

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2148

FISCAL

NOTE

By Delegate Hanna

[Introduced January 11, 2023; Referred to the
Committee on Education then Finance]

1 A BILL to repeal §18-9D-1, §18-9D-2, §18-9D-3, §18-9D-4, §18-9D-4a, §18-9D-4b, §18-9D-4c,
 2 §18-9D-4d, §18-9D-5, §18-9D-6, §18-9D-7, §18-9D-8, §18-9D-9, §18-9D-10, §18-9D-11,
 3 §18-9D-12, §18-9D-13, §18-9D-14, §18-9D-15, §18-9D-16, §18-9D-17, §18-9D-18, §18-
 4 9D-19, §18-9D-19a, §18-9D-20, and §18-9D-21 of the Code of West Virginia, 1931, as
 5 amended; and to amend said code by adding thereto a new article, designated §18-2L-1,
 6 §18-2L-2, §18-2L-3, §18-2L-4, §18-2L-4a, §18-2L-4b, §18-2L-4c, §18-2L-4d, §18-2L-5,
 7 §18-2L-6, §18-2L-7, §18-2L-8, §18-2L-9, §18-2L-10, §18-2L-11, §18-2L-12, §18-2L-13,
 8 §18-2L-14, §18-2L-15, §18-2L-16, and §18-2L-17, all relating to moving the duties of the
 9 School Building Authority ("SBA") to the State Department of Education under a new office,
 10 the Office of School Rehabilitation and Construction; providing definitions; creating powers
 11 and authority; allowing the Office of School Rehabilitation and Construction to sell bonds
 12 and act in the same manner as the School Building Authority does; and repealing the
 13 article creating the School Building Authority.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2L. THE OFFICE OF SCHOOL REHABILITATION AND CONSTRUCTION.

§18-2L-1. The Office of School Rehabilitation and Construction; powers.

1 The Office of School Rehabilitation and Construction shall consist of the current members
 2 of the state Board of Education. The office shall have the same authority as was held by the School
 3 Building Authority at the time of passage of this article.

§18-2L-2. Definitions.

1 For the purposes of this article, unless a different meaning clearly appears from the
 2 context:

3 (1) "Bonds" means bonds issued by the Office of School Rehabilitation and Construction
 4 pursuant to this article;

5 (2) "Construction project" means a project in the furtherance of a facilities plan with a cost
 6 greater than \$1 million for the new construction, expansion or major renovation of facilities,

7 buildings and structures for school purposes, including:

8 (A) The acquisition of land for current or future use in connection with the construction
9 project;

10 (B) New or substantial upgrading of existing equipment, machinery and furnishings;

11 (C) Installation of utilities and other similar items related to making the construction project
12 operational.

13 (D) Construction project does not include such items as books, computers or equipment
14 used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance
15 costs; ordinary course of business improvements; other items which are customarily considered to
16 result in a current or ordinary course of business operating charge or a major improvement project;

17 (3) "Cost of project" means the cost of construction, expansion, renovation, repair and
18 safety upgrading of facilities, buildings and structures for school purposes; the cost of land,
19 equipment, machinery, furnishings, installation of utilities and other similar items related to making
20 the project operational; and the cost of financing, interest during construction, professional service
21 fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing,
22 including the cost of administration of this article;

23 (4) "Facilities plan" means the 10-year countywide comprehensive educational facilities
24 plan established by a county board in accordance with guidelines adopted by the Office of School
25 Rehabilitation and Construction to meet the goals and objectives of this article that:

26 (A) Addresses the existing school facilities and facility needs of the county to provide a
27 thorough and efficient education in accordance with the provisions of this code and policies of the
28 state board;

29 (B) Best serves the needs of individual students, the general school population and the
30 communities served by the facilities, including, but not limited to, providing for a facility
31 infrastructure that avoids excessive school bus transportation times for students consistent with
32 sound educational policy and within the budgetary constraints for staffing and operating the

33 schools of the county;

34 (C) Includes the school major improvement plan;

35 (D) Includes the county board's school access safety plan required by section three, article
36 nine-f of this chapter;

37 (E) Is updated annually to reflect projects completed, current enrollment projections and
38 new or continuing needs; and

39 (F) Is approved by the state board and the Office of School Rehabilitation and Construction
40 prior to the distribution of state funds pursuant to this article to any county board or other entity
41 applying for funds;

42 (5) "Office" means the Office of School Rehabilitation and Construction.

43 (6) "Project" means a construction project or a major improvement project;

44 (7) "Region" means the area encompassed within and serviced by a regional educational
45 service agency established pursuant to section twenty-six, article two of this chapter;

46 (8) "Revenue" or "revenues" means moneys:

47 (A) Deposited in the School Building Capital Improvements Fund pursuant to section ten,
48 article nine-a of this chapter;

49 (B) Deposited in the School Construction Fund pursuant to §11-15-30 of this code and §29-
50 22-18 of this code;

51 (C) Deposited in the School Building Debt Service Fund pursuant to §29-22-18 of this
52 code;

53 (D) Deposited in the School Major Improvement Fund pursuant to §11-15-30 of this code;

54 (E) Received, directly or indirectly, from any source for use in any project completed
55 pursuant to this article;

56 (F) Received by the Office of School Rehabilitation and Construction for the purposes of
57 this article; and

58 (G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to §29-

59 22-18a of this code.

60 (9) "School major improvement plan" means a 10-year school maintenance plan that:

61 (A) Is prepared by a county board in accordance with the guidelines established by the
62 office and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is
63 prepared by the state board or the administrative council of an area vocational educational center
64 in accordance with the guidelines if the entities seek funding from the Office of School
65 Rehabilitation and Construction for a major improvement project;

66 (B) Addresses the regularly scheduled maintenance for all school facilities of the county or
67 under the jurisdiction of the entity seeking funding;

68 (C) Includes a projected repair and replacement schedule for all school facilities of the
69 county or of entity seeking funding;

70 (D) Addresses the major improvement needs of each school within the county or under the
71 jurisdiction of the entity seeking funding; and

72 (E) Is required prior to the distribution of state funds for a major improvement project
73 pursuant to this article to the county board, state board or administrative council; and

74 (10) "School major improvement project" means a project with a cost greater than \$50,000
75 and less than \$1 million for the renovation, expansion, repair and safety upgrading of existing
76 school facilities, buildings and structures, including the substantial repair or upgrading of
77 equipment, machinery, building systems, utilities and other similar items related to the renovation,
78 repair or upgrading in the furtherance of a school major improvement plan. A major improvement
79 project does not include such items as books, computers or equipment used for instructional
80 purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course
81 of business improvements; or other items which are customarily considered to result in a current or
82 ordinary course of business operating charge.

§18-2L-3. Powers of Office of School Rehabilitation and Construction; Office of School

Rehabilitation and Construction Fund.

1 (a) The Office of School Rehabilitation and Construction has the power:

2 (1) To sue and be sued, plead and be impleaded;

3 (2) To have a seal and alter the same at pleasure;

4 (3) To contract to acquire and to acquire, in the name of the Office of School Rehabilitation
5 and Construction by purchase, lease-purchase not to exceed a term of 25 years, or otherwise, real
6 property or rights or easements necessary or convenient for its corporate purposes and to
7 exercise the power of eminent domain to accomplish those purposes;

8 (4) To acquire, hold and dispose of real and personal property for its corporate purposes;

9 (5) To make bylaws for the management and rule of its affairs;

10 (6) To appoint, contract with and employ attorneys, bond counsel, accountants,
11 construction and financial experts, underwriters, financial advisers, trustees, managers, officers
12 and such other employees and agents as may be necessary in the judgment of the Office of
13 School Rehabilitation and Construction and to fix their compensation: *Provided*, That contracts
14 entered into by the Office of School Rehabilitation and Construction in connection with the
15 issuance of bonds under this article to provide professional and technical services, including,
16 without limitation, accounting, actuarial, underwriting, consulting, trustee, bond counsel, legal
17 services and contracts relating to the purchase or sale of bonds are subject to the provisions of
18 §5a-3-1 et seq. of this code: *Provided, however*, That notwithstanding any other provisions of this
19 code, any authority of the Attorney General of this state relating to the review of contracts and
20 other documents to effectuate the issuance of bonds under this article shall be exclusively limited
21 to the form of the contract and document: *Provided further*, That the Attorney General of this state
22 shall complete all reviews of contracts and documents relating to the issuance of bonds under this
23 article within 10 calendar days of receipt of the contract and document for review;

24 (7) To make contracts and to execute all instruments necessary or convenient to effectuate
25 the intent of and to exercise the powers granted to it by this article;

26 (8) To renegotiate all contracts entered into by it whenever, due to a change in situation, it

27 appears to the Office of School Rehabilitation and Construction that its interests will be best
28 served;

29 (9) To acquire by purchase, eminent domain or otherwise all real property or interests in the
30 property necessary or convenient to accomplish the purposes of this article;

31 (10) To require proper maintenance and insurance of any project authorized under this
32 section, including flood insurance for any facility within the 100 year flood plain at which Office of
33 School Rehabilitation and Construction funds are expended;

34 (11) To charge rent for the use of all or any part of a project or buildings at any time
35 financed, constructed, acquired or improved, in whole or in part, with the revenues of the Office of
36 School Rehabilitation and Construction;

37 (12) To assist any county board of education that chooses to acquire land, buildings and
38 capital improvements to existing school buildings and property for use as public school facilities,
39 by lease from a private or public lessor for a term not to exceed 25 years with an option to
40 purchase pursuant to an investment contract with the lessor on such terms and conditions as may
41 be determined to be in the best interests of the Office of School Rehabilitation and Construction,
42 the State Board of Education and the county board of education, consistent with the purposes of
43 this article, by transferring funds to the State Board of Education as provided in subsection (d),
44 section fifteen of this article for the use of the county board of education;

45 (13) To accept and expend any gift, grant, contribution, bequest or endowment of money
46 and equipment to, or for the benefit of, the Office of School Rehabilitation and Construction or any
47 project under this article, from the State of West Virginia or any other source for any or all of the
48 purposes specified in this article or for any one or more of such purposes as may be specified in
49 connection with the gift, grant, contribution, bequest or endowment;

50 (14) To enter on any lands and premises for the purpose of making surveys, soundings and
51 examinations;

52 (15) To contract for architectural, engineering or other professional services considered

53 necessary or economical by the Office of School Rehabilitation and Construction to provide
54 consultative or other services to the Office of School Rehabilitation and Construction or to any
55 regional educational service agency or county board requesting professional services offered by
56 the Office of School Rehabilitation and Construction, to evaluate any facilities plan or any project
57 encompassed in the plan, to inspect existing facilities or any project that has received or may
58 receive funding from the Office of School Rehabilitation and Construction or to perform any other
59 service considered by the Office of School Rehabilitation and Construction to be necessary or
60 economical. Assistance to the region or district may include the development of preapproved
61 systems, plans, designs, models or documents; advice or oversight on any plan or project; or any
62 other service that may be efficiently provided to Regional Educational Service Agencies or county
63 boards by the Office of School Rehabilitation and Construction;

64 (16) To provide funds on an emergency basis to repair or replace property damaged by fire,
65 flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in
66 accordance with guidelines of the Office of School Rehabilitation and Construction;

67 (17) To transfer moneys to custodial accounts maintained by the Office of School
68 Rehabilitation and Construction with a state financial institution from the school construction fund
69 and the school improvement fund created in the State Treasury pursuant to the provisions of
70 section six of this article, as necessary to the performance of any contracts executed by the Office
71 of School Rehabilitation and Construction in accordance with the provisions of this article;

72 (18) To enter into agreements with county boards and persons, firms or corporations to
73 facilitate the development of county board projects and county board facilities plans. The county
74 board participating in an agreement shall pay at least 25 percent of the cost of the agreement.
75 Nothing in this section shall be construed to supersede, limit or impair the Office of School
76 Rehabilitation and Construction of county boards to develop and prepare their projects or plans;

77 (19) To encourage any project or part thereof to provide opportunities for students to
78 participate in supervised, unpaid work-based learning experiences related to the student's

79 program of study approved by the county board. The work-based learning experience must be
 80 conducted in accordance with a formal training plan approved by the instructor, the employer and
 81 the student and which sets forth at a minimum the specific skills to be learned, the required
 82 documentation of work-based learning experiences, the conditions of the placement, including
 83 duration and safety provisions, and provisions for supervision and liability insurance coverage as
 84 applicable. Projects involving the new construction and renovation of vocational-technical and
 85 adult education facilities should provide opportunities for students to participate in supervised
 86 work-based learning experiences, to the extent practical, which meet the requirements of this
 87 subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship
 88 programs or the provisions governing those programs; and

89 (20) To do all things necessary or convenient to carry out the powers given in this article.

90 (b) A special revenue account in the State Treasury shall be established and be known as
 91 the "Office of School Rehabilitation and Construction Fund." The fund is to be administered by the
 92 Office of School Rehabilitation and Construction. Expenditures from the fund shall be for the
 93 purposes set forth in this article and are not authorized from collections but are to be made only in
 94 accordance with appropriation by the Legislature and in accordance with the provisions of §12-3-1
 95 et seq. of this code and upon fulfillment of the provisions of §12-3-1 et seq. of this code and upon
 96 fulfillment of the provisions of §11b-2-1 et seq. of this code.

§18-2L-4. Office of School Rehabilitation and Construction authorized to issue refunding
revenue bonds and/or general obligation bonds for school building capital
improvement projects.

1 (a) The Office of School Rehabilitation and Construction, in collaboration with the Office of
 2 School Operations and Finance may by resolution, in accordance with the provisions of this article,
 3 issue revenue bonds of the Office of School Rehabilitation and Construction from time to time,
 4 either to finance the cost of construction projects for public schools in this state, or to refund, at the
 5 discretion of the Office of School Rehabilitation and Construction, bonds issued to finance the cost

6 of the construction projects for public schools in this state and outstanding under and pursuant to
 7 the provisions of this article. The principal of, interest and redemption premium, if any, on such
 8 bonds shall be payable solely from the special fund herein provided for such payment.

9 (b) The Office of School Rehabilitation and Construction, in collaboration with the Office of
 10 School Operations and Finance may, in accordance with the provisions of the Constitution of West
 11 Virginia, issue general obligation bonds from time to time as authorized by referendum pursuant to
 12 resolution duly adopted by the Legislature, to finance the cost of construction projects for public
 13 schools in this state.

§18-2L-4a. Savings from issuance of refunding bonds.

1 Any aggregate savings resulting from the issuance of refunding bonds pursuant to section
 2 four of this article shall be retained by the Office of School Rehabilitation and Construction. Any
 3 savings shall be utilized solely for the construction and maintenance of schools and may not be
 4 used to fund administrative costs of the Office of School Rehabilitation and Construction.

§18-2L-4b. Office of School Rehabilitation and Construction authorized to issue bonds and pay debt service on bonds with funds distributed from State Excess Lottery Fund.

1 The Office of School Rehabilitation and Construction is expressly authorized to issue
 2 bonds and pay debt service on bonds pursuant to the provisions of this article with funds
 3 distributed from the State Excess Lottery Fund under §29-22-18a of this code and deposited into
 4 the Excess Lottery School Building Debt Service Fund and any federal subsidies received by the
 5 Office of School Rehabilitation and Construction and deposited into the Excess Lottery School
 6 Building Debt Service Fund with respect to bonds authorized by this section.

§18-2L-4c. Office of School Rehabilitation and Construction authorized to temporarily finance projects through the issuance of loans, notes or other evidences of indebtedness.

1 The Office of School Rehabilitation and Construction may by resolution, in accordance
 2 with the provisions of this article, temporarily finance the cost of projects and other expenditures

3 permitted under this article for public schools, including, but not limited to, comprehensive high
 4 schools and comprehensive middle schools as defined in this article, in this state through the
 5 issuance of loans, notes or other evidences of indebtedness: *Provided*, That the principal amount
 6 of loans, notes or other evidences of indebtedness outstanding at any one time shall not exceed
 7 \$16 million: *Provided, however*, That the principal of, interest and premium, if any, on and fees
 8 associated with any such temporary financing shall be payable solely from the sources from which
 9 the principal of, interest and premium, if any, on bonds is payable under this article or from the
 10 proceeds of bonds.

**§18-2L-4d. Emergency facility and equipment repair or replacement fund for financially
 distressed _____ counties.**

1 From the funds available to it the Office of School Rehabilitation and Construction shall
 2 maintain a reserve fund in the amount of not less than \$600,000 for the purpose of making
 3 emergency grants to financially distressed county boards to assist them in making repairs or
 4 performing urgent maintenance to facilities or facility related equipment or facility related
 5 equipment replacement necessary to maintain the serviceability or structural integrity of school
 6 facilities currently in use or necessary for educating the students of the county. The grants shall be
 7 made in accordance with guideline established by the Office of School Rehabilitation and
 8 Construction. For the purposes of this section, "financially distressed county" means a county
 9 either in deficit or on the most recently established watch list established by the Department of
 10 Education of those counties at-risk of becoming in deficit.

**§18-2L-5. Office of School Rehabilitation and Construction authorized to offer individual
 higher _____ education _____ savings _____ plans.**

1 (a) *Legislative findings.* -- The Legislature hereby finds and declares that:
 2 (1) It is an essential function of state government to encourage postsecondary education in
 3 order to increase the education level of the residents of the State of West Virginia.
 4 (2) Tuition, fees and other costs at institutions of higher education are difficult for many to

5 afford and are difficult to predict in order to enable individuals and families to plan for the payment
6 of such costs.

7 (3) Students in elementary and secondary schools tend to achieve a higher standard of
8 performance when the payment of tuition, fees and other costs for their higher education is
9 secured.

10 (4) It is in the best interest of the people of the State of West Virginia and is necessary for
11 the public health, safety and welfare to encourage state residents desiring a higher education to
12 enroll in institutions of higher education in order to provide well-educated and informed citizens.

13 (b) Purpose. -- In light of the findings described in subsection (a) of this section and in light
14 of the purposes of this article, the Legislature declares that the purpose of this section is to
15 encourage higher education and the means of paying costs relating thereto by (1) authorizing
16 establishment of higher education savings plan programs; and (2) providing funding for such
17 programs through the sale and purchase of Office of School Rehabilitation and Construction
18 revenue bonds to be used to make capital improvements for primary and secondary educational
19 facilities in this state, or through the sale and purchase of refunding revenue bonds, as provided in
20 this article.

21 (c) Authorization. -- The Office of School Rehabilitation and Construction is authorized to
22 offer to the general public one or more higher education savings plan programs. In order to
23 establish, operate and maintain an efficient and effective program or programs, the Office of
24 School Rehabilitation and Construction shall have such additional powers as are necessary or
25 reasonably desirable to implement such a program or programs. These additional powers shall
26 include, but are not limited to, the power to:

27 (1) Issue revenue bonds in accordance with the provisions of this section and as
28 authorized by this article;

29 (2) Permit employees of the State of West Virginia and its subdivisions to purchase through
30 payroll deductions by their employer bonds of not less than \$1,000 maturity increments when

31 issued pursuant to this section;

32 (3) As deemed appropriate and practical, offer bond issues which take into consideration
33 the various needs of different individuals participating in a higher education savings plan program;

34 (4) Offer a rate or rates of interest on bonds purchased pursuant to such a program which
35 encourages maximum participation;

36 (5) Execute a separate trust agreement or agreements under section twelve of this article
37 for bonds sold pursuant to an individual higher education savings plan program established under
38 this section;

39 (6) Transfer available moneys of the Office of School Rehabilitation and Construction,
40 including revenues, investment earnings on funds or accounts established in connection with the
41 issuance of bonds and moneys available from any other source, to funds or accounts as may be
42 necessary or desirable in establishing a higher education savings plan program, including, but not
43 limited to, escrow funds, investment agreements or similar instruments;

44 (7) Establish program guidelines for the administration of a higher education savings plan
45 program.

46 (d) Construction. -- Other sections of this article which apply generally to bonds issued
47 under this article shall apply to the revenue bonds or refunding revenue bonds issued under this
48 section. If any language in this section conflicts with language in another section of this article, the
49 language of this section shall control unless such a construction would be unlawful, or would not
50 be in the public interest, or would be contrary to the statements of finding and purpose of this
51 section.

52 (e) Tax treatment. --

53 (1) The amount which an individual expends during a taxable year in the purchase of
54 revenue bonds or refunding revenue bonds issued pursuant to this section shall be allowed as a
55 deduction from federal adjusted gross income for such year, or, if not fully deducted during such
56 year, for the remaining four years, until fully deducted, for purposes of the tax imposed by §11-21-1

57 et seq. of this code, except as provided in subdivision (3) of this subsection.

58 (2) The interest which an individual earns on revenue bonds or refunding revenue bonds
59 issued under this section shall not be subject to the tax imposed by §11-21-1 et seq. of this code,
60 except as provided in subdivision (3) of this subsection.

61 (3) If the owner of a revenue bond or refunding revenue bonds purchased under this
62 section sells it or receives the proceeds of such bond at maturity or otherwise during a taxable year
63 and does not, within four years of the date of such sale or other disposition, expend an amount
64 equal to such proceeds for tuition, fees, books, reasonable room and board, and child care costs
65 necessary to enable a person to attend an institution of higher education, such proceeds of sale or
66 other disposition not so spent shall be taxed under §11-21-1 et seq. of this code, by application of
67 the applicable rate to the taxpayer to the amount not so spent. The amount of tax imposed shall be
68 due and payable on April 15 of the taxable year immediately succeeding the fourth taxable year in
69 which the bond was sold or otherwise disposed of.

70 (f) Confidentiality. -- The identity of any individual purchasing revenue bonds under this
71 section, the amount of the bonds so purchased by any individual and the amount allowed as an
72 income tax deduction shall be and remain confidential information: *Provided*, That nothing herein
73 shall prohibit the disclosure of the number of individuals purchasing the bonds, the aggregate
74 amount of bond purchased, or other general information which does not breach any individual's
75 confidentiality.

76 (g) Reports. -- The Office of School Rehabilitation and Construction and the indenture
77 trustee of an individual higher education savings plan program shall make such reports regarding
78 such bonds to the Tax Commissioner and to the individuals of record who own the bonds with
79 respect to bond principal and interest (and the years to which they relate) and such other matters
80 as the Tax Commissioner may reasonably require. The reports required by this section shall be
81 filed with the Tax Commissioner at least annually, at such time and in such manner as the Tax
82 Commissioner may by regulation require.

§18-2L-6. Office of School Rehabilitation and Construction Capital Improvements Fund in State Treasury; School Construction Fund in State Treasury; School Building Debt Service Fund in State Treasury; School Improvement Fund in State Treasury; collections to be paid into special funds; Excess Lottery School Building Debt Service Fund in State Treasury; authority to pledge the collections as security for refunding revenue bonds; authority to finance projects on a cash basis.

1 (a) There is continued in the State Treasury a School Building Capital Improvements Fund
2 to be expended by the Office of School Rehabilitation and Construction as provided in this article.
3 The School Building Capital Improvements Fund shall be an interest-bearing account with interest
4 credited to and deposited in the School Building Capital Improvements Fund and expended in
5 accordance with the provisions of this article.

6 The office may provide in the resolution and in the trust agreement for priorities on the
7 revenues paid into the School Building Capital Improvements Fund that are necessary for the
8 protection of the prior rights of the holders of bonds issued at different times under the provisions
9 of this article.

10 The Office of School Rehabilitation and Construction, in its discretion, may use the moneys
11 in the School Building Capital Improvements Fund to finance the cost of projects authorized in
12 accordance with the provisions of section sixteen of this article on a cash basis. Any expenditures
13 from the fund, other than for the retirement of revenue bonds, may only be made by the Office of
14 School Rehabilitation and Construction in accordance with the provisions of this article.

15 (b) There is continued in the State Treasury a special revenue fund named the School
16 Building Debt Service Fund into which shall be deposited the amounts specified in §29-22-18 of
17 this code. All amounts deposited in the fund shall be pledged to the repayment of the principal,
18 interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds
19 authorized by this article for which moneys deposited in the School Building Debt Service Fund
20 have been pledged by the Office of School Rehabilitation and Construction. Additionally, the Office

21 of School Rehabilitation and Construction may provide in the resolution and in the trust agreement
22 for priorities on the revenues paid into the School Building Debt Service Fund that are necessary
23 for the protection of the prior rights of the holders of bonds issued at different times under the
24 provisions of this article. On or prior to May 1 of each year, the Office of School Rehabilitation and
25 Construction shall certify to the state Lottery Director the principal and interest and coverage ratio
26 requirements for the following fiscal year on any revenue bonds issued on or after January 1,
27 1994, and for which moneys deposited in the School Building Debt Service Fund have been
28 pledged, or will be pledged, for repayment pursuant to this section.

29 After the Office of School Rehabilitation and Construction has issued bonds authorized by
30 this article for which moneys deposited in the School Building Debt Service Fund have been
31 pledged and after the requirements of all funds have been satisfied, including coverage and
32 reserve funds established in connection with the bonds issued pursuant to this article, any balance
33 remaining in the School Building Debt Service Fund may be used for the redemption of any of the
34 outstanding bonds issued under this article, for which moneys deposited in the School Building
35 Debt Service Fund have been pledged, which, by their terms, are then redeemable or for the
36 purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which
37 the bonds are redeemable and all bonds redeemed or purchased shall be immediately canceled
38 and shall not again be issued: *Provided*, That after the Office of School Rehabilitation and
39 Construction has issued bonds authorized by this article and after the requirements of debt service
40 and all associated funds have been satisfied for the fiscal year for which moneys deposited in the
41 School Building Debt Service Fund have been pledged, including coverage and reserve funds
42 established in connection with the bonds issued pursuant to this article, any remaining balance in
43 the School Building Debt Service Fund may be transferred to the School Construction Fund
44 created in subsection (c) of this section and used by the Office of School Rehabilitation and
45 Construction in its discretion to finance the cost of school construction or improvement projects
46 authorized in accordance with the provisions of section sixteen of this article on a cash basis.

47 (c) There is continued in the State Treasury a special revenue fund named the School
48 Construction Fund into which shall be deposited the amounts specified in §11-15-30 of this code,
49 together with any moneys appropriated to the fund by the Legislature.

50 Expenditures from the School Construction Fund shall be for the purposes set forth in this
51 article, including lease-purchase payments under agreements made pursuant to subsection (e),
52 section fifteen of this article and section nine, article five of this chapter and are authorized from
53 collections in accordance with the provisions of §12-3-1 et seq. of this code and from other
54 revenues annually appropriated by the Legislature from lottery revenues as authorized by §29-22-
55 18 of this code pursuant to the provisions set forth in §5a-2-1 et seq. of this code. Amounts
56 collected which are found, from time to time, to exceed the funds needed for purposes set forth in
57 this article may be transferred to other accounts or funds and redesignated for other purposes by
58 appropriation of the Legislature. The School Construction Fund shall be an interest-bearing
59 account, with the interest credited to and deposited in the School Construction Fund and
60 expended in accordance with the provisions of this article. Deposits to and expenditures from the
61 School Construction Fund are subject to the provisions of subsection (k), section fifteen of this
62 article.

63 (d) There is continued in the State Treasury a special revenue fund named the School
64 Major Improvement Fund into which shall be deposited the amounts specified in §11-15-30 of this
65 code, together with any moneys appropriated to the fund by the Legislature. Expenditures from the
66 School Major Improvement Fund shall be for the purposes set forth in this article and are
67 authorized from collections in accordance with the provisions of article three, chapter twelve of this
68 code and from other revenues annually appropriated by the Legislature from lottery revenues as
69 authorized by §29-22-18 of this code pursuant to the provisions set forth in §5a-2-1 et seq. of this
70 code. Amounts collected which are found, from time to time, to exceed the funds needed for
71 purposes set forth in this article may be transferred to other accounts or funds and redesignated
72 for other purposes by appropriation of the Legislature. The School Major Improvement Fund shall

73 be an interest-bearing account, with interest being credited to and deposited in the School Major
74 Improvement Fund and expended in accordance with the provisions of this article.

75 (e) There is created in the State Treasury a special revenue fund named the Excess
76 Lottery School Building Debt Service Fund into which shall be deposited the amounts specified in
77 §29-22-18a of this code. All amounts deposited in the fund shall be pledged, as designated by the
78 Office of School Rehabilitation and Construction, to the repayment of the principal, interest and
79 redemption premium, if any, on revenue bonds or refunding revenue bonds authorized by section
80 four-b of this article. On or prior to May 1 of each year, the Office of School Rehabilitation and
81 Construction shall certify to the state Lottery Director the principal and interest and coverage ratio
82 requirements for the following fiscal year on any revenue bonds issued for which moneys
83 deposited in the Excess Lottery School Building Debt Service Fund have been pledged, or will be
84 pledged, for repayment pursuant to this section.

85 After the Office of School Rehabilitation and Construction has issued bonds authorized by
86 this article for which moneys deposited in the Excess Lottery School Building Debt Service Fund
87 have been pledged and after the requirements of all funds have been satisfied, including coverage
88 and reserve funds established in connection with the bonds issued pursuant to this article, any
89 balance remaining in the Excess Lottery School Building Debt Service Fund may be used for the
90 redemption of any of the outstanding bonds issued under this article, for which moneys deposited
91 in the Excess Lottery School Building Debt Service Fund have been pledged, which, by their
92 terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but
93 not to exceed the price, if any, at which the bonds are redeemable and all bonds redeemed or
94 purchased shall be immediately canceled and shall not again be issued: *Provided*, That after the
95 Office of School Rehabilitation and Construction has issued bonds authorized by this article and
96 after the requirements of debt service and all associated funds have been satisfied for the fiscal
97 year, including coverage and reserve funds established in connection with the bonds issued
98 pursuant to this article for which moneys deposited in the Excess Lottery School Building Debt

99 Service Fund have been pledged, any remaining balance in the Excess Lottery School Building
100 Debt Service Fund may be transferred to the School Construction Fund created in subsection (c)
101 of this section and used by the Office of School Rehabilitation and Construction in its discretion to
102 finance the cost of school construction or improvement projects authorized in accordance with the
103 provisions of section sixteen of this article on a cash basis.

104 (f) The Legislature finds and declares that the Supreme Court of Appeals of West Virginia
105 has held that the issuance of additional revenue bonds authorized under the School Building
106 Authority Act, as enacted prior to July 20, 1993, constituted an indebtedness of the state in
107 violation of section four, article X of the Constitution of West Virginia, but that revenue bonds
108 issued under this article prior to July 20, 1993, are not invalid.

109 The Legislature further finds and declares that the financial capacity of a county to
110 construct, lease and improve school facilities depends upon the county's bonding capacity (local
111 property wealth), voter willingness to pass bond issues and the county's ability to reallocate other
112 available county funds instead of criteria related to educational needs or upon the ability of the
113 Office of School Rehabilitation and Construction created in this article to issue bonds that comply
114 with the holding of the West Virginia Supreme Court of Appeals or otherwise assist counties with
115 the financing of facilities construction and improvement.

116 The Legislature further finds and declares that it intends, through the reenactment of this
117 section to dedicate a source of state revenues to special revenue funds for the purposes of paying
118 the debt service on bonds and refunding bonds, the proceeds of which will be used for the
119 construction and improvement of school building facilities. The Legislature further finds and
120 declares that it intends, through the reenactment of this section to appropriate revenues to two
121 special revenue funds for the purposes of construction and improvement of school building
122 facilities. Furthermore, the Legislature intends to encourage county boards to maintain existing
123 levels of county funding for construction, improvement and maintenance of school building
124 facilities and to generate additional county funds for those purposes through bonds and special

125 levies whenever possible. The Legislature further encourages the Office of School Rehabilitation
 126 and Construction, the state board and county boards of education to propose uniform project
 127 specifications for comparable projects whenever possible to meet county needs at the lowest
 128 possible cost.

129 The Legislature further finds and declares that it intends, through the reenactment of this
 130 section to comply with the provisions of sections four and six, article X of the Constitution of West
 131 Virginia; and section one, article XII of said Constitution.

§18-2L-7. Authority to fix and collect rents.

1 The Office of School Rehabilitation and Construction may fix and collect a rental fee for the
 2 use of all or any part of a capital improvement project completed under this article to provide
 3 revenues for deposit in the school building capital improvements fund to pay, in whole or in part,
 4 the principal of, interest and redemption premium, if any, on the bonds authorized to be issued
 5 pursuant to this article as the same mature and become due and to make all reserve and other
 6 payments to be required by the proceedings which authorize such bonds; to provide any additional
 7 protective pledge of revenues and reserve or other payments as the Office of School
 8 Rehabilitation and Construction may in its discretion require by the resolution authorizing any
 9 issue of bonds pursuant to this article and any trust agreement made in connection therewith; and
 10 to make any other payments required or authorized by this article or any proceedings, resolutions
 11 or trust agreements authorized hereunder.

§18-2L-8. Use of proceeds of bonds; bonds exempt from taxation.

1 (a) The maximum aggregate amount of bonds outstanding at any time, for which the
 2 moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt
 3 Service Fund are to be pledged, is \$500 million; however, any amount of bonds for which moneys
 4 have been deposited in a sinking fund, reserve fund or other fund established to provide payment
 5 of principal or interest on the bonds shall be excluded from the calculation of the maximum
 6 aggregate amount of bonds outstanding at any time. The issuance of revenue bonds under the

7 provisions of this article shall be authorized, from time to time, by resolution or resolutions of the
8 Office of School Rehabilitation and Construction, copies of which shall be provided to the
9 Governor, the President of the Senate and the Speaker of the House of Delegates within five days
10 of their approval, which shall set forth the proposed projects authorized in accordance with the
11 provisions of section sixteen of this article and provide for the issuance of bonds in amounts
12 sufficient, when sold as provided in this section, to provide moneys considered sufficient by the
13 Office of School Rehabilitation and Construction to pay the costs, less the amounts of any other
14 funds available for the costs or from any appropriation, grant or gift for the costs: *Provided, That*
15 bond issues from which bond revenues are to be distributed in accordance with section fifteen of
16 this article for projects authorized pursuant to the provisions of section sixteen of this article are not
17 required to set forth the proposed projects in the resolution. The resolution shall prescribe the
18 rights and duties of the bondholders and the Office of School Rehabilitation and Construction and,
19 for that purpose, may prescribe the form of the trust agreement referred to in this section. The
20 bonds may be issued, from time to time, in such amounts; shall be of such series; bear such date
21 or dates; mature at such time or times not exceeding 40 years from their respective dates; bear
22 interest at such rate or rates; be in such denominations; be in such form, either coupon or
23 registered, carrying such registration, exchangeability and interchangeability privileges; be
24 payable in such medium of payment and at such place or places within or without the state; be
25 subject to such terms of redemption at such prices not exceeding 105 percent of the principal
26 amount of the bonds; and be entitled to such priorities on the revenues paid into the fund pledged
27 for repayment of the bonds as may be provided in the resolution authorizing the issuance of the
28 bonds or in any trust agreement made in connection with the bonds.

29 (b) The bonds shall be signed by the Governor, his or her designee or the vice chair of the
30 Office of School Rehabilitation and Construction, under the great seal of the state, attested by the
31 Secretary of State, and the coupons attached to the bonds shall bear the facsimile signature of the
32 Governor, his or her designee or the vice chair of the Office of School Rehabilitation and

33 Construction. In case any of the officers whose signatures appear on the bonds or coupons cease
34 to be officers before the delivery of the bonds, the signatures shall nevertheless be valid and
35 sufficient for all purposes the same as if the officers had remained in office until the delivery. The
36 revenue bonds shall be sold in the manner determined by the Office of School Rehabilitation and
37 Construction to be for the best interests of the state.

38 (c) The proceeds of any bonds shall be used solely for the purpose or purposes as may be
39 generally or specifically set forth in the resolution authorizing those bonds and shall be disbursed
40 in the manner and with the restrictions, if any, that the Office of School Rehabilitation and
41 Construction provides in the resolution authorizing the issuance of the bonds or in the trust
42 agreement referred to in this section securing the bonds. If the proceeds of the bonds, by error in
43 calculations or otherwise, are less than the cost of any projects specifically set forth in the
44 resolution, additional bonds may in like manner be issued to provide the amount of the deficiency;
45 and unless otherwise provided for in the resolution or trust agreement hereinafter mentioned, the
46 additional bonds shall be considered to be of the same issue and are entitled to payment from the
47 same fund, without preference or priority, as the bonds before issued for the projects. If the
48 proceeds of bonds issued for the projects specifically set forth in the resolution authorizing the
49 bonds issued by the Office of School Rehabilitation and Construction exceed the cost of the
50 bonds, the surplus may be used for any other projects authorized in accordance with the
51 provisions of section sixteen of this article or in any other manner that the resolution authorizing
52 the bonds provides. Prior to the preparation of definitive bonds, the Office of School Rehabilitation
53 and Construction may, under like restrictions, issue temporary bonds with or without coupons,
54 exchangeable for definitive bonds upon the issuance of the definitive bonds.

55 (d) After the issuance of any revenue bonds, the revenues pledged for the revenue bonds
56 shall not be reduced as long as any of the revenue bonds are outstanding and unpaid except
57 under the terms, provisions and conditions that are contained in the resolution, trust agreement or
58 other proceedings under which the revenue bonds were issued.

59 (e) The revenue bonds and the revenue refunding bonds and bonds issued for combined
60 purposes, together with the interest on the bonds, are exempt from all taxation by the State of
61 West Virginia, or by any county, school district, municipality or political subdivision thereof.

62 (f) Any school construction bonds issued under this section shall be issued on parity with
63 any existing Office of School Rehabilitation and Construction bonds previously issued under this
64 article.

§18-2L-9. Issuance of revenue refunding bonds; use of moneys; power to enter into escrow
agreements; call for redemption.

1 The issuance of revenue refunding bonds under the provisions of this article shall be
2 authorized by resolution of the Office of School Rehabilitation and Construction and shall
3 otherwise be subject to the limitations, conditions and provisions of other revenue bonds under
4 this article. Such revenue refunding bonds may be issued in an amount at the option of the Office
5 of School Rehabilitation and Construction sufficient to pay either in part or in full, together with
6 interest earned on the investment of the proceeds thereof, whether or not at the time of the
7 issuance of the revenue refunding bonds the hereafter mentioned bonds are payable or callable
8 for optional redemption: (1) The principal of such outstanding bonds; (2) the redemption premium,
9 if any, on such outstanding bonds if they are to be redeemed prior to maturity; (3) the interest due
10 and payable on such outstanding bonds to and including the maturity date thereof or the first date
11 upon which said outstanding bonds are to be redeemed, including any interest theretofore accrued
12 and unpaid; and (4) all expenses of the issuance and sale of said revenue refunding bonds,
13 including all necessary financial and legal expenses, and also including the creation of initial debt
14 service reserve funds. Any existing moneys pledged with respect to the outstanding bonds may be
15 used for any or all of the purposes stated in (1), (2), (3) and (4) above or may be deposited in a
16 sinking fund or reserve fund or other funds for the issue of bonds which have been issued, wholly
17 or in part, for the purpose of such refunding. Such amount of the proceeds of the revenue
18 refunding bonds as shall be sufficient for the payment of the principal, interest and redemption

19 premium, if any, on such outstanding bonds which will not be immediately due and payable shall
20 be deposited in trust, for the sole purpose of making such payments, in a banking institution
21 chosen by the Office of School Rehabilitation and Construction and in accordance with any
22 provisions which may be included in the resolution authorizing the issuance of such bonds or in the
23 trust agreement securing the same. Any of the moneys so deposited in trust may, prior to the date
24 on which such moneys will be needed for the payment of principal of, interest and redemption
25 premium, if any, on such outstanding bonds, be invested and reinvested as determined by the
26 Office of School Rehabilitation and Construction, in whole or in part: (a) In direct obligations issued
27 by the United States of America or one of its agencies or in direct obligations of the State of West
28 Virginia; (b) in obligations unconditionally guaranteed by the United States of America as to
29 principal and interest; or (c) in certificates of deposit of a banking corporation or association which
30 is a member of the federal deposit insurance corporation, or successor; but any such certificates of
31 deposit must be fully secured as to both principal and interest by pledged collateral consisting of
32 direct obligations of or obligations guaranteed by the United States of America, or direct
33 obligations of the State of West Virginia, having a market value, excluding accrued interest, at all
34 times at least equal to the amount of the principal of and accrued interest on such certificates of
35 deposit. Any such investments must mature, or be payable in advance of maturity at the option of
36 the holder, and must bear interest in such manner as to provide funds which, together with
37 uninvested money, will be sufficient to pay when due or called for redemption the bonds refunded,
38 together with interest accrued and to accrue thereon and redemption premiums, if any, and such
39 refunding bonds proceeds or obligations so purchased therewith shall be deposited in escrow and
40 held in trust for the payment and redemption of the bonds refunded: *Provided*, That if interest
41 earned by any investment in such escrow is shown to be in excess of the amounts required from
42 time to time for the payment of interest on and principal of the refunded bonds, including applicable
43 redemption premium, then such excess may be withdrawn from escrow and disbursed in such
44 manner as the Office of School Rehabilitation and Construction shall by resolution determine,

45 subject to the provisions of section five of this article. Any moneys in the sinking or reserve funds
46 or other funds maintained for the outstanding bonds to be refunded may be applied in the same
47 manner and for the same purpose as are the net proceeds of refunding bonds or may be deposited
48 in the special fund or any reserve funds established for account of the refunding bonds.

49 The authority to issue revenue refunding bonds shall be in addition to any other authority to
50 refund bonds conferred by law.

51 The Office of School Rehabilitation and Construction shall have power to enter into such
52 escrow agreements with such bank or banks and to insert therein such protective and other
53 covenants and provisions as it may consider necessary to permit the carrying out of the provisions
54 of this article and to ensure the prompt payment of the principal of and interest and redemption
55 premiums on the revenue bonds refunded.

56 Where any revenue bonds to be refunded are not to be surrendered for exchange or
57 payment and are not to be paid at maturity with escrowed obligations, but are to be paid from such
58 source prior to maturity pursuant to call for redemption exercised under a right of redemption
59 reserved in such revenue bonds, the Office of School Rehabilitation and Construction shall, prior
60 to the issuance of the refunding bonds, determine which redemption date or dates shall be used,
61 call such revenue bonds for redemption and provide for the giving of the notice of redemption
62 required by the proceedings authorizing such revenue bonds. Where such notice is to be given at
63 a time subsequent to the issuance of the refunding bonds, the necessary notices may be
64 deposited with the State Treasurer or the bank acting as escrow agent of the refunding bond
65 proceeds and the escrow agent appropriately instructed and authorized to give the required
66 notices at the prescribed time or times. If any officer of the public body signing any such notice
67 shall no longer be in office at the time of the utilization of the notice, the notice shall nevertheless
68 be valid and effective for its intended purpose.

§18-2L-10. Bonds may be issued for combined purposes.

1 The Office of School Rehabilitation and Construction may authorize by one or more

2 resolutions a single issue of bonds for the combined purposes of refunding the outstanding bonds
3 as herein authorized and financing one or more of the projects authorized hereunder.

§18-2L-11. Bonds shall be negotiable instruments.

1 The revenue bonds, revenue refunding bonds and bonds issued for combined purposes
2 under the provisions of this article shall, independently of the requirements of any other provision
3 of law and solely by virtue of the provisions of this section, be and have all the qualities and
4 incidents of negotiable instruments.

§18-2L-12. Trust agreements for holders of bonds.

1 The Office of School Rehabilitation and Construction may enter into an agreement or
2 agreements with any trust company, or with any bank having the powers of a trust company, either
3 within or outside the state, to act as trustee for the holders of bonds issued hereunder, setting forth
4 therein such duties and containing such legally binding covenants of the Office of School
5 Rehabilitation and Construction with the holders of the bonds in respect to the payment of the
6 bond; the fixing and collecting of rents hereinbefore referred to; the completion of authorized
7 projects; the custody, safeguarding and disposition of the proceeds of the bonds, and the moneys
8 in such special funds, sinking funds, reserve funds, or any other moneys or funds, notwithstanding
9 provisions of this article to the contrary; the security for moneys on hand or on deposit, and the
10 rights and remedies of the trustee and the holders of the bonds, as may be agreed upon with the
11 purchasers of such bonds; provisions restricting the individual right of action of bondholders as is
12 customary in trust agreements respecting bonds and debentures of municipal corporations,
13 protecting and enforcing the rights and remedies of the trustee and the bondholders; and
14 provisions as to any other matters which are deemed necessary and advisable by the Office of
15 School Rehabilitation and Construction in the best interests of the state and to enhance the
16 marketability of the bonds. Any such agreement entered into by the Office of School Rehabilitation
17 and Construction shall be binding in all respects on such authority and its successors from time to
18 time in accordance with the terms thereof; and all the provisions thereof shall be enforceable by

19 appropriate proceedings at law or in equity, or otherwise.

§18-2L-13. Sinking fund for payment of bonds.

1 (a) From the School Building Capital Improvements Fund the Office of School
2 Rehabilitation and Construction shall make periodic payments in an amount sufficient to meet the
3 requirements of any issue of bonds sold under the provisions of this article, or for refunding bonds
4 issued prior to that date as may be specified in the resolution of the Office of School Rehabilitation
5 and Construction authorizing the issue thereof and in any trust agreement entered into in
6 connection therewith. The payments so made shall be placed as specified in such resolution or
7 trust agreement in a special sinking fund which is hereby pledged to and charged with the payment
8 of the principal of the bonds of such issue and the interest thereon, and to the redemption or
9 repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without
10 distinction or priority of one over another, except as may be provided in the resolution authorizing
11 such issue of bonds. The moneys in the special sinking fund, less such reserve for payment of
12 principal and interest and redemption premium, if any, as may be required by the resolution of the
13 Office of School Rehabilitation and Construction, authorizing the issue or any trust agreement
14 made in connection therewith, may be used for the redemption of any of the outstanding bonds
15 payable from such fund which by their terms are then redeemable, or for the purchase of bonds at
16 the market price, but not exceeding the price, if any, at which such bonds shall in the same year be
17 redeemable; and all bonds redeemed or purchased shall forthwith be canceled and shall not again
18 be issued.

19 (b) From the School Building Debt Service Fund or the Excess Lottery School Building
20 Debt Service Fund, the Office of School Rehabilitation and Construction shall make periodic
21 payments in an amount sufficient to meet the requirements of any issue of bonds sold under the
22 provisions of this article and for which the Office of School Rehabilitation and Construction has
23 pledged revenues in such fund for the payment of such bonds, as may be specified in the
24 resolution of the Office of School Rehabilitation and Construction authorizing the issue thereof or

25 in any trust agreement entered into in connection therewith. The payments so made shall be
 26 placed as specified in the resolution or trust agreement in a special sinking fund which is hereby
 27 pledged to and charged with the payment of the principal of the bonds of the issue and the interest
 28 thereon, and to the redemption or repurchase of the bonds, the sinking fund to be a fund for all
 29 bonds of the particular issue without distinction or priority of one over another, except as may be
 30 provided in the resolution authorizing the issuance of the bonds. The moneys in the special sinking
 31 fund, less the reserve for payment of principal and interest and redemption premium, if any, as
 32 may be required by the resolution of the Office of School Rehabilitation and Construction
 33 authorizing the issue or any trust agreement made in connection therewith, may be used for
 34 redemption of any of the outstanding bonds payable from the fund which by their terms are then
 35 redeemable, or for the purchase of bonds at the market price, but not exceeding the price, if any, at
 36 which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased
 37 shall forthwith be canceled and shall not again be issued.

§18-2L-14. Credit of state not pledged.

1 No provisions of this article shall be construed to authorize the Office of School
 2 Rehabilitation and Construction at any time or in any manner to pledge the credit or taxing power
 3 of the state, nor shall any of the obligations or debts created by the Office of School Rehabilitation
 4 and Construction under the authority herein granted be deemed to be obligations of the state.

§18-2L-15. Legislative intent; allocation of money among categories of projects; lease-purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation.

1 (a) It is the intent of the Legislature to empower the Office of School Rehabilitation and
 2 Construction to facilitate and provide state funds and to administer all federal funds provided for
 3 the construction and major improvement of school facilities so as to meet the educational needs of

4 the people of this state in an efficient and economical manner. The office shall make funding
5 determinations in accordance with the provisions of this article and shall assess existing school
6 facilities and each facility's school major improvement plan in relation to the needs of the individual
7 student, the general school population, the communities served by the facilities and facility needs
8 statewide.

9 (b) An amount that is not more than 10 percent of the sum of moneys that are determined
10 by the Office of School Rehabilitation and Construction to be available for distribution during the
11 then current fiscal year from:

12 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
13 ten, article nine-a of this chapter;

14 (2) The issuance of revenue bonds for which moneys in the School Building Debt Service
15 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

16 (3) Moneys paid into the School Construction Fund pursuant to section six of this article;
17 and

18 (4) Any other moneys received by the Office of School Rehabilitation and Construction,
19 except moneys paid into the School Major Improvement Fund pursuant to section six of this article
20 and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f
21 of this chapter, may be allocated and may be expended by the Office of School Rehabilitation and
22 Construction for projects authorized in accordance with the provisions of section sixteen of this
23 article that service the educational community statewide or, upon application by the state board,
24 for educational programs that are under the jurisdiction of the state board. In addition, upon
25 application by the state board or the administrative council of an area vocational educational
26 center established pursuant to article two-b of this chapter, the Office of School Rehabilitation and
27 Construction may allocate and expend under this subsection moneys for school major
28 improvement projects authorized in accordance with the provisions of section sixteen of this article
29 proposed by the state board or an administrative council for school facilities under the direct

30 supervision of the state board or an administrative council, respectively. Furthermore, upon
31 application by a county board, the Office of School Rehabilitation and Construction may allocate
32 and expend under this subsection moneys for school major improvement projects for vocational
33 programs at comprehensive high schools, vocational programs at comprehensive middle schools,
34 vocational schools cooperating with community and technical college programs, or any
35 combination of the three. Each county board is encouraged to cooperate with community and
36 technical colleges in the use of existing or development of new vocational technical facilities. All
37 projects eligible for funds from this subsection shall be submitted directly to the Office of School
38 Rehabilitation and Construction which shall be solely responsible for the project's evaluation,
39 subject to the following:

40 (A) The Office of School Rehabilitation and Construction may not expend any moneys for a
41 school major improvement project proposed by the state board or the administrative council of an
42 area vocational educational center unless the state board or an administrative council has
43 submitted a 10-year facilities plan; and

44 (B) The Office of School Rehabilitation and Construction shall, before allocating any
45 moneys to the state board or the administrative council of an area vocational educational center
46 for a school improvement project, consider all other funding sources available for the project.

47 (c) An amount that is not more than two percent of the moneys that are determined by the
48 Office of School Rehabilitation and Construction to be available for distribution during the current
49 fiscal year from:

50 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
51 ten, article nine-a of this chapter;

52 (2) The issuance of revenue bonds for which moneys in the School Building Debt Service
53 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

54 (3) Moneys paid into the School Construction Fund pursuant to section six of this article;

55 and

56 (4) Any other moneys received by the Office of School Rehabilitation and Construction,
57 except moneys deposited into the School Major Improvement Fund and moneys deposited into
58 the School Access Safety Fund pursuant to section five, article nine-f of this chapter, shall be set
59 aside by the Office of School Rehabilitation and Construction as an emergency fund to be
60 distributed in accordance with the guidelines adopted by the Office of School Rehabilitation and
61 Construction.

62 (d) An amount that is not more than five percent of the moneys that are determined by the
63 Office of School Rehabilitation and Construction to be available for distribution during the current
64 fiscal year from:

65 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
66 ten, article nine-a of this chapter;

67 (2) The issuance of revenue bonds for which moneys in the School Building Debt Service
68 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

69 (3) Moneys paid into the School Construction Fund pursuant to section six of this article;
70 and

71 (4) Any other moneys received by the Office of School Rehabilitation and Construction,
72 except moneys deposited into the School Major Improvement Fund and moneys deposited into
73 the School Access Safety Fund pursuant to section five, article nine-f of this chapter, may be
74 reserved by the Office of School Rehabilitation and Construction for multiuse vocational-technical
75 education facilities projects that may include post-secondary programs as a first priority use. The
76 Office of School Rehabilitation and Construction may allocate and expend under this subsection
77 moneys for any purposes authorized in this article on multiuse vocational-technical education
78 facilities projects, including equipment and equipment updates at the facilities, authorized in
79 accordance with the provisions of section sixteen of this article. If the projects approved under this
80 subsection do not require the full amount of moneys reserved, moneys above the amount required
81 may be allocated and expended in accordance with other provisions of this article. A county board,

82 the state board, an administrative council or the joint administrative board of a vocational-technical
83 education facility which includes post-secondary programs may propose projects for facilities or
84 equipment, or both, which are under the direct supervision of the respective body: *Provided*, That
85 the Office of School Rehabilitation and Construction shall, before allocating any moneys for a
86 project under this subsection, consider all other funding sources available for the project.

87 (e) The remaining moneys determined by the Office of School Rehabilitation and
88 Construction to be available for distribution during the then current fiscal year from:

89 (1) Moneys paid into the School Building Capital Improvements Fund pursuant to section
90 ten, article nine-a of this chapter;

91 (2) The issuance of revenue bonds for which moneys in the School Building Debt Service
92 Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

93 (3) Moneys paid into the School Construction Fund pursuant to section six of this article;
94 and

95 (4) Any other moneys received by the Office of School Rehabilitation and Construction,
96 except moneys deposited into the School Major Improvement Fund and moneys deposited into
97 the School Access Safety Fund pursuant to section five, article nine-f of this chapter, shall be
98 allocated and expended on the basis of need and efficient use of resources for projects funded in
99 accordance with the provisions of section sixteen of this article.

100 (f) If a county board proposes to finance a project that is authorized in accordance with
101 section sixteen of this article through a lease with an option to purchase leased premises upon the
102 expiration of the total lease period pursuant to an investment contract, the Office of School
103 Rehabilitation and Construction may not allocate moneys to the county board in connection with
104 the project: *Provided*, That the Office of School Rehabilitation and Construction may transfer
105 moneys to the state board which, with the Office of School Rehabilitation and Construction, shall
106 lend the amount transferred to the county board to be used only for a one-time payment due at the
107 beginning of the lease term, made for the purpose of reducing annual lease payments under the

108 investment contract, subject to the following conditions:

109 (1) The loan shall be secured in the manner required by the Office of School Rehabilitation
110 and Construction in consultation with the state board, and shall be repaid in a period and bear
111 interest at a rate as determined by the state board and the Office of School Rehabilitation and
112 Construction and shall have any terms and conditions that are required by the Office of School
113 Rehabilitation and Construction, all of which shall be set forth in a loan agreement among the
114 Office of School Rehabilitation and Construction, the state board and the county board;

115 (2) The loan agreement shall provide for the state board and the Office of School
116 Rehabilitation and Construction to defer the payment of principal and interest upon any loan made
117 to the county board during the term of the investment contract, and annual renewals of the
118 investment contract, among the state board, the Office of School Rehabilitation and Construction,
119 the county board and a lessor, subject to the following:

120 (A) In the event a county board which has received a loan from the Office of School
121 Rehabilitation and Construction for a one-time payment at the beginning of the lease term does
122 not renew the lease annually until performance of the investment contract in its entirety is
123 completed, the county board is in default and the principal of the loan, together with all unpaid
124 interest accrued to the date of the default, shall, at the option of the Office of School Rehabilitation
125 and Construction, in consultation with the state board, become due and payable immediately or
126 subject to renegotiation among the state board, the Office of School Rehabilitation and
127 Construction and the county board;

128 (B) If a county board renews the lease annually through the performance of the investment
129 contract in its entirety, the county board shall exercise its option to purchase the leased premises;

130 (C) The failure of the county board to make a scheduled payment pursuant to the
131 investment contract constitutes an event of default under the loan agreement;

132 (D) Upon a default by a county board, the principal of the loan, together with all unpaid
133 interest accrued to the date of the default, shall, at the option of the Office of School Rehabilitation

134 and Construction, in consultation with the state board, become due and payable immediately or
135 subject to renegotiation among the state board, the Office of School Rehabilitation and
136 Construction and the county board; and

137 (E) If the loan becomes due and payable immediately, the Office of School Rehabilitation
138 and Construction, in consultation with the state board, shall use all means available under the loan
139 agreement and law to collect the outstanding principal balance of the loan, together with all unpaid
140 interest accrued to the date of payment of the outstanding principal balance; and

141 (3) The loan agreement shall provide for the state board and the Office of School
142 Rehabilitation and Construction to forgive all principal and interest of the loan upon the county
143 board purchasing the leased premises pursuant to the investment contract and performance of the
144 investment contract in its entirety.

145 (g) To encourage county boards to proceed promptly with facilities planning and to prepare
146 for the expenditure of any state moneys derived from the sources described in this section, any
147 county board or other entity to whom moneys are allocated by the Office of School Rehabilitation
148 and Construction that fails to expend the money within three years of the allocation shall forfeit the
149 allocation and thereafter is ineligible for further allocations pursuant to this section until it is ready
150 to expend funds in accordance with an approved facilities plan: *Provided*, That the Office of School
151 Rehabilitation and Construction may authorize an extension beyond the three-year forfeiture
152 period not to exceed an additional two years. Any amount forfeited shall be added to the total
153 funds available in the School Construction Fund of the Office of School Rehabilitation and
154 Construction for future allocation and distribution. Funds may not be distributed for any project
155 under this article unless the responsible entity has a facilities plan approved by the state board and
156 the Office of School Rehabilitation and Construction and is prepared to commence expenditure of
157 the funds during the fiscal year in which the moneys are distributed.

158 (h) The remaining moneys that are determined by the Office of School Rehabilitation and
159 Construction to be available for distribution during the then current fiscal year from moneys paid

160 into the School Major Improvement Fund pursuant to section six of this article shall be allocated
161 and distributed on the basis of need and efficient use of resources for projects authorized in
162 accordance with the provisions of section sixteen of this article, subject to the following:

163 (1) The moneys may not be distributed for any project under this section unless the
164 responsible entity has a facilities plan approved by the state board and the Office of School
165 Rehabilitation and Construction and is to commence expenditures of the funds during the fiscal
166 year in which the moneys are distributed;

167 (2) Any moneys allocated to a project and not distributed for that project shall be deposited
168 in an account to the credit of the project, the principal amount to remain to the credit of and
169 available to the project for a period of two years; and

170 (3) Any moneys which are unexpended after a two-year period shall be redistributed on the
171 basis of need from the School Major Improvement Fund in that fiscal year.

172 (i) Local matching funds may not be required under the provisions of this section. However,
173 this article does not negate the responsibilities of the county boards to maintain school facilities.
174 Therefore, as a prerequisite for eligibility to receive an allocation of school major improvement
175 funds from the Office of School Rehabilitation and Construction, a county board must provide
176 annual school facility maintenance expenditure data to the Office of School Rehabilitation and
177 Construction which shall be jointly reviewed by the Office of School Rehabilitation and
178 Construction and the state Department of Education Office of School Facilities and Transportation
179 to assist the Office of School Rehabilitation and Construction in its determination of the most
180 meritorious projects to be funded through the School Major Improvement Fund. The state board
181 shall promulgate rules relating to county boards' school facility maintenance budgets, including
182 items which shall be included in these budgets.

183 (j) Any county board may use moneys provided by the Office of School Rehabilitation and
184 Construction under this article in conjunction with local funds derived from bonding, special levy or
185 other sources. Distribution to a county board, or to the state board or the administrative council of

186 an area vocational educational center pursuant to subsection (b) of this section, may be in a lump
187 sum or in accordance with a schedule of payments adopted by the Office of School Rehabilitation
188 and Construction pursuant to guidelines adopted by the Office of School Rehabilitation and
189 Construction.

190 (k) Funds in the School Construction Fund shall first be transferred and expended as
191 follows:

192 (1) Any funds deposited in the School Construction Fund shall be expended first in
193 accordance with an appropriation by the Legislature.

194 (2) To the extent that funds are available in the School Construction Fund in excess of that
195 amount appropriated in any fiscal year, the excess funds may be expended for projects authorized
196 in accordance with the provisions of section sixteen of this article.

197 (l) It is the intent of the Legislature to encourage county boards to explore and consider
198 arrangements with other counties that may facilitate the highest and best use of all available funds,
199 which may result in improved transportation arrangements for students or which otherwise may
200 create efficiencies for county boards and the students. In order to address the intent of the
201 Legislature contained in this subsection, the Office of School Rehabilitation and Construction shall
202 grant preference to those projects which involve multicounty arrangements as the Office of School
203 Rehabilitation and Construction shall determine reasonable and proper.

204 (m) County boards shall submit all designs for construction of new school buildings to the
205 Office of School Rehabilitation and Construction for review and approval prior to preparation of
206 final bid documents. A vendor who has been debarred pursuant to the provisions of sections thirty-
207 three-a through thirty-three-f, inclusive, article three, chapter five-a of this code may not bid on or
208 be awarded a contract under this section.

209 (n) The Office of School Rehabilitation and Construction may elect to disburse funds for
210 approved construction projects over a period of more than one year subject to the following:

211 (1) The Office of School Rehabilitation and Construction may not approve the funding of a

212 school construction project over a period of more than three years;

213 (2) The Office of School Rehabilitation and Construction may not approve the use of more
214 than 50 percent of the revenue available for distribution in any given fiscal year for projects that are
215 to be funded over a period of more than one year; and

216 (3) In order to encourage local participation in funding school construction projects, the
217 Office of School Rehabilitation and Construction may set aside limited funding, not to exceed
218 \$500,000, in reserve for one additional year to provide a county the opportunity to complete
219 financial planning for a project prior to the allocation of construction funds. Any funding shall be on
220 a reserve basis and converted to a part of the construction grant only after all project budget funds
221 have been secured and all county commitments have been fulfilled. Failure of the county to solidify
222 the project budget and meet its obligations to the state within 18 months of the date the funding is
223 set aside by the Office of School Rehabilitation and Construction will result in expiration of the
224 reserve and the funds shall be reallocated by the Office of School Rehabilitation and Construction
225 in the succeeding funding cycle.

**§18-2L-16. Authority to establish guidelines and procedures for facilities and major
improvement plans; guidelines for modifications and updates, etc.; guidelines for
project evaluation; submission of certified list of projects to be funded; department
on-site inspection of facilities; enforcement of required changes or additions to
project _____ plans.**

1 (a) The Office of School Rehabilitation and Construction shall establish guidelines and
2 procedures to promote the intent and purposes of this article and assure the prudent and
3 resourceful expenditure of state funds for projects under this article including, but not limited to, the
4 following:

5 (1) Guidelines and procedures for the facilities plans, school major improvement plans and
6 projects submitted in the furtherance of the plans that address, but are not limited to, the following:

7 (A) All of the elements of the respective plans as defined in section two of this article;

8 (B) The procedures for a county to submit a preliminary plan, a plan outline or a proposal
9 for a plan to the Office of School Rehabilitation and Construction prior to the submission of the
10 facilities plan. The preliminary plan, plan outline or proposal for a plan shall be the basis for a
11 consultation meeting between representatives of the county and members of the Office of School
12 Rehabilitation and Construction, including at least one citizen member, which shall be held
13 promptly following submission of the preliminary plan, plan outline or proposal for a plan to assure
14 understanding of the general goals of this article and the objective criteria by which projects will be
15 evaluated, to discuss ways the plan may be structured to meet those goals, and to assure
16 efficiency and productivity in the project approval process;

17 (C) The manner, time line and process for the submission of each plan and annual plan
18 updates to the Office of School Rehabilitation and Construction;

19 (D) The requirements for public hearings, comments or other means of providing broad-
20 based input on plans and projects under this article within a reasonable time period as the Office of
21 School Rehabilitation and Construction may consider appropriate. The submission of each plan
22 must be accompanied by a synopsis of all comments received and a formal comment by the
23 county board, the state board or the administrative council of an area vocational educational
24 center submitting the plan;

25 (E) Any project specifications and maintenance specifications considered appropriate by
26 the Office of School Rehabilitation and Construction including, but not limited to, such matters as
27 energy efficiency, preferred siting, construction materials, maintenance plan and any other matter
28 related to how the project is to proceed;

29 (F) A prioritization by the county board, the state board or the administrative council
30 submitting the plan of each project contained in the plan. In prioritizing the projects, the county
31 board, the state board or the administrative council submitting the plan shall make determinations
32 in accordance with the objective criteria formulated by the Office of School Rehabilitation and
33 Construction in accordance with this section. The priority list is one of the criteria that shall be

34 considered by the Office of School Rehabilitation and Construction deciding how the available
35 funds should be expended;

36 (G) The objective means to be set forth in the plan and used in evaluating implementation
37 of the overall plan and each project included in the plan. The evaluation must measure how the
38 plan addresses the goals of this article and any guidelines adopted under this article, and how
39 each project is in furtherance of the facilities plan and school major improvement plan, as
40 applicable, as well as the importance of the project to the overall success of the facilities plan or
41 school major improvement plan and the overall goals of the Office of School Rehabilitation and
42 Construction; and

43 (H) Any other matters considered by the Office of School Rehabilitation and Construction
44 to be important reflections of how a construction project or a major improvement project or projects
45 will further the overall goals of this article.

46 (2) Guidelines and procedures which may be adopted by the Office of School
47 Rehabilitation and Construction for requiring that a county board modify, update, supplement or
48 otherwise submit changes or additions to an approved facilities plan or for requiring that a county
49 board, the state board or the administrative council of an area vocational educational center
50 modify, update, supplement or otherwise submit changes or additions to an approved school
51 major improvement plan. The Office of School Rehabilitation and Construction shall provide
52 reasonable notification and sufficient time for the change or addition as delineated in guidelines
53 developed by the Office of School Rehabilitation and Construction. The guidelines shall require an
54 update of the estimated duration of school bus transportation times for students associated with
55 any construction project under consideration by the Office of School Rehabilitation and
56 Construction that includes the closure, consolidation or construction of a school or schools.

57 (3) Guidelines and procedures for evaluating project proposals that are submitted to the
58 Office of School Rehabilitation and Construction that address, but are not limited to, the following:

59 (A) Any project funded by the Office of School Rehabilitation and Construction must be in

60 furtherance of the facilities plan or school major improvement plan and in compliance with the
61 guidelines established by the Office of School Rehabilitation and Construction;

62 (B) If a project is to benefit more than one county in the region, the facilities plan must state
63 the manner in which the cost and funding of the project will be apportioned among the counties;

64 (C) If a county board proposes to finance a construction project through a lease with an
65 option to purchase pursuant to an investment contract as described in subsection (f), section
66 fifteen of this article, the specifications for the project must include the term of the lease, the
67 amount of each lease payment, including the payment due upon exercise of the option to
68 purchase, and the terms and conditions of the proposed investment contract; and

69 (D) The objective criteria for the evaluation of projects which shall include, but are not
70 limited to, the following:

71 (i) How the current facilities do not meet and how the plan and any project under the plan
72 meets the following:

73 (I) Student health and safety including, but not limited to, critical health and safety needs;

74 (II) Economies of scale, including compatibility with similar schools that have achieved the
75 most economical organization, facility use and pupil-teacher ratios;

76 (III) Reasonable travel time and practical means of addressing other demographic
77 considerations. The Office of School Rehabilitation and Construction may not approve a project
78 after July 1, 2023, that includes a school closure, consolidation or new construction for which a
79 new bus route will be created for the transportation of students in any of the grade levels pre-
80 kindergarten through grade five to and from any school included in the project, which new bus
81 route exceeds by more than 15 minutes the recommended duration of the one-way school bus
82 transportation time for elementary students adopted by the state board as provided in section five-
83 d, article two-e of this chapter, unless the county has received the written permission of the state
84 board to create the route in accordance with said section five-d;

85 (IV) Multicounty and regional planning to achieve the most effective and efficient

86 instructional delivery system;

87 (V) Curriculum improvement and diversification, including the use of instructional
88 technology, distance learning and access to advanced courses in science, mathematics, language
89 arts and social studies;

90 (VI) Innovations in education;

91 (VII) Adequate space for projected student enrollments;

92 (VIII) The history of efforts taken by the county board to propose or adopt local school bond
93 issues or special levies to the extent Constitutionally permissible; and

94 (IX) Regularly scheduled preventive maintenance; and

95 (ii) How the project will assure the prudent and resourceful expenditure of state funds and
96 achieve the purposes of this article for constructing, expanding, renovating or otherwise improving
97 and maintaining school facilities for a thorough and efficient education.

98 (4) Guidelines and procedures for evaluating projects for funding that address, but are not
99 limited to, the following:

100 (A) Requiring each county board's facilities plan and school major improvement plan to
101 prioritize all the construction projects or major improvement projects, respectively, within the
102 county. A school major improvement plan submitted by the state board or the administrative
103 council of an area vocational educational center shall prioritize all the school improvement projects
104 contained in the plan. The priority list shall be one of the criteria to be considered by the Office of
105 School Rehabilitation and Construction in determining how available funds shall be expended. In
106 prioritizing the projects, the county board, the state board or the administrative council submitting a
107 plan shall make determinations in accordance with the objective criteria formulated by the Office of
108 School Rehabilitation and Construction;

109 (B) The return to each county submitting a project proposal an explanation of the
110 evaluative factors underlying the decision of the Office of School Rehabilitation and Construction
111 to fund or not to fund the project; and

112 (C) The allocation and expenditure of funds in accordance with this article, subject to the
113 availability of funds.

114 (b) Prior to final action on approving projects for funding under this article, the Office of
115 School Rehabilitation and Construction shall submit a certified list of the projects to the Joint
116 Committee on Government and Finance.

117 (c) The State Department of Education shall conduct on-site inspections, at least annually,
118 of all facilities which have been funded wholly or in part by moneys from the Office of School
119 Rehabilitation and Construction or state board to ensure compliance with the county boards
120 facilities plan and school major improvement plan as related to the facilities; to preserve the
121 physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of
122 the facilities: *Provided*, That the state board shall submit reports regarding its on-site inspections
123 of facilities to the Office of School Rehabilitation and Construction within 30 days of completion of
124 the on-site inspections: *Provided, however*, That the state board shall promulgate rules regarding
125 the on-site inspections and matters relating thereto, in consultation with the Office of School
126 Rehabilitation and Construction, as soon as practical and shall submit proposed rules for
127 legislative review no later than December 1, 2023.

128 (d) Based on its on-site inspection or notification by the Office of School Rehabilitation and
129 Construction to the state board that the changes or additions to a county's board facilities plan or
130 school major improvement plan required by the Office of School Rehabilitation and Construction
131 have not been implemented within the time period prescribed by the Office of School
132 Rehabilitation and Construction, the state board shall restrict the use of the necessary funds or
133 otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth
134 in section nine, article nine-a of this chapter.

§18-2L-17. Authority to promulgate rules; legislative authorization; effective date of rules;
technical deficiencies waived.

1 (a) The Office of School Rehabilitation and Construction is hereby empowered to

2 promulgate, adopt, amend or repeal rules in accordance with the provisions of §29A-3A-1 et seq.
3 of this code.

4 (1) Any interpretive or procedural rule shall continue in effect until rescinded or
5 appropriately refiled by the Office of School Rehabilitation and Construction.

6 (2) Any legislative rule shall continue in effect until approved or rejected by the Legislature
7 or rescinded by the Office of School Rehabilitation and Construction.

8 (b) Under the provisions of §29A-3A-1 et seq. of this code, the Legislature expressly
9 authorizes the promulgation of the rules described in this article, subject only to the limitations with
10 respect to each rule set forth by law authorizing its promulgation. The Legislature further declares
11 that all rules now or hereafter authorized in this article are within the legislative intent of the statute
12 which the rule is intended to implement, extend, apply or interpret.

13 (c) The effective date of a legislative rule authorized hereto is governed by the provisions of
14 §29A-3A-14 of this code under the following conditions:

15 (1) The Office of School Rehabilitation and Construction, in promulgating the rule,
16 establishes an effective date which is earlier than that provided by that section, in which case the
17 effective date established by the Office of School Rehabilitation and Construction controls; or

18 (2) The Legislature, in the bill authorizing the rule, establishes an effective date for the rule,
19 in which case the effective date established by the Legislature controls.

20 (d) The Legislature further declares each legislative rule now or hereafter authorized under
21 this article to have been validly promulgated, notwithstanding any failure to comply with any
22 requirement of §29A-3A-1 et seq. of this code relating to the promulgation of rules at any stage of
23 the promulgation process prior to authorization by the Legislature in this article.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-1. School Building Authority; powers.

1 [Repealed].

§18-9D-2. Definitions.

1 [Repealed].

§18-9D-3. Powers of authority; School Building Authority Fund.

1 [Repealed].

§18-9D-4. School building authority authorized to issue refunding revenue bonds and/or general obligation bonds for school building capital improvement projects.

1 [Repealed].

§18-9D-4a. Savings from issuance of refunding bonds.

1 [Repealed].

§18-9D-4b. School Building Authority authorized to issue bonds and pay debt service on bonds with funds distributed from State Excess Lottery Fund.

1 [Repealed].

§18-9D-4c. School Building Authority authorized to temporarily finance projects through the issuance of loans, notes or other evidences of indebtedness.

1 [Repealed].

§18-9D-4d. Emergency facility and equipment repair or replacement fund for financially distressed counties.

1 [Repealed].

§18-9D-5. School building authority authorized to offer individual higher education savings plans.

1 [Repealed].

§18-9D-6. School Building Capital Improvements Fund in State Treasury; School Construction Fund in State Treasury; School Building Debt Service Fund in State Treasury; School Improvement Fund in State Treasury; collections to be paid into special funds; Excess Lottery School Building Debt Service Fund in State Treasury; authority to pledge the collections as security for refunding revenue bonds; authority to finance projects on a cash basis.

1 [Repealed].

§18-9D-7. Authority to fix and collect rents.

1 [Repealed].

§18-9D-8. Use of proceeds of bonds; bonds exempt from taxation.

1 [Repealed].

§18-9D-9. Issuance of revenue refunding bonds; use of moneys; power to enter into escrow agreements; call for redemption.

1 [Repealed].

§18-9D-10. Bonds may be issued for combined purposes.

1 [Repealed].

§18-9D-11. Bonds shall be negotiable instruments.

1 [Repealed].

§18-9D-12. Trust agreements for holders of bonds.

1 [Repealed].

§18-9D-13. Sinking fund for payment of bonds.

1 [Repealed].

§18-9D-14. Credit of state not pledged.

1 [Repealed].

§18-9D-15. Legislative intent; allocation of money among categories of projects; lease-purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation.

1 [Repealed].

§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for

project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.

1 [Repealed].

§18-9D-17. Limitations on contracts for sale of bonds or other securities.

1 [Repealed].

§18-9D-18.

1 [Repealed].

§18-9D-19. Comprehensive high schools.

1 [Repealed].

§18-9D-19a. Comprehensive middle schools.

1 [Repealed].

§18-9D-20. Authority to promulgate rules; legislative authorization; effective date of rules; technical deficiencies waived.

1 [Repealed].

§18-9D-21. Authorizing rules of School Building Authority.

1 [Repealed].

NOTE: The purpose of this bill is to create the Office of School Rehabilitation and Construction, merging the powers and authority of the School Building Authority into the Office of School Rehabilitation and Construction, removing gubernatorial appointments, and dissolving the School Building Authority.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.