

# WEST VIRGINIA LEGISLATURE

## 2022 REGULAR SESSION

Introduced

### House Bill 4378

FISCAL NOTE
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BY DELEGATES HANNA AND CLARK

[Introduced January 25, 2022; Referred to the

Committee on Education then Finance]

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

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

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

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

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

33 sound educational policy and within the budgetary constraints for staffing and operating the  
34 schools of the county;

35 (C) Includes the school major improvement plan;

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

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

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

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

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

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

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

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

50 (B) Deposited in the School Construction Fund pursuant to §11-15-30 of this code and  
51 §29-22-18 of this code;

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

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

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

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

59 (G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to §29-  
60 22-18a of this code.

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

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

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

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

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

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

75 (10) "School major improvement project" means a project with a cost greater than \$50,000  
76 and less than \$1 million for the renovation, expansion, repair and safety upgrading of existing  
77 school facilities, buildings and structures, including the substantial repair or upgrading of  
78 equipment, machinery, building systems, utilities and other similar items related to the renovation,  
79 repair or upgrading in the furtherance of a school major improvement plan. A major improvement  
80 project does not include such items as books, computers or equipment used for instructional  
81 purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course  
82 of business improvements; or other items which are customarily considered to result in a current  
83 or 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,  
6 real 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  
23 this 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  
25 effectuate 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,  
27 it 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  
30 the 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 one hundred year flood plain at which  
33 Office of 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  
36 of 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  
51 and 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  
65 fire, 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  
92 the 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  
94 in accordance with appropriation by the Legislature and in accordance with the provisions of §12-  
95 3-1 et seq. of this code and upon fulfillment of the provisions of §12-3-1 et seq. of this code and  
96 upon 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  
2 of School Operations and Finance may by resolution, in accordance with the provisions of this  
3 article, issue revenue bonds of the Office of School Rehabilitation and Construction from time to  
4 time, either to finance the cost of construction projects for public schools in this state, or to refund,

5 at the discretion of the Office of School Rehabilitation and Construction, bonds issued to finance  
6 the cost of the construction projects for public schools in this state and outstanding under and  
7 pursuant to the provisions of this article. The principal of, interest and redemption premium, if any,  
8 on such 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  
10 of School Operations and Finance may, in accordance with the provisions of the Constitution of  
11 West Virginia, issue general obligation bonds from time to time as authorized by referendum  
12 pursuant to resolution duly adopted by the Legislature, to finance the cost of construction projects  
13 for public 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  
 7 be 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  
 3 in 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  
20 in 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

30 through payroll deductions by their employer bonds of not less than \$1,000 maturity increments  
31 when 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  
43 not 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,  
49 the language of this section shall control unless such a construction would be unlawful, or would  
50 not 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 article  
57 twenty-one, chapter eleven §11-21-1 et seq. of this code, except as provided in subdivision (3) of  
58 this subsection.

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

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

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

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

82 filed with the Tax Commissioner at least annually, at such time and in such manner as the Tax  
83 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  
11 moneys in the School Building Capital Improvements Fund to finance the cost of projects  
12 authorized in accordance with the provisions of section sixteen of this article on a cash basis. Any  
13 expenditures from the fund, other than for the retirement of revenue bonds, may only be made by  
14 the Office of School Rehabilitation and Construction in accordance with the provisions of this  
15 article.

16 (b) There is continued in the state Treasury a special revenue fund named the School  
17 Building Debt Service Fund into which shall be deposited the amounts specified in §29-22-18 of  
18 this code. All amounts deposited in the fund shall be pledged to the repayment of the principal,

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

30 After the Office of School Rehabilitation and Construction has issued bonds authorized by  
31 this article for which moneys deposited in the School Building Debt Service Fund have been  
32 pledged and after the requirements of all funds have been satisfied, including coverage and  
33 reserve funds established in connection with the bonds issued pursuant to this article, any balance  
34 remaining in the School Building Debt Service Fund may be used for the redemption of any of the  
35 outstanding bonds issued under this article, for which moneys deposited in the School Building  
36 Debt Service Fund have been pledged, which, by their terms, are then redeemable or for the  
37 purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which  
38 the bonds are redeemable and all bonds redeemed or purchased shall be immediately canceled  
39 and shall not again be issued: *Provided*, That after the Office of School Rehabilitation and  
40 Construction has issued bonds authorized by this article and after the requirements of debt  
41 service and all associated funds have been satisfied for the fiscal year for which moneys  
42 deposited in the School Building Debt Service Fund have been pledged, including coverage and  
43 reserve funds established in connection with the bonds issued pursuant to this article, any  
44 remaining balance in the School Building Debt Service Fund may be transferred to the School



45 Construction Fund created in subsection (c) of this section and used by the Office of School  
46 Rehabilitation and Construction in its discretion to finance the cost of school construction or  
47 improvement projects authorized in accordance with the provisions of section sixteen of this article  
48 on a cash basis.

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

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

65 (d) There is continued in the state Treasury a special revenue fund named the School  
66 Major Improvement Fund into which shall be deposited the amounts specified in §11-15-30 of this  
67 code, together with any moneys appropriated to the fund by the Legislature. Expenditures from  
68 the School Major Improvement Fund shall be for the purposes set forth in this article and are  
69 authorized from collections in accordance with the provisions of article three, chapter twelve of  
70 this code and from other revenues annually appropriated by the Legislature from lottery revenues

71 as authorized by §29-22-18 of this code pursuant to the provisions set forth in article two, chapter  
72 five-a §5a-2-1 et seq. of this code. Amounts collected which are found, from time to time, to  
73 exceed the funds needed for purposes set forth in this article may be transferred to other accounts  
74 or funds and redesignated for other purposes by appropriation of the Legislature. The School  
75 Major Improvement Fund shall be an interest-bearing account, with interest being credited to and  
76 deposited in the School Major Improvement Fund and expended in accordance with the  
77 provisions of this article.

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

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

97 purchased shall be immediately canceled and shall not again be issued: *Provided*, That after the  
98 Office of School Rehabilitation and Construction has issued bonds authorized by this article and  
99 after the requirements of debt service and all associated funds have been satisfied for the fiscal  
100 year, including coverage and reserve funds established in connection with the bonds issued  
101 pursuant to this article for which moneys deposited in the Excess Lottery School Building Debt  
102 Service Fund have been pledged, any remaining balance in the Excess Lottery School Building  
103 Debt Service Fund may be transferred to the School Construction Fund created in subsection (c)  
104 of this section and used by the Office of School Rehabilitation and Construction in its discretion  
105 to finance the cost of school construction or improvement projects authorized in accordance with  
106 the provisions of section sixteen of this article on a cash basis.

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

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

119 The Legislature further finds and declares that it intends, through the reenactment of this  
120 section to dedicate a source of state revenues to special revenue funds for the purposes of paying  
121 the debt service on bonds and refunding bonds, the proceeds of which will be used for the  
122 construction and improvement of school building facilities. The Legislature further finds and

123 declares that it intends, through the reenactment of this section to appropriate revenues to two  
124 special revenue funds for the purposes of construction and improvement of school building  
125 facilities. Furthermore, the Legislature intends to encourage county boards to maintain existing  
126 levels of county funding for construction, improvement and maintenance of school building  
127 facilities and to generate additional county funds for those purposes through bonds and special  
128 levies whenever possible. The Legislature further encourages the Office of School Rehabilitation  
129 and Construction, the state board and county boards of education to propose uniform project  
130 specifications for comparable projects whenever possible to meet county needs at the lowest  
131 possible cost.

132 The Legislature further finds and declares that it intends, through the reenactment of this  
133 section to comply with the provisions of sections four and six, article X of the Constitution of West  
134 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  
2 the 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  
7 additional 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  
17 not 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 forty 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 one hundred five percent of the  
26 principal amount of the bonds; and be entitled to such priorities on the revenues paid into the fund  
27 pledged for repayment of the bonds as may be provided in the resolution authorizing the issuance

28 of the 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  
32 the 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  
39 be generally or specifically set forth in the resolution authorizing those bonds and shall be  
40 disbursed in the manner and with the restrictions, if any, that the Office of School Rehabilitation  
41 and 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  
47 the 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  
58 or 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  
12 accrued and unpaid; and (4) all expenses of the issuance and sale of said revenue refunding  
13 bonds, including all necessary financial and legal expenses, and also including the creation of

14 initial debt service reserve funds. Any existing moneys pledged with respect to the outstanding  
15 bonds may be used for any or all of the purposes stated in (1), (2), (3) and (4) above or may be  
16 deposited in a sinking fund or reserve fund or other funds for the issue of bonds which have been  
17 issued wholly or in part for the purpose of such refunding. Such amount of the proceeds of the  
18 revenue refunding bonds as shall be sufficient for the payment of the principal, interest and  
19 redemption premium, if any, on such outstanding bonds which will not be immediately due and  
20 payable shall be deposited in trust, for the sole purpose of making such payments, in a banking  
21 institution chosen by the Office of School Rehabilitation and Construction and in accordance with  
22 any provisions which may be included in the resolution authorizing the issuance of such bonds or  
23 in the trust agreement securing the same. Any of the moneys so deposited in trust may, prior to  
24 the date on which such moneys will be needed for the payment of principal of, interest and  
25 redemption premium, if any, on such outstanding bonds, be invested and reinvested as  
26 determined by the Office of School Rehabilitation and Construction, in whole or in part: (a) In  
27 direct obligations issued by the United States of America or one of its agencies or in direct  
28 obligations of the State of West Virginia; (b) in obligations unconditionally guaranteed by the  
29 United States of America as to principal and interest; or (c) in certificates of deposit of a banking  
30 corporation or association which is a member of the federal deposit insurance corporation, or  
31 successor; but any such certificates of deposit must be fully secured as to both principal and  
32 interest by pledged collateral consisting of direct obligations of or obligations guaranteed by the  
33 United States of America, or direct obligations of the State of West Virginia, having a market  
34 value, excluding accrued interest, at all times at least equal to the amount of the principal of and  
35 accrued interest on such certificates of deposit. Any such investments must mature, or be payable  
36 in advance of maturity at the option of the holder, and must bear interest in such manner as to  
37 provide funds which, together with uninvested money, will be sufficient to pay when due or called  
38 for redemption the bonds refunded, together with interest accrued and to accrue thereon and  
39 redemption premiums, if any, and such refunding bonds proceeds or obligations so purchased



40 therewith shall be deposited in escrow and held in trust for the payment and redemption of the  
41 bonds refunded: *Provided*, That if interest earned by any investment in such escrow is shown to  
42 be in excess of the amounts required from time to time for the payment of interest on and principal  
43 of the refunded bonds, including applicable redemption premium, then such excess may be  
44 withdrawn from escrow and disbursed in such manner as the Office of School Rehabilitation and  
45 Construction shall by resolution determine, subject to the provisions of section five of this article.  
46 Any moneys in the sinking or reserve funds or other funds maintained for the outstanding bonds  
47 to be refunded may be applied in the same manner and for the same purpose as are the net  
48 proceeds of refunding bonds or may be deposited in the special fund or any reserve funds  
49 established for account of the refunding bonds.

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

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

57 Where any revenue bonds to be refunded are not to be surrendered for exchange or  
58 payment and are not to be paid at maturity with escrowed obligations, but are to be paid from  
59 such source prior to maturity pursuant to call for redemption exercised under a right of redemption  
60 reserved in such revenue bonds, the Office of School Rehabilitation and Construction shall, prior  
61 to the issuance of the refunding bonds, determine which redemption date or dates shall be used,  
62 call such revenue bonds for redemption and provide for the giving of the notice of redemption  
63 required by the proceedings authorizing such revenue bonds. Where such notice is to be given  
64 at a time subsequent to the issuance of the refunding bonds, the necessary notices may be  
65 deposited with the State Treasurer or the bank acting as escrow agent of the refunding bond

66 proceeds and the escrow agent appropriately instructed and authorized to give the required  
67 notices at the prescribed time or times. If any officer of the public body signing any such notice  
68 shall no longer be in office at the time of the utilization of the notice, the notice shall nevertheless  
69 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,  
3 either within or outside the state, to act as trustee for the holders of bonds issued hereunder,  
4 setting forth therein such duties and containing such legally binding covenants of the Office of  
5 School Rehabilitation and Construction with the holders of the bonds in respect to the payment of  
6 the 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  
18 to time in accordance with the terms thereof; and all the provisions thereof shall be enforceable  
19 by 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  
8 payment of the principal of the bonds of such issue and the interest thereon, and to the redemption  
9 or 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  
16 at the market price, but not exceeding the price, if any, at which such bonds shall in the same  
17 year be redeemable; and all bonds redeemed or purchased shall forthwith be canceled and shall  
18 not again 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,  
36 at 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  
4 of 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 ten 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-  
21 f of this chapter, may be allocated and may be expended by the Office of School Rehabilitation  
22 and Construction for projects authorized in accordance with the provisions of section sixteen of  
23 this article that service the educational community statewide or, upon application by the state

24 board, 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  
41 a school major improvement project proposed by the state board or the administrative council of  
42 an area vocational educational center unless the state board or an administrative council has  
43 submitted a ten-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  
80 this subsection do not require the full amount of moneys reserved, moneys above the amount  
81 required may be allocated and expended in accordance with other provisions of this article. A  
82 county board, the state board, an administrative council or the joint administrative board of a  
83 vocational-technical education facility which includes post-secondary programs may propose  
84 projects for facilities or equipment, or both, which are under the direct supervision of the respective  
85 body: *Provided*, That the Office of School Rehabilitation and Construction shall, before allocating  
86 any moneys for a project under this subsection, consider all other funding sources available for  
87 the project.

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

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

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

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

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

101 (f) If a county board proposes to finance a project that is authorized in accordance with



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

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

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

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

128 Construction and the county board;

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

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

133 (D) Upon a default by a county board, the principal of the loan, together with all unpaid  
134 interest accrued to the date of the default, shall, at the option of the Office of School Rehabilitation  
135 and Construction, in consultation with the state board, become due and payable immediately or  
136 subject to renegotiation among the state board, the Office of School Rehabilitation and  
137 Construction and the county board; and

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

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

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

154 the total funds available in the School Construction Fund of the Office of School Rehabilitation  
155 and Construction for future allocation and distribution. Funds may not be distributed for any project  
156 under this article unless the responsible entity has a facilities plan approved by the state board  
157 and the Office of School Rehabilitation and Construction and is prepared to commence  
158 expenditure of the funds during the fiscal year in which the moneys are distributed.

159 (h) The remaining moneys that are determined by the Office of School Rehabilitation and  
160 Construction to be available for distribution during the then current fiscal year from moneys paid  
161 into the School Major Improvement Fund pursuant to section six of this article shall be allocated  
162 and distributed on the basis of need and efficient use of resources for projects authorized in  
163 accordance with the provisions of section sixteen of this article, subject to the following:

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

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

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

173 (i) Local matching funds may not be required under the provisions of this section. However,  
174 this article does not negate the responsibilities of the county boards to maintain school facilities.  
175 Therefore, as a prerequisite for eligibility to receive an allocation of school major improvement  
176 funds from the Office of School Rehabilitation and Construction, a county board must provide  
177 annual school facility maintenance expenditure data to the Office of School Rehabilitation and  
178 Construction which shall be jointly reviewed by the Office of School Rehabilitation and  
179 Construction and the state Department of Education Office of School Facilities and Transportation

180 to assist the Office of School Rehabilitation and Construction in its determination of the most  
181 meritorious projects to be funded through the School Major Improvement Fund. The state board  
182 shall promulgate rules relating to county boards' school facility maintenance budgets, including  
183 items which shall be included in these budgets.

184 (j) Any county board may use moneys provided by the Office of School Rehabilitation and  
185 Construction under this article in conjunction with local funds derived from bonding, special levy  
186 or other sources. Distribution to a county board, or to the state board or the administrative council  
187 of an area vocational educational center pursuant to subsection (b) of this section, may be in a  
188 lump sum or in accordance with a schedule of payments adopted by the Office of School  
189 Rehabilitation and Construction pursuant to guidelines adopted by the Office of School  
190 Rehabilitation and Construction.

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

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

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

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

205 (m) County boards shall submit all designs for construction of new school buildings to the

206 Office of School Rehabilitation and Construction for review and approval prior to preparation of  
207 final bid documents. A vendor who has been debarred pursuant to the provisions of sections  
208 thirty-three-a through thirty-three-f, inclusive, article three, chapter five-a of this code may not bid  
209 on or be awarded a contract under this section.

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

212 (1) The Office of School Rehabilitation and Construction may not approve the funding of  
213 a school construction project over a period of more than three years;

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

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

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

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

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

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

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

26           (E) Any project specifications and maintenance specifications considered appropriate by

27 the Office of School Rehabilitation and Construction including, but not limited to, such matters as  
28 energy efficiency, preferred siting, construction materials, maintenance plan and any other matter  
29 related to how the project is to proceed;

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

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

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

47 (2) Guidelines and procedures which may be adopted by the Office of School  
48 Rehabilitation and Construction for requiring that a county board modify, update, supplement or  
49 otherwise submit changes or additions to an approved facilities plan or for requiring that a county  
50 board, the state board or the administrative council of an area vocational educational center  
51 modify, update, supplement or otherwise submit changes or additions to an approved school  
52 major improvement plan. The Office of School Rehabilitation and Construction shall provide

53 reasonable notification and sufficient time for the change or addition as delineated in guidelines  
54 developed by the Office of School Rehabilitation and Construction. The guidelines shall require  
55 an update of the estimated duration of school bus transportation times for students associated  
56 with any construction project under consideration by the Office of School Rehabilitation and  
57 Construction that includes the closure, consolidation or construction of a school or schools.

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

60 (A) Any project funded by the Office of School Rehabilitation and Construction must be in  
61 furtherance of the facilities plan or school major improvement plan and in compliance with the  
62 guidelines established by the Office of School Rehabilitation and Construction;

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

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

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

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

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

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

78 (III) Reasonable travel time and practical means of addressing other demographic



79 considerations. The Office of School Rehabilitation and Construction may not approve a project  
80 after July 1, 2022, that includes a school closure, consolidation or new construction for which a  
81 new bus route will be created for the transportation of students in any of the grade levels  
82 prekindergarten through grade five to and from any school included in the project, which new bus  
83 route exceeds by more than fifteen minutes the recommended duration of the one-way school  
84 bus transportation time for elementary students adopted by the state board as provided in section  
85 five-d, article two-e of this chapter, unless the county has received the written permission of the  
86 state board to create the route in accordance with said section five-d;

87 (IV) Multicounty and regional planning to achieve the most effective and efficient  
88 instructional delivery system;

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

92 (VI) Innovations in education;

93 (VII) Adequate space for projected student enrollments;

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

96 (IX) Regularly scheduled preventive maintenance; and

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

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

102 (A) Requiring each county board's facilities plan and school major improvement plan to  
103 prioritize all the construction projects or major improvement projects, respectively, within the  
104 county. A school major improvement plan submitted by the state board or the administrative

105 council of an area vocational educational center shall prioritize all the school improvement  
106 projects contained in the plan. The priority list shall be one of the criteria to be considered by the  
107 Office of School Rehabilitation and Construction in determining how available funds shall be  
108 expended. In prioritizing the projects, the county board, the state board or the administrative  
109 council submitting a plan shall make determinations in accordance with the objective criteria  
110 formulated by the Office of School Rehabilitation and Construction;

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

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

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

119 (c) The State Department of Education shall conduct on-site inspections, at least annually,  
120 of all facilities which have been funded wholly or in part by moneys from the Office of School  
121 Rehabilitation and Construction or state board to ensure compliance with the county board's  
122 facilities plan and school major improvement plan as related to the facilities; to preserve the  
123 physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of  
124 the facilities: *Provided*, That the state board shall submit reports regarding its on-site inspections  
125 of facilities to the Office of School Rehabilitation and Construction within thirty days of completion  
126 of the on-site inspections: *Provided, however*, That the state board shall promulgate rules  
127 regarding the on-site inspections and matters relating thereto, in consultation with the Office of  
128 School Rehabilitation and Construction, as soon as practical and shall submit proposed rules for  
129 legislative review no later than December 1, 2022.

130 (d) Based on its on-site inspection or notification by the Office of School Rehabilitation and

131 Construction to the state board that the changes or additions to a county's board facilities plan or  
132 school major improvement plan required by the Office of School Rehabilitation and Construction  
133 have not been implemented within the time period prescribed by the Office of School  
134 Rehabilitation and Construction, the state board shall restrict the use of the necessary funds or  
135 otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth  
136 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  
10 with respect to each rule set forth by law authorizing its promulgation. The Legislature further  
11 declares that all rules now or hereafter authorized in this article are within the legislative intent of  
12 the statute 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  
14 of §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

19 rule, 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  
23 of 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.