

[Second Reprint]

ASSEMBLY, No. 4336

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED JUNE 14, 2007

Sponsored by:

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

Assemblyman WILFREDO CARABALLO

District 29 (Essex and Union)

Assemblywoman NELLIE POU

District 35 (Bergen and Passaic)

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District 19 (Middlesex)

Assemblyman GARY S. SCHAEER

District 36 (Bergen, Essex and Passaic)

Co-Sponsored by:

Assemblyman Steele, Assemblywomen Truitt, Oliver, Assemblymen Albano, Fisher, Conaway, Conners, Epps, Senators Doria, Turner, Girgenti and Sweeney

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the Senate on June 21, 2007.

(Sponsorship Updated As Of: 6/22/2007)

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

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

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

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

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

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

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

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

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted June 14, 2007.

²Senate floor amendments adopted June 21, 2007.

1 and the Department of Education resulted in a prioritization of
2 projects to be completed with remaining funds.

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

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

17 h. The initiatives provided herein implement the
18 recommendations of the Interagency Working Group on School
19 Construction with regard to the creation of a new school
20 construction authority and the undertaking of projects for and by
21 Abbott districts so as to ensure that the agency undertaking the
22 school construction program has adequate internal controls,
23 processes, and procedures to undertake additional school facilities
24 projects ¹; and the initiatives also provide opportunities for the
25 Abbott districts, the public, and stakeholders to provide input
26 during the various phases of the construction of school facilities
27 projects¹.

28

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

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

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

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

47 "Local unit" means a county, municipality, board of education or
48 any other political entity authorized to construct, operate and

1 maintain a school facilities project and to borrow money for those
2 purposes pursuant to law;

3 "Other facilities" means athletic stadiums, swimming pools, any
4 associated structures or related equipment tied to such facilities
5 including, but not limited to, grandstands and night field lights,
6 greenhouses, facilities used for non-instructional or non-educational
7 purposes, and any structure, building or facility used solely for
8 school administration;

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

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

25

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

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

46 c. Each public member shall serve for a term of five years and
47 shall hold office for the term of the member's appointment and until
48 the member's successor shall have been appointed and qualified. A

1 member shall be eligible for reappointment. Any vacancy in the
2 membership occurring other than by expiration of term shall be
3 filled in the same manner as the original appointment but for the
4 unexpired term only.

5 In the case of the first 11 public members appointed, three shall
6 serve for a term of two years, three shall serve for a term of three
7 years, three shall serve for a term of four years, and two shall serve
8 for a term of five years.

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

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

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

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

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

9 i. The development authority shall appoint from among its
10 members an audit committee and such other committees as it deems
11 necessary or conducive to the efficient management and operation
12 of the development authority.

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

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

31 l. The development authority shall cause an audit of its books
32 and accounts to be made at least once in each year by certified
33 public accountants and cause a copy thereof to be filed with the
34 Secretary of State ²~~and~~ ² the Director of the Division of Budget
35 and Accounting in the Department of the Treasury ², and the State
36 Auditor².

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

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

1 o. No member, officer, employee or agent of the development
2 authority shall be interested, either directly or indirectly, in any
3 school facilities project, or in any contract, sale, purchase, lease or
4 transfer of real or personal property to which the development
5 authority is a party.

6
7 4. (New section) The development authority shall have the
8 following powers:

9 a. To adopt bylaws for the regulation of its affairs and the
10 conduct of its business;

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

12 c. To sue and be sued;

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

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

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

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

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

38 i. To contract for and to accept any gifts or grants or loans of
39 funds or property or financial or other aid in any form from the
40 United States of America or any agency or instrumentality thereof,
41 or from the State or any agency, instrumentality or political
42 subdivision thereof, or from any other source and to comply,
43 subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 with the terms and conditions thereof;

46 j. In connection with any application for assistance under
47 P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L. , c. (C.) (pending
48 before the Legislature as this bill) or commitments therefor, to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 d. In carrying out any school facilities project, the development
48 authority may enter into contractual agreements with local

1 government agencies with respect to the furnishing of any
2 community, municipal, or public facilities or services necessary or
3 desirable for the school facilities project, and any local government
4 agency may enter into these contractual agreements with the
5 authority and do all things necessary to carry out its obligations.

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

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

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

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

44 c. Contracts shall be awarded as follows: (1) if bids are
45 received in accordance with paragraph (1) of subsection b. of this
46 section, the development authority shall determine the responsible
47 bidder for each branch whose bid, conforming to the invitation for
48 bids, will be most advantageous to the development authority, price

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

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

44 e. The development authority shall require from all contractors
45 to which it awards contracts pursuant to P.L.2000, c.72 (C.18A:7G-
46 1 et al.) and P.L. , c. (C.) (pending before the Legislature as
47 this bill), the delivery of a payment and performance bond issued in
48 accordance with N.J.S.2A:44-143 et seq.

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

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

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

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

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

42 j. Any purchase, contract, or agreement may be made,
43 negotiated, or awarded by the development authority without public
44 bid or advertising when the authority has advertised for bids on two
45 occasions and has received no bids on both occasions in response to
46 its advertisements. Any purchase, contract, or agreement may be
47 negotiated by the development authority after public bid or
48 advertising when the authority receives only a single responsive

1 bid, provided however that negotiation with that single responsive
2 bidder shall be limited to price.

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

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

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

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

13

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

29

30 12. (New section) All property of the development authority
31 shall be exempt from levy and sale by virtue of an execution and no
32 execution or other judicial process shall issue against the same nor
33 shall any judgment against the development authority be a charge or
34 lien upon its property.

35

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

42 b. Whenever, in any law, rule, regulation, order, contract,
43 document, judicial or administrative proceeding or otherwise,
44 reference is made to the New Jersey Schools Construction
45 Corporation, the same shall mean and refer to the New Jersey
46 Schools Development Authority in, but not of, the Department of
47 the Treasury.

1 c. This transfer shall be subject to the provisions of the “State
2 Agency Transfer Act,” P.L.1971, c.375 (C.52:14D-1 et seq.).
3

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

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

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

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

46 16. (New section) a. Whenever the board of education of an
47 Abbott district submits to the New Jersey Schools Development
48 Authority established pursuant to P.L. , c. (C.) (pending

1 before the Legislature as this bill) information on a proposed
2 preferred site for the construction of a school facilities project, the
3 development authority shall file a copy of a map, plan or report
4 indicating the proposed preferred site with the county clerk of the
5 county within which the site is located and with the municipal clerk,
6 planning board, and building inspector of the municipality within
7 which the site is located.

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

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

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

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

46
47 17. (New section) Notwithstanding any provision of
48 P.L. , c. (C.) (pending before the Legislature as this bill) to

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

12
13 18. Section 3 of P.L.2000, c.72 (C.18A:7G-3) is amended to
14 read as follows:

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

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

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

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

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

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

45 "Capital maintenance project" means a school facilities project
46 intended to extend the useful life of a school facility, including up-

1 grades and replacements of building systems, such as structure,
2 enclosure, mechanical, plumbing and electrical systems;

3 "Commissioner" means the Commissioner of Education;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 "State debt service aid" means for school bonds issued for school
47 facilities projects approved by the commissioner after the effective

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

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

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

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

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

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

35
36 19. Section 4 of P.L.2000, c.72 (C.18A:7G-4) is amended to
37 read as follows:

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

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

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

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

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

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

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

46 g. Each district shall submit the long-range facilities plan to the
47 planning board of the municipality or municipalities in which the
48 district is situate for the planning board's review and findings and

1 the incorporation of the plan's goals and objectives into the
2 municipal master plan adopted by the municipality pursuant to
3 section 19 of P.L.1975, c.291, (C.40:55D-28).

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

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

44 Within a reasonable period of time after the effective date of
45 P.L.2000, c.72 (C.18A:7G-1 et al.), the commissioner shall publish
46 the facilities efficiency standards developed for the 2000-2001,
47 2001-2002, and 2002-2003 school years in the New Jersey Register.
48 Within a reasonable period of time after 30 days after publication in

1 the New Jersey Register, the commissioner shall file the facilities
2 efficiency standards with the Office of Administrative Law and
3 those standards shall become effective immediately upon filing with
4 the Office of Administrative Law. During the 30-day period the
5 commissioner shall provide an opportunity for public comment on
6 the proposed facilities efficiency standards.

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

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

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

43 l. By July 1, 2001, the commissioner shall provide the
44 Legislature with recommendations to address the circumstances of
45 districts which are contiguous with two or more Abbott districts.
46 The recommendations shall address the issues of the financing of
47 school facilities projects and the funding of the educational and

1 other programs required within these districts as a result of their
2 unique demographic situation.

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

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

12
13 20. Section 5 of P.L.2000, c.72 (C.18A:7G-5) is amended to
14 read as follows:

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

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

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

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

1 calculated pursuant to section 8 of this act; and the estimated cost to
2 complete the project as determined by the district.

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

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

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

1 the case of an Abbott district, the commissioner shall calculate the
2 preliminary eligible costs to equal the estimated cost as determined
3 by the development authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42

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

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

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

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

7 where

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19
20 26. Section 15 of P.L.2000, c.72 (C.18A:7G-15) is amended to
21 read as follows:

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

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

39
40 27. Section 16 of P.L.2000, c.72 (C.18A:7G-16) is amended to
41 read as follows:

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

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

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

26
27 28. Section 17 of P.L.2000, c.72 (C.18A:7G-17) is amended to
28 read as follows:

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

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

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

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

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

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

17
18 30. Section 19 of P.L.2000, c.72 (C.18A:7G-19) is amended to
19 read as follows:

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

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

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

45
46 31. Section 20 of P.L.2000, c.72 (C.18A:7G-20) is amended to
47 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 24. The [commissioner] development authority, in consultation
29 with the State Treasurer, the financing authority, and the
30 commissioner, shall [annually] biannually submit to the Governor,
31 the Joint Budget Oversight Committee, the President of the Senate
32 and the Speaker of the General Assembly a report on the school
33 facilities construction program established pursuant to the
34 provisions of this act. The report shall be submitted no later than
35 [August 1] ¹[January 15 and July 15] June 1 and December 1¹ of
36 each year and shall include, but not be limited to, the following
37 information for the prior [fiscal year] six-month period: the number
38 of school facilities projects approved by the commissioner pursuant
39 to section 5 of this act; the number of projects [constructed]
40 undertaken and funded by the development authority [and the
41 amount of time that it has taken the authority to complete those
42 projects]; the aggregate principal amount of bonds, notes or other
43 obligations issued by the financing authority for the State share of
44 construction and renovation of school facilities and whether there is
45 a need to adjust the aggregate principal amount of bonds, notes or
46 other obligations authorized for issuance pursuant to subsection a.
47 of section 14 of this act; [the number of projects constructed by

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

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

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

19
20 36. Section 26 of P.L.2000, c.72 (C.18A:7G-26) is amended to
21 read as follows:

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

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

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

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

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

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

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

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

32
33 38. Section 59 of P.L.2000, c.72 (C.18A:7G-33) is amended to
34 read as follows:

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

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

- 43 (1) plumbing and gas fitting and all work and materials kindred
44 thereto;
45 (2) steam and hot water heating and ventilating apparatus, steam
46 power plants and all work and materials kindred thereto;
47 (3) electrical work; and
48 (4) structural steel and miscellaneous iron work and materials.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (1) a trade or work classification; and

43 (2) an aggregate rating limit.

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

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

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

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

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

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

18

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

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

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

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

30

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

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

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

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

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

43

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

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

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

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

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

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

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

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

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

30
31 44. N.J.S.18A:20-5 is amended to read as follows:

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

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

44
45 45. N.J.S.18A:20-8 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

13

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

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

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

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

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

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

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

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

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

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

19 The statement of additional costs in any ballot question and in
20 any explanatory statement that accompanies a ballot question shall
21 describe the additional costs as follows: "This project includes
22 \$(insert amount) for school facility construction elements in
23 addition to the facilities efficiency standards developed by the
24 Commissioner of Education."
25 (cf: P.L. 2000, c.72, s.42)
26

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

29 2. The Legislature hereby finds and determines that:

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

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

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

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

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

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

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

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

11 The Legislature further finds and determines that:

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

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

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

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

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

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

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

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

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

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

9 "County" means any county of any class.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8
9 53. Section 5 of P.L.1974, c.80 (C.34:1B-5) is amended to read
10 as follows:

11 5. The authority shall have the following powers:

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

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

15 c. To sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 bb. To make and contract to make loans [or leases and to make
2 grants] to local units to finance the cost of school facilities projects
3 and to acquire and contract to acquire bonds, notes or other
4 obligations issued or to be issued by local units to evidence the
5 loans [or leases], all in accordance with the provisions of P.L.2000,
6 c.72 (C.18A:7G-1 et al.), and P.L. , c. (C.) (pending before
7 the Legislature as this bill);

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

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

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

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

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

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

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

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

36

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

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

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

11
12 55. Section 4 of P.L.1979, c.303 (C.34:1B-5.4) is amended to
13 read as follows:

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

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

33
34 56. Section 50 of P.L.2000, c.72 (C.34:1B-5.5) is amended to
35 read as follows:

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

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

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

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

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

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

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

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

13

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

16 19. Preparation; contents; modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (11) Appendices or separate reports containing the technical
2 foundation for the master plan and its constituent elements;

3 (12) A recycling plan element which incorporates the State
4 Recycling Plan goals, including provisions for the collection,
5 disposition and recycling of recyclable materials designated in the
6 municipal recycling ordinance, and for the collection, disposition
7 and recycling of recyclable materials within any development
8 proposal for the construction of 50 or more units of single-family
9 residential housing or 25 or more units of multi-family residential
10 housing and any commercial or industrial development proposal for
11 the utilization of 1,000 square feet or more of land;

12 (13) A farmland preservation plan element, which shall include:
13 an inventory of farm properties and a map illustrating significant
14 areas of agricultural land; a statement showing that municipal
15 ordinances support and promote agriculture as a business; and a
16 plan for preserving as much farmland as possible in the short term
17 by leveraging monies made available by P.L.1999, c.152 (C.13:8C-
18 1 et al.) through a variety of mechanisms including, but not limited
19 to, utilizing option agreements, installment purchases, and
20 encouraging donations of permanent development easements; **[and]**

21 (14) A development transfer plan element which sets forth the
22 public purposes, the locations of sending and receiving zones and
23 the technical details of a development transfer program based on the
24 provisions of section 5 of P.L.2004, c.2 (C.40:55D-141); and

25 (15) An educational facilities plan element which incorporates
26 the purposes and goals of the "long-range facilities plan" required to
27 be submitted to the Commissioner of Education by a school district
28 pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4).

29 c. The master plan and its plan elements may be divided into
30 subplans and subplan elements projected according to periods of
31 time or staging sequences.

32 d. The master plan shall include a specific policy statement
33 indicating the relationship of the proposed development of the
34 municipality, as developed in the master plan to (1) the master plans
35 of contiguous municipalities, (2) the master plan of the county in
36 which the municipality is located, (3) the State Development and
37 Redevelopment Plan adopted pursuant to the "State Planning Act,"
38 sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.)
39 and (4) the district solid waste management plan required pursuant
40 to the provisions of the "Solid Waste Management Act," P.L.1970,
41 c.39 (C.13:1E-1 et seq.) of the county in which the municipality is
42 located.

43 In the case of a municipality situated within the Highlands
44 Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the
45 master plan shall include a specific policy statement indicating the
46 relationship of the proposed development of the municipality, as
47 developed in the master plan, to the Highlands regional master plan

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

3

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

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

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

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

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

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

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

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

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

35

36 61. The following sections are repealed:

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

39

40 62. This act shall take effect immediately.