§ 1680-g. Child care facilities development program; authority financing of eligible child care facilities development projects. 1. The dormitory authority is hereby authorized to finance eligible child care facilities development projects which are intended to serve the needs of low-income working families or an area with demonstrated child care need or to provide care for children through the age of twelve years and enrolled in school following the completion of the school day or the school year. Such projects shall be used as licensed or registered forms of child care for a period of at least ten years with an average of twenty-five percent of its available child care slots set aside for families eligible for low-income child care subsidies or for referrals of low-income or public assistance families from local social services districts. Such project shall have a useful life of at least ten years.

2. (a) Notwithstanding the provisions of any general or special law to the contrary, and subject to the making of annual appropriations therefor by the legislature, in order to assist the dormitory authority in providing for the financing of eligible child care facilities development projects, the director of the budget is authorized in any state fiscal year commencing April first, nineteen hundred ninety-nine or any state fiscal year thereafter to enter into one or more service contracts, none of which shall exceed thirty years in duration, with the dormitory authority, upon such terms as the director of the budget and the dormitory authority agree.

(b) Any service contract entered into pursuant to paragraph (a) of this subdivision or any payments made or to be made thereunder may be assigned and pledged by the dormitory authority as security for its bonds, notes, or other obligations.

(c) Any such service contracts shall provide that the obligation of the director of the budget or of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision in the event the dormitory authority assigns or pledges the service contract payments as security for its bonds, notes, or other obligations and shall be deemed executory only to the extent monies are available and that no liability shall be incurred by the state beyond the monies available for the purpose, and that such obligation is subject to annual appropriations by

the legislature.

(d) Any service contract or contracts entered into pursuant to this subdivision shall provide for state commitments to provide annually to the dormitory authority a sum or sums, upon such terms and conditions as shall be deemed appropriate by the director of the budget, to fund the principal, interest, or other related payments required for any bonds, notes, or other obligations of the dormitory authority issued pursuant to this section.

3. The dormitory authority in conjunction with the office of children and family services shall develop a request for applications soliciting potential applicants seeking assistance for the development of licensed child care center projects. The office of children and family services shall receive, initially review, and assess applications to determine which projects should be referred to the authority and to rank by groups the referred projects according to the capacity of such projects to meet identified needs for child care. In assessing such applications, the office of children and family services shall consider:

(a) the needs for child care services in the area;

(b) the potential viability for a child care center to succeed in the area;

(c) the qualifications of the proposed provider to operate the proposed child care center;

(d) the potential for meeting applicable regulatory requirements;

(e) the appropriateness of the site for licensing as a child care center; and

(f) such other matters as the office of children and family services determines necessary to properly and completely evaluate an application.

Upon the timely completion of the office of children and family services' initial review and selection of applications meeting criteria, the office shall submit such selected applications and the group rankings of such applications to the dormitory authority which shall select grant recipients.

4. (a) The dormitory authority shall, from any appropriations made available for this purpose, establish a child care facilities

development program that shall offer child care facilities development grants pursuant to paragraphs (d), (e) and (f) of this subdivision.

(b) Financing for child care facilities development projects authorized pursuant to this section shall only be made upon the determination by the authority, in consultation with the office of children and family services, that such a center or school-age program will increase supply and access to child care. Such centers or school-age programs shall demonstrate the potential to obtain from the office of children and family services and other appropriate governmental agencies, all necessary approvals, licenses, and other supports to operate the center.

(c) Such financing shall consist of grants for the establishment, expansion, and development of licensed child care centers.

(d) Grants shall be used for general project development costs, including but not limited to: (i) the acquisition, design, construction, improvement, or renovation of the site, and (ii) the purchase of necessary equipment.

(e) For the purposes of this subdivision, grants shall not exceed ninety percent of the total project costs. Child care facilities development grants shall not be limited to funds appropriated therefor and may consist of monies from any source, public or private, made available for such grants.

(f) Child care facilities development grants awarded pursuant to this section shall be available for not-for-profit child care facilities development projects owned or to be owned by not-for-profit corporations for use as child day care centers that will be duly approved, licensed, inspected, supervised, and regulated as may be determined to be necessary and appropriate by the authority.

5. (a) To obtain funds for the purposes of this section, the authority shall have power from time to time to issue negotiable bonds or notes. Unless the context shall clearly indicate otherwise, whenever the words "bond" or "bonds" are used in this section, such words shall include a note or notes of the authority.

(b) The dormitory authority shall not issue any bonds or notes in an amount in excess of thirty million dollars for the purposes of this section; excluding bonds or notes issued to fund one or more debt

service reserve funds, to pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay such bonds or notes previously issued. Except for purposes of complying with the internal revenue code, any interest on bond proceeds shall only be used to pay debt service on such bonds.

(c) In computing for the purposes of paragraph (b) of this subdivision, the aggregate amount of indebtedness evidenced by bonds and notes of the dormitory authority issued pursuant to this title, there shall be excluded the amount of such indebtedness represented by such bonds or notes issued to refund or otherwise repay bonds or notes, provided that the amount so excluded under this paragraph may exceed the principal amount of such bonds or notes that were issued to refund or otherwise repay only if the present value of the aggregate debt service on the refunding or repayment bonds or notes shall not have at the time of their issuance exceeded the present value of the aggregate debt service of the bonds or notes they were issued to refund or repay, such present value in each case being calculated by using the effective interest rate of the refunding or repayment bonds or notes, which shall be that rate arrived at by doubling the semi-annual interest rate (compounded semi-annually) necessary to discount the debt service payments on the refunding or repayment bonds or notes from the payment date thereof to the date of issue of the refunding or repayment bonds or notes and to the price bid therefor, or to the proceeds received by the dormitory authority from the sale thereof, in each case including estimated accrued interest.

(d) The state of New York hereby covenants with the purchasers, holders and owners from time to time of the bonds of the authority issued pursuant to this section that it will not, subject to the provisions of subparagraph (c) of subdivision two of this section, repeal, revoke, rescind, modify or amend the provisions of this section which relate to the making of annual service contract payments to the authority with respect to such bonds as to limit, impair or impede the rights and remedies granted to bondholders under this title or otherwise diminish the security pledged to such purchasers, holders and owners or significantly impair the prospect of payment of any such bond.