project undertaken by
41 such participating college;

42 (m) Generally to fix and revise from time to time and to charge and
43 collect rates, rents, fees and other charges for the use of and for the
44 services furnished or to be furnished by a project or, if applicable, a
45 school facilities project or any portion thereof and to contract with
46 holders of its bonds and with any other person, party, association,

1 corporation or other body, public or private, in respect thereof;

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

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

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

14 (q) To enter into loan agreements with any county, to hold bonds
15 or notes of the county evidencing those loans, and to issue bonds or
16 notes of the authority to finance county college capital projects
17 pursuant to the provisions of the "County College Capital Projects
18 Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.);

19 (r) To enter into agreements or contracts, execute instruments, and
20 do and perform all acts or things necessary, convenient or desirable for
21 the purposes of the authority to carry out any power expressly
22 provided pursuant to this chapter and P.L. , c. (C.)(now
23 pending before the Legislature as this bill), including, but not limited
24 to, entering into contracts with the State Treasurer and the building
25 authority as authorized pursuant to section 18 of P.L. , c. (C.)
26 (now pending before the Legislature as this bill) and entering into
27 agreements with districts as may be authorized pursuant to P.L. , c.
28 (C.) (now pending before the Legislature as this bill);

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

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

39 (u) Subject to any agreement with holders of its bonds issued to
40 finance a school facilities project, obtain as security or to provide
41 liquidity for payment of all or any part of the principal of and interest
42 and premium on the bonds of the authority or for the purchase upon
43 tender or otherwise of the bonds, lines of credit, letters of credit,
44 reimbursement agreements, interest rate exchange agreements,
45 currency exchange agreements, interest rate floors or caps, options,
46 puts or calls to hedge payment, currency, rate, spread or similar

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

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

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

15

16 47. N.J.S.18A:72A-12 is amended to read as follows:

17 18A:72A-12. [All] With respect to projects, all moneys received
18 pursuant to the authority of this chapter, whether as proceeds from the
19 sale of bonds or as revenues, shall be deemed to be trust funds to be
20 held and applied solely as provided in this chapter. Any officer with
21 whom, or any bank or trust company with which, such moneys shall be
22 deposited shall act as trustee of such moneys and shall hold and apply
23 the same for the purposes hereof, subject to such regulations as this
24 chapter and the resolution authorizing the bonds of any issue or the
25 trust agreement securing such bonds may provide.

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

27

28 48. N.J.S.18A:72A-15 is amended to read as follows:

29 18A:72A-15. Bonds and notes issued by the authority under the
30 provisions of this chapter and P.L. , c. (C.) (now pending before
31 the Legislature as this bill) are hereby made securities in which the
32 state and all political subdivisions of the state, their officers, boards,
33 commissions, departments or other agencies, all banks, bankers,
34 savings banks, trust companies, savings and loan associations,
35 investment companies and other persons carrying on a banking
36 business, all insurance companies, insurance associations, and other
37 persons carrying on an insurance business, and all administrators,
38 executors, guardians, trustees and other fiduciaries, and all other
39 persons whatsoever who now are or may hereafter be authorized to
40 invest in bonds or other obligations of the state, may properly and
41 legally invest any funds, including capital belonging to them or within
42 their control; and said bonds, notes or other securities or obligations
43 are hereby made securities which may properly and legally be
44 deposited with and received by any state or municipal officers or
45 agency of the state for any purpose for which the deposit of bonds or

1 other obligations of the state is now or may hereafter be authorized
2 by law.

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

4

5 49. Section 2 of P.L.1981, c.120 (C.52:18A-78.2) is amended to
6 read as follows:

7 2. As used in this act, unless the context clearly indicates
8 otherwise:

9 a. "Authority" means the New Jersey Building Authority created
10 under this act.

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

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

17 d. "Local governmental agency" means any municipality, county,
18 school district, or any agency, department or instrumentality of any of
19 the foregoing, or any other public body having local or regional
20 jurisdiction or powers and not constituting a State agency.

21 e. "Notes" means notes issued by the authority pursuant to this act.

22 f. "Project" means any building or buildings, including related
23 structures, parking facilities, improvements, real and personal property
24 or any interest therein, including lands under water, space rights and
25 air rights, and other appurtenances and facilities necessary or
26 convenient to the use or operation of the building or buildings,
27 acquired, owned, constructed, reconstructed, extended, rehabilitated,
28 renovated, preserved or improved by the authority for the purposes set
29 forth in section 8 of P.L.1992, c.174 (C.52:18A-78.5a), but shall not
30 include a school facilities project.

31 g. "State agency" means the Executive, Legislative or Judicial
32 branch of the State Government or any officer, department, board,
33 commission, bureau, division, public authority or corporation, agency
34 or instrumentality of the State.

35 h. "Historic public building" means a building that is owned by a
36 governmental agency and that is on or eligible for State or National
37 Registers of Historic Places.

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

46 j. "Local unit" means a county, municipality, board of education or

1 any other political entity authorized to construct, operate and maintain
2 a school facilities project and to borrow money for those purposes
3 pursuant to Title 18A of the New Jersey Statutes.

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

14 l. "School facility" means and includes any structure, building or
15 facility used wholly or in part for academic purposes by a district, but
16 shall exclude athletic stadiums, grandstands, and any structure,
17 building or facility used solely for school administration.

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

22
23 50. Section 3 of P.L.1981, c.120 (C.52:18A-78.3) is amended to
24 read as follows:

25 3. The Legislature finds and declares the following:

26 a. That for many years the functions of the State Government have
27 grown and that during this period of rapid expansion no definite
28 program has been adopted for the housing and carrying out of the
29 operations of the many State agencies.

30 b. That many State agencies have their offices in privately owned
31 or inadequate State owned buildings and that these buildings are
32 inadequate to meet the needs of these State agencies and the needs of
33 the people of the State.

34 c. That it is to the economic benefit and general welfare of the
35 citizens of the State to provide sufficient office space and related
36 facilities for these State agencies and thus provide for a more efficient
37 and economic operation of State Government.

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

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

45 f. It is necessary and in the public interest that this building
46 authority have the necessary funds to provide for predevelopment

1 cost, temporary financing, land development expenses, construction
2 and operation of office buildings and related facilities for the use of,
3 and sale or rental to, State agencies.

4 g. That the renovation and preservation of historic public buildings
5 contribute to the preservation of the State's heritage, the promotion of
6 the cultural life of our people, and the development and redevelopment
7 of our municipalities.

8 h. For these purposes, there should be created a corporate
9 governmental agency to be known as the "New Jersey Building
10 Authority" which, through issuance of bonds and notes to the private,
11 investing public may provide or obtain the capital resources necessary
12 to acquire, construct, reconstruct, rehabilitate, renovate, preserve or
13 improve these office buildings and related facilities necessary or
14 convenient to the operation of any State agency, or historic public
15 buildings, as the case may be.

16 i. That the acquisition, construction, reconstruction, rehabilitation,
17 renovation, preservation or improvement of these office buildings and
18 related facilities necessary or convenient to the operation of any State
19 agency, and historic public buildings are public uses and public
20 purposes for which public money may be loaned and private property
21 may be acquired and tax exemptions granted, and that the powers and
22 duties of the New Jersey Building Authority as set forth in this act are
23 necessary and proper for the purpose of achieving the ends here
24 recited.

25 j. That the construction, reconstruction, rehabilitation, renovation,
26 preservation and improvement activities of the authority will provide
27 a much needed stimulus for the construction industry, and related
28 industries and professions, particularly in urban areas.

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

33 The Legislature further finds and declares that:

34 l. It is essential that this and future generations of young people be
35 given the fullest opportunity to learn and develop their intellectual
36 capacities; that institutions of public elementary and secondary
37 education within the State be provided with the appropriate additional
38 means required to assist these young citizens in achieving the required
39 levels of learning and the complete development of their intellectual
40 abilities; and that the resources of the State be employed to meet the
41 tremendous demand for public elementary and secondary educational
42 opportunities.

43 m. Public elementary and secondary educational facilities are an
44 integral part of the effort in this State to provide educational
45 opportunities; it is the purpose of P.L. , c. (C.) (now pending
46 before the Legislature as this bill) to provide a measure of assistance

1 and an alternative method of financing to enable school districts to
2 provide the facilities which are so critically needed; the inventory of
3 public elementary and secondary school buildings and the equipment
4 and capital resources currently available are aging, both
5 chronologically and technologically; and the current funding at the
6 federal, State, and local levels and the current mechanisms for
7 construction of these capital projects is inadequate to meet the
8 demonstrated need for school facilities and these inadequacies
9 necessitate additional sources of funding and the coordination of
10 construction activities at the State level to meet those needs.

11 n. While the credit status of New Jersey's school districts is sound,
12 it can be economically more reasonable to finance the costs of
13 developing the educational infrastructure of the State's public
14 elementary and secondary schools, by providing for the funding of
15 capital projects through the issuance of bonds, notes or other
16 obligations by the New Jersey Educational Facilities Authority, to be
17 retired through annual payments made by the State subject to
18 appropriation by the State Legislature, and to provide for the use of
19 the proceeds of those bonds, notes or other obligations to pay for
20 educational infrastructure projects; and such a structure would
21 substantially reduce the costs of financing and provide for a more
22 efficient use of the funds available for the development of the
23 educational infrastructure.

24 o. The New Jersey Building Authority has substantial and significant
25 experience in undertaking major capital construction projects, has a
26 system of internal controls and procedures to ensure the integrity of
27 construction activities, and is therefore the appropriate entity to
28 undertake the planning, design, construction, and operation of
29 educational infrastructure projects; and by authorizing the New Jersey
30 Building Authority and the New Jersey Educational Facilities
31 Authority to undertake these activities, there will be achieved
32 economies of scale, better coordination of resources, effective
33 financial management and control and increased monitoring and quality
34 control of school district construction.

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

36

37 51. Section 4 of P.L.1981, c.120 (C.52:18A-78.4) is amended to
38 read as follows:

39 4. a. There is established in the Department of the Treasury a
40 public body corporate and politic, with corporate succession, to be
41 known as the "New Jersey Building Authority." The authority is
42 constituted an instrumentality of the State exercising public and
43 essential governmental functions, and the exercise by the authority
44 thereof of the powers conferred by this act shall be deemed and held
45 to be an essential governmental function of the State.

46 b. The membership of the authority shall consist of [12] 13

1 directors as follows: the State Treasurer, [the Comptroller of the
2 Treasury,] the Chairman of the Commission on Capital Budgeting
3 and Planning and the Commissioner of Education who shall be
4 members ex officio; two persons appointed by the Governor upon the
5 recommendation of the President of the Senate and two persons
6 appointed by the Governor upon the recommendation of the Speaker
7 of the General Assembly, of whom no more than one of each group
8 of two shall be of the same political party, and who shall serve during
9 the 2-year legislative term in which they are appointed and until their
10 successors shall have been appointed and qualified; and [five] six
11 directors appointed by the Governor [with the advice and consent of
12 the Senate] for terms of 4 years no more than [three] four of whom
13 shall be of the same political party. [The directors of the authority
14 first appointed by the Governor shall serve for terms of 1 year, 2
15 years, 3 years and two for 4 years, respectively, and thereafter
16 directors shall be appointed by the Governor for terms of 4 years.]
17 Each such director shall hold office for the term of his appointment
18 and until his successor shall have been appointed and qualified. A
19 director shall be eligible for reappointment. Any vacancy on the board
20 of directors occurring other than by expiration of term shall be filled
21 in the same manner as the original appointment but for the unexpired
22 term only.

23 The terms of office of the directors of the authority appointed by
24 the Governor who are serving on the effective date of P.L. , c.
25 (C.) (now pending before the Legislature as this bill) shall expire
26 upon the appointment by the Governor of ten directors pursuant to
27 this section. The ten directors appointed by the Governor pursuant to
28 the provisions of this section shall be as follows: two persons upon the
29 recommendation of the President of the Senate and two persons upon
30 the recommendation of the Speaker of the General Assembly, who
31 shall serve during the two-year legislative term in which they are
32 appointed; and six persons, one of whom shall serve for a term of one
33 year, two for terms of two years, two for terms of three years, and
34 one for a term on four years.

35 c. Each director appointed by the Governor, except those
36 appointed upon recommendation of the President of the Senate and
37 Speaker of the General Assembly, may be removed from office by the
38 Governor for cause, after a public hearing, and may be suspended by
39 the Governor pending the completion of the hearing. Each director
40 before entering upon his duties shall take and subscribe an oath to
41 perform the duties of his office faithfully, impartially and justly to the
42 best of his ability. A record of the oaths shall be filed in the office of
43 the Secretary of State.

44 d. The authority shall not be deemed to be constituted and shall not
45 take action or adopt motions or resolutions until all original authorized
46 members shall have been appointed and qualified in the manner

1 provided in this section. A chairman shall be appointed by the
2 Governor with the advice and consent of the Senate from the
3 directors of the authority other than the ex officio directors, and the
4 directors of the authority shall annually elect one of their number as
5 vice chairman thereof. The directors shall elect a secretary and a
6 treasurer who need not be directors, and the same person may be
7 elected to serve both as secretary and treasurer. The powers of the
8 authority shall be vested in the directors thereof in office from time to
9 time and seven directors of the authority shall constitute a quorum at
10 any meeting thereof. Action may be taken and motions and
11 resolutions adopted by the authority at any meeting thereof by the
12 affirmative vote of at least seven directors of the authority. No
13 vacancy on the board of directors of the authority shall impair the right
14 of a quorum of the directors to exercise all the powers and perform all
15 the duties of the authority.

16 e. Each director and the treasurer of the authority shall execute a
17 bond to be conditioned upon the faithful performance of the duties of
18 the director or treasurer, as the case may be, in such form and amount
19 as may be prescribed by the Comptroller of the Treasury. Bonds shall
20 be filed in the office of the Secretary of State. At all times thereafter,
21 the directors and treasurer of the authority shall maintain these bonds
22 in full effect. All costs of the bonds shall be borne by the authority.

23 f. The directors of the authority shall serve without compensation,
24 but the authority shall reimburse its directors for actual expenses
25 necessarily incurred in the discharge of their duties. Notwithstanding
26 the provisions of any other law, no officer or employee of the State
27 shall be deemed to have forfeited or shall forfeit his office or
28 employment or any benefits or emoluments thereof by reason of his
29 acceptance of the office of ex officio director of the authority or his
30 services therein.

31 g. The State Treasurer [and the Comptroller of the Treasury of the
32 State], as an ex officio [directors] director of the authority, may
33 [each] designate an officer or employee of the Department of the
34 Treasury to represent him at meetings of the authority, and the
35 Chairman of the Commission on Capital Budgeting and Planning, as
36 ex officio director of the authority, may designate a member or the
37 executive director of the Commission on Capital Budgeting and
38 Planning to represent him at meetings of the authority and the
39 Commissioner of Education, as an ex officio director of the authority,
40 may designate an officer or employee of the Department of Education
41 to represent him at meetings of the authority. Each designee may
42 lawfully vote and otherwise act on behalf of the director for whom he
43 constitutes the designee. The designation shall be in writing delivered
44 to the authority and shall continue in effect until revoked or amended
45 in writing delivered to the authority.

46 h. The authority may be dissolved by act of the Legislature on

1 condition that the authority has no debts or obligations outstanding or
2 that provision has been made for the payment or retirement of these
3 debts or obligations. Upon any dissolution of the authority all
4 property, funds and assets thereof shall be vested in the State. In
5 addition, subject to any property rights of a person, firm, partnership
6 [or], corporation or local unit resulting from the sale or leasing of a
7 project or a school facilities project by the authority to the person,
8 firm, partnership [or], corporation or local unit, any project or school
9 facilities project shall be vested in the State upon the payment or
10 retirement of all debts or obligations for the project or school
11 facilities project or upon the assumption by the State of liability for
12 any outstanding debts or obligations for the project or school facilities
13 project.

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

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

35

36 52. Section 5 of P.L.1981, c.120 (C.52:18A-78.5) is amended to
37 read as follows:

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

40 a. To make and alter bylaws for its organization and internal
41 management and, subject to agreements with noteholders and
42 bondholders, to make rules and regulations with respect to its projects,
43 its school facilities projects, operations, properties and facilities.

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

45 c. To sue and be sued.

46 d. To make and enter into all contracts and agreements necessary

1 or incidental to the performance of its duties and the exercise of its
2 powers under [this act] P.L.1981, c.120 (C.52:18A-78.1 et seq.) and
3 P.L. , c. (C.)(now pending before the Legislature as this bill).

4 e. To enter into agreements or other transactions with and accept
5 grants and the cooperation of the United States or any agency thereof
6 or any State agency in furtherance of the purposes of this act,
7 including but not limited to the development, maintenance, operation
8 and financing of any project or school facilities project, and to do any
9 and all things necessary in order to avail itself of this aid and
10 cooperation.

11 f. To receive and accept aid or contributions from any source of
12 money, property, labor or other things of value, to be held, used and
13 applied to carry out the purposes of [this act] P.L.1981, c.120
14 (C.52:18A-78.1 et seq. and P.L. , c. (C.)(now pending before the
15 Legislature as this bill) subject to such conditions upon which this aid
16 and these contributions may be made, including but not limited to,
17 gifts or grants from any department or agency of the United States or
18 any State agency for any purpose consistent with [this act] P.L.1981,
19 c.120 (C.52:18A-78.1 et seq. and P.L. , c. (C.)(now pending before
20 the Legislature as this bill).

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

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

30 i. To acquire, construct, reconstruct, rehabilitate, renovate,
31 preserve, improve, alter or repair or provide for the demolition,
32 construction, reconstruction, improvement, alteration or repair of any
33 project or school facilities project and let, award and enter into
34 construction contracts, purchase orders and other contracts with
35 respect thereto in such manner as the authority shall determine.

36 j. To arrange or contract with a county or municipality and any
37 relevant utility for the planning, replanning, opening, grading or
38 closing of streets, roads, roadways, alleys or other places, or for the
39 furnishing of facilities or for the acquisition by a county or
40 municipality of property or property rights or for the furnishing of
41 property or services, in connection with a project or school facilities
42 project.

43 k. To sell, lease, assign, transfer, convey, exchange, mortgage or
44 otherwise dispose of or encumber any project or school facilities
45 project or other property no longer needed to carry out the public
46 purposes of the authority and, in the case of the sale of any project or

1 school facilities project or property, to accept a purchase money
2 mortgage in connection therewith; and to lease, repurchase or
3 otherwise acquire and hold any project or school facilities project or
4 property which the authority has theretofore sold, leased or otherwise
5 conveyed, transferred or disposed of.

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

10 m. To acquire by purchase, lease or otherwise, on such terms and
11 conditions and in such manner as it may deem proper, or by the
12 exercise of the power of eminent domain, except with respect to lands
13 owned by the State or any public lands reserved for recreation and
14 conservation purposes, any land and other property, including railroad
15 lands and land under water, which it may determine is reasonably
16 necessary for any of its projects or school facilities project or for the
17 relocation or reconstruction of any highway by the authority and any
18 and all rights, title and interest in that land and other property,
19 including public lands, highways or parkways, owned by or in which
20 a State agency or local governmental agency has any right, title or
21 interest, or parts thereof or rights therein and any fee simple absolute
22 or any lesser interest in private property, and any fee simple absolute
23 in, easements upon or the benefit of restrictions upon, abutting
24 property to preserve and protect any project or school facilities
25 project.

26 n. To prepare or cause to be prepared plans, specifications,
27 designs and estimates of costs for the construction, reconstruction,
28 rehabilitation, improvement, alteration or repair of any project or
29 school facilities project, and from time to time to modify these plans,
30 specifications, designs or estimates.

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

44 p. To sell, lease, rent, sublease or otherwise dispose of, to any
45 person, firm, partnership or corporation, any surplus space in any
46 project over and above that sold, leased, rented, subleased or

- 1 otherwise disposed of to State agencies and to establish and revise the
2 purchase price, rents or charges therefor.
- 3 q. To approve of the selection of any tenant not a State agency
4 under a lease or sublease agreement for the use or occupation of any
5 portion of a building in which a project is located.
- 6 r. To manage or operate any project or school facilities project or
7 real or personal property related thereto whether owned or leased by
8 the authority or any State agency or any person, firm, partnership or
9 corporation, and to enter into agreements with any State agency, or
10 any local governmental agency, or local unit or with any person, firm,
11 association, partnership or corporation, either public or private, for the
12 purpose of causing any project or school facilities project or related
13 property to be managed.
- 14 s. To provide advisory, consultative, training and educational
15 services, technical assistance and advice to any person, firm,
16 association, partnership or corporation, either public or private, in
17 order to carry out the purposes of [this act] P.L.1981, c.120
18 (C.52:18A-78.1 et seq.) and P.L. , c. (C.)(now pending before
19 the Legislature as this bill).
- 20 t. Subject to the provisions of any contract with noteholders or
21 bondholders to consent to any modification, amendment or revision of
22 any kind of any contract, lease or agreement of any kind to which the
23 authority is a party.
- 24 u. To determine, after holding a public hearing in the municipality
25 in which the project is to be located, except as otherwise provided in
26 section 6 of [this act]P.L.1981, c.120 (C.52:18A-78.6), and at any
27 time, with respect to a school facilities project, the location, type and
28 character of the project or school facilities project or any part thereof
29 and all other matters in connection with all or any part of the project
30 or school facilities project notwithstanding any land use plan, zoning
31 regulation, [building code] or similar regulation heretofore or hereafter
32 adopted by any municipality, county, public body corporate and
33 politic, or any other political subdivision of the State.
- 34 v. To borrow money and to issue its bonds and notes and to secure
35 the same and provide for the rights of the holders thereof as provided
36 in this act.
- 37 w. Subject to any agreement with bondholders or noteholders, to
38 invest moneys of the authority not required for immediate use,
39 including proceeds from the sale of any bonds or notes, in those
40 obligations, securities and other investments as the authority shall
41 deem prudent.
- 42 x. To procure insurance against any loss in connection with its
43 property and other assets and operations in such amounts and from
44 such insurers as it deems desirable.
- 45 y. To engage the services of architects, engineers, attorneys,
46 accountants, building contractors, urban planners, landscape architects

1 and financial experts and such other advisors, consultants and agents
2 as may be necessary in its judgment and to fix their compensation.

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

8 aa. To enter into agreements with the State Treasurer, the
9 Commissioner of Education, districts, community redevelopment
10 entities, the educational facilities authority and any other entity which
11 may be required in order to carry out the provisions of P.L. , c.
12 (C.)(now pending before the Legislature as this bill).

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

22 cc. To do any act necessary or convenient to the exercise of the
23 foregoing powers or reasonably implied therefrom.
24 (cf: P.L.1992, c.174, s.10)

25

26 53. Section 10 of P.L.1981, c.120 (C.52:18A-78.10) is amended
27 to read as follows:

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

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

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

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

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

28

29 54. Section 11 of P.L.1981, c.120 (C.52:18A-78.11) is amended
30 to read as follows:

31 11. a. The authority, in the exercise of its authority to make and
32 enter into contracts and agreements necessary or incidental to the
33 performance of its duties and the execution of its powers, shall adopt
34 standing rules and procedures providing that no contract on behalf of
35 the authority shall be entered into for the doing of any work, or for the
36 hiring of equipment or vehicles, where the sum to be expended
37 exceeds the sum of \$7,500.00 unless the authority shall first publicly
38 advertise for bids therefor, and shall award the contract to the lowest
39 responsible bidder. Advertising shall not be required where the
40 contract to be entered into is one for the furnishing or performing of
41 services of a professional nature or for the supplying of any product
42 or the rendering of any service by a public utility subject to the
43 jurisdiction of the Board of Public Utilities and tariffs and schedules
44 of the charges made, charged, or exacted by the public utility for any
45 products to be supplied or services to be rendered are filed with the
46 board. This section shall not prevent the authority from having any
47 work done by its own employees, nor shall it apply to repairs, or to

1 the furnishing of materials, supplies or labor, or the hiring of
2 equipment or vehicles, when the safety or protection of its or other
3 public property or the public convenience requires, or the exigency of
4 the accomplishment of the projects or school facilities projects will not
5 allow advertisement. In that case, the board of directors of the
6 authority shall, by resolution, declare the exigency or emergency to
7 exist, and set forth in the resolution the nature thereof and the
8 approximate amount to be so expended.

9 b. (1) In undertaking any project or school facilities project where
10 the cost of construction, reconstruction, rehabilitation or improvement
11 will exceed \$25,000.00, the authority shall be subject to the rules and
12 regulations of the Division of Building and Construction concerning
13 procedural requirements for the making, negotiating or awarding of
14 purchases, contracts or agreements; and the authority, with the
15 assistance of the division, may prepare, or cause to be prepared,
16 separate plans and specifications for:

17 (a) The plumbing and gas fitting and all work and materials kindred
18 thereto,

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

21 (c) The electrical work,

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

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

25 (2) The authority shall receive (a) separate bids for each of the
26 branches of work specified in paragraph (1) of this subsection; or (b)
27 bids for all the work and materials required to complete the project or
28 school facilities projects to be included in a single overall contract, in
29 which case there shall be set forth in the bid the name or names of all
30 subcontractors to whom the bidder will subcontract for the furnishing
31 of any of the work and materials specified in branches (a) through (d)
32 in paragraph (1) of this subsection; or (c) both.

33 (3) Contracts shall be awarded to the lowest responsible bidder in
34 each branch of work in the case of separate bids and to the single
35 lowest responsible bidder in the case of single bids. In the event that
36 a contract is advertised in accordance with subparagraph (c) of
37 paragraph (2) of this subsection, the contract shall be awarded in the
38 following manner: If the sum total of the amounts bid by the lowest
39 responsible bidder for each branch is less than the amount bid by the
40 lowest responsible bidder for all of the work and materials, the
41 authority shall award separate contracts for each of branches to the
42 lowest responsible bidder therefor, but if the sum total of the amount
43 bid by the lowest responsible bidder for each branch is not less than
44 the amount bid by the lowest responsible bidder for all the work and
45 materials, the authority shall award a single over-all contract to the
46 lowest responsible bidder for all of the work and materials.

1 Whenever a contract is awarded under subparagraph (b) or (c) of
2 paragraph (2) of this subsection, all payments required to be made by
3 the authority under the contract for work and materials supplied by a
4 subcontractor may, upon the certification of the contractor of the
5 amount due to the subcontractor, be paid directly to the
6 subcontractor. Payments to a subcontractor for work and materials
7 supplied in connection with the contract shall be made within 10
8 calendar days of the receipt of payment for that work or the delivery
9 of those materials by the subcontractor in accordance with the
10 provisions of P.L.1991, c.133 (C.2A:30A-1 et seq.), and any
11 regulations promulgated thereunder.

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

17 c. With respect to the lease or sale of any project or portion thereof
18 to any person, firm, partnership or corporation, for subsequent lease
19 to or purchase by a State agency, no agreement for that lease or sale
20 shall be entered into, unless the authority shall first publicly advertise
21 for bids therefor. The authority shall employ a person, firm,
22 partnership or corporation, independent from any other aspect or
23 component of the financing of or any ownership or leasehold interest
24 in that project, to assist in the bid procedure and evaluation.

25 (cf: P.L.1999, c.280, s.2)

26

27 55. Section 12 of P.L.1981, c.120 (C.52:18A-78.12) is amended
28 to read as follows:

29 12. a. If the authority shall find it necessary in connection with the
30 undertaking of any of its projects or school facilities projects to
31 change the location of any portion of any public highway, or road, it
32 may contract with any government agency, or public or private
33 corporation which may have jurisdiction over the public highway or
34 road to cause the public highway or road to be constructed at such
35 location as the authority shall deem most favorable. The cost of the
36 reconstruction and any damage incurred in changing the location of
37 the highway shall be ascertained and paid by the authority as a part of
38 the cost of the project or school facilities project. Any public highway
39 affected by the construction of any project or school facilities project
40 may be vacated or relocated by the authority in the manner now
41 provided by law for the vacation or relocation of public roads, and
42 any damages awarded on account thereof shall be paid by the
43 authority as a part of the cost of the project or school facilities project.

44 In all undertakings authorized by the subsection, the authority shall
45 consult and obtain the approval of the Commissioner of
46 Transportation.

1 b. In addition to the foregoing powers, the authority and its
2 authorized agents and employees may enter upon any lands, waters
3 and premises for the purpose of making surveys, soundings, drillings
4 and examinations as it may deem necessary or convenient for the
5 purposes of this act, all in accordance with due process of law, and
6 this entry shall not be deemed a trespass nor shall an entry for this
7 purpose be deemed an entry under any condemnation proceedings
8 which may be then pending. The authority shall make reimbursement
9 for any actual damages resulting to the lands, waters and premises as
10 a result of these activities.

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

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

39

40 56. Section 28 of P.L.1981, c.120 (C.52:18A-78.28) is amended
41 to read as follows:

42 28. a. The authority shall adopt rules and regulations to establish
43 an affirmative action program for the hiring of minority workers
44 employed in the performance of construction contracts undertaken in
45 connection with any of its projects and school facilities projects, and
46 to expand the business opportunities of socially and economically

1 disadvantaged contractors and vendors seeking to provide materials
2 and services for those contracts, consistent with the provisions of the
3 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.).
4 The authority shall provide for the proper enforcement and
5 administration of these rules and regulations.

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

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

12

13 57. Section 29 of P.L.1981, c.120 (C.52:18A-78.29) is amended
14 to read as follows:

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

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

23

24 58. Section 22 of P.L.1975, c.291 (C.40:55D-31) is amended to
25 read as follows:

26 22. a. Whenever the planning board shall have adopted any portion
27 of the master plan, the governing body or other public agency having
28 jurisdiction over the subject matter, before taking action necessitating
29 the expenditure of any public funds, incidental to the location,
30 character or extent of such project, shall refer the action involving
31 such specific project to the planning board for review and
32 recommendation in conjunction with such master plan and shall not act
33 thereon, without such recommendation or until 45 days have elapsed
34 after such reference without receiving such recommendation. This
35 requirement shall apply to action by a housing, parking, highway,
36 special district, or other authority, redevelopment agency, school
37 board or other similar public agency, State, county or municipal.

38 b. The planning board shall review and make recommendations
39 concerning any long-range facilities plan submitted to the board
40 pursuant to the "Educational Facilities Construction and Financing
41 Act," P.L. , c. (C.) (now pending before the Legislature
42 as this bill), for the purpose of review of the extent to which the long-
43 range facilities plan is informed by, and consistent with, the land use
44 and development proposals contained within the municipal master plan
45 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28) and
46 the anticipated impact of individual school facilities projects contained

1 in the plan on community development and redevelopment efforts and
2 plans in the municipality. Upon receipt of a long-range facilities plan
3 to be reviewed for this purpose, the planning board shall notify in
4 writing the Urban Coordinating Council established pursuant to
5 section 45 of P.L.1996, c.62 (C.55:19-60) and each public or private
6 development corporation and each community redevelopment entity
7 which is authorized to undertake projects in the municipality. The
8 planning board shall devote at least one full meeting of the board to
9 presentation and review of the long-range facilities plan prior to
10 adoption of a resolution setting forth the board's findings pursuant to
11 the "Educational Facilities Construction and Financing Act," P.L. ,
12 c. (C.) (now pending before the Legislature as this bill).
13 (cf: P.L.1975, c.291, s.22)

14

15 59. Section 46 of P.L.1996, c.62 (C.55:19-61) is amended to read
16 as follows:

17 46. The Urban Coordinating Council shall:

18 a. Ensure that State agencies coordinate responses and provide
19 assistance to projects and programs outlined in neighborhood
20 empowerment plans developed pursuant to section 49 of P.L.1996,
21 c.62 (C.55:19-64), and projects and programs established by the New
22 Jersey Redevelopment Authority, the New Jersey Economic
23 Development Authority, and development initiatives proposed by
24 municipal and county governments, including making available the
25 resources of the departments of the State in implementing those
26 programs;

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

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

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

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

44 f. Publish an annual report on the status of redevelopment activity
45 which shall describe the progress toward achieving the goals of this
46 act; [and]

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

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

13 i. Provide assistance to municipal planning boards in urban
14 development municipalities and in Level II districts pursuant to
15 P.L. , c. (C.) in their review of long-range facilities plans of
16 school districts;

17 j. Compile information and provide technical assistance to
18 municipal planning boards and community redevelopment entities in
19 urban development municipalities and in Level II districts respecting
20 State projects and programs which are of consequence for the planning
21 and financing of community development school projects in urban
22 development municipalities and in Level II districts ; and

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

26 (cf: P.L.1996, c.62, s.46.)

27
28 60. Section 4 of P.L.1997, c.264 (C.26:2H-18.58g) is amended to
29 read as follows:

30 4. Notwithstanding the provisions of any other law to the contrary,
31 commencing July 1, 1998: after the deposit required pursuant to
32 section 5 of P.L.1982, c.40 (C.54:40A-37.1), the first \$150,000,000
33 of revenue collected annually from the cigarette tax imposed pursuant
34 to P.L.1948, c.65 (C.54:40A-1 et seq.) and the first \$5,000,000 of
35 revenue collected annually from the "Tobacco Products Wholesale
36 Sales and Use Tax," P.L.1990, c.39 (C.54:40B-1 et seq.), shall be
37 deposited in to the Health Care Subsidy Fund established pursuant to
38 section 8 of P.L.1992, c.160 (C.26:2H-18.58); and the next
39 \$50,000,000 of revenue collected annually from the cigarette tax
40 imposed pursuant to P.L.1948, c.65 (C.54:40A-1 et seq.) shall be
41 [deposited in the School Construction and Renovation Fund as shall
42 be established by law] appropriated annually to the New Jersey
43 Education Facilities Authority for payment of debt service incurred by
44 the authority for school facilities construction purposes.

45 (cf: P.L.1997, c.264, s.4)

1 61. Section 4 of P.L.1966, c.30 (C.54:32B-4) is amended to read
 2 as follows:

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

8	Amount of Sale	Amount of Tax
9	\$0.01 to \$0.10	No Tax
10	0.11 to 0.22	\$0.01
11	0.23 to 0.38	0.02
12	0.39 to 0.56	0.03
13	0.57 to 0.72	0.04
14	0.73 to 0.88	0.05
15	0.89 to 1.10	0.06

16
 17 In addition to a tax of \$0.06 on each full dollar, a tax shall be
 18 collected on each part of a dollar in excess of a full dollar, in
 19 accordance with the above formula.

20 b. For charges paid by inserting coins into a coin operated
 21 telecommunications device available to the public the tax shall be
 22 computed to the nearest multiple of five cents of the tax otherwise due
 23 pursuant to subsection a. of this section, except that, if the amount of
 24 the tax is midway between multiples of five cents, the next higher
 25 multiple shall apply.

26 c. For the purpose of adding and collecting the sales and use tax at
 27 the rate imposed pursuant to section 63 of P.L. , c. (C.)
 28 (now pending before the Legislature as this bill) on and after August
 29 1 of a fiscal year in which a certification is made to the Director of the
 30 Division of Taxation pursuant to subsection b. of that section 63 of
 31 P.L. , c. (C.) (now pending before the Legislature as this
 32 bill), or an amount equal as nearly as possible or practicable to the
 33 average equivalent thereof, the director shall promulgate tax collection
 34 formulas for the purpose of collecting the tax for the rate established
 35 pursuant to that section 63 of P.L. , c. (C.) (now pending
 36 before the Legislature as this bill).

37 (cf: P.L.1993, c.10, s.2)

38
 39 62. Section 31 of P.L.1980, c.105 (C.54:32B-8.19) is amended to
 40 read as follows:

41 31. Receipts from sales of tangible personal property and services
 42 taxable under any municipal ordinance which was adopted pursuant to
 43 P.L.1947, c.71 (C.40:48-8.15 et seq.) and was in effect on April 27,

1 1966 are exempt from the tax imposed under the Sales and Use Tax
2 Act, subject to the following conditions:

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

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

16

17 63. (New section) a. The annual appropriations act for each State
18 fiscal year commencing with fiscal year 2001 shall appropriate and
19 distribute during the fiscal year the amount determined by the
20 Department of Education to be the amount of State debt service aid
21 determined pursuant to section 9 and 10 of P.L. , c. (C.)
22 (now pending before the Legislature as this bill) for the purposes of
23 those sections.

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

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

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

1 e. Any sales and use tax erroneously collected or paid at a rate of
2 6% instead of at a rate of 5% on receipts from sales or use within this
3 State on or after August 1 of that fiscal year through June 30 of that
4 fiscal year shall be subject to refund in the manner provided in section
5 20 of P.L.1966, c.30 (C.54:32B-20).

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

20
21 65. This act shall take effect immediately.

22
23
24 STATEMENT

25
26 This bill establishes a school facilities construction and financing
27 program. The program will be operated through the coordinated
28 efforts of the Department of Education, the New Jersey Building
29 Authority, and the New Jersey Educational Facilities Authority.

30 The school construction program is intended, not only to address
31 the facilities needs in the Abbott districts as directed by the New
32 Jersey Supreme Court, but also to provide a mechanism for the
33 funding and construction of school facilities throughout the State.
34 Through this coordinated effort, the Commissioner of Education will
35 be charged with reviewing the need for the facility and ensuring that
36 State funding is provided in accordance with that need, while the New
37 Jersey Educational Facilities Authority will provide the funding
38 mechanism for the construction of the facility through the issuance of
39 its bonds. The facilities authority has extensive experience in financing
40 the projects of institutions of higher education and under this bill
41 would expand its mission to include the funding of K-12 facilities. The
42 New Jersey Building Authority will provide construction management
43 and project oversight services for certain school districts which are
44 required under the bill to utilize the building authority to construct
45 their projects. The services of the building authority would also be
46 available to other school districts which want to take advantage of the

1 building authority's construction expertise and realize the economies
2 which the bulk construction activities of the building authority may
3 offer the district.

4 Under the bill's provisions, any district which wants to undertake a
5 school construction project would be required to apply to the
6 commissioner for approval of that project. The commissioner would
7 review the proposed project to determine if: a. it is consistent with
8 the district's long range facilities plan (required under a separate
9 section of the bill); and, b. it is consistent with the facilities efficiency
10 standards and area allowances per student derived from those
11 standards.

12 If the commissioner determines that the proposed project does
13 comply with both of the above, the commissioner calculates the
14 preliminary eligible costs of the project which are the costs on which
15 the district will be aided. The preliminary eligible costs for all school
16 construction projects, whether constructed by the building authority
17 or the district, will include State support of "soft costs" including site
18 acquisition, site development, issuance costs, legal fees, and fees for
19 professional services. The commissioner does have the option of
20 approving area allowances in excess of those derived from the facilities
21 efficiency standards if the board of education demonstrates that
22 required programs cannot be addressed within the standards and that
23 all other proposed spaces are consistent with those standards. One
24 exception to this procedure is in the case of county special services
25 school districts and county vocational school districts. For those
26 districts the preliminary eligible costs will equal the amount
27 determined by the district's board of school estimate and approved by
28 the board of chosen freeholders. This exception recognizes the fact
29 that these districts often require unique classrooms to accommodate
30 the populations they serve and the programs they offer. Also the bill
31 requires the commissioner to approve area allowances in excess of
32 those derived from the facilities efficiency standards if the additional
33 allowances are necessary to accommodate centralized facilities to be
34 shared among two or more school buildings in the district and the
35 centralized facilities represent a more cost effective alternative.

36 If the commissioner determines that the project is not consistent
37 with both the area allowances and facilities efficiency standards and
38 does not approve any additions to those factors, then he will notify the
39 district of that fact. The district then has the choice of either
40 modifying its project so that it meets the facilities efficiency standards
41 or paying for the excess cost of the project on its own.

42 Following the approval of the project and the determination of
43 preliminary eligible costs, the bill outlines the finance and construction
44 options for the project depending on the type of school district.

45 The bill also includes provisions to ensure that in certain urban
46 communities, the construction and renovation of school facilities is

1 coordinated with the local redevelopment efforts which may be
2 occurring within the community. The bill establishes a mechanism
3 whereby a redevelopment project undertaken by a local redevelopment
4 entity which contains a school facilities project may be designated a
5 community development school project and the school could then be
6 constructed as part of the larger redevelopment project by a
7 community redevelopment entity. The procedures for the approval of
8 community development school projects would incorporate some of
9 the elements described above for the approval of school facilities
10 projects; however there would be some additions to those procedures
11 as well.

12

13 **Community Development School Projects**

14

15 Any school district located in an urban municipality which qualifies
16 for assistance from the Urban Coordinating Council or any district
17 which is in Level II monitoring on the bill's effective date will be
18 required to submit its long-range facilities plan to the planning board
19 of the municipality for the board's review and recommendations on
20 the community development impact of individual school facilities
21 projects contained within the plan. The municipal planning board will
22 have 90 days to conduct its review. The Commissioner of Education
23 may not approve the district's long-range facilities plan unless the plan
24 includes a resolution of the municipal planning board reviewed by the
25 Urban Coordinating Council which contains the board's findings on the
26 impact of the school facilities projects included in the plan on the
27 community development and redevelopment efforts of the municipality
28 and the recommendations of the board for undertaking a school
29 facilities project as a community development school project as part
30 of those efforts. The commissioner may, however, approve a long-
31 range facilities plan if the 90-day period for planning board review has
32 expired and the planning board has failed to adopt the required
33 resolution.

34 On the first business day following adoption of the required
35 resolution, the planning board must transmit copies of the long-range
36 facilities plan and the resolution to the Urban Coordinating Council
37 and to the commissioner. The council is currently composed of the
38 chief officers of each department of the executive branch, including
39 the Commissioner of Education, as well as the executive directors of
40 the State authorities engaged in planning and redevelopment efforts.

41 A school district and municipality may request that the council
42 designate as a community development school project a school
43 facilities project contained in its long-range facilities plan for which the
44 planning board adopted a resolution. The request must set forth: (1)
45 a project plan for carrying out the redevelopment project as a whole,
46 including the construction of the school facility; (2) the name of the

1 community redevelopment entity to undertake the project; and (3) a
2 description of how the project fits into a redevelopment plan adopted
3 or to be adopted by the municipal governing body.

4 The bill establishes criteria to be used by the Urban Coordinating
5 Council to designate a community development school project and
6 provides that such designation will entitle the municipality to higher
7 priority for receipt of State assistance for the project such as
8 demolition grants or loans and financing assistance from State agencies
9 or authorities. With the agreement of the district and the municipality,
10 the council may designate the building authority as the redevelopment
11 entity to undertake the community development school project. This
12 designation would be made if the council determines that neither the
13 community redevelopment entity proposed by the district and
14 municipality or any other redevelopment entity authorized to
15 undertake redevelopment projects in the municipality is financially
16 capable to undertake the community development school project, or
17 possesses appropriate experience in undertaking similar projects. In
18 the event that the building authority is so designated, the bill
19 authorizes the authority to operate under the "Local Redevelopment
20 and Housing Law," P.L.1992, c.79 (C.40A:12A-1 et seq.).

21 The facilities authority would provide funding for the State's share
22 of the final eligible costs of the community development school
23 project to the community redevelopment entity. Prior to the provision
24 of funding, the building authority would review the preliminary eligible
25 costs of the school facilities project and certify to the commissioner
26 and to the Urban Coordinating Council any increase or other
27 adjustment necessary to permit the school facilities project to be
28 constructed in a manner conducive to the success of the project.
29 Funding would be provided to the community redevelopment entity
30 pursuant to an agreement among the facilities authority, the
31 community redevelopment entity, and the State Treasurer which would
32 set forth the terms for disbursement of the State share of the project
33 and provide for the monitoring of construction by the State.

34 Also, a community development school project may make a request
35 to the council for inclusion in the final eligible costs of the school
36 facilities project of all or any portion of the cost of any community
37 design features which are to be used in common by the students of the
38 district and the residents of the community. The council would
39 approve that request if it found that the additional funding would be
40 conducive to the usefulness and success of the project for both
41 students and residents of the community.

42 Under the bill's provisions, districts other than urban development
43 municipalities and Level II districts may also submit their long-range
44 facilities plans to the municipal planning board, although they are not
45 required to do so, and may have school facilities projects designated
46 as community development school projects.

1 **Abbott Districts, Level II Districts, and Districts with a State Aid**
2 **Percentage of 50% or Greater**

3
4 Abbott districts will be required to use the building authority,
5 except as described above, for the construction of school facilities
6 projects and will have 100% of their approved costs paid by the State
7 through facilities authority financing. Districts in level II monitoring
8 and districts which have a State support ratio equal to or greater than
9 50%, except as described above, will also be required to use the
10 building authority for the construction of school facilities projects.
11 The State will fund an amount of the approved project costs equal to
12 115% of the district's State support ratio through the issuance of
13 facilities authority bonds.

14 For these groups of districts, once the commissioner determines the
15 project's preliminary eligible costs as previously described, the
16 commissioner submits to the building authority a preliminary project
17 report which describes the project, its preliminary eligible costs, and
18 its priority ranking. Upon review of the report, and in consultation
19 with the district, the building authority will prepare plans and
20 specifications which contain its estimate of the cost to complete the
21 project. The building authority then transmits to the commissioner its
22 recommendation on whether the project can be completed within the
23 preliminary eligible costs.

24 If the authority determines that the project can be completed within
25 the preliminary eligible costs, then the commissioner calculates the
26 project's final eligible costs and issues a final project report to the
27 building authority. If the building authority determines that the project
28 cannot be completed within the preliminary eligible costs, then prior
29 to making its recommendation to the commissioner, and in
30 consultation with the district, the building authority determines if
31 changes can be made to the project which will result in a reduction in
32 cost while still meeting the school facilities efficiency standards. If
33 that reduction is possible, then the building authority notifies the
34 commissioner of that fact and the commissioner calculates the final
35 eligible costs of the project to include the recommended changes and
36 issues a final project report to the building authority. If the building
37 authority determines that it is not possible to make such changes to the
38 project either because the additional costs are outside of the control
39 of the district or the additional costs are required to meet the facilities
40 efficiency standards, then the building authority will recommend to the
41 commissioner that the cost of the project be increased. The
42 commissioner will calculate the final eligible project costs to include
43 the additional costs recommended by the building authority and will
44 issue a final project report to the building authority.

45 If the building authority determines that the additional costs are the
46 result of factors which are within the control of the district or are the

1 result of design factors which are not required to meet the facilities
2 efficiency standards, the building authority will recommend to the
3 commissioner that the preliminary eligible costs be accepted. The
4 commissioner will then calculate the project's final eligible costs and
5 the project report which he issues will detail any excess costs which
6 are to be borne by the district. The bill does stipulate, however, that
7 despite the building authority's recommendation, the commissioner
8 may approve final eligible costs which are in excess of preliminary
9 eligible costs if the commissioner believes that approval is necessary
10 to meet the educational needs of the district.

11 For any project constructed by the building authority, the building
12 authority will be responsible for any costs of construction which
13 exceed the amount originally projected and approved for financing if
14 the excess is the result of an underestimate of labor and materials. The
15 district will be responsible only for the costs associated with changes,
16 if any, made at the request of the district to the scope of the school
17 facilities project.

18

19 **Districts with a State Aid Percentage of Less Than 50%**

20

21 A district which has a State support ratio of less than 50% has the
22 option of constructing the project on its own or using the services of
23 the New Jersey Building Authority to construct the project and the
24 New Jersey Educational Facilities Authority to finance the project. If
25 the district determines to handle the project on its own, then the
26 district will receive debt service aid on the preliminary eligible costs of
27 the project as determined by the commissioner. The debt service aid
28 will be calculated using the product of the district's State support ratio
29 (the percentage of its T&E budget which is supported by core
30 curriculum standards aid) and 1.15 as of the date of the commissioner's
31 determination of the preliminary eligible costs; however, even districts
32 which do not qualify for core curriculum standards aid will be aided at
33 a minimum of 10% of approved costs. The calculation of State
34 support at a fixed point in time differs from the current debt service
35 aid formula in which the State support ratio is recalculated annually
36 based on the level of core curriculum standards aid support in each
37 budget year.

38 In the case of a district which is building a school facilities project
39 on its own, the district may appeal to the commissioner for an increase
40 in the preliminary eligible costs if the detailed plans and specifications
41 completed by a design professional for the project indicate that the
42 cost of constructing that portion of the project which is consistent
43 with the facilities efficiency standards and does not exceed the area
44 allowances per FTE student exceeds the preliminary eligible costs as
45 determined by the commissioner by 10% or more. The district must
46 file its appeal within 30 days of the preparation of the plans and

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

21 The debt service aid for districts which construct projects on their
22 own will be subject to reduction if the district fails to meet the
23 maintenance requirements outlined in the bill (maintenance
24 requirements for a district which uses the building authority to
25 construct the project will be established in a contract between the
26 district and the building authority). To receive aid for an improvement
27 or addition to an existing facility, a district will be required, beginning
28 ten years following the bill's enactment, to demonstrate a net
29 investment in maintenance over the ten years preceding the issuance
30 of the financing for the improvement or addition of 2% of what the
31 facility's replacement cost was ten years prior. Also, in order to
32 continue to be eligible for full debt service aid for bonds issued for
33 projects approved following the bill's effective date, a district will be
34 required to demonstrate, beginning in the fourth year after occupancy
35 of the facility, an annual investment in maintenance of at least two-
36 tenths of 1% of the facility's replacement cost. The bill establishes a
37 sliding scale reduction in aid for lesser investments.

38 The bill also includes a provision which authorizes a district with a
39 State aid percentage of less than 50% to enter into an agreement with
40 a county, municipality, other political entity, or public agency
41 authorized to construct a school facilities project to undertake the
42 design, planning, and construction of a school facilities project,
43 provided that the entity is subject to the "Local Public Contracts Law,"
44 the "Local Redevelopment and Housing Law," or the "Public School
45 Contracts Law."

46 In order to ensure that the debt service aid provided under the bill

1 is fully funded each year, the bill specifies that if the annual
2 appropriations act does not appropriate the amount determined to be
3 sufficient, the sales tax rate will be reduced from 6% to 5%. This
4 provision is a strong disincentive to underfund debt service aid
5 because the reduction in State sales tax revenue would be greater than
6 the cost of the debt service aid.

7

8 **School Facilities Project Revolving Loan Fund**

9

10 A district with a State share percentage of less than 50% also has
11 the option of financing a school facilities project through the School
12 Facilities Project Revolving Loan Fund established under the bill. The
13 New Jersey Educational Facilities Authority will issue \$1 billion in
14 bonds to finance the fund and the bond proceeds will be used to
15 provide loans only to such districts. The amount of loans that may be
16 made in the first fiscal year may not exceed \$400,000,000, in the
17 second fiscal year, \$300,000,000, and in the third fiscal year,
18 \$200,000,000. A 2% loan rate will be available on loans up to the
19 amount of the final eligible costs of the project as approved by the
20 commissioner. The loan will be secured by local unit obligations. In
21 the event that the dollar value of loan applications in any fiscal year
22 exceeds the amount of loan funds available, the facilities authority may
23 apportion the loan funds among eligible school facilities projects to
24 finance such percentage of each project's final eligible costs as
25 determined by the State Treasurer, and the district will be eligible to
26 receive State debt service aid on that portion of the school facilities
27 project's final eligible costs for which loan funds are not available.
28 Districts will be eligible to receive more than one loan. The bill
29 establishes a priority ranking for receipt of loan funds based on the
30 critical need for the project.

31

32 **Refinancing of Existing Debt**

33

34 In addition to the loans authorized to be made from the School
35 Facilities Project Revolving Loan Fund, the bill authorizes the
36 facilities authority to make loans to local units to finance all or a
37 portion of the cost of a school facilities project. Loans could also be
38 made to refund obligations of a local unit which were previously
39 issued to provide funds to pay for the cost of a school facilities
40 project. These loans will be made pursuant to terms and conditions
41 determined by the facilities authority and will be secured by local unit
42 obligations.

43

44 **State Aid for Projects Approved Prior to the Bill's Effective Date**

45

46 The debt service costs for each issuance of bonds or lease purchase

S200 GORMLEY, LYNCH

91

1 arrangements for projects approved by the commissioner prior to the
2 bill's effective date will be supported by the State at the district's State
3 support ratio. That ratio will be recalculated for each budget year
4 during the life of the issuance as is currently the case.