§ 407-a. Authorization for dormitory authority financing of capital facilities for special act school districts. 1. The legislature declares that it is in the interest of the state, the school districts and the children of the state to assure that special act school districts educating children with handicapping conditions pursuant to contracts with public school districts or social services districts have sufficient facilities related to the education of such children. The legislature finds that special act school districts providing such education are in need of improved and additional facilities related to the education of such children, and the means to finance the construction of such improvements and additional facilities. The legislature, therefore, enacts the following provisions.

2. This section shall apply to special act school districts listed in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended, which contract with public school districts or social services districts for the education of children with handicapping conditions pursuant to article eighty-one or eighty-nine of this chapter.

3. Such special act school districts may enter into leases, subleases or other agreements with the dormitory authority pursuant to title four of article eight of the public authorities law for the financing of the design, construction, reconstruction, rehabilitation, improvement, renovation or otherwise providing for, furnishing or equipping of capital facilities which are educational facilities where the total estimated cost of such facilities exceeds ten thousand dollars. The plans and specifications of such capital facilities shall be subject to the approval of the commissioner with respect to educational facilities. Such capital facilities may be constructed only on land owned by such special act school district or, if the land is leased, where the lease is for a period at least equal to the appropriate period of probable usefulness for such facilities as listed in section 11.00 of the local finance law, or the length of the lease, sublease or other agreement with the dormitory authority, whichever is longer.

4. Each such special act school district shall, notwithstanding any

other provision of law, have the power to convey, lease, sublease or otherwise make available to the dormitory authority without consideration, title or any other rights in real property satisfactory to the dormitory authority.

5. In addition to providing for all other matters deemed necessary and proper, such leases, subleases and other agreements shall (a) require such special act school district to pay to the dormitory authority annual rentals which shall include the amount required to pay the principal of and interest on obligations of the dormitory authority issued in relation to providing such facilities and all incidental expenses of the dormitory authority incurred in relation thereto, (b) require the special act school district to include an amount sufficient to meet its obligations under the lease, sublease or other agreement in each proposed budget submitted during the term of the lease, sublease or other agreement and (c) include a provision that such agreement shall not be effective unless and until it is approved by the commissioner with respect to educational facilities.

6. Title or other real property rights to the capital facilities financed pursuant to this section shall remain with the dormitory authority until the dormitory authority certifies to the commissioner with respect to educational facilities and the comptroller the receipt by it of the amount necessary to pay the total aggregate amount of annual rentals to the dormitory authority. At such time, title or other real property rights thereto shall be transferred by the dormitory authority to such special act school district for use for educational purposes. In order to avail itself of the provisions of this section, each such special act school district must also agree to continue to operate a program for the education of children pursuant to contract with public school districts or social services districts, and such lease, sublease or other agreement with the dormitory authority shall provide that, if the special act school district shall cease to operate such a program at any time during the term of the agreement, the state will have the option to take title or other real property rights in land, buildings, equipment and other properties which the special act school district uses for its program upon, subject to appropriations,

payment by the state to the dormitory authority of the amount required to pay the total aggregate amount of annual rentals to the dormitory authority.

7. On or before November fifteenth of each year, the dormitory authority shall submit, and thereafter may resubmit, to the director of the budget, the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee a report setting forth the amounts, if any, of all annual rentals estimated to become due in the succeeding state fiscal year to the dormitory authority from the special act school districts pursuant to any leases, subleases or other agreements between the dormitory authority and such special act school districts to provide educational facilities for such special act school district. The state comptroller shall pay over to the dormitory authority pursuant to appropriations therefor solely from moneys available in the school capital facilities financing reserve fund the amount set forth in such report at the times and in the amounts set forth in the certificate filed with the comptroller by the dormitory authority pursuant to subparagraph (iv) of paragraph (b) of subdivision eight of this section.

8. Method of payment; reserve fund. (a) Each special act school district which elects to avail itself of the provisions of this section shall have established with the state comptroller a school capital facilities financing reserve account which shall be used to pay to the dormitory authority the annual rentals payable to the dormitory authority by special act school districts which have entered into leases, subleases or other agreements with the dormitory authority to provide educational facilities pursuant to the provisions of this section. The dormitory authority shall identify to the state comptroller and to the commissioner with respect to educational facilities, the special act school districts with which it has leases, subleases or other agreements pursuant to this section and shall annually certify the amount of annual rentals required to be paid pursuant to such leases, subleases or other agreements.

(b) (i) There is hereby established in the custody of the state comptroller a special fund to be known as the school capital facilities

financing reserve fund. Within such fund, there is hereby established a special account for each special act school district which enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section.

(ii) Notwithstanding the provisions of any other law, such fund shall consist of part of the tuition payments from public school districts and social services districts as determined by the commissioner, and state aid to special act school districts pursuant to subdivision six of section thirty-six hundred two of this chapter as determined by the commissioner. The comptroller shall maintain sufficient amounts in the fund in order to pay when due the annual rentals due to the dormitory authority from each such special act school district pursuant to any lease, sublease or other agreement entered into pursuant to the provisions of this section. The dormitory authority shall certify to the state comptroller the dates and amount of such annual payments as scheduled in its leases, subleases or other agreements with such special act school districts. The commissioner with respect to educational facilities shall certify the amount of payments due the fund from public school districts and social services districts, respectively and such public school districts and social services districts shall make such payments to the fund at such times as shall be prescribed by the commissioner with respect to educational facilities, subject to the approval of the director of the budget, and after consultation with the dormitory authority.

(iii) Revenues in any special account in the school capital facilities financing reserve fund may be commingled with any other moneys in such fund. All deposits of such revenues with banks and trust companies shall be secured by obligations of the United States or of the state of New York or its political subdivisions. Such obligations shall have a market value at least equal at all times to, but not less than, one hundred five percent of the amount of such deposits. All banks and trust companies are authorized to give security for such deposits. Any such revenues in such fund may, in the discretion of the comptroller, be invested in obligations of the United States or the state or obligations the principal of and interest on which are guaranteed by the United States or by the state. Any interest earned shall be credited to such fund.

(iv) Upon receipt by the comptroller of a certificate or certificates from the dormitory authority that it requires a payment or payments from the appropriate special account established for a special act school district in order for such special act school district to comply with any lease, sublease or other agreement pursuant to this section, each of which certificates shall specify the required payment or payments and the date when the payment or payments is required, the comptroller shall pay from such special account on or before the specified date or within thirty days after receipt of such certificate or certificates, whichever is later, to the paying agent designated by the dormitory authority in any such certificate, the amount or amounts so certified.

(v) All payments of money from the school capital facilities financing reserve fund shall be made on the audit and warrant of the state comptroller.

9. Notwithstanding the provisions of any contract pursuant to article eighty-one or eighty-nine of this chapter between a social services district or a public school district and a special act school district, if the special act school district enters into a lease, sublease or other agreement with the dormitory authority pursuant to this section, payments due from the public school district or social services district shall be made in accordance with the provisions of this section.

10. All state and local officials are authorized and required to take whatever actions are necessary to carry out the provisions of this section and the provisions of any leases, subleases or other agreements entered into pursuant to this section, including making the required payments to the dormitory authority.

11. Any contract undertaken or financed by the dormitory authority for any construction, reconstruction, rehabilitation or improvement for any special act school district shall comply with the provisions of sections one hundred one and one hundred three of the general municipal law.

12. Notwithstanding any other provision of law to the contrary, the dormitory authority may execute leases, subleases, or other agreements with special act school districts for financing of the design,

construction, rehabilitation, improvement, renovation, acquisition or provision, furnishing or equipping of capital facilities; provided, however, that during the two year period commencing July first, nineteen hundred ninety-five, the amount of bonds inclusive of principal, interest and issuance costs to be issued for each individual lease, sublease, or other agreement shall not exceed fifteen million dollars annually; and provided further that the total amount of such bonds for all such leases, subleases, or agreements with special act school districts during such period shall not exceed twenty million dollars. On or before September first of each year, the commissioner shall submit to the chairs of the assembly ways and means committee, the senate finance committee and the director of the budget, a capital plan for those projects expected to be bonded for special act school districts pursuant to this section, within such twenty million dollar allowance. After application of the principles of the capital assets preservation program, such plan shall accord priority to health and safety considerations and shall specify the name, location, estimated total cost of the project at the time the project is to be bid, the anticipated bid date and the anticipated completion date and may contain any further recommendations the commissioner may deem appropriate.