

## CHAPTER 311

**AN ACT** concerning the construction of school facilities projects, supplementing P.L.2000, c.72 (18A:7G-1 et al.), chapter 18A of Title 18A of the New Jersey Statutes, P.L.1995, c.426 (C.18A:36A-1 et seq.), and P.L.1974, c.80 (C.34:1B-1 et seq.), and amending various parts of the statutory law.

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

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

C.18A:7G-2 Findings, declarations relative to construction, financing of public school facilities.

2. The Legislature finds and declares that:

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

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

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

- d. While providing that the educational infrastructure meets the requirements of a thorough and efficient education, the State must also protect the interests of taxpayers who will bear the burden of this obligation. Design of school facilities should incorporate maximum operating efficiencies and new technologies to advance the energy efficiency of school facilities and the efficiency of other school building systems, construction should be achieved in as efficient a manner as possible while also ensuring that public funds spent on the construction of school facilities support a skilled workforce compensated at dignified wages, and a mechanism to assure proper maintenance of new facilities should be established and implemented, in order to reduce the overall cost of the program and to preserve this infrastructure investment.

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

C.18A:7G-3 Definitions relative to construction, financing of public school facilities.

3. As used in sections 1 through 30 and 57 through 71 of P.L.2000, c.72 (C.18A:7G-1 et al.), sections 14 through 17 of P.L.2007, c.137 (C.18A:7G-45 through C.18A:7G-48), and sections 5, 7, 12, 15, and 19 through 21 of P.L.2023, c.311 (C.18A:7G-5b et al.), unless the context clearly requires a different meaning:

"Area cost allowance" means \$138 per square foot for the school year 2000-2001 and shall be inflated by an appropriate cost index for the 2001-2002 school year. For the 2002-2003 school year and subsequent school years, the area cost allowance shall be established by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The area cost allowance used in determining preliminary eligible costs of school facilities projects shall be that of the year of application for approval of the project;

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

"Commissioner" means the Commissioner of Education;

"Core curriculum content standards" means the standards established pursuant to the provisions of subsection a. of section 4 of P.L.2007, c.260 (C.18A:7F-46);

"Cost index" means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to regulations promulgated by the development authority pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

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

"Demonstration project" means a school facilities project selected by the State Treasurer for construction by a redevelopment entity pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Development authority" means the New Jersey Schools Development Authority established pursuant to section 3 of P.L.2007, c.137 (C.52:18A-237);

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

"District aid percentage" means the number expressed as a percentage derived from dividing the district's equalization aid calculated pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53) as of the date of the commissioner's determination of preliminary eligible costs by the district's adequacy budget calculated pursuant to section 9 of P.L.2007, c.260 (C.18A:7F-51) as of the date of the commissioner's determination of preliminary eligible costs;

"Excess costs" means the additional costs, if any, which shall be borne by the district, of a school facilities project which result from design factors that are not required to meet the facilities efficiency standards and not approved pursuant to paragraph (1) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5) or are not authorized as community design features included in final eligible costs pursuant to subsection c. of section 6 of P.L.2000, c.72 (C.18A:7G-6);

"Facilities efficiency standards" means the standards developed by the commissioner pursuant to subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Final eligible costs" means for school facilities projects to be constructed by the development authority, the final eligible costs of the school facilities project as determined by the commissioner, in consultation with the development authority, pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); for demonstration projects, the final eligible costs of the project as determined by the commissioner and reviewed by the development authority which may include the cost of community design features determined by the commissioner to be an integral part of the school facility and which do not exceed the facilities efficiency standards, and which were reviewed by the development authority and approved by the State Treasurer pursuant to section 6 of P.L.2000, c.72 (C.18A:7G-6); and for districts other than SDA districts, final eligible costs as determined pursuant to paragraph (1) of subsection h. of section 5 of P.L.2000, c.72 (C.18A:7G-5);

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

"FTE" means a full-time equivalent student which shall be calculated as follows: each student in grades 1 through 12 shall be counted at 100 percent of the actual count of students, in the case of districts which operate a half-day kindergarten program each kindergarten student shall be counted at 50 percent of the actual count of kindergarten students, in the case of districts which operate a full-day kindergarten program or which currently operate a half-day kindergarten program but propose to build facilities to house a full-day kindergarten program each kindergarten student shall be counted at 100 percent of the actual count of kindergarten students, and each preschool student who is enrolled in a full-day preschool program pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54) shall be counted at 100 percent of the actual count of preschool students. In addition, each preschool disabled child who is entitled to receive a full-time program pursuant to N.J.S.18A:46-6 shall be counted at 100 percent of the actual count of these students in the district;

"Functional capacity" means the number of students that can be housed in a building in order to have sufficient space for it to be educationally adequate for the delivery of programs and services necessary for student achievement of the core curriculum content standards. Functional capacity is determined by dividing the existing gross square footage of a school building by the minimum area allowance per FTE student pursuant to subsection b. of section 8 of P.L.2000, c.72 (C.18A:7G-8) for the grade level students contained therein. The difference between the projected enrollment determined pursuant to subsection a. of section 8 of P.L.2000, c.72 (C.18A:7G-8) and the functional capacity is the unhoused students that are the basis upon which the additional costs of space to provide educationally adequate facilities for the entire projected enrollment are determined. The existing gross square footage for the purposes of defining functional capacity is exclusive of existing spaces that are not contained in the facilities efficiency standards but which are used to deliver programs and services aligned to the core curriculum content standards, used to provide support services directly to students, or other existing spaces that the district can demonstrate would be structurally or fiscally impractical to convert to other uses contained in the facilities efficiency standards;

“‘Kit of Parts’ standardized school design elements” means the prototypical design utilizing standardized Modern Building Component Elements, Model Educational Specifications, and Model Program Templates created by the development authority for the efficient, adaptable, and scalable organization and configuration of instructional, large group assembly, and other elements within a school facilities project;

"Lease purchase payment" means and includes payment of principal and interest for lease purchase agreements in excess of five years approved pursuant to subsection (f) of N.J.S.18A:20-4.2 prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) to finance the purchase or construction of school facilities, additions to school facilities, or the

reconstruction, remodeling, alteration, modernization, renovation or repair of school facilities, including furnishings, equipment, architect fees and issuance costs. Approved lease purchase agreements in excess of five years shall be accorded the same accounting treatment as school bonds;

"Local share" means, in the case of a school facilities project to be constructed by the development authority, the total costs less the State share as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the total costs less the State share as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project which shall be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total costs less the State share as determined pursuant to that section;

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

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

"Long-range facilities plan" means the plan required to be submitted to the commissioner by a district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

"Maintenance" means expenditures which are approved for repairs and replacements for the purpose of keeping a school facility open and safe for use or in its original condition, including repairs and replacements to a school facility's heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition. Maintenance shall not include capital maintenance or contracted custodial or janitorial services, expenditures for the cleaning of a school facility or its fixtures, the care and upkeep of grounds or parking lots, and the cleaning of, or repairs and replacements to, movable furnishings or equipment, or other expenditures which are not required to maintain the original condition over the school facility's useful life. Approved maintenance expenditures shall be as determined by the commissioner pursuant to regulations to be adopted by the commissioner pursuant to section 26 of P.L.2000, c.72 (C.18A:7G-26);

"Materials and Systems Standards" means the development authority's "Materials and Systems Standards Manual" and "Construction Details Manual," which are:

intended to implement standardized designs in support of repeatable, durable, and cost-effective construction of school facilities projects;

comprised of "Design Requirements" prescribing the approved standards for selection of materials, systems, and equipment to be incorporated into a school facilities project; and

comprised of "Construction Details" containing standardized construction details for the construction of school facilities projects.

"Model Building Component Elements" means the development of standardized prototypical model room layouts for instructional, large group, and core component building elements;

"Model Educational Specifications" means the development of:

room educational specifications, which describe a school's programs and activities, spatial relationships, and special environmental requirements for each space; and

room fit-out lists, which provide the number, type, and size of equipment, furniture, and fixtures contained in each room inclusive of the party responsible for providing them in a school facility.

"Model Program Templates" means the development of programmatic models that define the number and type of rooms and spaces to be provided in a school facility;

"Model school design program" means the design standards for school facilities projects comprised of the "Kit of Parts" standardized school design elements, developed by the development authority for the adaptable and scalable configuration and repeatable and efficient construction of school facilities projects, pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4);

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

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

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

"Project charter" means the document that sets forth the scope, budget, and schedule of a school facilities project, as approved by the board of the development authority, and which is updated from time to time during the course of the school facilities project with board approval.

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

"School bonds" means, in the case of a school facilities project which is to be constructed by the development authority, a redevelopment entity, or a district under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the local share; and, in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity, or financed under section 15 of P.L.2000, c.72 (C.18A:7G-15), bonds, notes or other obligations issued by a district to finance the total costs;

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

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

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

"SDA district" is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year;

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

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

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

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

"State school aid" means the funds made available to school districts pursuant to section 11 of P.L.2007, c.260 (C.18A:7F-53);

"State share" means the State's proportionate share of the final eligible costs of a school facilities project to be constructed by the development authority as determined pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5); in the case of a demonstration project, the State's proportionate share of the final eligible costs of the project as determined pursuant to sections 5 and 6 of P.L.2000, c.72 (C.18A:7G-5 and C.18A:7G-6); and in the case of a school facilities project to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the State share as determined pursuant to that section;

"Total costs" means, in the case of a school facilities project which is to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the final eligible costs plus excess costs if any; and in the case of a school facilities project which is not to be constructed by the development authority or a redevelopment entity or financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15), the total cost of the project as determined by the district.

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

C.18A:7G-4 Long-range facilities plan; facilities efficiency standards; time lines.

4. a. By December 15, 2000 and by October 1, 2005, each district shall prepare and submit to the commissioner a long-range facilities plan that details the district's school facilities needs and the district's plan to address those needs for the ensuing five years. Following the approval of the 2005 long-range facilities plan, each district shall amend its long-range facilities plan at least once every five years to update enrollment projections, building capacities, and health and safety conditions. The long-range facilities plan shall incorporate the facilities efficiency standards and shall be filed with the commissioner for approval in accordance with those standards. For those Abbott districts that have submitted long-range facilities plans to the commissioner prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), this subsection shall not be read to require an additional filing by October 1, 2000.

b. Notwithstanding any other law or regulation to the contrary, an application for a school facilities project pursuant to section 5 of P.L.2000, c.72 (C.18A:7G-5) shall not be approved unless the district has filed a long-range facilities plan that is consistent with the application and the plan has been approved by the commissioner; except that prior to October 1, 2000, the

commissioner may approve an application if the project is necessary to protect the health or safety of occupants of the school facility, or is related to required early childhood education programs, or is related to a school facility in which the functional capacity is less than 90 percent of the facilities efficiency standards based on current school enrollment, or the district received bids on the school facilities project prior to the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and the district demonstrates that further delay will negatively affect the cost of the project.

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

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

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

f. Each district shall determine the number of "unhoused students" for the ensuing five-year period calculated pursuant to the provisions of section 8 of P.L.2000, c.72 (C.18A:7G-8).

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

h. (1) The commissioner shall develop, for the March 2002 Report on the Cost of Providing a Thorough and Efficient Education issued by the commissioner pursuant to section 4 of P.L.1996, c.138 (C.18A:7F-4), facilities efficiency standards for elementary, middle, and high schools consistent with the core curriculum school delivery assumptions in the report and sufficient for the achievement of the core curriculum content standards, including the provision of required programs in Abbott districts and early childhood education programs in the districts in which these programs are required by the State. The area allowances per FTE student in each class of the district shall be derived from these facilities efficiency standards. The commissioner shall revise the facilities efficiency standards and the area cost allowance in accordance with such schedule as the commissioner deems necessary. The commissioner shall publish the revised facilities efficiency standards and the area cost allowance in the New Jersey Register and, within a reasonable period of time after 30 days following publication, shall file the revised facilities efficiency standards and the area cost allowance with the Office of Administrative Law for publication in the New Jersey Register and those standards shall become effective immediately upon filing. During the 30-day period the commissioner shall provide an opportunity for public comment on the proposed facilities efficiency standards and the area cost allowance.

The facilities efficiency standards developed by the commissioner shall not be construction design standards but rather shall represent the instructional spaces, specialized instructional areas, and administrative spaces that are determined by the commissioner to be educationally adequate to support the achievement of the core curriculum content standards including the provision of required programs in Abbott districts and early childhood education programs in

the districts in which these programs are required by the State. A district may design, at its discretion, the educational and other spaces to be included within the school facilities project. The design of the project may eliminate spaces in the facilities efficiency standards, include spaces not in the facilities efficiency standards, or size spaces differently than in the facilities efficiency standards upon a demonstration of the adequacy of the school facilities project to deliver the core curriculum content standards pursuant to paragraph (2) of subsection g. of section 5 of P.L.2000, c.72 (C.18A:7G-5).

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

(2) Within 120 days of the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.), the development authority, in consultation with the commissioner, shall promulgate a model school design program that shall establish uniform standards for the exterior and interior design of school facilities projects. The development authority may revise the model school design program as the development authority deems necessary to incorporate advances or improvements in materials, technology, construction methods, or educational standards.

i. Within 90 days of the commissioner's receipt of a long-range facilities plan for review, the commissioner shall determine whether the plan is fully and accurately completed and whether all information necessary for a decision on the plan has been filed by the district. If the commissioner determines that the plan is complete, the commissioner shall promptly notify the district in writing and shall have 60 days from the date of that notification to determine whether to approve the plan or not. If the commissioner determines that the plan is not complete, the commissioner shall notify the district in writing. The district shall provide to the commissioner whatever information the commissioner determines is necessary to make the plan accurate and complete. The district shall submit that information to the commissioner, and the commissioner shall have 60 days from the date of receipt of accurate and complete information to determine whether to approve the plan or not.

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

k. (Deleted by amendment, P.L.2007, c.260).

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

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



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

C.18A:7G-5 Undertaking and financing of school facilities in certain districts.

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

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

c. Notwithstanding any provision of N.J.S.18A:18A-16 to the contrary, the procedures for obtaining approval of a school facilities project shall be as set forth in P.L.2000, c.72 (C.18A:7G-1 et al.); provided that any district whose school facilities project is not constructed by the development authority shall also be required to comply with the provisions of N.J.S.18A:18A-16 and, in the case of a school facilities project that has estimated total costs over \$10,000,000, shall be overseen by a non-conflicted construction management service provider, which holds a current, valid classification issued by the Division of Property Management and Construction in the Department of Treasury pursuant to its classification processes for construction managers, who shall serve from initial application to the commissioner for approval of the project through project completion.

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

(2) (a) In the case of an SDA district school facilities project, based upon its educational priority ranking and the Statewide strategic plan established pursuant to subsection m. of this section, the commissioner may authorize the development authority to undertake preconstruction activities which may include, but need not be limited to, site identification, investigation, and acquisition, feasibility studies, land-related design work, design work, site remediation, demolition, and acquisition of temporary facilities. Upon receipt of the authorization, the development authority may initiate the preconstruction activities required to prepare the application for commissioner approval of the school facilities project. Site remediation and demolition preconstruction activities undertaken by the development authority pursuant to this subparagraph shall be included as part of the project charter of the SDA district school facilities project, which project charter covers all other construction activities of the school facilities project.

(b) In the case of an SDA district school facilities project, the project design shall conform to the standards of the model school design program developed by the development authority pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4). The development authority may permit an SDA district school facilities project to include design features that are considered excess costs provided that the design features do not exceed the lesser of 15 percent of total estimated project costs or \$4,000,000.

(c) In the case of a district other than an SDA district, the project design of a school facilities project may conform to the standards of the model school design program developed by the development authority pursuant to paragraph (2) of subsection h. of section 4 of P.L.2000, c.72 (C.18A:7G-4).

e. The commissioner shall review each proposed school facilities project to determine whether it is consistent with the district's long-range facilities plan and whether it complies with the facilities efficiency standards and the area allowances per FTE student derived from those standards; and in the case of an SDA district the commissioner shall also review the project's educational priority ranking and the Statewide strategic plan developed pursuant to paragraphs (2) and (3) of subsection m. of this section and whether the project conforms to the standards of the model school design program; and in the case of a district other than an SDA district the commissioner shall also review the project's priority pursuant to paragraph (4) of subsection m. of this section. The commissioner shall make a decision on a district's application within 90 days from the date the commissioner determines that the application is fully and accurately completed and that all information necessary for a decision has been filed by the district, or from the date of the last revision made by the district. If the commissioner is not able to make a decision within 90 days, the commissioner shall notify the district in writing explaining the reason for the delay and indicating the date on which a decision on the project will be made, provided that the date shall not be later than 60 days from the expiration of the original 90 days set forth in this subsection. If the decision is not made by the subsequent date indicated by the commissioner, then the project shall be deemed approved and the preliminary eligible costs for new construction shall be calculated by using the proposed square footage of the building as the approved area for unhoused students.

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

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

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

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

(3) To house the district's central administration, a district may request an adjustment to the approved areas for unhoused students of 2.17 square feet for each FTE student in the

projected total district school enrollment if the proposed administrative offices will be housed in a school facility and the district demonstrates either that the existing central administrative offices are obsolete or that it is more practical to convert those offices to instructional space. To the extent that existing administrative space will continue to be used for administrative purposes, the space shall be included in the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7).

If the commissioner approves excess facilities efficiency standards or additional area allowances pursuant to paragraph (1), (2), or (3) of this subsection, the commissioner shall calculate the preliminary eligible costs based upon the additional area allowances or excess facilities efficiency standards pursuant to the formulas set forth in section 7 of P.L.2000, c.72 (C.18A:7G-7). In the event that the commissioner does not approve the excess facilities efficiency standards or additional area allowances, the district may either: modify its submission so that the school facilities project meets the facilities 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 P.L.2000, c.72 (C.18A:7G-3) plus 0.25, or 100 percent 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 district other than an SDA 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 percent 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 amount of the adjustment which needs to be made to the preliminary eligible costs. The commissioner shall forward the appeal information to the

development authority for its review and recommendation. If the additional costs are the result of factors that are within the control of the district or are the result of design factors that are not required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner that the preliminary eligible costs be accepted as the final eligible costs. If the development authority determines the additional costs are not within the control of the district or are the result of design factors required to meet the facilities efficiency standards, the development authority shall recommend to the commissioner a final eligible cost based on its experience for districts with similar characteristics, provided that, notwithstanding anything to the contrary, the commissioner shall not approve an adjustment to the preliminary eligible costs which exceeds 10 percent of the preliminary eligible costs. The commissioner shall make a determination on the appeal within 30 days of its receipt. If the commissioner does not approve an adjustment to the school facilities project's preliminary eligible costs, the commissioner shall issue his findings in writing on the reasons for the denial and on why the preliminary eligible costs as originally calculated are sufficient.

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

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

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

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

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

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

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

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

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

k. For the SDA districts, the State share shall be 100 percent of the final eligible costs. Except as otherwise provided pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9), for all other districts, the State share shall be an amount equal to the district aid percentage; except that the State share shall not be less than 40 percent of the final eligible costs.

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

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

m. (1) Within 90 days of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner shall develop an educational facilities needs assessment for each SDA district. The assessment shall be updated periodically by the commissioner in accordance with the

schedule the commissioner deems appropriate for the district; except that each assessment shall at a minimum be updated within five years of the development of the district's most recent prior educational facilities needs assessment. The assessment shall be transmitted to the development authority to be used to initiate the planning activities required prior to the establishment of the educational priority ranking of school facilities projects pursuant to paragraph (2) of this subsection.

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

(3) (a) Upon the commissioner's determination of the educational priority ranking of school facilities projects in SDA districts pursuant to paragraph (2) of this subsection, the development authority, in consultation with the commissioner, the SDA districts, and the governing bodies of the municipalities in which the SDA districts are situate, shall establish a Statewide strategic plan to be used in the sequencing of SDA district school facilities projects based upon the projects' educational priority rankings and issues which impact the development authority's ability to complete the projects including, but not limited to, the construction schedule and other appropriate factors. The development authority shall revise the Statewide strategic plan and the sequencing of SDA district school facilities projects in accordance with that plan no less than once every five years, except that the plan shall be updated within 120 days of the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.). In addition to any other information that the development authority may deem appropriate, the Statewide strategic plan shall include a description of the project, which shall indicate whether the project will be new construction or renovation and whether the project will require the acquisition of land.

(b) In developing the Statewide strategic plan, the development authority shall prioritize:

- (i) new construction projects;
- (ii) projects located on land owned by the school district or other public entities; and
- (iii) projects needed to replace school buildings that have been in use for 100 or more years.

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

(d) Within 10 days following any update to the Statewide strategic plan, the development authority shall transmit the plan to the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), and to the members of the Senate Education Committee and the Assembly Education Committee, or any successor committees.

(4) In the case of a district other than an SDA district, the commissioner shall establish a priority process for the financing of school facilities projects based upon the commissioner's

determination of critical need in accordance with priority project categories developed by the commissioner. The priority project categories shall include, but not be limited to, health and safety, overcrowding in the elementary, middle, and high school grade levels, spaces necessary to provide in-district programs and services for current disabled students who are being served in out-of-district placements or in-district programs and services for the projected disabled student population, and full-day kindergarten facilities in the case of school districts required to provide full-day preschool pursuant to section 12 of P.L.2007, c.260 (C.18A:7F-54).

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

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

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

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

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

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

C.18A:7G-5b County improvement authority, agreement, school facilities project construction, issue bonds, financing.

5. a. Notwithstanding the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or any other section of law to the contrary, the board of education of a district other than an SDA district may enter into an agreement with a county improvement authority to construct a school facilities project and to issue its bonds to finance the local share of a project that is to be financed pursuant to section 15 of P.L.2000, c.72 (18A:7G-15), or to finance the total costs of a project that is not to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15). The bonds of a county improvement authority issued to finance the total costs of a school facilities project that is not to be financed pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15) shall be eligible for State debt service aid in accordance with the formula established pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9).

b. A district other than an SDA district may lease its lands or facilities to the county improvement authority, which may construct the school facilities project. Whenever a school facilities project is constructed by a county improvement authority pursuant to the provisions of this section, the improvement authority shall follow the applicable public bidding procedures or requirements under the "Public School Contracts Law," N.J.S.18A:18A-1 et seq., section 2 of P.L.2018, c.90 (C.18A:18A-60), or sections 34 through 41 of P.L.2021, c.71 (C.18A:18A-61 through 18A:18A-68).

c. The county improvement authority shall lease the school facilities project to the county, which shall then lease it for nominal consideration to the district for as long as the county improvement authority bonds or refunding bonds are outstanding. Nothing in this section shall be construed to authorize a county to require the district to bear any portion of the cost of the

debt service on the county improvement authority bonds issued to fund the school facilities project or any refunding bonds.

d. The county lease payments made to the county improvement authority pursuant to subsection c. of this section shall not be subject to any cap on appropriations or on spending or to any tax levy cap. The county lease payments shall be sufficient to pay debt service on the county improvement authority bonds issued to fund the school facilities project, or any refunding bonds, that remains after the application of any State debt service aid paid on those bonds pursuant to section 9 of P.L.2000, c.72 (C.18A:7G-9). The county lease payments shall be payable over the life of the bonds.

e. When the bonds issued by a county improvement authority are no longer outstanding, the leases and liens of the county and the county improvement authority shall expire and the school facilities project shall be solely vested in the school district. The school district shall be responsible for the operation, maintenance, and improvement of the school facility upon the completion of the school facilities project.

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

C.18A:7G-9 Distribution of State debt service aid.

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

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

where

$A = B \times AC/P \times DAP \times M$ , with  $AC/P = 1$

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

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

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

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

DAP is the district's district aid percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) and where DAP shall not be less than 40 percent. If the project's design incorporates the implementation of energy efficiency improvements or the installation of energy efficient features or equipment, the DAP shall be increased by no more than five percent. In order to qualify for a DAP increase for the implementation of energy efficiency improvements or the installation of energy efficient features or equipment pursuant to this subsection, a district shall submit to the development authority and Department of Education a certification, along with evidential documentation, attesting that the project's design incorporates the implementation of energy efficiency improvements or the installation of energy efficient features or equipment; and

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

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

Notwithstanding the provisions of this subsection to the contrary, DAP for a county vocational school district school facilities project that is approved by the commissioner following the effective date of P.L.2009, c.185 shall equal the greater of the district's district aid



percentage as defined pursuant to section 3 of P.L.2000, c.72 (C.18A:7G-3) or the percentage of the students in the county vocational school district's resident enrollment who reside in SDA districts; except that DAP shall not be less than 40 percent or greater than 90 percent.

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

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

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

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

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

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

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

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

d. For school bonds issued for a school facilities project after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.) and prior to the effective date of P.L.2008, c.39 (C.18A:7G-

14.1 et al.), State debt service aid shall be calculated in accordance with the provisions of this section as the same read before the effective date of P.L.2008, c.39 (C.18A:7G-14.1 et al.).

C.18A:7G-15.1a School facilities projects, sell bonds, without voter approval, requirements.

7. a. Notwithstanding any provision of law to the contrary, when the board of education of a district determines that it is not financing a school facilities project under section 15 of P.L.2000, c.72 (C.18A:7G-15) and that it is necessary to sell bonds to raise money for the total costs of a school facilities project, the board of education may issue such bonds as are necessary to fund the project without the approval of the voters of the district, provided that before issuing the bonds:

(1) the board of education has entered into a written contract with one or more municipalities, wherein the municipality shall annually remit to the board of education a portion of the payments in lieu of taxes received by the municipality from one or more designated properties, which portion shall be sufficient for the full repayment of the bonds, and the board of education shall pledge all remittances to the full repayment of the bonds; and

(2) the bond issuance and contract has been approved by the Local Finance Board pursuant to subsection b. of this section and the commissioner pursuant to subsection c. of this section.

b. A municipality intending to enter into a contract to pledge a portion of the payments in lieu of taxes received by the municipality from one or more designated properties pursuant to this section shall obtain the approval of the Local Finance Board prior to the adoption of an ordinance or resolution, as applicable, authorizing the municipality to enter into the contract. The board shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred by it for the review, analysis, and determination with respect thereto. As part of the board's review and approval, the board shall consider whether the proposed contract will adversely impact the financial stability of the municipality.

c. (1) If a board of education elects to issue bonds pursuant to this section, the board of education shall apply to the commissioner for approval of the bond issuance. The commissioner shall be entitled to receive from the applicant an amount sufficient to provide for all reasonable professional and other fees and expenses incurred for the review, analysis, and determination with respect thereto. In addition to any other information that the commissioner may deem appropriate, the application shall include: a description of the school facilities project; a certification of the amount to be raised by the bonds; a description of the anticipated annual debt service costs, including the amounts to be supported by municipal remittances; and a copy of the contract.

(2) Within 30 days of receiving the application, the commissioner shall approve, conditionally approve, or reject the application. If the application is conditionally approved, the commissioner shall state, in writing, the revisions that shall be made to the contract in order for the application to be approved. If the commissioner does not approve, conditionally approve, or reject the application within 30 days of the date of receipt, the commissioner shall be deemed to have approved the application.

d. Any debt service on a bond issued by a school district pursuant to this section that is not supported by municipal remittances authorized under this section and is paid by the board of education shall be eligible for State debt service aid in accordance with the formula established under section 9 of P.L.2000, c.72 (C.18A:7G-9).

e. The commissioner, in consultation with the Local Finance Board, and the Local Finance Board, in consultation with the commissioner, shall promulgate, pursuant to "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section. At a minimum, the rules and regulations

shall establish requirements and procedures concerning the process by which municipalities and districts may enter into contracts pursuant to this section.

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

C.18A:7G-13 Responsibilities of financing authority, development authority.

13. a. The financing authority shall be responsible for the issuance of bonds pursuant to section 14 of P.L.2000, c.72 (C.18A:7G-14) and the development authority shall be responsible for the planning, design, construction management, acquisition, construction, and completion of school facilities projects. In the case of a capital maintenance project, the development authority may, in its discretion, authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete the capital maintenance project and shall enter into a grant agreement with the district for the payment of the State share. The development authority may also authorize an SDA district to undertake the design, acquisition, construction and all other appropriate actions necessary to complete any other school facilities project in accordance with the procedures established pursuant to subsection e. of this section.

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

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

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

e. (1) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the commissioner, in consultation with the development authority, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations by which the commissioner shall determine whether an SDA district is eligible to be considered by the development authority to manage a school facilities project or projects. In making the determination, the commissioner shall consider the district's fiscal integrity and operations, the district's performance in each of the five key components of school district effectiveness under the New Jersey Quality Single Accountability Continuum (NJQSAC) in accordance with section 10 of P.L.1975, c.212 (C.18A:7A-10), and other relevant factors.

(2) Within one year of the effective date of P.L.2007, c.137 (C.52:18A-235 et al.), the development authority, in consultation with the commissioner, shall adopt pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations

by which the development authority shall determine the capacity of an SDA district, deemed eligible by the commissioner pursuant to paragraph (1) of this subsection, to manage a school facilities project or projects identified by the development authority. In making the determination, the development authority shall consider the experience of the SDA district, the size, complexity, and cost of the project, time constraints, and other relevant factors.

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

(4) If the development authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the development authority, the commissioner, and the district shall enter into a grant agreement. The grant agreement shall, at a minimum, establish a timeline for the completion of the school facilities project, which timeline shall be established based on the scope of the work to be performed.

(5) If the development authority determines to delegate a school facilities project to an SDA district in accordance with paragraph (2) of this subsection, the SDA district shall be deemed to be in noncompliance with the grant agreement entered into pursuant to paragraph (4) of this subsection if the district enters into a contract with a contractor, subcontractor, or consultant which is debarred, suspended, or disqualified from State, development authority, or federal government contracting at the time of the contract award or with a firm which has not been prequalified by the development authority. If the district enters into a contract with a debarred, suspended, or disqualified contractor, subcontractor, or consultant, then the grant agreement shall be rendered null and void.

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

C.18A:7G-14 Powers of financing authority; powers of development authority.

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

a. The financing authority shall have the power, pursuant to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.) and P.L.2007, c.137 (C.52:18A-235 et al.), to issue bonds and refunding bonds, incur indebtedness and borrow money secured, in whole or in part, by moneys received pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19) for the purposes of: financing all or a portion of the costs of school facilities projects and any costs related to the issuance thereof, including, but not limited to, the administrative, insurance, operating and other expenses of the financing authority to undertake the financing, and the development authority to undertake the planning, design, and construction of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects and any costs related to the issuance thereof; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); and financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16). Notwithstanding the provisions of this section to the contrary, if financial support is provided to the development authority following a budget request made directly to the Division of Budget and Accounting in the Department of the Treasury for State support pursuant to subsection k. of this section, bonds and refunding bonds, or any indebtedness or other borrowed moneys, secured, in whole or in part, by moneys received pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18, and C.18A:7G-19) or pursuant to this section after the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.) shall not be issued for the purposes of financing

costs related to the issuance of the bonds, indebtedness, or other borrowed moneys, including, but not limited to, the administrative expenses (other than retained professional services related to the issuance of the bonds, indebtedness, or other borrowed moneys), non-project insurance expenses, operating and other expenses of the financing authority to undertake the financing. If financial support is provided to the development authority following a budget request pursuant to subsection k. of this section, bonds, indebtedness, or other borrowed moneys issued pursuant to this section shall also not be issued for the purposes of financing any costs related to the issuance of moneys lent to local units to pay the costs of all or a portion of school facilities projects. The administrative expenses (other than retained professional services related to the issuance of the bonds, indebtedness, or other borrowed moneys), non-project insurance expenses, operating and other expenses of the financing authority related to undertaking the financing of school facilities projects pursuant to this section shall be supported by State appropriations when financial support is made available following a budget request pursuant to subsection k. of this section. The administrative, non-project insurance, operating, and other expenses of the development authority shall be funded by State appropriations pursuant to paragraph (2) of subsection o. of section 4 of P.L.2007, c.137, (C.52:18A-238) when financial support is made available following a budget request pursuant to subsection k. of this section. If financial support is provided to the development authority following a budget request pursuant to subsection k. of this section, bonds and refunding bonds, or any indebtedness or other borrowed moneys issued pursuant to this section after the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.) shall only be issued for the purposes of: financing all or a portion of the costs of school facilities projects; lending moneys to local units to pay the costs of all or a portion of school facilities projects; funding the grants to be made pursuant to section 15 of P.L.2000, c.72 (C.18A:7G-15); financing the acquisition of school facilities projects to permit the refinancing of debt by the district pursuant to section 16 of P.L.2000, c.72 (C.18A:7G-16); and paying for the administrative expenses of the financing authority that are in connection with retained professional services related to the issuance of the bonds, indebtedness, or other borrowed moneys. The aggregate principal amount of the bonds, notes, or other obligations issued by the financing authority as authorized pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) shall not exceed: \$100,000,000 for the State share of costs for county vocational school district school facilities projects; \$6,000,000,000 for the State share of costs for Abbott district school facilities projects; and \$2,500,000,000 for the State share of costs for school facilities projects in all other districts. The aggregate principal amount of the bonds, notes, or other obligations issued by the financing authority as authorized pursuant to P.L.2008, c.39 (C.18A:7G-14.1 et al.) shall not exceed: \$2,900,000,000 for the State share of costs of SDA district school facilities projects and \$1,000,000,000 for the State share of costs for school facilities projects in all other districts, \$50,000,000 of which shall be allocated for the State share of costs for county vocational school district school facilities projects. This limitation shall not include any bonds, notes, or other obligations issued for refunding purposes.

The financing authority may establish reserve funds to further secure bonds and refunding bonds issued pursuant to this section and may issue bonds to pay for the administrative, insurance, and operating costs of the financing authority and the development authority in carrying out the provisions of this act. Notwithstanding the provisions of this section to the contrary, the proceeds of bonds issued pursuant to this section after the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.) shall not pay for any costs related to the issuance of the bonds, including the administrative expenses (other than retained professional services related to the issuance of the bonds, indebtedness, or other borrowed moneys), non-project insurance, and operating costs of the financing authority and the development authority in carrying out

the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.). Such costs of the financing authority shall be supported by State appropriations when financial support is made available following a budget request pursuant to subsection k. of this section. Such costs of the development authority shall be funded by State appropriations pursuant to paragraph (2) of subsection o. of section 4 of P.L.2007, c.137, (C.52:18A-238) when financial support is made available following a budget request pursuant to subsection k. of this section. In addition to its bonds and refunding bonds, the financing authority shall have the power to issue subordinated indebtedness, which shall be subordinate in lien to the lien of any or all of its bonds or refunding bonds as the financing authority may determine.

b. The financing authority shall issue the bonds or refunding bonds in such manner as it shall determine in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.), P.L.1974, c.80 (C.34:1B-1 et seq.), and P.L.2007, c.137 (C.52:18A-235 et al.); provided that notwithstanding any other law to the contrary, no resolution adopted by the financing authority authorizing the issuance of bonds or refunding bonds pursuant to this section shall be adopted or otherwise made effective without the approval in writing of the State Treasurer; and refunding bonds issued to refund bonds issued pursuant to this section shall be issued on such terms and conditions as may be determined by the financing authority and the State Treasurer. The financing authority may, in any resolution authorizing the issuance of bonds or refunding bonds issued pursuant to this section, pledge the contract with the State Treasurer provided for pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18), or any part thereof, or may pledge all or any part of the repayments of loans made to local units pursuant to section 19 of P.L.2000, c.72 (C.18A:7G-19) for the payment or redemption of the bonds or refunding bonds, and covenant as to the use and disposition of money available to the financing authority for payment of the bonds and refunding bonds. All costs associated with the issuance of bonds and refunding bonds by the financing authority for the purposes set forth in this act may be paid by the financing authority from amounts it receives from the proceeds of the bonds or refunding bonds, and from amounts it receives pursuant to sections 17, 18, and 19 of P.L.2000, c.72 (C.18A:7G-17, C.18A:7G-18 and C.18A:7G-19). The costs may include, but shall not be limited to, any costs relating to the issuance of the bonds or refunding bonds, administrative costs of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects, and costs attributable to the agreements entered into pursuant to subsection d. of this section. Notwithstanding the provisions of this section to the contrary, if financial support is provided to the development authority following a budget request made directly to the Division of Budget and Accounting in the Department of the Treasury for State support pursuant to subsection k. of this section, the proceeds of bonds and refunding bonds that are issued pursuant to this section after the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.) shall not pay for the administrative costs of the financing authority associated with the issuance of the bonds and refunding bonds, including, but not limited to, administrative costs (other than retained professional services related to the issuance of the bonds, indebtedness, or other borrowed moneys) of the financing authority attributable to the making and administering of loans and grants to fund school facilities projects and costs attributable to the agreements entered into pursuant to subsection d. of this section. Such costs of the financing authority shall be supported by State appropriations when financial support is made available following a budget request pursuant to subsection k. of this section.

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

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

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

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

(4) Pledge of the receipts to be derived from payments of State aid to the financing authority pursuant to section 21 of P.L.2000, c.72 (C.18A:7G-21);

(5) Pledge of the contract or contracts with the State Treasurer pursuant to section 18 of P.L.2000, c.72 (C.18A:7G-18);

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

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

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

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

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

f. Bonds and refunding bonds issued by the financing authority pursuant to this section shall be special and limited obligations of the financing authority payable from, and secured by, funds and moneys determined by the financing authority in accordance with this section. Notwithstanding any other provision of law or agreement to the contrary, any bonds and refunding bonds issued by the financing authority pursuant to this section shall not be secured by the same property as bonds and refunding bonds issued by the financing authority to finance projects other than school facilities projects. Neither the members of the financing authority nor any other person executing the bonds or refunding bonds shall be personally liable with respect to payment of interest and principal on these bonds or refunding bonds. Bonds or

refunding bonds issued pursuant to this section shall not be a debt or liability of the State or any agency or instrumentality thereof, except as otherwise provided by this subsection, either legal, moral or otherwise, and nothing contained in this act shall be construed to authorize the financing authority to incur any indebtedness on behalf of or in any way to obligate the State or any political subdivision thereof, and all bonds and refunding bonds issued by the financing authority shall contain a statement to that effect on their face.

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

h. The financing authority and the development authority may charge to and collect from local units, districts, the State and any other person, any fees and charges in connection with the financing authority's or development authority's actions undertaken with respect to school facilities projects, including, but not limited to, fees and charges for the financing authority's administrative, organization, insurance, operating and other expenses incident to the financing of school facilities projects, and the development authority's administrative, organization, insurance, operating, planning, design, construction management, acquisition, construction, completion and placing into service and maintenance of school facilities projects. Notwithstanding any provision of this act to the contrary, no SDA district shall be responsible for the payment of any fees and charges related to the development authority's operating expenses.

i. Upon the issuance by the financing authority of bonds pursuant to this section, other than refunding bonds, the net proceeds of the bonds shall be transferred to the development authority. The development authority shall establish three funds in which the net proceeds of the bonds issued pursuant to this section, and any State appropriations for school facilities projects, shall be deposited. The three funds shall be as follows:

(1) the SDA District Project Fund, in which shall be deposited any funds made available for the State share of costs for SDA district school facilities projects, which funds shall include, but not be limited to, the proceeds of bonds issued pursuant to subsection a. of this section for the State share of costs for SDA district school facilities projects, the proceeds of any general obligation or other bonds that may be authorized for SDA district school facilities projects, and any State appropriations for SDA district school facilities projects;

(2) the Regular Operating District Construction and Maintenance Grants Fund, in which shall be deposited any funds made available for the State share of costs for school facilities projects in districts other than SDA districts, which funds shall include, but not be limited to, the proceeds of bonds issued pursuant to subsection a. of this section for the State share of costs for school facilities projects in districts other than SDA districts, the proceeds of any general obligation or other bonds that may be authorized for school facilities projects in districts other than SDA districts, and any State appropriations for school facilities projects in districts other than SDA districts; and

(3) (a) the SDA District Emergent Project Fund, in which shall be deposited any funds made available for emergent projects in SDA districts under the "Emergent Condition Remediation Program" established pursuant to section 20 of P.L.2023, c.311 (C.18A:7G-47.1), which funds shall include, but not be limited to, the proceeds of bonds issued pursuant to subsection a. of this section for the State share of costs for SDA district emergent projects, the



proceeds of any general obligation or other bonds that may be authorized for SDA district emergent projects, and any State appropriations for SDA district emergent projects;

(b) as used in this paragraph, “emergent project” means a school facilities project or other capital project eligible for State funding that would alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff.

j. In the event that the annual appropriations act provides for direct funding for school facilities projects, or in the event that a separate act appropriates direct funding of school facilities projects from the “New Jersey Debt Defeasance and Prevention Fund” established pursuant to section 1 of P.L.2021 c.125 (C.52:9H-2.2), no less than 70 percent of the direct funding shall be appropriated to the SDA District Project Fund and the SDA District Emergent Project Fund. The remaining funds for school facilities projects shall be disbursed to the Regular Operating District Construction and Maintenance Grants Fund.

k. In the event that the financing authority issues bonds or incurs indebtedness pursuant to this section for the purpose of financing all or a portion of the costs of school facilities projects and for the purpose of providing funding to the development authority to undertake school facilities projects, the development authority may submit a budget request directly to the Division of Budget and Accounting in the Department of the Treasury, for State support to provide supplemental financing for the development authority’s operations in carrying out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.).

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

C.18A:7G-15 Election by district to receive one-time grant for State share.

15. a. In the case of a district other than an SDA district, for any project approved by the commissioner after the effective date of P.L.2000, c.72 (C.18A:7G-1 et al.), the district may elect to receive a one-time grant for the State share of the project in accordance with the provisions of subsection b. of this section rather than annual debt service aid under section 9 of P.L.2000, c.72 (C.18A:7G-9). The State share payable to the district shall equal the product of the project's final eligible costs and the district aid percentage or 40 percent, whichever is greater. If the project’s design incorporates the implementation of energy efficiency improvements or the installation of energy efficient features or equipment, the district aid percentage shall be increased by no more than five percent. In order to qualify for a district aid percentage increase for the implementation of energy efficiency improvements or the installation of energy efficient features or equipment pursuant to this subsection, a district shall submit to the development authority and Department of Education a certification, along with evidential documentation, attesting that the project’s design incorporates the implementation of energy efficiency improvements or the installation of energy efficient features or equipment.

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

c. The development authority shall provide grant funding for the State's share of the final eligible costs of a school facilities project pursuant to an agreement between the district and the development authority which shall, in addition to other terms and conditions, set forth the

terms of disbursement of the State share. The funding of the State share shall not commence until the district secures financing for the local share.

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

C.18A:7G-23 Prevailing wage rates on construction contracts.

23. a. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any school facilities project that is undertaken by the development authority, a redevelopment entity, a district, a charter school or renaissance school project, a county improvement authority, or a private entity, when the private entity is undertaking construction on a school facilities project under a public-private partnership, and any contractor who violates the provisions of this subsection shall be prohibited from subsequently bidding on any State or district contract.

b. Registration fees collected pursuant to P.L.1999, c.238 (C.34:11-56.48 et seq.) shall be applied toward the enforcement and administrative costs of the Division of Workplace Standards, Office of Wage and Hour Compliance, Public Contracts section and Registration section within the Department of Labor and Workforce Development.

C.18A:7G-23.1 "Office of Contracting Accountability" established.

12. There is hereby created within the development authority an Office of Contracting Accountability. The office shall, in consultation with the Department of Labor and Workforce Development, ensure the compliance in the payment of no less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.), as well as with all other applicable State wage and hour laws and regulations, by contractors selected for a school facilities project undertaken by the development authority or by an SDA district that has been delegated management of the project by the development authority. The office shall collect and review all certified payrolls for work on school facilities projects undertaken by the development authority or by an SDA district that has been delegated management of the project by the development authority and shall conduct at least one worksite inspection per project on a quarterly basis. Violations of State wage and hour law requirements shall be reflected in the mandatory uniform performance evaluation of contractors, as required pursuant to section 62 of P.L.2000, c.72 (C.18A:7G-36). Violations of wage and hour requirements shall constitute grounds for the development authority to revoke prequalification from a contractor, which prequalification is granted pursuant to the process established by the development authority pursuant to section 59 of P.L.2000, c.72 (C.18A:7G-33).

13. Section 57 of P.L.2000, c.72 (C.18A:7G-31) is amended to read as follows:

C.18A:7G-31 Establishment of capital reserve account.

57. a. Notwithstanding any provision of this act or any other law or regulation to the contrary, a board of education or a board of school estimate, as appropriate, may, through the adoption of a board resolution, establish a capital reserve account. The account shall be established and held in accordance with GAAP and shall be subject to annual audit. The funds in the capital reserve account shall be used to finance the district's long-range facilities plan required pursuant to subsection a. of section 4 of P.L.2000, c.72 (C.18A:7G-4) and the amount in the account shall not exceed the total amount of local funds required to implement the plan.

b. A board of education or a board of school estimate, as appropriate, may appropriate funds in the district's annual budget for the establishment of the capital reserve account pursuant to subsection a. of this section or to supplement the funds in the account as required to meet the needs of the long-range facilities plan.

c. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects as contained in the district's long-range facilities plan; and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects which are included in the district's long-range facilities plan.

d. A board of education may, by resolution of the board: transfer funds from the capital reserve account to the appropriate line item account for the funding of capital projects subject to a public-private partnership agreement entered into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60) and transfer funds from the capital reserve account to the debt service account for the purpose of offsetting principal and interest payments for bonded projects subject to a public-private partnership agreement entered into pursuant to section 2 of P.L.2018, c.90 (C.18A:18A-60).

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

C.18A:7G-34 Prequalification process, submission requirements.

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

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

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

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

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

(5) Disclosure of any judgments, convictions or criminal indictments for any conduct constituting a crime under local, State or federal law. The prospective bidder shall also disclose whether, in the past five years, the following have been convicted of a criminal offense under local, State, or federal law: the contractor; the contractor's corporate directors or officers; any employee of the contractor serving in a supervisory capacity or who is empowered to make discretionary decisions with respect to bids or public works contracts; or any individual who owns five percent or more of any class of stock in the corporation or is a five percent or more partner in the firm. Failure to disclose a conviction of a criminal offense pursuant to this paragraph shall constitute cause for the denial or revocation of a contractor's prequalification status;

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

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

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

(9) Disclosure of any bankruptcy filings or proceedings;

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

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

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

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

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

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

(1) a trade or work classification; and

(2) an aggregate rating limit.

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

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

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

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

g. The development authority shall maintain a registry of all contractors prequalified to bid on school facilities projects. The registry shall include the classification of the bidder and aggregate building limit. The development authority shall maintain an updated version of the registry available on the Internet website of the authority.

C.18A:7G-34.1 Contractor, good standing, school facilities projects, corrective action plan.

15. a. As part of the application process established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a contractor that desires to bid on school facilities projects, the development authority shall seek certification from the Department of Labor and Workforce Development and the Department of the Treasury that the contractor is in substantial good standing with the respective department or has entered into an agreement with the respective department that includes a practical corrective action plan for the contractor.

b. As part of the application process established under section 59 of P.L.2000, c.72 (C.18A:7G-33) for the prequalification of a contractor that desires to bid on school facilities projects, the development authority shall undertake a moral integrity review, which shall include a criminal history record check, judgment search, and lien search of:

(1) the contractor;

(2) the contractor's corporate directors or officers;

(3) any employee of the contractor who serves in a supervisory capacity or that is empowered to make discretionary decisions with respect to bids or contracts for public works contracts; or

(4) any individual who owns five percent or more of any class of stock in the corporation or is a five percent or more partner in the firm.

c. The development authority shall not approve the application of a contractor for prequalification to bid on a school facilities projects if the contractor has been convicted of a criminal offense under local, State, or federal law or if, at the time of the application, the contractor is disbarred, suspended, or disqualified from State, development authority, or federal government contracting.

d. The development authority shall not approve the application of a contractor for prequalification to bid on school facilities projects if the contractor is prohibited from contracting with any public body pursuant to subsection d. of section 1 of P.L.2019, c.366 (C.34:1A-1.16).

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

C.18A:7G-35 Validity of contractor's prequalification classification.

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

b. Any material changes relevant to the prequalification process shall be reported by the contractor to the development authority in writing within 10 days. Based on the information provided, the development authority may change the classification or revoke prequalification for cause. The development authority may revoke a contractor's prequalification if the contractor fails to report material changes relevant to the prequalification process within 10 days.

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

C.18A:7G-36 Mandatory uniform performance evaluation of contractors.

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

b. A contractor shall be notified of a performance evaluation. The contractor shall be afforded an opportunity to respond to an adverse evaluation. Following the opportunity for the contractor to respond to an adverse evaluation, the development authority may revoke a contractor's prequalification to bid on school facilities projects, provided that the contractor had a below-average score according to the development authority's scoring criteria for the mandatory uniform evaluation conducted pursuant to subsection a. of this section.

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

18. Section 63 of P.L.2000, c.72 (C.18A:7G-37) is amended to read as follows:

C.18A:7G-37 Submission of sworn contractor certification; requirements.

63. a. A prequalified contractor seeking to bid school facilities projects, and any subcontractors required to be named under P.L.2000, c.72 (C.18A:7G-1 et al.) shall, as a condition of bidding, submit a sworn contractor certification regarding qualifications and credentials.

b. In the contractor certification form, a principal owner or officer of the company shall certify that the firm has the following qualifications and credentials:

(1) A current, valid certificate of registration issued pursuant to "The Public Works Contractor Registration Act," P.L.1999, c.238 (C.34:11-56.48 et seq.), a copy of which shall be attached to the certification form, if applicable;

(2) A current, valid "Certificate of Authority to perform work in New Jersey" issued by the Department of the Treasury, a copy of which shall be attached to the certification form;

(3) Any current, valid contractor or trade license required under applicable New Jersey law for any trade or specialty area in which the firm seeks to perform work, a copy of which shall be attached to the certification;

(4) During the term of construction of the school facilities project, the contractor will have in place a suitable quality control and quality insurance program and an appropriate safety and health plan; and

(5) Workers' compensation insurance and liability policies that sufficiently cover the contractor's workforce based on the number of workers and craft trades it employs.

c. The contractor certification form shall further require that a principal owner or officer of the company certify that, at the time that the firm is bidding a project, the amount of its bid proposal and the value of all of its outstanding incomplete contracts does not exceed the firm's existing aggregate rating limit.

C.18A:7G-47.2 SDA district, school facilities project management, contracts, limitations, scope.

19. a. The development authority and an SDA district to which the development authority has delegated management of a school facilities project, as well as any contractor or consultant retained thereby, shall not enter into a contract for work with any person or firm that is currently debarred, suspended, or disqualified from State, development authority, or federal government contracting.

b. The development authority and any SDA district to which the development authority has delegated management of a school facilities project shall insert in all contracts with all contracted parties, and all contractors and consultants shall insert into all of their contracts with all subcontractors and subconsultants, a clause stating that the contracted party or its subcontractors or subconsultants may be debarred, suspended, or disqualified from contracting

or working, or both, on the approved school facilities project if the contracted party commits any of the acts listed in N.J.A.C.17:19-4.1 or any other applicable regulation issued by the development authority.

c. (1) The development authority or the SDA district to which the development authority has delegated management of a school facilities project shall include in its bid specification for any work or services on an approved school facilities project that all bidders submit a sworn statement by the bidder, or an officer or partner of the bidder, indicating whether the bidder is, at the time of the bid, included on the State Treasurer's, the development authority's, or the federal government's list of debarred, suspended, or disqualified bidders as a result of action taken by any state or federal agency, as the case may be. Bid specifications for the approved school facilities project shall state that the district shall immediately notify the development authority in writing whenever it appears that a bidder is on the State Treasurer's, the development authority's, or the federal government's list.

(2) The inclusion of the bidder on any of the lists enumerated in paragraph (1) of this subsection shall constitute cause for the immediate termination of any contract for a school facilities project, provided, however, that the development authority or SDA district to which the development authority has delegated management of a school facilities project is able to replace the bidder without significantly impacting the cost and delivery date of the project. The inclusion of the bidder on any of the lists enumerated in paragraph (1) of this subsection shall also result in the development authority's immediate suspension of the bidder from contracting or engaging in work or services on a school facilities project during the period of the bidder's debarment, suspension, or disqualification.

C.18A:7G-47.1 "Emergent Condition Remediation Program" established.

20. a. There is hereby created within the development authority an Emergent Condition Remediation Program to provide for the financing of emergent projects in the public schools of SDA districts, which public schools shall not include charter schools or renaissance school projects physically located in the SDA districts. Emergent projects financed under the program shall be funded by moneys from the SDA District Emergent Project Fund established pursuant to paragraph (3) of subsection i. of section 14 of P.L.2000, c.72 (C.18A:7G-14).

b. Under the Emergent Condition Remediation Program established pursuant to subsection a. of this section, the development authority shall create a process whereby contractors prequalified by the development authority to bid on school facilities projects apply to be a part of a pool of contractors available to address emergent conditions in SDA districts under a standing retainer agreement subject to the development authority's project labor agreement for emergent projects in accordance with the provisions of section 2 of P.L.2002, c.44 (C.52:38-2). The prequalified contractors that are part of the pool of contractors established pursuant to this subsection shall be available for any emergent project in any SDA district. Nothing in this subsection shall be construed as requiring the retainer of prequalified contractors for specific emergent projects.

c. As used in this section, "emergent project" means a school facilities project or other capital projects eligible for State funding that would alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff.

C.18A:7G-47.3 SDA district, school facilities project management, cooperative pricing system, agreement, prohibited.

21. Notwithstanding the provisions of any law, rule, or regulation to the contrary, an SDA district to which the development authority has delegated management of a school facilities

project shall not enter into a cooperative pricing system or agreement for construction services on school facilities projects.

22. N.J.S.18A:18A-4 is amended to read as follows:

Contract awarded by board of education resolution; disqualification conditions.

18A:18A-4. a. Every contract for the provision or performance of any goods or services, the cost of which in the aggregate exceeds the bid threshold, shall be awarded only by resolution of the board of education to the lowest responsible bidder after public advertising for bids and bidding therefor, except as is provided otherwise in this chapter or specifically by any other law.

The board of education may, by resolution approved by a majority of the board of education and subject to subsections b. and c. of this section, disqualify a bidder who would otherwise be determined to be the lowest responsible bidder, if the board of education finds that:

(1) any board of education has had prior negative experience with the bidder within the past 10 years, as reported in a contractor evaluation submitted pursuant to N.J.S. 18A:18A-15; or

(2) in the case of a contract for a school facilities project as defined in section 3 of P.L.2000, c.72 (C.18A:7G-3), there has been at least one instance of prior negative experience with the bidder by any board of education, or by the New Jersey Economic Development Authority or the New Jersey Schools Development Authority, or any combination thereof, as reported in a contractor evaluation submitted pursuant to N.J.S.18A:18A-15, a school facilities project performance evaluation, or in a mandatory uniform performance evaluation conducted pursuant to section 62 of P.L.2000, c.72 (C.18A:7G-36), as appropriate.

b. As used in this section, "prior negative experience" means any of the following:

(1) the bidder has been found, through either court adjudication, arbitration, mediation, or other contractually stipulated alternate dispute resolution mechanism, to have: failed to provide or perform goods or services; or failed to complete the contract in a timely manner; or otherwise performed unsatisfactorily under a prior contract with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority or the New Jersey Schools Development Authority;

(2) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority or the New Jersey Schools Development Authority, to utilize the services of another contractor to provide the goods or perform the services or to correct or complete the contract;

(3) the bidder defaulted on a contract, thereby requiring a board of education or, in the case of a school facilities project, the New Jersey Economic Development Authority or the New Jersey Schools Development Authority, to look to the bidder's surety for completion of the contract or tender of the costs of completion;

(4) the bidder is debarred or suspended from contracting with any of the agencies or departments of the executive branch of the State of New Jersey at the time of the contract award, whether or not the action was based on experience with a board of education or, in the case of a school facilities project, with the New Jersey Economic Development Authority or the New Jersey Schools Development Authority;

(5) the bidder's prequalification to bid on a school facilities project, which prequalification was granted pursuant to the process established by the development authority under section 59 of P.L.2000, c.72 (C.18A:7G-33), has been revoked by the New Jersey Schools Development Authority;

(6) the bidder has been suspended from contracting or engaging in work or services on a school facilities project; or



(7) the bidder's prequalification to submit bids on a school facilities project has been revoked pursuant to subsection b. of section 61 of P.L.2000, c.72 (C.18A:7G-35) or subsection b. of section 62 of P.L.2000, c.72 (C.18A:7G-36).

c. The following conditions apply if the board of education is contemplating a disqualification based on prior negative experience:

(1) The existence of any of the indicators of prior negative experience set forth in this section shall not require that a bidder be disqualified. In each instance, the decision to disqualify shall be made within the discretion of the board of education and shall be rendered in the best interests of the board of education.

(2) All mitigating factors shall be considered in determining the seriousness of the prior negative experience and in deciding whether disqualification is warranted.

(3) The bidder shall be furnished by the board of education with a written notice (a) stating that a disqualification is being considered; (b) setting forth the reason for the disqualification; and (c) indicating that the bidder shall be accorded an opportunity for a hearing before the board of education if the bidder so requests within a stated period of time. At the hearing, the bidder shall show good cause why the bidder should not be disqualified by presenting documents and testimony. If the board of education determines that good cause has not been shown by the bidder, it may vote to find the bidder lacking in responsibility and, thus, disqualified.

(4) Disqualification shall be for a reasonable, defined period of time which shall not exceed five years.

(5) A disqualification, other than a disqualification pursuant to which a board of education is prohibited by law from entering into a contract with a bidder, may be voided or the period thereof may be reduced, in the discretion of the board of education, upon the submission of a good faith application under oath, supported by documentary evidence, setting forth substantial and appropriate grounds for the granting of relief, such as reversal of a judgment, or actual change of ownership, management or control of the bidder.

(6) An opportunity for a hearing need not be offered to a bidder whose disqualification is based on its suspension or debarment by an agency or department of the executive branch of the State of New Jersey. The term of such a disqualification shall be concurrent with the term of the suspension or debarment by the State agency or department.

d. The purchase of text books and materials that exceed the bid threshold and are approved by a board of education pursuant to N.J.S.18A:34-1 shall not require the further adoption of a resolution for purchase.

C.18A:18A-41.1 Regulations promulgated, school districts, encourage completion of construction projects on schedule.

23. a. Within 120 days of the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.), the Commissioner of Education, in consultation with the New Jersey Schools Development Authority, shall, pursuant to the Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate regulations for school districts concerning the incorporation of construction contract provisions that encourage the completion of construction projects on schedule.

b. At a minimum, the regulations shall include sample provisions that school districts may include in future issuances of construction contracts. In addition to any other considerations that the commissioner may deem appropriate, the regulations shall prescribe:

- (1) industry-leading penalties for the late delivery of projects by contractors; and
- (2) incentives for contractors who deliver projects on time and under budget.

24. Section 2 of P.L.2018, c.90 (C.18A:18A-60) is amended to read as follows:

C.18A:18A-60 Definitions relative to school district partnership with private entities.

2. a. As used in this section:

"Authority" means the New Jersey Economic Development Authority established pursuant to section 4 of P.L.1974, c.80 (C.34:1B-4).

"Bundling" means the use of a solicitation for multiple projects in one single contract, through a public-private partnership project delivery method, the result of which restricts competition.

"Project" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) for school facilities project, and shall include any infrastructure or facility used or to be used by the public or in support of a public purpose or activity.

"Public-private partnership agreement" means an agreement entered into by a school district and a private entity pursuant to this section for the purpose of permitting a private entity to assume full financial and administrative responsibility for the development, construction, reconstruction, repair, alteration, improvement, extension, operation, and maintenance of a school facilities project of, or for the benefit of, the school district.

"School district" shall have the same meaning as provided in section 3 of P.L.2000, c.72 (C.18A:7G-3) and includes a local school district, regional school district, or county special services school district or county vocational school established and operating under the provisions of Title 18A of the New Jersey Statutes that can demonstrate to the satisfaction of the Commissioner of Education and the Chief Executive Officer of the Schools Development Authority that a school facility is necessary due to overcrowding or is in need of replacement. The term "school district" shall include a charter school established under P.L.1995, c.426 (C.18A:36A-1 et seq.)

b. (1) A school district may enter into a contract with a private entity, subject to subsection f. of this section, to be referred to as a public-private partnership agreement, that permits the private entity to assume full financial and administrative responsibility for a project of, or for the benefit of, the school district, except that a school district may, by resolution, draw against its capital reserve account in order to finance a portion of a project for which a school district and private entity enter into a public-private partnership agreement pursuant to the provisions of this section.

(2) A public-private partnership agreement may include an agreement under which a school district and a private entity enter into a lease of a revenue-producing public building, structure, or facility in exchange for up-front or structured financing by the private entity for the project. Under the lease agreement, the private entity shall be responsible for the management, operation, and maintenance of the building, structure, or facility. The private entity shall receive some or all, as per the agreement, of the revenue generated by the building, structure, or facility, and shall operate the building, structure, or facility in accordance with school district standards. At the end of the lease term, subsequent revenue generated by the building, structure, or facility, along with management, operation, and maintenance responsibility, shall revert to the school district. A lease agreement entered into pursuant to this section shall be limited in duration to a term of not more than 30 years. A lease agreement shall be subject to all applicable provisions of current law governing leases by a school district not inconsistent with the provisions of this section.

(3) Bundling of projects shall be prohibited under this section.

c. (1) A private entity that assumes financial and administrative responsibility for a project pursuant to this section shall not be subject to, unless otherwise set forth herein, the procurement and contracting requirements of all statutes applicable to the school district at

which the project is completed, including, but not limited to, the "Public School Contracts Law," N.J.S.18A:18A-1 et seq.

(2) For the purposes of facilitating the financing of a project pursuant to this section, a public entity may become the owner or lessee of the project or the lessee of the land, or both, may become the lessee of a building, structure, or facility to which the school district holds title, may issue indebtedness in accordance with the public entity's enabling legislation and, notwithstanding any provision of law to the contrary, shall be empowered to enter into contracts with a private entity and its affiliates without being subject to the procurement and contracting requirements of any statute applicable to the public entity provided that the private entity has been selected by the school district pursuant to a solicitation of proposals or qualifications from at least two private entities. For the purposes of this subsection, a public entity shall include the New Jersey Economic Development Authority, and any project undertaken pursuant to this section of which the authority becomes the owner or lessee, or which is situated on land of which the authority becomes the lessee, shall be deemed a "project" under "The New Jersey Economic Development Authority Act," P.L.1974, c.80 (C.34:1B-1 et seq.).

(3) Prior to the commencement of work on a project, the private entity shall establish a construction account and appoint a third-party financial institution, who shall be prequalified by the State Treasurer to act as a collateral agent and manage the construction account. The construction account shall include the funding, financial instruments, or both, that shall be used to fully capitalize and fund the project, and the collateral agent shall maintain a full accounting of the funds and instruments in the account. The funds and instruments in the construction account shall be held in trust for the benefit of the contractor, construction manager, and design-build team involved in the project. The funds and instruments in the construction account shall not be the property of the private entity unless all amounts due to the construction account beneficiaries are paid in full. The construction account shall not be designated for more than one project.

d. Each worker employed in the construction, rehabilitation, or building maintenance services of facilities by a private entity that has entered into a public-private partnership agreement with a school district pursuant to this section shall be paid not less than the prevailing wage rate for the worker's craft or trade as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.).

e. (1) All building construction projects under a public-private partnership agreement entered into pursuant to this section shall contain a project labor agreement. The project labor agreement shall be subject to the provisions of P.L.2002, c.44 (C.52:38-1 et seq.), and shall be in a manner that to the greatest extent possible enhances employment opportunities for individuals residing in the county of the project's location. The general contractor, construction manager, design-build team, or subcontractor for a construction project proposed in accordance with this paragraph shall be registered pursuant to the provisions of P.L.1999, c.238 (C.34:11-56.48 et seq.), and shall be classified by the Division of Property Management and Construction, or shall be prequalified by the Department of Transportation, as appropriate, to perform work on a public-private partnership project.

(2) All projects proposed in accordance with this section shall be submitted to the State Treasurer, in consultation with the Department of Education, Schools Development Authority, and the New Jersey Economic Development Authority for a review and approval in accordance with subsection f. of this section prior to the execution of the public-private partnership agreement and, when practicable, are encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council,

the Green Globes Program adopted by the Green Building Initiative, or a comparable nationally recognized, accepted, and appropriate sustainable development rating system.

(3) The general contractor, construction manager, or design-build team shall be required to post a performance bond to ensure the completion of the project and a payment bond guaranteeing prompt payment of moneys due in accordance with and conforming to the requirements of N.J.S.2A:44-143 et seq.

(4) Prior to being submitted to the State Treasurer for review and approval, all projects proposed in accordance with this section shall be subject to a public hearing, the record of which shall have been kept open for a period of seven days following the conclusion of the hearing, after the ranking of proposals takes place pursuant to paragraph (5) of subsection j. of this section. The school district shall provide notice of the public hearing no less than 14 days prior to the date of the hearing. The notice shall prominently state the purpose and nature of the proposed project, and shall be published on the official Internet website of the school district and in at least one or more newspapers with Statewide circulation.

(5) Prior to entering into a public-private partnership, the school district must determine: (i) the benefits to be realized by the project, (ii) the cost of the project if it is developed by the public sector supported by comparisons to comparable projects, (iii) the maximum public contribution that the school district will allow under the public-private partnership, (iv) a comparison of the financial and non-financial benefits of the public-private partnership compared to other options including the public sector option, (v) a list of risks, liabilities and responsibilities to be transferred to the private entity and those to be retained by the school district, and (vi) if the project has a high, medium or low level of project delivery risk and how the public is protected from these risks.

(6) Prior to entering into a public-private partnership, the school district at a public hearing shall find that the project is in the best interest of the public by finding that (i) it will cost less than the public sector option, or if it costs more there are factors that warrant the additional expense, (ii) there is a public need for the project and the project is consistent with existing long-term plans, (iii) there are specific significant benefits to the project, (iv) there are specific significant benefits to using the public-private partnership instead of other options including No-Build, (v) the private development will result in timely and efficient development and operation, and (vi) the risks, liabilities and responsibilities transferred to the private entity provide sufficient benefits to warrant not using other means of procurement.

f. (1) All projects proposed in accordance with this section shall be submitted to the State Treasurer for review and approval, which shall be conducted in consultation with the Commissioner of the Department of Education and the Chief Executive Officer of the Schools Development Authority. The Commissioner of the Department of Education shall determine if a project is subject to voter approval pursuant to N.J.S.18A:24-10. If a project is subject to voter approval, such approval is required prior to progressing thru the procurement process. The projects are encouraged, when practicable, to adhere to the green building manual prepared by the Commissioner of Community Affairs pursuant to section 1 of P.L.2007, c.132 (C.52:27D-130.6).

(2) All projects proposed in accordance with this section that have a transportation component or impact the transportation infrastructure shall be submitted to the Department of Transportation. The State Treasurer shall consult with the Department of Transportation in making its final determination.

(3) (a) In order for an application to be complete and considered by the State Treasurer, the application shall include, but not be limited to: (i) a full description of the proposed public-private partnership agreement between the school district and the private developer, including all information obtained by and findings of the school district pursuant to paragraphs (4) and

(5) of subsection (e) of this section; (ii) a full description of the project, including a description of any agreement for the lease of a revenue-producing facility related to the project; (iii) the estimated costs and financial documentation for the project showing the underlying financial models and assumptions that determined the estimated costs. The financial documentation must include at least three different projected estimated costs showing scenarios in which materially different economic circumstances are assumed and an explanation for how the estimated costs were determined based on the three scenarios; (iv) a timetable for completion of the construction of the project; (v) an analysis of all available funding options for the project, including an analysis of the financial viability and advisability of such project, along with evidence of the public benefit in advancing the project as a public-private partnership; (vi) a record of the public hearing held pursuant to paragraph (4) of subsection e. of this section, which shall have been kept open for a period of seven days following the conclusion of the hearing; (vii) any other requirements that the State Treasurer deems appropriate or necessary. The application shall also include a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement pursuant to this section.

(b) As part of the estimated costs and financial documentation for the project, the application shall contain a long-range maintenance plan and a long-range maintenance bond and shall specify the expenditures that qualify as an appropriate investment in maintenance. The long-range maintenance plan shall be approved by the State Treasurer pursuant to regulations promulgated by the State Treasurer that reflect national building maintenance standards and other appropriate building maintenance benchmarks.

(4) The State Treasurer, in consultation with the authority, the Commissioner of the Department of Education, and the Chief Executive Officer of the Schools Development Authority, shall review all completed applications, and request additional information as is needed to make a complete assessment of the project. No public-private partnership agreement shall be executed until approval has been granted by the State Treasurer. Prior to a final decision by the State Treasurer on the application, the authority, the Department of Education, and the Schools Development Authority shall be afforded the opportunity to provide comments on the application that they deem appropriate, and the State Treasurer shall consider any comments submitted by the authority, the Department of Education, and the Schools Development Authority with respect to the application. The State Treasurer will find that: (i) the school district's assumptions regarding the project's scope, its benefits, its risks and the cost of the public sector option were fully and reasonably developed (ii) the design of the project is feasible; (iii) the experience and qualifications of the private entity; (iv) the financial plan is sound; (v) the long-range maintenance plan is adequate to protect the investment; (vi) the project is in the best interest of the public, using the criteria in paragraph (6) of subsection e. of this section; (vii) a resolution by the school district's governing body of its intent to enter into a public-private partnership agreement for the project has been received; and (viii) the term sheet for any proposed procurement contains all necessary elements.

(5) The State Treasurer, in consultation with the Commissioner of the Department of Education and Chief Executive Officer of the Schools Development Authority, may promulgate any rules and regulations necessary to implement this subsection, including, but not limited to, provisions for fees to cover administrative costs, and for the determination of minimum school district standards for the operation of the project, and for the qualification for professional services, construction contracting, and other relevant qualifications.

g. A project with an expenditure of under \$50 million developed under a public-private partnership agreement shall include a requirement that precludes contractors from engaging in the project if the contractor has contributed to the private entity's financing of the project in an amount of more than 10% of the project's financing costs.

h. The power of eminent domain shall not be delegated to any private entity under the provisions of P.L.2018, c.90 (C.40A:11-52 et al.); however, a school district may dedicate any property interest, including improvements, and tangible personal property of the school district for public use in a qualifying project if the school district finds that so doing will serve the public purpose of the project by minimizing the cost of the project to the school district or reducing the delivery time of a project.

i. Any public-private partnership agreement, if appropriate, shall include provisions affirming that the agreement and any work performed under the agreement are subject to the provisions of the "Construction Industry Independent Contractor Act," P.L.2007, c.114 (C.34:20-1 et seq.). Any public-private partnership agreement will also include, at a minimum: (i) the term of the agreement, (ii) the total project cost, (iii) a completion date guarantee, (iv) a provision for damages if the private entity fails to meet the completion date, and (v) a maximum rate of return to the private entity and a provision for the distribution of excess earnings to the local government unit or to the private party for debt reduction.

j. (1) A private entity seeking to enter into a public-private partnership agreement with the school district shall be qualified by the school district as part of the procurement process, provided such process ensures that the private entity and its subcontractors and consultants, where relevant, meet at least the minimum qualifications standards promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, Schools Development Authority, and such other school district standards for qualification for professional services, construction contracting, and other qualifications applicable to the project, prior to submitting a proposal under the procurement process.

(2) A request for qualifications for a public-private partnership agreement shall be advertised at least 45 days prior to the anticipated date of receipt. The advertisement of the request for qualifications shall be published on the official Internet website of the school district and at least one or more newspapers with Statewide circulation.

(3) After the school district determines the qualified respondents utilizing, at minimum, the qualification standards promulgated by the State Treasurer, the school district shall issue a request for proposals to each qualified respondent no less than 45 days prior to the date established for submission of the proposals. The request for proposals shall include relevant technical submissions, documents, and the evaluation criteria to be used in the selection of the designated respondent. The evaluation criteria shall be, at minimum, criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, and Schools Development Authority.

(4) The school district may accept unsolicited proposals from private entities for public-private partnership agreements. If the school district receives an unsolicited proposal and determines that it meets the standards of this section, the school district shall publish a notice of the receipt of the proposal on the Internet site of the school district and through advertisement in at least one or more newspapers with Statewide circulation. The school district shall also provide notice of the proposal at its next scheduled public meeting and to the State Treasurer. To qualify as an unsolicited proposal, the unsolicited proposal must at a minimum include a description of the public-private project, the estimated construction and life-cycle costs, a timeline for development, proposed plan of financing, including projected revenues, public or private, debt, equity investment, description of how the project meets needs identified in existing plans, the permits and approvals needed to develop the project from local, state and federal agencies and a projected schedule for obtaining such permits and approvals, a statement of risks, liabilities and responsibilities to be assumed by the private entity. The notice shall provide that the school district will accept, for 120 days after the initial date of publication, proposals meeting the standards of this section from other private entities for

eligible projects that satisfy the same basic purpose and need. A copy of the notice shall be mailed to each municipal and county local government body in the geographic area affected by the proposal.

(5) After the proposal or proposals have been received, and any public notification period has expired, the school district shall rank the proposals in order of preference. In ranking the proposals, the school district shall rely upon, at minimum, the evaluation criteria promulgated by the State Treasurer, in consultation with the New Jersey Economic Development Authority, Department of Education, and Schools Development Authority. In addition, the local school district may consider factors that include, but may not be limited to, professional qualifications, general business terms, innovative engineering, architectural services, or cost-reduction terms, finance plans, and the need for school district funds to deliver the project and discharge the agreement. The private entity selected shall comply with all laws and regulations required by the State government entity, including but not limited to section 1 of P.L.2001, c.134 (C.52:32-44), sections 2 through 8 of P.L.1975, c.127 (C.10:5-32 to 38), section 1 of P.L.1977, c.33 (C.52:25-24.2), P.L.2005, c.51 (C.19:44A-20.13 et al.); P.L.2005, c.271 (C.40A:11-51 et al.), Executive Order No. 117 of 2008, Executive Order No. 118 of 2008, Executive Order No. 189, prior to executing the public private partnership agreement. If only one proposal is received, the school district shall negotiate in good faith and, if not satisfied with the results of the negotiations, the school district may, at its sole discretion, terminate negotiations.

(6) The school district may require, upon receipt of one or more proposals, that the private entity assume responsibility for all costs incurred by the school district before execution of the public-private partnership agreement, including costs of retaining independent experts to review, analyze, and advise the school district with respect to the proposal.

(7) The school district shall set aside one percent of each project and remit it the Public-Private Partnership Review fund established pursuant to section 8 of P.L.2018, c.90 (C.52:18A-260), for purposes of plan review and analysis required under the bill.

(8) Nothing in this section shall be construed as or deemed a waiver of the sovereign immunity of the State, the local government unit or an affected locality or public entity or any officer or employee thereof with respect to the participation in or approval of all or any part of the public-private project.

25. N.J.S.18A:21-4 is amended to read as follows:

Use of capital reserve accounts.

18A:21-4. A board of education may in any school year draw against its capital reserve account, up to the amount of the balance therein, to the extent that the withdrawal is anticipated as a revenue in the school budget for the then current school year or approved by the commissioner for good cause; provided, that no money drawn from the account may be used for current expenses of the general fund or debt service payments but shall be used exclusively for capital expenses of the general fund or capital projects fund when expressly authorized as part of a referendum, except as provided for in section 2 of P.L.2018, c.90 (C.18A:18A-60).

26. Section 12 of P.L.1991, c.431 (C.40A:20-12) is amended to read as follows:

C.40A:20-12 Tax exemption, duration.

12. The rehabilitation or improvements made in the development or redevelopment of a redevelopment area or area appurtenant thereto or for a redevelopment relocation housing project, pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.), shall be exempt from taxation for a limited period as hereinafter provided. When housing is to be constructed, acquired or

rehabilitated by an urban renewal entity, the land upon which that housing is situated shall be exempt from taxation for a limited period as hereinafter provided. The exemption shall be allowed when the clerk of the municipality wherein the property is situated shall certify to the municipal tax assessor that a financial agreement with an urban renewal entity for the development or the redevelopment of the property, or the provision of a redevelopment relocation housing project, or the provision of a low and moderate income housing project has been entered into and is in effect as required by P.L.1991, c.431 (C.40A:20-1 et seq.).

Delivery by the municipal clerk to the municipal tax assessor of a certified copy of the ordinance of the governing body approving the tax exemption and financial agreement with the urban renewal entity shall constitute the required certification. For each exemption granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.), upon certification as required hereunder, the tax assessor shall implement the exemption and continue to enforce that exemption without further certification by the clerk until the expiration of the entitlement to exemption by the terms of the financial agreement or until the tax assessor has been duly notified by the clerk that the exemption has been terminated.

Within 10 calendar days following the later of the effective date of an ordinance following its final adoption by the governing body approving the tax exemption or the execution of the financial agreement by the urban renewal entity, the municipal clerk shall transmit a certified copy of the ordinance and financial agreement to the chief financial officer of the county and to the county counsel for informational purposes.

Whenever an exemption status changes during a tax year, the procedure for the apportionment of the taxes for the year shall be the same as in the case of other changes in tax exemption status during the tax year. Tax exemptions granted pursuant to P.L.2003, c.125 (C.40A:12A-4.1 et al.) represent long term financial agreements between the municipality and the urban renewal entity and as such constitute a single continuing exemption from local property taxation for the duration of the financial agreement. The validity of a financial agreement or any exemption granted pursuant thereto may be challenged only by filing an action in lieu of prerogative writ within 20 days from the publication of a notice of the adoption of an ordinance by the governing body granting the exemption and approving the financial agreement. Such notice shall be published in a newspaper of general circulation in the municipality and in a newspaper of general circulation in the county if different from the municipal newspaper.

a. The financial agreement shall specify the duration of the exemption for urban renewal entities in accordance with the parameters of either paragraph (1) or paragraph (2) of this subsection:

(1) the financial agreement may specify a duration of not more than 30 years from the completion of the entire project, or unit of the project if the project is undertaken in units, or not more than 35 years from the execution of the financial agreement between the municipality and the urban renewal entity; or

(2) for each project undertaken pursuant to a redevelopment agreement which allows the redeveloper to undertake two or more projects sequentially, the financial agreement may specify a duration of not more than 30 years from the completion of a project, or unit of the project if the project is undertaken in units, or not more than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. As used in this subsection, "redevelopment agreement" means an agreement entered into pursuant to subsection f. of section 8 of P.L.1992, c.79 (C.40A:12A-8) between a municipality or redevelopment entity and a redeveloper.

A financial agreement may provide for an exemption period of less than 30 years from the completion of the entire project, less than 35 years from the execution of the financial



agreement, or less than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement. Nothing in this subsection shall be construed as requiring a financial agreement for a project undertaken pursuant to a redevelopment agreement which allows the redeveloper to undertake two or more projects sequentially to specify a duration within the parameters of paragraph (2) of this subsection.

b. During the term of any exemption, in lieu of any taxes to be paid on the buildings and improvements of the project and, to the extent authorized pursuant to this section, on the land, the urban renewal entity shall make payment to the municipality of an annual service charge, which shall remit a portion of that revenue to the county as provided hereinafter. In addition, the municipality may assess an administrative fee, not to exceed two percent of the annual service charge, for the processing of the application. The annual service charge for municipal services supplied to the project to be paid by the urban renewal entity for any period of exemption, shall be determined as follows:

(1) An annual amount equal to a percentage determined pursuant to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of the annual gross revenue from each unit of the project, if the project is undertaken in units, or from the total project, if the project is not undertaken in units. The percentage of the annual gross revenue shall not be more than 15% in the case of a low and moderate income housing project, nor less than 10% in the case of all other projects.

At the option of the municipality, or where because of the nature of the development, ownership, use or occupancy of the project or any unit thereof, if the project is to be undertaken in units, the total annual gross rental or gross shelter rent or annual gross revenue cannot be reasonably ascertained, the governing body shall provide in the financial agreement that the annual service charge shall be a sum equal to a percentage determined pursuant to this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), of the total project cost or total project unit cost determined pursuant to P.L.1991, c.431 (C.40A:20-1 et seq.) calculated from the first day of the month following the substantial completion of the project or any unit thereof, if the project is undertaken in units. The percentage of the total project cost or total project unit cost shall not be more than 2% in the case of a low and moderate income housing project, and shall not be less than 2% in the case of all other projects.

(2) In either case, the financial agreement shall establish a schedule of annual service charges to be paid over the term of the exemption period, which shall be in stages as follows:

(a) For the first stage of the exemption period, which shall commence with the date of completion of the unit or of the project, as the case may be, and continue for a time of not less than six years nor more than 15 years, as specified in the financial agreement, the urban renewal entity shall pay the municipality an annual service charge for municipal services supplied to the project in an annual amount equal to the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11). For the remainder of the period of the exemption, if any, the annual service charge shall be determined as follows:

(b) For the second stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or 20% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(c) For the third stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991,

c.431 (C.40A:20-11), or 40% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater;

(d) For the fourth stage of the exemption period, which shall not be less than one year nor more than six years, as specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or 60% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater; and

(e) For the final stage of the exemption period, the duration of which shall not be less than one year and shall be specified in the financial agreement, an amount equal to either the amount determined pursuant to paragraph (1) of this subsection and section 11 of P.L.1991, c.431 (C.40A:20-11), or 80% of the amount of taxes otherwise due on the value of the land and improvements, whichever shall be greater.

If the financial agreement provides for an exemption period of less than 30 years from the completion of the entire project, less than 35 years from the execution of the financial agreement, or less than 50 years from the execution of the first financial agreement implementing a project under the redevelopment agreement, the financial agreement shall set forth a schedule of annual service charges for the exemption period which shall be based upon the minimum service charges and staged adjustments set forth in this section.

The annual service charge shall be paid to the municipality on a quarterly basis in a manner consistent with the municipality's tax collection schedule.

Each municipality which enters into a financial agreement on or after the effective date of P.L.2003, c.125 (C.40A:12A-4.1 et al.) shall remit five percent of the annual service charge collected by the municipality to the county in accordance with the provisions of R.S.54:4-74. If the municipality enters into a contract with a board of education pursuant to section 7 of P.L.2023, c.311 (C.18A:7G-15.1a), the municipality shall also remit to the board of education such amounts as may be required under the contract.

Against the annual service charge the urban renewal entity shall be entitled to credit for the amount, without interest, of the real estate taxes on land paid by it in the last four preceding quarterly installments.

Notwithstanding the provisions of this section or of the financial agreement, the minimum annual service charge shall be the amount of the total taxes levied against all real property in the area covered by the project in the last full tax year in which the area was subject to taxation, and the minimum annual service charge shall be paid in each year in which the annual service charge calculated pursuant to this section or the financial agreement would be less than the minimum annual service charge.

c. All exemptions granted pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.) shall terminate at the time prescribed in the financial agreement.

Upon the termination of the exemption granted pursuant to the provisions of P.L.1991, c.431 (C.40A:20-1 et seq.), the project, all affected parcels, land and all improvements made thereto shall be assessed and subject to taxation as are other taxable properties in the municipality. After the date of termination, all restrictions and limitations upon the urban renewal entity shall terminate and be at an end upon the entity's rendering its final accounting to and with the municipality.

27. Section 3 of P.L.2007, c.137 (C.52:18A-237) is amended to read as follows:

C.52:18A-237 "New Jersey Schools Development Authority."

3. a. There is established in, but not of, the Department of the Treasury a public body corporate and politic, with corporate succession, to be known as the "New Jersey Schools

Development Authority." The development authority shall constitute an instrumentality of the State exercising public and essential governmental functions, and the exercise by the development authority of the powers conferred by this act shall be deemed and held to be an essential governmental function of the State.

b. The development authority shall consist of the Commissioner of Education, the Commissioner of the Department of Community Affairs, the executive director of the Economic Development Authority, and the State Treasurer, who shall serve as ex officio members; and 12 public members appointed by the Governor with the advice and consent of the Senate. At least one of the public members shall have knowledge or expertise in the area of law enforcement and the remaining public members shall have knowledge or expertise in real estate development, construction management, finance, architectural or building design, education, or any other related field. In addition, the development authority shall consist of two public members, one appointed by the Governor upon the recommendation of the Senate President and one appointed by the Governor upon the recommendation of the Speaker of the General Assembly, which members shall have knowledge or expertise in real estate development, construction management, finance, architectural or building design, education, or any other related field.

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

In the case of the first 11 public members appointed by the Governor pursuant to subsection b. of this section, three shall serve for a term of two years, three shall serve for a term of three years, three shall serve for a term of four years, and two shall serve for a term of five years.

d. (1) Each member appointed by the Governor may be removed from office by the Governor, for cause, after a public hearing, and may be suspended by the Governor pending the completion of such hearing. Each member before entering upon the member's duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially and justly to the best of the member's ability. A record of such oath shall be filed in the Office of the Secretary of State.

(2) Each member appointed by the Governor upon the recommendation of the Senate President and Speaker of the General Assembly may be removed from office by the Governor upon the recommendation of the Senate President or Speaker as applicable, for cause, after a public hearing, and may be suspended by the Governor upon the recommendation of the Senate President or Speaker as applicable pending the completion of the hearing. Each member before entering upon the member's duties shall take and subscribe an oath to perform the duties of the office faithfully, impartially, and justly to the best of the member's ability. A record of the oath shall be filed in the Office of the Secretary of State.

e. A chairperson shall be appointed by the Governor from the public members. The members of the development authority shall elect from their remaining number a vice-chairperson, a secretary, and a treasurer thereof. The development authority shall employ an executive director who shall be its chief executive officer. The powers of the development authority shall be vested in the members thereof in office from time to time and 10 members of the development authority shall constitute a quorum at any meeting thereof. Action may be taken and motions and resolutions adopted by the development authority at any meeting thereof by the affirmative vote of at least 10 members of the development authority. No vacancy in the membership of the development authority shall impair the right of a quorum of the members to exercise all the powers and perform all the duties of the development authority.

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

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

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

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

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

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

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

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

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

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

28. Section 4 of P.L.2007, c.137 (C.52:18A-238) is amended to read as follows:

C.52:18A-238 Powers of development authority.

4. The development authority shall have the following powers:

- a. To adopt bylaws for the regulation of its affairs and the conduct of its business;
- b. To adopt and have a seal and to alter the same at pleasure;
- c. To sue and be sued;
- d. To acquire in the name of the development authority by purchase or otherwise, on such terms and conditions and such manner as it may deem proper, or by the exercise of the power of eminent domain in the manner provided by the "Eminent Domain Act of 1971," P.L.1971, c.361 (C.20:3-1 et seq.), any lands or interests therein or other property which it may determine is reasonably necessary for any school facilities project;
- e. To enter into contracts with a person upon such terms and conditions as the development authority shall determine to be reasonable, including, but not limited to, for the planning, design, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of a school facilities project and the reimbursement thereof, and to pay or compromise any claims arising therefrom;
- f. To sell, convey or lease to any person all or any portion of its property, for such consideration and upon such terms as the development authority may determine to be reasonable;
- g. To mortgage, pledge or assign or otherwise encumber all or any portion of any property or revenues, whenever it shall find such action to be in furtherance of the purposes of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- h. To grant options to purchase or renew a lease for any of its property on such terms as the development authority may determine to be reasonable;
- i. To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the United States of America or any agency or instrumentality thereof, or from the State or any agency, instrumentality or political subdivision thereof, or from any other source and to comply, subject to the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.), with the terms and conditions thereof;
- j. In connection with any application for assistance under P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.) or commitments therefor, to require and collect such fees and charges as the development authority shall determine to be reasonable;
- k. To adopt, amend and repeal regulations to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- l. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;
- m. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;
- n. To purchase, acquire, attach, seize, accept or take title to any property by conveyance or by foreclosure, and sell, lease, manage or operate any property for a use specified in P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);
- o. (1) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the development authority to carry out the purposes of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) and to fix and pay their compensation from funds available to the development authority therefor, all without regard to the provisions of Title 11A of the New Jersey Statutes, provided, however, that an affirmative vote of the development authority

shall be required in the hiring, termination, and disciplining of the management team of the development authority, which shall include the Chief Executive Officer, the Vice President and Chief Financial Officer, and the Vice President of Corporate Governance;

(2) Notwithstanding the provisions of P.L.2007, c.137 (C.52:18A-235 et al.) or any other law, rule, or regulation to the contrary, the operations of the development authority shall be funded annually through State appropriations. The Legislature shall annually appropriate such sums as are necessary to finance the operations of the development authority, as authorized under this subsection.

p. To do and perform any acts and things authorized by P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.) under, through or by means of its own officers, agents and employees, or by contract with any person;

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

r. To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

s. To construct, reconstruct, rehabilitate, improve, alter, equip, maintain or repair or provide for the construction, reconstruction, improvement, alteration, equipping or maintenance or repair of any property and lot, award and enter into construction contracts, purchase orders and other contracts with respect thereto, upon such terms and conditions as the development authority shall determine to be reasonable, including, but not limited to, reimbursement for the planning, designing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of any such property and the settlement of any claims arising therefrom;

t. To undertake school facilities projects and to enter into agreements or contracts, execute instruments, and do and perform all acts or things necessary, convenient or desirable for the purposes of the development authority to carry out any power expressly provided pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.), including, but not limited to, entering into contracts with the State Treasurer, the New Jersey Economic Development Authority, the Commissioner of Education, districts, and any other entity which may be required in order to carry out the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.);

u. To enter into leases, rentals or other disposition of a real property interest in and of any school facilities project to or from any local unit pursuant to P.L.2000, c.72 (C.18A:7G-1 et al.) or P.L.2007, c.137 (C.52:18A-235 et al.);

v. To make and contract to make loans or leases to local units to finance the cost of school facilities projects and to acquire and contract to acquire bonds, notes or other obligations issued or to be issued by local units to evidence the loans or leases, all in accordance with the provisions of P.L.2000, c.72 (C.18A:7G-1 et al.) and P.L.2007, c.137 (C.52:18A-235 et al.);

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

29. Section 3 of P.L.2021, c.71 (C.52:35B-3) is amended to read as follows:

C.52:35B-3 Design-build contracts permitted.

3. a. If a contracting unit determines in its discretion that the design-build approach meets their needs better than the traditional design-bid-build approach established under New Jersey public procurement statutes for the project or projects under consideration, it shall be the public policy of this State to permit that contracting unit to enter into design-build contracts as defined in section 2 of P.L.2021, c.71 (C.52:35B-2), provided the following conditions are met:

(1) The contracting unit shall, prior to issuing solicitations, publish procedures consistent with regulations promulgated by the contracting unit, where applicable for the solicitation and award of design-build contracts, and shall adhere to sections 2 through 9 of P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9) and those procedures; and

(2) The contracting unit shall, for each public project or projects under sections 2 through 9 of P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9), make a determination based on the timeliness of the project or projects that it is in the best interest of the public to enter into a design-build contract to complete the public project or projects.

b. All workers employed in a design-build construction project shall be paid the prevailing wage determined by the Commissioner of Labor pursuant to the provisions of the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.).

c. Except where the contracting unit is the Department of Transportation, all design-build construction projects shall be encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System as adopted by the United States Green Building Council, the Green Globes Program adopted by the Green Building Initiative, or a comparable nationally recognized, accepted, and appropriate sustainable development system.

d. Notwithstanding the provisions of sections 2 through 9 of P.L.2021, c.71 (C.52:35B-2 through C.52:35B-9) to the contrary, an independent State transportation authority which already has an established prequalification, project rating, or proposal process for design-build contracts as of the effective date of P.L.2021, c.71 (C.52:35B-1 et al.) may continue to award design-build contracts pursuant to that process.

e. Notwithstanding the provisions of any other law, rule, or regulation to the contrary, in the event that a government entity that enters a contract pursuant to P.L.2007, c.137 (C.52:18A:-235 et seq.) already has an established prequalification, project rating, or proposal process for design-build contracts as of the effective date of P.L.2021, c.71 (C.52:35B-1 et al.), that entity may continue to award design-build contracts pursuant to that process.

#### C.34:1B-21.37 Definitions.

30. As used in sections 31 through 34 of P.L.2023, c.311 (C.34:1B-21.38 through 34:1B-21.41):

“Authority” means the New Jersey Economic Development Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

“Charter school” means a school established pursuant to P.L.1995, c.426 (C.18A:36A-1 et seq.).

“Charter school development corporation” means a non-profit corporation established pursuant to Title 15 of the Revised Statutes, Title 15A of the New Jersey Statutes, any other law of this State, or is otherwise qualified to do business in New Jersey and has a primary purpose of providing operational, development, fundraising, real estate, or other supporting services to charter schools or renaissance school projects, or other non-profit entity with experience undertaking facilities construction, development, rehabilitation, leasing and financing, and acquisition of real estate for community development or charter schools.

“Community Development Financial Institution” means an entity designated and certified by the United States Department of the Treasury as a Community Development Financial Institution pursuant to 12 C.F.R. Part 1805.

“Department” means the Department of Education.

“Eligible borrower” means a non-profit charter school, non-profit renaissance school project, community development financial institution, charter school development corporation, eligible lender, a non-profit entity with expertise in charter school lending that can leverage the loan, and any other entity designated an eligible borrower by the authority. Eligible borrower shall not include a charter school or renaissance school project that is operated by a for-profit management company.

“Eligible lender” means any lawfully constituted nonprofit mortgage lender.

“Loan fund” means the “Charter School and Renaissance School Project Facilities Loan Fund” established pursuant to section 33 of P.L.2023, c.311 (C.34:1B-21.40).

“Loan program” means the “Charter School and Renaissance School Project Facilities Loan Program” established pursuant to section 32 of P.L.2023, c.311 (C.34:1B-21.39).

“Renaissance school project” has the same meaning as defined in section 3 of P.L.2011, c.176 (C.18A:36C-3).

“School facility” means any structure, building, or facility used wholly or in part for educational purposes that is owned or leased from a nonprofit entity, its wholly owned subsidiary, or government agency and operated by a charter school or renaissance school project.

“School facilities project” means the planning, acquisition of new land or building in the municipality in which the charter school or renaissance school project’s charter has permitted them to operate, demolition, construction, improvement, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings, and equipment, and shall also include, but is not limited to, refinancing short-term bridge funding to commence construction, site acquisition, site development, services of design professionals, such as engineers and architects, construction management, legal services, financing costs, and administrative costs and expenses incurred in connection with the project.

“SDA district” is a district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year.

“Title” means ownership, simple or in fee, or a 99-year ground leasehold.

C.34:1B-21.38 School facilities projects, charter school, renaissance school project, eligible borrower, subject to public bidding requirements.

31. Notwithstanding the provisions of section 10 of P.L.1995, c.426 (C.18A:36A-10), section 7 of P.L.2011, c.176 (C.18A:36C-7), or any other law, rule, or regulation to the contrary:

a. a charter school, renaissance school project, or any other eligible borrower authorized to undertake a school facilities project pursuant to sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) shall be subject to the public bidding requirements provided pursuant to the “Public School Contracts Law,” N.J.S.18A:18A-1 et seq.;

b. a charter school, renaissance school project, or any other eligible borrower may accept public funds in the form of a loan for a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41);

c. a charter school board of trustees may incur debt for a period greater than 12 months provided that the debt incurred is used in connection with a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41); and

d. a school facilities project funded by a loan pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) shall adhere to all public school facilities regulations pertaining to the health and safety of pupils.



e. Nothing in sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) shall be construed to prohibit an eligible borrower who receives a loan pursuant to those provisions from simultaneously seeking or accepting private funding to support the undertaking of a school facilities project of a charter school or renaissance school project.

C.34:1B-21.39 “Charter School and Renaissance School Project Facilities Loan Program” established.

32. a. The authority shall establish and administer a loan program to be known as the “Charter School and Renaissance School Project Facilities Loan Program” to provide eligible borrowers with a loan, including, but not limited to, subordinate loans, to undertake or facilitate school facilities projects for non-profit charter schools and non-profit renaissance school projects located in an SDA district.

b. (1) The authority, in consultation with the department, shall annually review the applications for school facilities projects submitted pursuant to subsection c. of this section and may approve applications for loans on a quarterly basis. The authority, in consultation with the department, shall consider the critical need of a school facilities project in making a determination on a submitted application. At a minimum, the criteria and methodology for determining critical need shall prioritize, in order from highest to lowest priority:

(a) school facilities projects that address critical operational building needs related to health and safety issues and program mandates, which projects shall include, in order from highest to lowest priority:

(i) essential building systems upgrades, including finishing work and the repair or replacement of structural, mechanical, heating and cooling, electrical, and plumbing systems;

(ii) building skin, including the repair or replacement of roofs, windows, and masonry;

(iii) improvements or other modifications and alterations needed to address appropriate building code issues;

(iv) upgrades required for a school facility to meet the standards of the “Americans with Disabilities Act of 1990” (42 U.S.C. s.12101 et seq.);

(v) hazardous material abatement and required refinishing work, which hazardous material may include radon, lead, and asbestos;

(vi) security and communication systems upgrades;

(vii) technology infrastructure upgrades, which shall not include technology equipment with a useful life of less than five years; and

(viii) site drainage related to the remediation of an existing issue and not in conjunction with new construction;

(b) new construction projects of a charter school or renaissance school project offering programs within grade levels permitted by the school’s charter and within the municipality in which the charter school or renaissance school project’s charter has permitted them to operate; and

(c) major renovation and rehabilitation projects, including projects that seek to expand the capacity of a charter school or renaissance school project facility used for educational purposes of a charter school or renaissance school project that operates grade levels permitted within the school’s charter and within the municipality in which the charter school or renaissance school project’s charter has permitted them to operate.

(2) In the event that a school facilities project for which an eligible borrower is seeking a loan pursuant to this section is requested for a leased facility in which the charter school or renaissance school project is the sole lessee, the eligible borrower shall submit the lease agreement or lease agreement addendum as part of the application. The lease agreement or lease agreement addendum shall demonstrate that the lessor of the facility is a non-profit entity or government agency and that the term of the lease is no less than 10 years, inclusive of all

lease renewal options. An eligible borrower shall not receive a loan pursuant to this section in the event that the school facilities project for which the eligible borrower is seeking funds is requested for a leased facility in which the lessor is a for-profit entity.

(3) In the event that a school facilities project for which an eligible borrower is seeking a loan pursuant to this section is requested for a leased facility in which the charter school or renaissance school project is not the only lessee, the eligible borrower shall not seek a loan for any costs related to the improvement, alteration, modernization, renovation, reconstruction, maintenance, or capital maintenance of all or any part of the shared spaces of the facility, which shared spaces shall include elevators, stairs, roofs, and common areas.

c. An eligible borrower seeking a loan for a school facilities project pursuant to the provisions of this section shall apply to the authority and department in a form and manner prescribed by the authority in consultation with the department. In the case of a charter school or renaissance school project established after the effective date of P.L.2023, c.311 (C.18A:7G-5b et al.), the authority shall not approve a loan for a school facilities project until after the charter school's first renewal pursuant to section 17 of P.L.1995, c.426 (C.18A:36A-17) or after the renaissance school project's first renewal under section 10 of P.L.2011, c.176 (C.18A:36C-10) or of a charter school or renaissance school project placed on probationary status by the Commissioner of Education. In addition to any other information the authority and department deem appropriate, the application shall require the eligible borrower to submit a detailed plan of the anticipated use of loan proceeds, full project costs, and all sources of funding.

d. (1) The authority and department may approve applications for loans on a quarterly basis, subject to the availability of funds in the loan fund established pursuant to section 33 of P.L.2023, c.311 (C.34:1B-21.40). Upon approval of the application, the authority shall provide loans with an interest rate that is equal to the lower of one-half of the Triple A Bond Rate available on the date of loan approval or 1.75 percent to eligible borrowers seeking to undertake school facilities projects for charter schools and renaissance school projects located in SDA districts. The terms of the loan and the repayment schedule shall be established by the authority.

(2) All loan repayments, and interest thereon, shall be deposited by the authority in the loan fund established pursuant to section 33 of P.L.2023, c.311 (C.34:1B-21.40), for use in the manner provided for in this section.

e. (1) The authority shall require, as a condition of a loan for a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) on a school facility owned by the charter school or renaissance school project, that, notwithstanding the provisions of section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule, or regulation to the contrary, in the event the authorization to operate a charter school is revoked, not renewed, or surrendered or the authorization to operate a renaissance school project is terminated or expires for any reason, and no substitute or replacement owner or operator for that charter school or renaissance school project has been approved prior to the date that the operations of the charter school or renaissance school project cease, the title to the charter school or renaissance school project shall revert to another eligible borrower or the Department of the Treasury, except as provided pursuant to paragraph (2) of this subsection, for consideration in an amount calculated as follows:

(a) if the principal and interest due on any outstanding debt used to finance a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) of a charter school or renaissance school project is equal to or greater than the fair market value of the charter school or renaissance school project, as determined by a certified appraiser agreed to by the board of education of the district in which the charter school or renaissance school project is located and the owner of the charter school or renaissance school project, an eligible borrower or the Department of the Treasury shall

assume any outstanding debt used to finance the school facilities project of the charter school or renaissance school project, and thereafter an eligible borrower or the State shall be legally obligated for the payment thereof; or

(b) if the fair market value of the charter school or renaissance school project is greater than the amount of the principal and interest due on the outstanding debt used to finance a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) of a charter school or renaissance school project, the State shall pay to the owner of the charter school or renaissance school project the fair market value of the charter school or renaissance project, provided that, to the extent that any debt used to finance the school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) of a charter school or renaissance school project is then outstanding, the owner of the charter school or renaissance school project shall utilize the funds received from the State pursuant to this subparagraph to retire the outstanding debt. If the school district in which the charter school or renaissance school project is located does not exercise its right of first refusal established pursuant to paragraph (2) of this subsection, the Department of the Treasury may sell the property to another charter school or renaissance school project or another eligible borrower.

(2) The authority shall require as a condition of a loan for a school facilities project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41) on a school facility owned by the charter school or renaissance school project that, notwithstanding the provisions of section 7 of P.L.2013, c.149 (C.18A:36C-16) or any other law, rule, or regulation to the contrary, in the event the authorization to operate a charter school is revoked, not renewed, or surrendered or the authorization to operate a renaissance school project is terminated or expired for any reason, and no substitute or replacement owner or operator for that charter school or renaissance school project has been approved prior to the date that the operations of the charter school or renaissance school project cease, the board of education of the district in which the charter school or renaissance school project is located shall have the right of first refusal of the title to the charter school or renaissance school project school facility. If the title transfers to the board of education, the State shall assume, pursuant to subparagraph (a) of paragraph (1) of this subsection, or pay, any outstanding debt used to finance a school facilities project of the charter school or renaissance school project pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41).

f. The authority, in consultation with the department, shall promulgate within 12 months following the date of enactment of P.L.2023, c.311 (C.18A:7G-5b et al.), pursuant to the “Administrative Procedures Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement the provisions of this section, which rules and regulations shall at a minimum establish:

(1) the process for review and approval of charter school and renaissance school project school facilities projects; and

(2) the process for the reversion to the board of education of the district in which the charter school or renaissance school project is located, an eligible borrower, or the State of a school facilities project pursuant to subsection e. of this section, which shall be consistent with the requirements of section 7 of P.L.2013, c.149 (C.18A:36C-16).

g. Not less than the prevailing wage rate determined by the Commissioner of Labor and Workforce Development pursuant to the provisions of P.L.1963, c.150 (C.34:11-56.25 et seq.) shall be paid to workers employed in the performance of construction contracts in connection with any charter school or renaissance school project school facilities project undertaken pursuant to sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41).

h. The authority shall not approve a second or subsequent loan pursuant to the provisions of the loan program to an eligible borrower who is in arrears or default of a prior loan issued pursuant to the provisions of the loan program.

i. In the event that the aggregate amount of a loan provided pursuant to this section exceeds \$5,000,000 for a school facilities project approved pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41), the authority shall require as a condition of the loan that the school facilities project be subject to the provisions of a project labor agreement.

C.34:1B-21.40 “Charter School and Renaissance School Project Facilities Loan Fund” established, maintained, non-lapsing, revolving fund.

33. a. The authority shall establish and maintain the “Charter School and Renaissance School Project Facilities Loan Fund,” which shall be a non-lapsing, revolving fund that shall serve as the repository of all monies used to support the loan program.

b. All loans provided under section 32 of P.L.2023, c.311 (C.34:1B-21.39) shall be issued from monies held in the loan fund. All monies received by the authority from the repayment of loans and the interest thereon shall be deposited into the loan fund.

C.34:1B-21.41 Annual appropriations, New Jersey Economic Development Authority.

34. The Legislature shall annually appropriate to the New Jersey Economic Development Authority for deposit into the “Charter School and Renaissance School Project Facilities Loan Fund” such funds as are necessary for the implementation of sections 30 through 33 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.40) until such time as the loan program becomes self-sustaining. The New Jersey Economic Development Authority may also utilize such other funds, including federal funds, as available, for deposit into the “Charter School and Renaissance School Project Facilities Loan Fund.”

C.34:1B-21.42 Charter school, SDA district, construction of facility with public funds other than federal.

35. Notwithstanding the provisions of section 10 of P.L.1995, c.426 (C.18A:36A-10) or any other law, rule, or regulation to the contrary, a charter school located in an SDA district may construct a facility with public funds other than federal funds, including loan funds received pursuant to the provisions of sections 30 through 34 of P.L.2023, c.311 (C.34:1B-21.37 through 34:1B-21.41), and be subject to the provisions of the “Public School Contracts Law,” N.J.S.18A:18A-1 et seq., provided that the public funds are provided for a school facilities project approved pursuant to section 32 of P.L.2023, c.311 (C.34:1B-21.39).

36. This act shall take effect immediately.

Approved January 16, 2024.