

JSCB

Joint Schools Construction Board

New York State enabling law as enacted and
approved by Governor George E. Pataki

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Matthew J. Driscoll
Mayor
203 City Hall
Syracuse, New York 13202
(315) 448-8005
Fax (315) 448-8067



Daniel G. Lowengard
Superintendent
725 Harrison Street
Syracuse, New York 13210
(315) 435-4499
Fax (315) 435-4015

Ch. 58, Pt. A-4, § 1

c. For the purposes of computing this apportionment for the two thousand five—two thousand six school year and thereafter, approved transportation capital, debt service, and lease expense shall be the amount computed based upon an assumed amortization determined pursuant to paragraph e of this subdivision for an expenditure incurred by a school district and approved by the commissioner for those items of transportation capital, debt service and lease expense allowable under subdivision two of section thirty-six hundred twenty-three-a of this article for: (i) the regular aidable transportation of pupils, as such terms are defined in sections thirty-six hundred twenty-one and thirty-six hundred twenty-two-a of this article, (ii) the transportation of children with disabilities pursuant to article eighty-nine of this chapter, and (iii) the transportation of homeless children pursuant to paragraph c of subdivision four of section thirty-two hundred nine of this chapter, provided that the total approved cost of such transportation shall not exceed the amount of the total cost of the most cost-effective mode of transportation. Approvable expenses for the purchase of school buses shall be limited to the actual purchase price, or the expense as if the bus were purchased under state contract, whichever is less. If the commissioner determines that no comparable bus was available under state contract at the time of purchase, the approvable expenses shall be the actual purchase price or the state wide median price of such bus in the most recent base year in which such median price was established with an allowable year to year CPI increase as defined in subdivision fourteen of section three hundred five of this chapter; whichever is less. Such median shall be computed by the commissioner for the purposes of this subdivision. ~~Commencing with aid payable in the nineteen hundred ninety six—ninety seven school year, no aid shall be payable in the current year for costs incurred for the purchase or lease of a school bus in the base year unless (i) such costs were budgeted by the school district and so reported to the commissioner by November fifteenth of the base year or (ii) such costs were incurred on an emergency basis to replace a school bus that has been rendered unusable due to accident, fire or other similar circumstance, and such emergency and the cost of such replacement were reported to the commissioner within sixty days of such replacement; provided, however, that nothing herein shall prohibit the district from claiming aid for such purchase or lease of a school bus in the year following the current school year as if such costs were approved transportation expense incurred during the current year for the purposes of paragraph a of this subdivision and to the extent that such costs are identified to the commissioner by November first of the current year.~~

§ 2. Subdivision 1 of section 167 of chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, as amended by section 26 of part L of chapter 57 of the laws of 2005, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen, twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, 2007 2008.

§ 3. This act shall be known and may be cited as "the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act."

§ 4. Definitions. As used or referred to in this act:

- (a) "City" shall mean the city of Syracuse.
- (b) "City school district" shall mean the city school district of the city of Syracuse acting by and through the board of education of the city school district of the city of Syracuse.
- (c) "Commissioner" shall mean the commissioner of education of the state of New York.
- (d) "Common council" shall mean the common council of the city of Syracuse.
- (e) "Comptroller" shall mean the comptroller of the state of New York.

Ch. 58, Pt. A-4, § 6

(f) "JSC board" shall mean the joint schools construction board of the city and the city school district as set forth in an agreement, dated as of April 1, 2004, between the city school district and the city as such agreement may be from time to time amended or supplemented, acting as agent for the city, school district, or both.

(g) "Person" shall mean a municipality or other governmental body, a public corporation or an authority, a private corporation, a limited liability company or partnership, or an individual.

(h) "Project" shall mean work at an existing school building site that involves the design, reconstruction, or rehabilitation of an existing school building for its continued use as a school of the city school district, which may include an addition to an existing school building for such continued use at a cost, for such addition, of no more than nine million dollars, and which also may include (1) the construction or reconstruction of athletic fields, playgrounds, and other recreational facilities for such existing school building, and/or (2) the acquisition and installation of all equipment necessary and attendant to and for the use of such existing school building.

(i) "Project labor agreement" shall mean a prehire collective bargaining agreement between a contractor and a labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on the project, and which provides that only contractors and subcontractors who sign a prenegotiated agreement with the labor organization can perform project work.

(j) "Program manager" shall mean an independent program management firm hired by the JSC board to assist it in: (1) developing and implementing procedures for the projects undertaken and contracted for by the JSC board; (2) reviewing plans and specifications for projects; (3) developing and implementing policies and procedures to utilize employment resources to provide sufficient skilled employees for such projects, including developing and implementing training programs, if required; and (4) managing such projects.

§ 5. No more than seven projects, one each at the Central High School, the Blodgett School, the Shea Middle School, the H.W. Smith Elementary School, the Clary Middle School, the Dr. Weeks Elementary School and the Fowler High School, up to a total cost of two hundred twenty-five million dollars, shall be authorized and undertaken pursuant to this act, unless otherwise authorized by law.

§ 6. Before formal selection of the projects occurs, the JSC board shall develop a comprehensive plan recommending and outlining the projects it proposes to be potentially undertaken pursuant to this act. Such plan shall include: (a) an estimate of total costs to be financed, proposed financing plan, proposed method of financing, terms and conditions of the financing, estimated financing costs, and, if city general obligation bonds or notes are not proposed as the method of financing, a comparison of financing costs between such bonds or notes and the proposed method of financing. The plan should also address what specific options would be used to ensure that sufficient resources exist to cover the local share of any such project cost on an annual basis; (b) information concerning the potential persons to be involved in the financing and such person's role and responsibilities; (c) estimates on the design, reconstruction and rehabilitation costs by project, any administrative costs for potential projects, and an outline of the time frame expected for completion of each potential project; (d) a detailed description of the request for proposals process and an outline of the criteria to be used for selection of the program manager and all contractors; (e) any proposed amendments to the city school district's five year capital facilities plan submitted in accordance with subdivision 6 of section 3602 of the education law and the regulations of the commissioner; and (f) a diversity plan, in compliance with subdivision (e) of section eight of this act, to develop diversity goals, including appropriate community input and public discussion, and develop strategies that would create and coordinate any efforts to ensure a more diverse workforce for the projects. The diversity plan should address accountability for attainment of the diversity goals, what forms of monitoring would be used, and how such information would be publicly communicated.

Prior to the development of the comprehensive plan, the JSC board shall hold as many public hearings as may be necessary to ensure sufficient public input and allow for significant public discussion on the school building needs in such city, with at least one hearing to be held in each neighborhood potentially impacted by a proposed project.

Ch. 58, Pt. A-4, § 6

The JSC board shall submit the components of such comprehensive plan outlined in subdivision (a) of this section to the comptroller, along with any other information requested by the comptroller, for his or her review and approval.

§ 7. Notwithstanding any general, special or local law to the contrary and upon approval by the comptroller pursuant to section four of this act, the city school district may select projects to be undertaken pursuant to this act, as provided for in such approved comprehensive plan. After the city school district has selected a new project and plans and specifications for such project have been prepared and approved by the city school district, which are consistent with the approved comprehensive plan, the city school district shall deliver such plans and specifications to the city, for approval by such city, acting through the common council, and after the common council has approved such plans and specifications, the city shall deliver them to the commissioner for his or her approval. After approval by the commissioner, the plans and specifications shall be returned to the city school district and such district shall then deliver them to the JSC board. All such specifications shall detail the number of students the completed project is intended to serve, the site description, the types of subjects to be taught, the types of activities for school, recreational, social, safety, or other purposes intended to be incorporated in the school building or on its site and such other information as the city school district, the city, the common council, and the commissioner shall deem necessary or advisable.

§ 8. (a) Pursuant to the authority granted to it by an agreement and any amendment or supplemental agreement thereto, between the city and the city school district creating the JSC board with reference to the JSC board and any amendments to those sections, the JSC board, upon receipt of such plans and specifications for a project from the city, may enter into contracts on behalf of the city or the city school district, or both, for such project.

(b) Notwithstanding the provisions of any other general, special, or local law to the contrary, relating to the length, duration, and terms of contracts that the city or the city school district may enter into, the JSC board, on behalf of the city and the city school district, is hereby authorized and empowered to enter into contracts relating to projects undertaken pursuant to this act with any person, upon such terms and conditions and for such consideration and for such terms and duration, not to exceed thirty years, as may be agreed upon by the JSC board and such person, whereby such person is granted the right to design (pursuant to the plans and specifications delivered to it by the city), reconstruct, rehabilitate, finance or manage one or more projects in accordance with the design, plans, and specifications for such projects approved by the city school district, the commissioner and the city, as set forth in section five of this act. All such contracts shall comply with the provisions of section eight of this act.

(c) In the event the JSC board shall cease to exist for any reason whatsoever during the life of such contracts as it has entered into pursuant to this act, such contracts shall remain in full force and effect and the city and the city school district shall stand jointly in the place and stead of such JSC board with respect to all rights and obligations under such contracts and with respect to all powers granted to the JSC board by this act; provided, however, that such powers are exercised by the city and the city school district jointly and pursuant to their respective jurisdictions and the general laws applicable there-to, except as modified by this act.

§ 9. (a) Notwithstanding the provisions of any general, special, or local law to the contrary, a contract entered into between the JSC board and any person pursuant to this act may be awarded either pursuant to public bidding in compliance with section 103 of the general municipal law or, in order to foster major investment in existing school buildings and to deliver quality products and services that are beneficial to the city and the city school district and the public they serve, pursuant to the following provisions of this act for the award of a contract based on evaluation of proposals submitted in response to a request for proposals prepared by or for the JSC board.

(b) Prior to the JSC board developing the requests for proposals, it shall consult with the comptroller and the commissioner in creating guidelines to be used by the JSC board in the preparation of individual requests for proposals. Such guidelines shall contain provisions requiring the compliance of the request for proposals with all applicable laws, rules and regulations.

(c) Prior to the issuance of a request for proposals pursuant to this act, the JSC board shall publish notice of such issuance in the official newspaper of the city, if any, and in at least one newspaper of general circulation. Concurrent with the publication of such notice, a draft request for proposals shall be filed with the JSC board. After allowing a thirty day comment period and an additional ten days to review such comments, the JSC board may publish the final request for proposals and concurrent with such publication shall publish notice of such issuance in the manner specified in this subdivision. Concurrent with the publication of the final request for proposals, a set of comments filed in relation to the draft request for proposals and findings related to the substantive elements of such comments shall be filed along with the request for proposals with the JSC board and in the public library or libraries in proximity to the proposed project.

(d) The JSC board shall require that each proposal to be submitted shall include information relating to: (1) the background and experience of the person including any history of labor violations, and when applicable, the identity and experience of the person's general contractor, heating and plumbing contractor, electrical contractor, and design firm; (2) the ability of the person to secure adequate financing, if applicable, including the identification of the firm, if any, that will be used for financing the project; and (3) identification and specification of all elements of cost which would become a charge to the JSC board, the city school district or city, in whatever form, in return for the fulfillment by the person of all tasks and responsibilities established by the request for the proposal for the full lifetime of a proposed contract, including, as appropriate, but not limited to the costs, direct or indirect, relating to the project and such other information as the JSC board may determine to have a material bearing on its ability to evaluate any proposal.

(e) Proposals received in response to a request for proposals shall be evaluated by the JSC board, taking into account maximization of state building aid, as to net cost and in a manner consistent with the provisions set forth in the request for proposals, and may be evaluated on the basis of additional factors when applicable, including, but not limited to, quality and durability of materials, energy efficiency, facility design incorporating systems and approaches which provide maximum facility value at the lowest possible cost for the reconstruction, rehabilitation, and equipping of such projects, and maximization of state building aid. In addition, evaluation of proposals received in response to a request for proposals for the position of program manager shall also include consideration of the criteria set forth in section nine of this act.

(f) The JSC board may make a contract award to any responsible person selected based on a determination by the JSC board that the selected proposal is most responsive to the request for proposals and may negotiate with any person; provided, however, that if an award is made to any person whose total proposal does not provide the lowest net cost, the JSC board shall adopt a resolution after a public hearing which includes particularized findings relevant to factors evaluated indicating that the JSC board's requirements are met by such award and that such action is in the public interest.

§ 10. Contracts. Notwithstanding the provisions of any general, special, or local law or judicial decision to the contrary:

(a) The JSC board may require a contractor awarded a contract, subcontract, lease, grant, bond, covenant or other agreement for a project to enter into a project labor agreement during and for the work involved with such project when such requirement is part of the JSC board's request for proposals for the project and when the JSC board determines that the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws.

(b) Any contract, subcontract, lease, grant, bond, covenant or other agreement for projects undertaken pursuant to this act shall not be subject to section 101 of the general municipal law when the JSC board has chosen to require a project labor agreement, pursuant to subdivision (a) of this section. This exemption shall only apply to the projects undertaken pursuant to this act and shall not apply to projects undertaken by any other school district or municipality unless otherwise specifically authorized.

(c) Notwithstanding any general, special, or local law or judicial decision to the contrary, whenever the JSC board enters into a contract, subcontract, lease, grant, bond, covenant or other agreement for the construction, reconstruction, demolition, excavation, rehabilitation,

Ch. 58, Pt. A-4, § 10

repair, renovation, alteration, or improvement for a project undertaken pursuant to this act, it shall be deemed to be a public works project for the purposes of article 8 of the labor law, and all the provisions of article 8 of the labor law shall be applicable to all the work involved with such project including the enforcement of prevailing wage requirements by the New York State department of labor.

(d) Every contract entered into by the JSC board for a project shall contain a provision that the design of such project shall be subject to the review and approval of the city school district and that the design and construction standards of such project shall be subject to the review and approval of the commissioner. In addition, every such contract shall contain a provision that the contractor shall furnish a labor and material bond guaranteeing prompt payment of moneys that are due to all persons furnishing labor and materials pursuant to the requirements of any contracts for a project undertaken pursuant to this act and a performance bond for the faithful performance of the project, which shall conform to the provisions of section 103-f of the general municipal law, and that a copy of such performance and payment bonds shall be kept by the city and shall be open to public inspection.

(e) For the purposes of article 15-A of the executive law, any person entering into a contract for a project authorized pursuant to this act shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article.

(f) Notwithstanding the provisions of this act or of any general or special law to the contrary, for any contract, subcontract, lease, grant, bond, covenant or other agreement for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement with respect to each project undertaken pursuant to this act, the JSC board shall consider the financial and organizational capacity of contractors and subcontractors in relation to the magnitude of work they may perform, the record of performance of contractors and subcontractors on previous work, the record of contractors and subcontractors in complying with existing labor standards and maintaining harmonious labor relations, and the commitment of contractors to work with minority and women owned business enterprises pursuant to article 15-A of the executive law through joint ventures or subcontractor relationships. The JSC board shall further require, on any contract for construction in excess of three million dollars with respect to any contract for construction, reconstruction, demolition, excavation, rehabilitation, repair, renovation, alteration, or improvement that each contractor and subcontractor shall participate in apprentice training programs in the trades of work it employs that have been approved by the state department of labor for not less than three years.

§ 11. (a) All contracts entered into by the JSC board for projects undertaken pursuant to this act shall be managed by an independent program manager. Selection of the program manager shall be pursuant to the competitive process established in section seven of this act. The program manager shall have experience in planning, designing, and constructing new and/or reconstructing existing school buildings, public facilities, commercial facilities, and/or infrastructure facilities, and in the negotiation and management of labor contracts and agreements, training programs, educational programs, and physical technological requirements for educational programs. The program manager shall manage all projects undertaken pursuant to this act, review project schedules, review payment schedules, prepare cost estimates and assess the safety programs of contractors and all training programs, if required. The program manager shall implement procedures for verification by it that all work for which payment has been requested has been satisfactorily completed.

(b) The program manager, and its affiliates or subsidiaries, if any, shall be prohibited from awarding contracts or being awarded contracts for or performing any work on projects undertaken pursuant to this act.

§ 12. Notwithstanding any other provision of law, building aid that would otherwise be payable for the school district portion of expenditures for capital outlays and debt service for each project undertaken pursuant to the provisions of this act in accordance with subdivision 6 of section 3602 of the education law, shall be paid to the city.

§ 13. Notwithstanding any general, special, or local law or ordinance to the contrary, contracts entered into by the JSC board for projects undertaken pursuant to this act: (1) may be funded by certificates of participation issued by the city pursuant to this act; (2) may be

installment purchased contracts; and (3) shall be subject to the provisions of section 109-b of the general municipal law, except for paragraph (a) of subdivision 3 of such section, subdivision 5 of such section, and paragraph (c) of subdivision 6 of such section, and except to the extent section 109-b of the general municipal law is inconsistent with the provisions of this act. All provisions with reference to installment purchase contracts or certificates of participation contained in section 109-b of the general municipal law, except any prohibition against using such installment purchase contracts or certificates of participation for the purposes set forth in this act, shall apply to installment purchase contracts or certificates of participation entered into or issued pursuant to the authority of this section of this act.

§ 14. (a) Notwithstanding any other provision of any general, special, or local law or provision of this act to the contrary, any project undertaken pursuant to this act shall be operated and maintained by the board of education of the city school district in the same manner as existing school buildings owned by the city are operated and maintained by such board.

(b) Notwithstanding any other provision of any general, special, or local law to the contrary, any project undertaken pursuant to the provisions of this act shall be exempt from all taxes (including sales and use taxes), special assessments, and special ad valorem levies and from the payment of any and all charges and rents for sewer systems, both while such project is being constructed and during its use by the city school district for school purposes.

§ 15. Nothing in this act shall be construed to exempt a project undertaken pursuant to this act from the review and approval procedures applied to such projects by the state department of education when undertaken by the city school district pursuant to the education law.

§ 16. (a) Notwithstanding any limitations contained in article 18-A of the general municipal law, including subdivisions 4, 12 and 13 of section 854 and section 926 of the general municipal law, a project undertaken pursuant to this act shall be a "project" within the definition and for the purposes of subdivision 4 of section 854 of the general municipal law, which may be financed by the city of Syracuse industrial development agency or any successor agency thereto. In connection with the city of Syracuse industrial development agency financing the costs of any project undertaken pursuant to this act, the city and the city school district may grant a leasehold or license interest in the project and school building site constituting such project to the city of Syracuse industrial development agency. All contracts involving any such projects shall be awarded by the JSC board pursuant to the competitive process outlined in section seven of this act and shall comply with the provisions of section eight of this act. A project undertaken pursuant to this act may be financed through a special program agreement with the state of New York municipal bond bank agency pursuant to the provisions of section 2435-a of the public authorities law. It shall be the duty of the JSC board, the city school district and the city to compare the financing available for such projects through the city of Syracuse industrial development agency with financing available through the state of New York municipal bond bank agency, and to employ the financing mechanism that will result in the lowest cost to the taxpayers of the city and the state. It shall be the duty of the JSC board, the city school district, the city and the city of Syracuse industrial development agency to share with the state of New York municipal bond bank agency any information in their possession that is required by the state of New York municipal bond bank agency to determine the cost of financing such projects and to compute the interest rate that would have been applicable to a bond issuance by the state of New York municipal bond bank agency in the event that financing is obtained through the city of Syracuse industrial development agency. Any failure to provide such information within thirty days of receipt of a request from the state of New York municipal bond bank agency shall be deemed to be a failure of the city school district to submit the data needed to compute the apportionment of state building aid, and the commissioner shall withhold such apportionment until such information is fully submitted. Upon request of the city school district, the director of the state of New York municipal bond bank agency shall submit such reports as the commissioner may require on the financing of such projects and/or the interest rate that would have been applicable to such projects if they had been financed through such agency.

Ch. 58, Pt. A-4, § 16

(b) In the event that the city or city school district shall fail to make a payment in such amount and by such date as is provided to be made by such city or city school district under agreements entered into with the city of Syracuse industrial development agency or any successor agency thereto pursuant to subdivision (a) of this section, such agency shall so certify to the state comptroller. Such certificate shall be in such form as the agency deems desirable, but shall specify the amount by which such payment shall have been deficient. The state comptroller, upon receipt of such certificate from the agency, shall withhold such amount from such city or city school district any state and/or school aid payable to such city or city school district to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld. Any amount so paid to the agency from such state and/or school aid shall not obligate the state to make, nor entitle the city or the city school district to receive, any additional amounts of state and/or school aid. Nothing contained herein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount. In the event that the city or city school district shall fail to make a payment in such amount and by such date as is provided to be made by such city or city school district under agreements entered into with the state of New York municipal bond bank agency pursuant to subdivision (a) of this section and section 2435-a of the public authorities law, such agency shall so certify to the state comptroller pursuant to subdivision 4 of section 2436 of the public authorities law and the state comptroller shall be authorized to withhold state aid pursuant to such section 2436 and pay it over to such agency.

§ 17. Clause (a) of subparagraph 5 of paragraph e of subdivision 6 of section 3602 of the education law, as amended by section 21 of part C of chapter 57 of the laws of 2004, is amended to read as follows:

(a) Calculation of interest rates for the city school districts of the cities of Buffalo, Rochester, Syracuse and Yonkers. (i) By the first day of September of the current year, or by the date prescribed by the commissioner for the two thousand one—two thousand two school year, the chief fiscal officer of each of the cities of Buffalo, Rochester, Syracuse and Yonkers shall provide to the commissioner an analysis, as prescribed by the commissioner, of the actual average interest rate applied to all capital debt incurred by such city related to school construction purposes during the base year not including debt issued by the dormitory authority for the benefit of any school district and of the estimated average interest rate applied to all capital debt to be incurred by such city related to school construction purposes during the current year not including debt issued by the dormitory authority for the benefit of any school district. Such interest rates shall be expressed as a decimal to five places rounded to the nearest eighth of one-one hundredth. Except as otherwise provided in ~~item~~ items (ii) and (iii) of this clause, the interest rate of such city applicable to the base year for the purposes of this subparagraph shall be the actual average interest rate of such city in the base year, and the estimated average interest rate shall be tentatively established as the interest rate of such city applicable to the current year, except that all apportionments of aid payable during the current year based on such estimated average interest rate shall be recalculated in the following year and adjusted as appropriate based on the appropriate actual average interest rate then established pursuant to this clause provided, however, that in any year in which such city has not incurred debt related to serial bonds or sinking fund bonds as defined in sections 21.00 and 22.10, respectively, of the local finance law, issued for school construction purposes, the assumed interest rate calculated pursuant to clause (b) of this subparagraph shall be tentatively established as the interest rate of such city applicable to the projects approved by the commissioner in such year, except that all apportionments of aid payable based on such interest rate for each such project shall be recalculated following the submission of a final cost report for such project and adjusted as appropriate based on the appropriate actual average interest rate applicable to the debt issued to fund such project, and provided further that where such city has entered into an agreement with the dormitory authority of the state of New York to finance debt related to school construction that is subject to subparagraph four of this paragraph or has entered into an agreement with the dormitory authority of the state of New York for the purpose of financing a school construction project that is subject to subparagraph three of this paragraph, the interest rate

applicable to the obligations issued by the dormitory authority of the state of New York for such purpose shall be the interest rate established for such city applicable to such debt.

(ii) Notwithstanding the provisions of item (i) of this clause, where such city has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty-four hundred thirty-five-a of the public authorities law and subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, or an agreement with the Erie county industrial development agency for projects described in subdivision (b) of section sixteen of such chapter six hundred five, to finance debt related to school renovation, rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the interest rate actually applicable to the obligations issued by the state of New York municipal bond bank agency or by the Erie county industrial development agency for such purpose; or (B) the interest rate that would have been applicable to bonds issued by the state of New York municipal bond bank agency if the project had been financed through such agency, as certified to the commissioner by the executive director of the state of New York municipal bond bank agency, shall be the interest rate established for such city applicable to such debt.

(iii) Notwithstanding the provisions of item (i) of this clause, where such city has entered into an agreement with the state of New York municipal bond bank agency pursuant to subdivision one of section twenty-four hundred thirty-five-a of the public authorities law and subdivision (a) of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, or an agreement with the city of Syracuse industrial development agency for projects authorized pursuant to the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, to finance debt related to school rehabilitation or reconstruction that is subject to subparagraph three of this paragraph, the lesser of: (A) the net interest cost as defined by the commissioner, applicable to the obligations issued by the state of New York municipal bond bank agency or the city of Syracuse industrial development agency for such purpose; or (B) such net interest cost, as defined by the commissioner that would have been applicable to bonds issued by the state of New York municipal bond bank agency if the project had been authorized to be financed and had been financed through such entity, as certified to the commissioner by the executive director of the state of New York municipal bond bank agency shall be the interest rate established for such city applicable to such debt.

§ 18. The opening paragraph of subdivision 6 of section 3602 of the education law, as separately amended by chapter 59 and section 7 of part A2 of chapter 62 of the laws of 2003, is amended to read as follows:

Apportionment for capital outlays and debt service for school building purposes. Any apportionment to a school district pursuant to this subdivision shall be based upon base year approved expenditures for capital outlays incurred prior to July first, two thousand one from its general fund, capital fund or reserved funds and current year approved expenditures for debt service, including debt service for refunding bond issues eligible for an apportionment pursuant to paragraph g of this subdivision and lease or other annual payments to the New York city educational construction fund created by article ten of this chapter or the city of Yonkers educational construction fund created by article ten-B of this chapter which have been pledged to secure the payment of bonds, notes or other obligations issued by the fund to finance the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures, or for lease or other annual payments to the New York state urban development corporation created by chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, pursuant to agreement between such school district and such corporation relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building, or for annual payments to the dormitory authority pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise provide for school district capital facilities or school district capital equipment made under the provisions of section sixteen hundred eighty of the public authorities law, or for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for

Ch. 58, Pt. A-4, § 18

educational facilities of a city school district under the provisions of section sixteen of chapter six hundred five of the laws of two thousand, for annual payments pursuant to any lease, sublease or other agreement relating to the financing, refinancing, design, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for projects authorized pursuant to the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, or for lease, lease purchase or other annual payments to another school district or person, partnership or corporation pursuant to an agreement made under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, provided that the apportionment for such lease or other annual payments under the provisions of section four hundred three-b, subdivision eight of section twenty-five hundred three, or subdivision six of section twenty-five hundred fifty-four of this chapter, other than payments under a lease-purchase agreement or an equivalent agreement, shall be based upon approved expenditures in the current year. Approved expenditures for capital outlays from a school district's general fund, capital fund or reserved funds that are incurred on or after July first, two thousand two, and are not aidable pursuant to subdivision six-f of this section, shall be aidable as debt service under an assumed amortization established pursuant to paragraphs e and j of this subdivision. In any such case approved expenditures shall be only for new construction, reconstruction, purchase of existing structures, for site purchase and improvement, for new garages, for original equipment, furnishings, machinery, or apparatus, and for professional fees and other costs incidental to such construction or reconstruction, or purchase of existing structures. In the case of a lease or lease-purchase agreement entered pursuant to section four hundred three-b, subdivision eight of section twenty-five hundred three or subdivision six of section twenty-five hundred fifty-four of this chapter, approved expenditures for the lease or other annual payments shall not include the costs of heat, electricity, water or other utilities or the costs of operation or maintenance of the leased facility. An apportionment shall be available pursuant to this subdivision for construction, reconstruction, rehabilitation or improvement in a building, or portion thereof, being leased by a school district only if the lease is for a term of at least ten years subsequent to the date of the general construction contract for such construction, reconstruction, rehabilitation or improvement. Each school district shall prepare a five year capital facilities plan, pursuant to regulations developed by the commissioner for such purpose, provided that in the case of a city school district in a city having a population of one million inhabitants or more, such facilities plan shall comply with the provisions of section twenty-five hundred ninety-p of this chapter and this subdivision. Such plan shall include, but not be limited to, a building inventory, and estimated expense of facility needs, for new construction, additions, alterations, reconstruction, major repairs, energy consumption and maintenance by school building, as appropriate. Such five year plan shall include a priority ranking of projects and shall be amended if necessary to reflect subsequent onsite evaluations of facilities conducted by state supported contractors.

§ 19. On January 15, 2007 and annually thereafter, until completion of the seven projects authorized pursuant to this act, the JSC board shall issue a report to the governor, the comptroller, the commissioner, the temporary president of the senate, the speaker of the assembly, the city, the common council and the city school district on the progress and status of the projects undertaken by the JSC board. Provided further, that if any such entities request information on the progress and status of the projects prior to such report, it shall be provided to such entities by the JSC board.

In addition, on or before June 30, 2014 or upon the completion of the seven projects authorized pursuant to this act, whichever shall first occur, the JSC board shall issue a report to the city, the city school district, the governor, the commissioner, the comptroller, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, the state board of regents, and the chairs and ranking minority members of the New York state senate and assembly committees on education, the finance committee of the New York state senate, and the ways and means committee of the New York state assembly. Such report shall identify the fiscal and pedagogical results of the projects undertaken pursuant to this act, along with recommendations for its continuance, amendments, or discontinuance.

§ 20. Insofar as the provisions of this act are inconsistent with the provisions of any other law, general, special, or local, or of the city charter or an ordinance or resolution of the city, or any rule or regulation, the provisions of this act shall be controlling, provided that nothing contained in this act shall be held to supplement or otherwise expand the powers or duties of the city or the city school district except as specified herein.

§ 21. Subdivision 12 of section 2432 of the public authorities law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

(12) "Special Program Municipality". Any city having a population of less than one million but more than three hundred fifty thousand; and any city having a population of less than two hundred fifty thousand but more than two hundred thousand, determined according to the federal decennial census of nineteen hundred eighty. Such term shall also include the city of Syracuse solely for the purpose of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act.

§ 22. Subdivision 1 of section 2435-a of the public authorities law, as amended by chapter 59 of the laws of 2003, is amended to read as follows:

(1) In order to fulfill the purposes of this title and to provide a means by which the special program municipalities may (a) receive moneys to refund certain property taxes determined to be in excess of state constitutional tax limits or to reimburse the special program municipalities for the prior refunding of such taxes or (b) receive moneys to be applied to the cost of settling litigation involving the city school districts of special program municipalities and the teachers' unions in such special program municipalities, or (c) receive moneys for the financing of public improvements to be applied to the cost of the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, or (d) receive moneys for the financing of public improvements to be applied to the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act, and notwithstanding any general or special law to the contrary, the agency and each special program municipality are hereby authorized to enter into one or more special program agreements, which special program agreements shall, consistent with the provisions of this title, contain such terms, provisions and conditions as, in the judgment of the agency, shall be necessary or desirable. Each special program agreement shall specify the amount to be made available to the respective special program municipality from the proceeds of an issue of special program bonds and shall require such special program municipality, subject to appropriation by the appropriate legislative body of such special program municipality, to make payments to the agency in the amounts and at the times determined by the agency to be necessary to provide for payment of such issue of special program bonds and such other fees, charges, costs and other amounts as the agency shall in its judgment determine to be necessary or desirable.

§ 23. Subdivision 4 of section 2436 of the public authorities law, as amended by chapter 59 of the laws of 2003, is amended to read as follows:

4. In the event that a special program municipality shall fail to make a payment in such amount (as calculated in accordance with the special program agreement to which such municipality shall be a party) and by such date as is provided to be made by such municipality in its special program agreement, the chairman of the agency shall so certify to the comptroller. Such certificate shall be in such form as the agency deems desirable, but shall specify the amount by which such payment shall have been deficient. The comptroller, upon receipt of such certificate from the agency, shall withhold from such special program municipality any state aid payable to such municipality to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld; provided, however, that in the case of a special program agreement entered into for the purpose described in paragraph (b) or (c) or (d) of subdivision one of section twenty-four hundred thirty-five-a of this title, the comptroller shall be authorized to withhold from the special program municipality such school aid as is payable to the city school district of the special program municipality, to the extent of the amount so stated in such certificate as not having been made, and shall immediately pay over to the agency the amount so withheld. Any amount so paid to the agency from such state and/or school aid shall not

Ch. 58, Pt. A-4, § 23

obligate the state to make, nor entitle the special program municipality to receive, any additional amounts of state and/or school aid. Nothing contained therein shall be deemed to prevent the state from modifying, reducing or eliminating any program or programs of state and/or school aid; nor shall the state be obligated by the terms hereof to maintain state and/or school aid at any particular level or amount.

§ 24. Subdivision 1 of section 2438 of the public authorities law, as amended by chapter 59 of the laws of 2003, is amended to read as follows:

(1) The agency shall not issue bonds and notes in an aggregate principal amount at any one time outstanding exceeding one billion dollars, excluding tax lien collateralized securities, special school purpose bonds, special school deficit program bonds, special program bonds issued to finance the reconstruction, rehabilitation or renovation of an educational facility pursuant to the provisions of subdivision (b) of section sixteen of chapter six hundred five of the laws of two thousand, special program bonds issued to finance the cost of a project for design, reconstruction or rehabilitation of a school building pursuant to the provisions of section fourteen of the city of Syracuse and the board of education of the city school district of the city of Syracuse cooperative school reconstruction act and bonds and notes issued to refund outstanding bonds and notes.

§ 25. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in that controversy in which such judgment shall have been rendered.

§ 26. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006, and shall apply to contracts entered into on behalf of school districts and boards of cooperative educational services on and after such date; provided, however, that:

1. section one of this act shall be deemed to have been in full force and effect on and after July 1, 2006, and shall apply to contracts entered into on behalf of school districts and boards of cooperative educational services on and after such date; and
2. section two of this act shall be deemed to have been in full force and effect on and after the effective date of section 101 of chapter 436 of the laws of 1997.

End of Part A-4

PART A-5

§ 1. Paragraph d of subdivision 15 of section 3602 of the education law, as amended by section 29 of part C of chapter 57 of the laws of 2004, is amended to read as follows:

d. Notwithstanding any inconsistent provisions of this article, if such city school district elected to receive operating aid payable in the two thousand—two thousand one school year under the provisions of this subdivision, approved transportation expense for public service transportation for transportation aid payable in the ~~two thousand four—two thousand five~~ two thousand six—two thousand seven school year shall not include any expenditures to the New York City Metropolitan Transportation Authority for public service transportation during the ~~two thousand three—two thousand four~~ two thousand five—two thousand six school year nor shall such expense be included in approved operating expense.

§ 2. Intentionally omitted.

§ 3. Section 273 of the education law is amended by adding two new subdivisions 11 and 12 to read as follows:

11. Notwithstanding any other provision of law to the contrary, each year commencing with the two thousand six calendar year, no library or library system shall receive less aid pursuant to this section or section two hundred seventy-one or two hundred seventy-two of this part than it would have been eligible to receive for the two thousand one calendar year solely by reason of a decrease in the population of the area served as a result of the latest approved federal census.