

2022 -- S 2596

LC003983

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

CAPITAL DEVELOPMENT PROGRAMS FOR EDUCATION -- STATEWIDE
REFERENDUM

Introduced By: Senators Gallo, Ruggerio, McCaffrey, Goodwin, Pearson, Cano, and Euer

Date Introduced: March 10, 2022

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Proposition to be submitted to the people. -- At the general election to be held
2 on the Tuesday next after the first Monday in November 2022, there shall be submitted to the people
3 ("people") of the State of Rhode Island ("state"), for their approval or rejection, the following
4 proposition: "Shall the action of the general assembly, by an act passed at the January 2022 session,
5 authorizing the issuance of bonds, refunding bonds, and/or temporary notes of the State of Rhode
6 Island for the capital projects and in the amount with respect to each such project listed below and
7 further entitled "Capital Development Programs for Education -- Statewide Referendum" be
8 approved, and the issuance of bonds, refunding bonds, and/or temporary notes authorized in
9 accordance with the provisions of said act?"

10 Project

11 (1) Rhode Island School Buildings \$300,000,000

12 Approval of this question will allow the State of Rhode Island to issue general obligation
13 bonds, refunding bonds, and/or temporary notes in an amount not to exceed three-hundred million
14 dollars (\$300,000,000) over a five (5) year period, and not to exceed one-hundred million dollars
15 (\$100,000,000) in any one year, to provide direct funding for foundational level school housing aid
16 and the school building authority capital fund.

17 SECTION 2. Ballot labels and applicability of general election laws. -- The secretary of
18 state shall prepare and deliver to the state board of elections ballot labels for each of the projects

1 provided for in Section 1 hereof with the designations "approve" or "reject" provided next to the
2 description of each such project to enable voters to approve or reject each such proposition. The
3 general election laws, so far as consistent herewith, shall apply to this proposition.

4 SECTION 3. Approval of project by people. -- If a majority of the people voting on the
5 proposition in Section 1 hereof shall vote to approve the project stated therein, said project shall be
6 deemed to be approved by the people. The authority to issue bonds, refunding bonds and/or
7 temporary notes of the state shall be limited to the aggregate amount for all such projects as set
8 forth in the proposition, which has been approved by the people.

9 SECTION 4. Bonds for capital development program. -- The general treasurer is hereby
10 authorized and empowered, with the approval of the governor, and in accordance with the
11 provisions of this act to issue capital development bonds in serial form, in the name of and on behalf
12 of the State of Rhode Island, in amounts as may be specified by the governor in an aggregate
13 principal amount not to exceed the total amount for all projects approved by the people and
14 designated as "capital development loan of 2022 bonds." Provided, however, that the aggregate
15 principal amount of such capital development bonds and of any temporary notes outstanding at any
16 one time issued in anticipation thereof pursuant to Section 7 hereof shall not exceed the total amount
17 for all such projects approved by the people. All provisions in this act relating to "bonds" shall also
18 be deemed to apply to "refunding bonds."

19 Capital development bonds issued hereunder shall be in denominations of one thousand
20 dollars (\$1,000) each, or multiples thereof, and shall be payable in any coin or currency of the
21 United States which at the time of payment shall be legal tender for public and private debts.

22 These capital development bonds shall bear such date or dates, mature at specified time or
23 times, but not mature beyond the end of the twentieth state fiscal year following the fiscal year in
24 which they are issued; bear interest payable semi-annually at a specified rate or different or varying
25 rates: be payable at designated time or times at specified place or places; be subject to express terms
26 of redemption or recall, with or without premium; be in a form, with or without interest coupons
27 attached; carry such registration, conversion, reconversion, transfer, debt retirement, acceleration
28 and other provisions as may be fixed by the general treasurer, with the approval by the governor,
29 upon each issue of such capital development bonds at the time of each issue. Whenever the
30 governor shall approve the issuance of such capital development bonds, the governor's approval
31 shall be certified to the secretary of state; the bonds shall be signed by the general treasurer and
32 countersigned by the secretary of state and shall bear the seal of the state. The signature approval
33 of the governor shall be endorsed on each bond.

34 SECTION 5. Refunding bonds for 2022 capital development program. -- The general

1 treasurer is hereby authorized and empowered, with the approval of the governor, and in accordance
2 with the provisions of this act, to issue bonds to refund the 2022 capital development program
3 bonds, in the name of and on behalf of the state, in amounts as may be specified by the governor in
4 an aggregate principal amount not to exceed the total amount approved by the people, to be
5 designated as "capital development program loan of 2022 refunding bonds" (hereinafter "refunding
6 bonds").

7 The general treasurer with the approval of the governor shall fix the terms and form of any
8 refunding bonds issued under this act in the same manner as the capital development bonds issued
9 under this act, except that the refunding bonds may not mature more than twenty (20) years from
10 the date of original issue of the capital development bonds being refunded.

11 The proceeds of the refunding bonds, exclusive of any premium and accrual interest and
12 net the underwriters' cost, and cost of bond insurance, shall, upon their receipt, be paid by the
13 general treasurer immediately to the paying agent for the capital development bonds which are to
14 be called and prepaid. The paying agent shall hold the refunding bond proceeds in trust until they
15 are applied to prepay the capital development bonds. While such proceeds are held in trust, the
16 proceeds may be invested for the benefit of the state in obligations of the United States of America
17 or the State of Rhode Island.

18 If the general treasurer shall deposit with the paying agent for the capital development
19 bonds the proceeds of the refunding bonds, or proceeds from other sources, amounts that, when
20 invested in obligations of the United States or the State of Rhode Island, are sufficient to pay all
21 principal, interest, and premium, if any, on the capital development bonds until these bonds are
22 called for prepayment, then such capital development bonds shall not be considered debts of the
23 State of Rhode Island for any purpose starting from the date of deposit of such monies with the
24 paying agent. The refunding bonds shall continue to be a debt of the state until paid.

25 The term "bond" shall include "note," and the term "refunding bonds" shall include
26 "refunding notes" when used in this act.

27 SECTION 6. Proceeds of capital development program. -- The general treasurer is directed
28 to deposit the proceeds from the sale of capital development bonds issued under this act, exclusive
29 of premiums and accrued interest and net the underwriters' cost, and cost of bond insurance, in one
30 or more of the depositories in which the funds of the state may be lawfully kept in special accounts
31 (hereinafter cumulatively referred to as "such capital development bond fund") appropriately
32 designated for each of the projects set forth in Section 1 hereof which shall have been approved by
33 the people to be used for the purpose of paying the cost of all such projects so approved.

34 All monies in the capital development bond fund shall be expended for the purposes

1 specified in the proposition provided for in Section 1 hereof under the direction and supervision of
2 the director of administration (hereinafter referred to as "director"). The director or designee, shall
3 be vested with all power and authority necessary or incidental to the purposes of this act, including,
4 but not limited to, the following authority:

5 (1) To acquire land or other real property or any interest, estate or right therein as may be
6 necessary or advantageous to accomplish the purposes of this act;

7 (2) To direct payment for the preparation of any reports, plans and specifications, and
8 relocation expenses and other costs such as for furnishings, equipment designing, inspecting and
9 engineering, required in connection with the implementation of any projects set forth in Section 1
10 hereof;

11 (3) To direct payment for the costs of construction, rehabilitation, enlargement, provision
12 of service utilities, and razing of facilities, and other improvements to land in connection with the
13 implementation of any projects set forth in Section 1 hereof; and

14 (4) To direct payment for the cost of equipment, supplies, devices, materials and labor for
15 repair, renovation or conversion of systems and structures as necessary for the 2022 capital
16 development program bonds or notes hereunder from the proceeds thereof. No funds shall be
17 expended in excess of the amount of the capital development bond fund designated for each project
18 authorized in Section 1 hereof. With respect to the bonds and temporary notes described in Section
19 1, the proceeds shall be used for the following purposes:

20 Question 1, relating to bonds in the amount of three hundred million dollars (\$300,000,000)
21 to provide funding for the construction, renovation, and rehabilitation of the state's public schools
22 pursuant to § 45-38.2-4 (e).

23 SECTION 7. Sale of bonds and notes. -- Any bonds or notes issued under the authority of
24 this act shall be sold at not less than the principal amount thereof, in such mode and on such terms
25 and conditions as the general treasurer, with the approval of the governor, shall deem to be in the
26 best interests of the state.

27 Any premiums and accrued interest, net of the cost of bond insurance and discount, which
28 may be received on the sale of the capital development bonds or notes shall become part of the
29 municipal road and bridge revolving fund of the state, unless directed by federal law or regulation
30 to be used for some other purpose.

31 In the event that the amount received from the sale of the capital development bonds or
32 notes exceeds the amount necessary for the purposes stated in Section 6 hereof, the surplus may be
33 used to the extent possible to retire the bonds as the same may become due, to redeem them in
34 accordance with the terms thereof or otherwise to purchase them as the general treasurer, with the

1 approval of the governor, shall deem to be in the best interests of the state.

2 Any bonds or notes issued under the provisions of this act and coupons on any capital
3 development bonds, if properly executed by the manual or electronic signatures of officers of the
4 state in office on the date of execution, shall be valid and binding according to their tenor,
5 notwithstanding that before the delivery thereof and payment therefor, any or all such officers shall
6 for any reason have ceased to hold office.

7 SECTION 8. Bonds and notes to be tax exempt and general obligations of the state. All
8 bonds and notes issued under the authority of this act shall be exempt from taxation in the state and
9 shall be general obligations of the state, and the full faith and credit of the state is hereby pledged
10 for the due payment of the principal and interest on each of such bonds and notes as the same shall
11 become due.

12 SECTION 9. Investment of monies in fund. -- All monies in the capital development fund
13 not immediately required for payment pursuant to the provisions of this act may be invested by the
14 investment commission, as established by chapter 10 of title 35, entitled "state investment
15 commission," pursuant to the provisions of such chapter; provided, however, that the securities in
16 which the capital development fund is invested shall remain a part of the capital development fund
17 until exchanged for other securities; and provided further, that the income from investments of the
18 capital development fund shall become a part of the general fund of the state and shall be applied
19 to the payment of debt service charges of the state, unless directed by federal law or regulation to
20 be used for some other purpose, or to the extent necessary, to rebate to the United States Treasury
21 any income from investments (including gains from the disposition of investments) of proceeds of
22 bonds or notes to the extent deemed necessary to exempt (in whole or in part) the interest paid on
23 such bonds or notes from federal income taxation.

24 SECTION 10. Appropriation. -- To the extent the debt service on these bonds is not
25 otherwise provided, a sum sufficient to pay the interest and principal due each year on bonds and
26 notes hereunder is hereby annually appropriated out of any money in the treasury not otherwise
27 appropriated.

28 SECTION 11. Advances from general fund. -- The general treasurer is authorized, with the
29 approval of the director and the governor, in anticipation of the issue of bonds or notes or under the
30 authority of this act, to advance to the capital development bond fund for the purposes specified in
31 Section 6 hereof, any funds of the state not specifically held for any particular purpose; provided,
32 however, that all advances made to the capital development bond fund shall be returned to the
33 general fund from the capital development bond fund forthwith upon the receipt by the capital
34 development fund of proceeds resulting from the issue of bonds or notes to the extent of such

1 advances.

2 SECTION 12. Federal assistance and private funds. -- In carrying out this act, the director,
3 designee, is authorized on behalf of the state, with the approval of the governor, to apply for and
4 accept any federal assistance which may become available for the purpose of this act, whether in
5 the form of loan or grant or otherwise, to accept the provision of any federal legislation therefor, to
6 enter into, act and carry out contracts in connection therewith, to act as agent for the federal
7 government in connection therewith, or to designate a subordinate so to act. Where federal
8 assistance is made available, the project shall be carried out in accordance with applicable federal
9 law, the rules and regulations thereunder and the contract or contracts providing for federal
10 assistance, notwithstanding any contrary provisions of state law. Subject to the foregoing, any
11 federal funds received for the purposes of this act shall be deposited in the capital development
12 bond fund and expended as a part thereof. The director, or designee, may also utilize any private
13 funds that may be made available for the purposes of this act.

14 SECTION 13. Legislative findings, intent, and purposes.

15 It is hereby found and declared as follows:

16 (1) It is the intent of the general assembly in enacting this act to protect the state's
17 proprietary and financial interests in major school construction projects by requiring participating
18 contractors and subcontractors working on such projects to maintain effective apprenticeship
19 training programs as a means for ensuring they will deploy properly trained craft labor required for
20 these projects.

21 (2) New school construction is a critical and pressing need for Rhode Island. A 2017 report
22 commissioned by the school building authority, State of Rhode Island Schoolhouses, identified
23 more than 2.2 billion dollars (\$2,200,000,000) in deficiencies in the state's three hundred six (306)
24 public schools. Subsequently, state and local authorities won voter approval in 2018 authorizing
25 the issuance of two hundred fifty million dollars (\$250,000,000) in general obligation bonds over
26 five (5) years to fund school construction projects. It is essential that these vital resources be
27 administered carefully to ensure the delivery of safe, timely, high-quality construction projects. To
28 this end, public contracts awarded for this work must fully comply with the intent and purpose of
29 existing state law provisions requiring the use of qualified, responsible bidders pursuant to § 45-
30 55-5.

31 (3) School construction projects valued at five million dollars (\$5,000,000) or more are
32 inherently complex undertakings that utilize multiple site contractors and subcontractors and
33 dozens or even hundreds of skilled craft personnel in various specialized trades. Errors in
34 construction planning on such projects can result in cost overruns, inferior quality, increased safety

1 risks, and schedule delays that can disrupt the timely delivery of educational services. Such effects
2 are especially problematic where they are caused by flaws in project staffing insofar as construction
3 is both a highly skilled and labor-intensive industry. While these challenges exist under virtually
4 any market conditions, the construction industry is currently facing acute, widespread labor
5 shortages that pose unprecedented risks to future project delivery. Unless effective policy responses
6 are developed to address this skills crisis, it is estimated there will be a national shortage of one
7 million five hundred thousand (1,500,000) construction workers by 2022. Consider the following
8 research studies: The Associated General Contractors of America, Eighty Percent of Contractors
9 Report Difficulty Finding Qualified Craft Workers to Hire As Association Calls for Measures to
10 Rebuild Workforce (August 29, 2018); Construction Labor Market Analyzer, Construction Users
11 RoundTable, The Long-Term Outlook for Construction 6 (2017); Petrochemical Update, Heather
12 Doyle, Craft Labor Shortage Seriously Affecting Mega Projects: Poll, (June 29, 2017). Given these
13 circumstances, Rhode Island, like virtually all other states, has been struggling for several years
14 with this skills gap and has been working to address the growing risks posed by this challenge.
15 Building Futures, Gerard M. Waites, Ahead of the Curve: Increasing Apprentice Utilization in
16 Rhode Island's Construction Industry, (March 2013); Building Futures, Beth Ashman-Collins,
17 Phase 1 - Skills Gap Analysis, RI Construction Trades, (April 25, 2008).

18 (4) These construction labor shortages, which have been extensively documented in both
19 national and local research reports, are already causing serious disruptions to project delivery in
20 the form of negative effects on project cost, schedule, safety, and quality. Consider the following
21 research studies: Virtual Builders Exchange, Adolfo Pesquera, Labor Shortages Spur Increased
22 Pay/Benefits, Yet Construction Firms Bullish on 2019, (January 4, 2019); Associated Builders and
23 Contractors, Inc., ABC Highlights Construction Worker Shortage During National Apprenticeship
24 Week, (November 15, 2017); The Aspen Institute: Workforce Strategies Initiative, Maureen
25 Conway and Allison Gerber, Construction Pre-Apprenticeship Programs: Results from a National
26 Survey 6-7 (2009).

27 (5) Substantial research also shows that apprenticeship training programs are one of the
28 most viable solutions for addressing these challenges because it has long been recognized as a
29 matter of public policy and industry practice that using apprenticeship training programs effectively
30 and reliably develops a skilled workforce to meet our nation's construction industry needs,
31 including critical infrastructure programs, such as educational facilities. To this end, the U.S.
32 Congress passed the National Apprenticeship Act, Pub. L. No. 75-308, 50 Stat. 664, in 1937 to
33 promote the use of structured education and training in the skilled crafts and trades through formal
34 apprenticeship training programs.

1 (6) The value, benefits, and utility of using apprenticeship training programs in the
2 construction industry have been verified by numerous public and private research projects over the
3 past several years. Consider the following research studies: Case Western Reserve University and
4 U.S. Department of Commerce, *The Benefits and Costs of Apprenticeship: A Business Perspective*;
5 The Council of Economic Advisors, *Addressing America's Reskilling Challenge 7-8* (2018); The
6 Workforce Training & Education Coordinating Board, a Washington state agency, *Workforce*
7 *Training Results* (2015); U.S. Departments of Labor, Commerce, Education, and Health and
8 Human Services, *What Works in Job Training: A Synthesis of the Evidence 8* (2014); The Aspen
9 Institute: Workforce Strategies Initiative, Matt Helmer and Dave Altstadt, *Apprenticeship:*
10 *Completion and Cancellation in the Building Trades 8-9* (2013); Mathematica Policy Research,
11 Debbie Reed et. al, *An Effectiveness Assessment and Cost-Benefit Analysis of Registered*
12 *Apprenticeship in 10 States* (2012); and Urban Institute, Robert Lerman et al., *The Benefits and*
13 *Challenges of Registered Apprenticeship: Sponsors' Perspective ii* (2009).

14 (7) Given these factors, apprenticeship programs that are operated in accordance with
15 federally established qualification standards under 29 C.F.R. § 29 have been relied upon for more
16 than eighty (80) years as the most effective and reliable method for conducting skills training in
17 construction, and such programs are broadly relied upon for addressing the industry's current skills
18 crisis. Recognizing these benefits, numerous states have enacted legislation requiring contractors
19 to participate in formal apprenticeship programs as a condition for performing public works
20 projects. Rhode Island adopted such a policy for general public works projects in 2014 by enacting
21 § 37-13-3.1. Private sector construction organizations, such as the Construction Users Roundtable,
22 support similar strategies and have recommended that those responsible for large capital projects
23 require site contractors to participate in credible skills training programs as a condition of
24 performing work on their projects. Consider the following research study: Construction Users
25 Roundtable, *Skilled Labor Shortage Risk Mitigation* (January 2015).

26 (8) Requiring contractors and subcontractors on major school construction projects to
27 participate in apprenticeship training programs will help ensure that craft labor personnel on such
28 projects are properly trained by verifying that they are either apprentices currently enrolled in bona
29 fide programs or graduates of such programs. These efforts will also promote needed workforce
30 development efforts in construction that are critical for ensuring future projects are properly staffed
31 with qualified construction craft personnel.

32 SECTION 14. Sections 16-7-23, 16-7-36, 16-7-39, 16-7-40 and 16-7-41.1 of the General
33 Laws in Chapter 16-7 entitled "Foundation Level School Support [See Title 16 Chapter 97 - The
34 Rhode Island Board of Education Act]" are hereby amended to read as follows:

1 **16-7-23. Community requirements -- Adequate minimum budget provision.**

2 (a) The school committee's budget provisions of each community for current expenditures
3 in each budget year shall provide for an amount from all sources sufficient to support the basic
4 program and all other approved programs shared by the state. Each community shall contribute
5 local funds to its school committee in an amount not less than its local contribution for schools in
6 the previous fiscal year except to the extent permitted by §§ 16-7-23.1 and 16-7-23.2. Provided,
7 that for the fiscal years 2010 and 2011 each community shall contribute to its school committee in
8 an amount not less than ninety-five percent (95.0%) of its local contribution for schools for the
9 fiscal year 2009. Calculation of the annual local contribution shall not include Medicaid revenues
10 received by the municipality or district pursuant to chapter 8 of title 40. A community that has a
11 decrease in enrollment may compute maintenance of effort on a per-pupil rather than on an
12 aggregate basis when determining its local contribution; furthermore, a community that experiences
13 a nonrecurring expenditure for its schools may deduct the nonrecurring expenditure in computing
14 its maintenance of effort. The deduction of nonrecurring expenditures shall be with the approval of
15 the commissioner. Provided, however, that notwithstanding any provision of this title to the
16 contrary, debt service that is no longer carried on the books of any school district shall not be
17 included in any school district's annual budget, nor shall nonrecurring debt service be included in
18 maintenance of effort as set forth in this chapter, nor shall any nonrecurring debt service be included
19 in the operating budget of any school district. For the purposes set forth above, nonrecurring capital
20 lease payments shall be considered nonrecurring debt service. The courts of this state shall enforce
21 this section by means of injunctive relief.

22 (b) Districts' annual maintenance expenditures must meet the requirements of subsection
23 (b)(1), (b)(2), ~~or (b)(3)~~, or (b)(4) of this section.

24 (1) A minimum of three percent (3%) of the operating budget shall be dedicated exclusively
25 for maintenance expenditures as defined in § 16-7-36(7) provided that for FY 2019, that amount
26 shall be one percent (1%), for FY 2020, that amount shall be one and one-half percent (1.5%), for
27 FY 2021 that amount shall be two percent (2%), and for FY 2022 that amount shall be two and
28 one-half percent (2.5%).

29 (2) A minimum of three percent (3%) of the replacement value shall be dedicated
30 exclusively for maintenance expenditures as defined in § 16-7-36(7) provided that for FY 2019,
31 that amount shall be one percent (1%), for FY 2020 that amount shall be one and one-half percent
32 (1.5%), for FY 2021 that amount shall be two percent (2%), and for FY 2022 that amount shall be
33 two and one-half percent (2.5%).

34 (3) A minimum of three dollars (\$3.00), subject to inflation, per square foot of building

1 space shall be dedicated exclusively for maintenance expenditures as defined in § 16-7-36(7).

2 (4) A deposit equal to maintenance funds as defined by subsection (b)(1), (b)(2) or (b)(3)
3 of this section to a restricted fund created by the district and dedicated solely to capital
4 improvements for districts that receive a waiver from the department of education for completion
5 of significant renovations or new buildings in the prior three (3) fiscal years.

6 (c) The department of elementary and secondary education shall be responsible for
7 establishing a reporting mechanism to ensure the intent of this section is being met. In the event
8 that a district does not meet its minimum expenditure requirement in a given year, the state shall
9 direct state housing aid paid pursuant to § 16-7-41 or § 16-105-5, in an amount equal to the shortfall,
10 to a restricted fund created by the district and dedicated solely to meeting maintenance
11 requirements.

12 (d) Whenever any state funds are appropriated for educational purposes, the funds shall be
13 used for educational purposes only and all state funds appropriated for educational purposes must
14 be used to supplement any and all money allocated by a city or town for educational purposes and,
15 in no event, shall state funds be used to supplant, directly or indirectly, any money allocated by a
16 city or town for educational purposes. All state funds shall be appropriated by the municipality to
17 the school committee for educational purposes in the same fiscal year in which they are
18 appropriated at the state level even if the municipality has already adopted a school budget. All
19 state and local funds unexpended by the end of the fiscal year of appropriation shall remain a
20 surplus of the school committee and shall not revert to the municipality. Any surplus of state or
21 local funds appropriated for educational purposes shall not in any respect affect the requirement
22 that each community contribute local funds in an amount not less than its local contribution for
23 schools in the previous fiscal year, subject to subsection (a) of this section, and shall not in any
24 event be deducted from the amount of the local appropriation required to meet the maintenance of
25 effort provision in any given year.

26 **16-7-36. Definitions.**

27 The following words and phrases used in §§ 16-7-35 to 16-7-47 have the following
28 meanings:

29 (1) "Adjusted equalized weighted assessed valuation" means the equalized weighted
30 assessed valuation for a community as determined by the division of property valuation within the
31 department of revenue in accordance with § 16-7-21; provided, however, that in the case of a
32 regional school district the commissioner of elementary and secondary education shall apportion
33 the adjusted equalized weighted assessed valuation of the member cities or towns among the
34 regional school district and the member cities or towns according to the proportion that the number

1 of pupils of the regional school district bears to the number of pupils of the member cities or towns.

2 (2) "Approved project" means a project which has complied with the administrative
3 regulations governing §§ 16-7-35 through 16-7-47, and which has been authorized to receive state
4 school housing reimbursement by the commissioner of elementary and secondary education.

5 (3) "Commissioning agent" means a person or entity who ensures that systems are
6 designed, installed, functionally tested, and capable of being operated and maintained to perform
7 in conformity with the design intent of a project.

8 (4) "Community" means any city, town, or regional school district established pursuant to
9 law; provided, however, that the member towns of the Chariho regional high school district, created
10 by P.L. 1958, ch. 55, as amended, shall constitute separate and individual communities for the
11 purposes of distributing the foundation level school support for school housing for all grades
12 financed in whole or in part by the towns irrespective of any regionalization.

13 (5) "Facilities condition index" means the cost to fully repair the building divided by the
14 cost to replace the building as determined by the school building authority.

15 (6) "Functional utilization" means the ratio of the student population within a school
16 facility to the capacity of the school facility to adequately serve students as defined by the school
17 building authority.

18 (7) "Maintenance expenditures" means amounts spent for repairs or replacements for the
19 purpose of keeping a school facility open and safe for use, including repairs, maintenance, and
20 replacements to a school facility's heating, lighting, ventilation, security, and other fixtures to keep
21 the facility or fixtures in effective working condition. Maintenance shall not include contracted or
22 direct custodial or janitorial services, expenditures for the cleaning of a school facility or its
23 fixtures, the care and upkeep of grounds, recreational facilities, or parking lots, or the cleaning of
24 or repairs and replacements to movable furnishings or equipment.

25 (8) "Minority business approved project" means an approved project where at least ten
26 percent (10%) of the dollar value of the entire approved project cost is allocated toward services
27 from a small Rhode Island based business. The small Rhode Island based business shall be certified
28 as a minority business enterprise pursuant to chapter 14.1 of title 37, with at least fifty-one percent
29 (51%) owned or managed by a person who is black, hispanic, asian american, american indian and
30 alaskan native.

31 ~~(8)~~(9) "Owner's program manager" means owner's program manager as defined in § 37-2-
32 7.

33 ~~(9)~~(10) "Prime contractor" means the construction contractor who is responsible for the
34 completion of a project.

1 ~~(10)~~(11) "Reference year" means the year next prior to the school year immediately
2 preceding that in which aid is to be paid.

3 ~~(11)~~(12) "Subject to inflation" means the base amount multiplied by the percentage of
4 increase in the Producer Price Index (PPI) Data for Nonresidential Building Construction (NAICS
5 236222) as published by the United States Department of Labor, Bureau of Labor Statistics
6 determined as of September 30 of the prior calendar year.

7 **16-7-39. Computation of school housing-aid ratio.**

8 For each community, the percent of state aid for school housing costs shall be computed in
9 the following manner:

10 (1) The adjusted equalized weighted assessed valuation for the district is divided by the
11 resident average daily membership for the district (grades twelve (12) and below); (2) The adjusted
12 equalized weighted assessed valuation for the state is divided by the resident average daily
13 membership for the state (grades twelve (12) and below); (1) is then divided by (2) and the resultant
14 ratio is multiplied by a factor currently set at sixty-two percent (62%) which represents the
15 approximate average district share of school support; the resulting product is then subtracted from
16 one hundred percent (100%) to yield the housing aid share ratio, provided that in no case shall the
17 ratio be less than thirty percent (30%). Provided, that effective July 1, 2010, and annually at the
18 start of each fiscal year thereafter, the thirty percent (30%) floor on said housing-aid share shall be
19 increased by five percent (5%) increments each year until said floor on the housing-aid share ratio
20 reaches a minimum of not less than forty percent (40%). This provision shall apply only to school
21 housing projects completed after June 30, 2010, that received approval from the board of regents
22 prior to June 30, 2012. Provided further, for the fiscal year beginning July 1, 2012, and for
23 subsequent fiscal years, the minimum housing aid share shall be thirty-five percent (35%) for all
24 projects receiving council on elementary and secondary education approval after June 30, 2012.
25 The resident average daily membership shall be determined in accordance with § 16-7-22(1).

26 (2) No district shall receive a combined total of more than twenty (20) incentive percentage
27 points for projects that commence construction by December 30, ~~2023~~ 2025, and five (5) incentive
28 points for projects that commence construction thereafter; provided further, these caps shall be in
29 addition to amounts received under §§ 16-7-40(a)(1) and 16-7-40(a)(2). Furthermore, a district's
30 share shall not be decreased by more than half of its regular share irrespective of the number of
31 incentive points received nor shall a district's state share increase by more than half of its regular
32 share, including amounts received under §§ 16-7-40(a)(1) and 16-7-40(a)(2), irrespective of the
33 number of incentive points received.

34 **16-7-40. Increased school housing ratio.**

1 (a)(1) In the case of regional school districts, the school housing aid ratio shall be increased
2 by two percent (2%) for each grade so consolidated.

3 (2) Regional school districts undertaking renovation project(s) shall receive an increased
4 share ratio of four percent (4%) for those specific project(s) only, in addition to the combined share
5 ratio calculated in § 16-7-39 and this subsection.

6 (b) In the case of projects undertaken by districts specifically for the purposes of school
7 safety and security, the school housing aid share ratio shall be increased by five percent (5%) for
8 these specific projects only, in the calculation of school housing aid. The increased share ratio shall
9 continue to be applied for as long as the project(s) receives state housing aid. In order to qualify for
10 the increased share ratio, seventy-five percent (75%) of the project costs must be specifically
11 directed to school safety and security measures. The council on elementary and secondary
12 education shall promulgate rules and regulations for the administration and operation of this
13 section.

14 (c)(1) For purposes of addressing health and safety deficiencies as defined by the school
15 building authority, including the remediation of hazardous materials, the school housing aid ratio
16 shall be increased by five percent (5%) so long as the construction of the project commences by
17 December 30, 2022, is completed by December 30, 2027, and a two hundred fifty million dollar
18 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to
19 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
20 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

21 (2) The increased school housing aid ratio of five percent (5%) for addressing health and
22 safety deficiencies as defined by the school building authority, including the remediation of
23 hazardous materials, shall be extended so long as the project commences by December 30, 2025,
24 is completed by December 30, 2030, a three hundred million dollar (\$300,000,000) general
25 obligation bond is approved on the November 2022 ballot, and twenty-five percent (25%) of the
26 project costs or a minimum of one million dollars (\$1,000,000) is specifically directed to this
27 purpose.

28 (d) For purposes of educational enhancement, including projects devoted to the
29 enhancement of early childhood education and career and technical education, the school housing
30 aid ratio shall be increased by five percent (5%) so long as construction of the project commences
31 by December 30, 2022, is completed by December 30, 2027, and a two hundred fifty million dollar
32 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. The increased
33 school housing aid ratio of five percent (5%) for educational enhancement shall be extended so
34 long as the project commences by December 30, 2025, is completed by December 30, 2030, and a

1 [three hundred million dollar \(\\$300,000,000\) general obligation bond is approved on the November](#)
2 [2022 ballot.](#) In order to qualify for the increased share ratio, twenty-five percent (25%) of the
3 project costs or a minimum of five hundred thousand dollars (\$500,000) must be specifically
4 directed to these purposes.

5 (e) For replacement of a facility that has a facilities condition index of sixty-five percent
6 (65%) or higher, the school housing ratio shall be increased by five percent (5%) so long as
7 construction of the project commences by December 30, 2023, is completed by December 30, 2028,
8 does not receive a bonus pursuant to subsection (f) or subsection (g), and a two hundred fifty million
9 dollar (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order
10 to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
11 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

12 (f) For any new construction or renovation that increases the functional utilization of any
13 facility from less than sixty percent (60%) to more than eighty percent (80%), including the
14 consolidation of school buildings within or across districts, the school housing aid ratio shall be
15 increased by five percent (5%) so long as construction of the project commences by December 30,
16 2023, is completed by December 30, 2028, and a two hundred fifty million dollar (\$250,000,000)
17 general obligation bond is approved on the November 2018 ballot. In order to qualify for the
18 increased share ratio, twenty-five percent (25%) of the project costs or a minimum of five hundred
19 thousand dollars (\$500,000) must be specifically directed to this purpose.

20 (g) For any new construction or renovation that decreases the functional utilization of any
21 facility from more than one hundred twenty percent (120%) to between eighty-five percent (85%)
22 to one hundred five percent (105%), the school housing ratio shall be increased by five percent
23 (5%) so long as construction of the project commences by December 30, 2023, is completed by
24 December 30, 2028, and a two hundred fifty million dollar (\$250,000,000) general obligation bond
25 is approved on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-
26 five percent (25%) of the project costs or a minimum of five hundred thousand dollars (\$500,000)
27 must be specifically directed to this purpose.

28 (h) For consolidation of two (2) or more school buildings, within or across districts into
29 one school building, the school housing aid ratio shall be increased by five percent (5%) so long as
30 construction of the project commences by December 30, 2023, is completed by December 30, 2028,
31 a two hundred fifty million dollar (\$250,000,000) general obligation bond is approved on the
32 November 2018 ballot, and does not receive a bonus pursuant to subsection (f) or subsection (g).

33 [The increased school housing aid ratio of five percent \(5%\) for consolidation of two \(2\) or more](#)
34 [school buildings, within or across districts into one school building, shall be extended so long as](#)

1 the project commences by December 30, 2025, is completed by December 30, 2030, a three
2 hundred million dollar (\$300,000,000) general obligation bond is approved on the November 2022
3 ballot, and does not receive a bonus pursuant to subsection (f) or subsection (g) of this section. In
4 order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a
5 minimum of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

6 (i) For any new construction or renovation that is a minority business approved project as
7 defined in § 16-7-36(8), the school housing aid ratio shall be increased by five percent (5%) so long
8 as the project commences by December 30, 2025, is completed by December 30, 2030, and a three
9 hundred million dollar (\$300,000,000) general obligation bond is approved on the November 2022
10 ballot.

11 (j) For any new construction or renovation where at least fifty percent (50%) of the dollar
12 value of the entire approved project cost is allocated toward services by one or more Rhode Island
13 based businesses, other than the prime contractor, the school housing aid ratio shall be increased
14 by five percent (5%) so long as the project commences by December 30, 2025, is completed by
15 December 30, 2030, and a three hundred million dollar (\$300,000,000) general obligation bond is
16 approved on the November 2022 ballot.

17 (k)(1) For any new construction or renovation that includes energy efficiency and
18 renewable energy upgrades, the school housing aid ratio shall be increased by five percent (5%) so
19 long as a three hundred million dollar (\$300,000,000) general obligation bond is approved on the
20 November 2022 ballot and does not receive a bonus pursuant to subsection (k)(2) of this section.
21 In order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a
22 minimum of one million dollars (\$1,000,000) must be specifically directed to this purpose.

23 (2) For any new construction or renovation that includes energy efficiency and renewable
24 energy upgrades for the building to meet the latest Northeast Collaborative for High Performance
25 Schools (NE-CHPS) standard of a Zero Energy Capable school building, the school housing aid
26 ratio shall be increased by ten percent (10%) so long as a three hundred million dollar
27 (\$300,000,000) general obligation bond is approved on the November 2022 ballot and does not
28 receive a bonus pursuant to subsection (k)(1) of this section. In order to qualify for the increased
29 share ratio, twenty-five percent (25%) of the project costs or a minimum of one million dollars
30 (\$1,000,000) must be specifically directed to this purpose.

31 (l) Any regionalized and/or non-regionalized school district receiving an increased share
32 ratio for a project approved prior to July 1, 2018, shall continue to receive the increased share ratio
33 for as long as the project receives state housing aid.

34 **16-7-41.1. Eligibility for reimbursement.**

1 (a) School districts, not municipalities, may apply for and obtain approval for a project
2 under the necessity of school construction process set forth in the regulations of the council on
3 elementary and secondary education, provided, however, in the case of a municipality that issues
4 bonds through the Rhode Island health and educational building corporation to finance or refinance
5 school facilities for a school district that is not part of the municipality, the municipality may apply
6 for and obtain approval for a project. Such approval will remain valid until June 30 of the third
7 fiscal year following the fiscal year in which the council on elementary and secondary education's
8 approval is granted. Only those projects undertaken at school facilities under the care and control
9 of the school committee and located on school property may qualify for reimbursement under §§
10 16-7-35 -- 16-7-47. Facilities with combined school and municipal uses or facilities that are
11 operated jointly with any other profit or nonprofit agency do not qualify for reimbursement under
12 §§ 16-7-35 -- 16-7-47. Projects completed by June 30 of a fiscal year are eligible for reimbursement
13 in the following fiscal year. A project for new school housing or additional housing shall be deemed
14 to be completed when the work has been officially accepted by the school committee or when the
15 housing is occupied for its intended use by the school committee, whichever is earlier.

16 (b) Notwithstanding the provisions of this section, the board of regents shall not grant final
17 approval for any project between June 30, 2011, and May 1, 2015, except for projects that are
18 necessitated by immediate health and safety reasons. In the event that a project is requested during
19 the moratorium because of immediate health and safety reasons, those proposals shall be reported
20 to the chairs of the house and senate finance committees.

21 (c) Any project approval granted prior to the adoption of the school construction
22 regulations in 2007, and which are currently inactive; and any project approval granted prior to the
23 adoption of the school construction regulations in 2007 which did not receive voter approval or
24 which has not been previously financed, are no longer eligible for reimbursement under this
25 chapter. The department of elementary and secondary education shall develop recommendations
26 for further cost containment strategies in the school housing aid program.

27 (d) Beginning July 1, 2015, the council on elementary and secondary education shall
28 approve new necessity of school construction applications on an annual basis. The department of
29 elementary and secondary education shall develop an annual application timeline for local
30 education agencies seeking new necessity of school construction approvals.

31 (e) Beginning July 1, 2019, no state funding shall be provided for projects in excess of ten
32 million dollars (\$10,000,000) unless the prime contractor for the project has received
33 prequalification from the school building authority.

34 (f) Beginning July 1, 2019, the necessity of school construction process set forth in the

1 regulations of the council on elementary and secondary education shall include a single statewide
2 process, developed with the consultation of the department of environmental management, that will
3 ensure community involvement throughout the investigation and remediation of contaminated
4 building sites for possible reuse as the location of a school. That process will fulfill all provisions
5 of § 23-19.14-5 related to the investigation of reuse of such sites for schools.

6 (g) Beginning July 1, 2019, school housing projects exceeding one million five hundred
7 thousand dollars (\$1,500,000) subject to inflation shall include an owner's program manager and a
8 commissioning agent. The cost of the program manager and commissioning agent shall be
9 considered a project cost eligible for aid pursuant to §§ 16-7-41 and 16-105-5.

10 (h) Temporary housing, or swing space, for students shall be a reimbursable expense so
11 long as a district can demonstrate that no other viable option to temporarily house students exists
12 and provided that use of the temporary space is time limited for a period not to exceed twenty-four
13 (24) months and tied to a specific construction project.

14 (i) Environmental site remediation, as defined by the school building authority, shall be a
15 reimbursable expense up to one million dollars (\$1,000,000) per project.

16 (j) If, within thirty (30) years of construction, a newly constructed school is sold to a private
17 entity, the state shall receive a portion of the sale proceeds equal to that project's housing aid
18 reimbursement rate at the time of project completion.

19 (k) All projects must comply with § 37-13-6, ensuring that prevailing wage laws are being
20 followed, ~~and~~ § 37-14.1-6, ensuring that minority business enterprises reach a minimum of ten
21 percent (10%) of the dollar value of the bid, and § 37-13-3.3, ensuring apprenticeship program
22 utilization.

23 (l) Using reviewable criteria, all projects seeking school housing aid shall complete an
24 independent, objective, reasoned study on all projects over ten million dollars (\$10,000,000) to
25 determine whether adoption of a project labor agreement on the proposed project or projects will
26 help achieve the goals of the state purchases act.

27 SECTION 15. Section 16-105-3 of the General Laws in Chapter 16-105 entitled "School
28 Building Authority" is hereby amended to read as follows:

29 **16-105-3. Roles and responsibilities.**

30 The school building authority roles and responsibilities shall include:

31 (1) Management of a system with the goal of ensuring equitable and adequate school
32 housing for all public school children in the state;

33 (2) Prevention of the cost of school housing from interfering with the effective operation
34 of the schools;

1 (3) Management of school housing aid in accordance with statute;

2 (4) Reviewing and making recommendations to the council on elementary and secondary
3 education on necessity of school construction applications for state school housing aid and the
4 school building authority capital fund, based on the recommendations of the school building
5 authority advisory board;

6 (5) Promulgating, managing, and maintaining school construction regulations, standards,
7 and guidelines applicable to the school housing program, based on the recommendations of the
8 school building authority advisory board, created in § 16-105-8. Said regulations shall require
9 conformance with the minority business enterprise requirements set forth in § 37-14.1-6 [and with](#)
10 [the latest Northeast Collaborative for High Performance Schools \(NE-CHPS\) standards](#);

11 (6) Developing a prequalification and review process for prime contractors, architects, and
12 engineers seeking to bid on projects in excess of ten million dollars (\$10,000,000) in total costs
13 subject to inflation. Notwithstanding any general laws to the contrary, a prequalification shall be
14 valid for a maximum of two (2) years from the date of issuance. Factors to be considered by the
15 school building authority in granting a prequalification to prime contractors shall include, but not
16 be limited to, the contractor's history of completing complex projects on time and on budget, track
17 record of compliance with applicable environmental and safety regulations, evidence that
18 completed prior projects prioritized the facility's future maintainability, and compliance with
19 applicable requirements for the use of women and minority owned subcontractors;

20 (i) At least annually, a list of prequalified contractors, architects, and engineers shall be
21 publicly posted with all other program information;

22 (7) Providing technical assistance and guidance to school districts on the necessity of
23 school construction application process;

24 (8) Providing technical advice and assistance, training, and education to cities, towns,
25 and/or local education agencies and to general contractors, subcontractors, construction or project
26 managers, designers and others in planning, maintenance, and establishment of school facility
27 space;

28 (9) Developing a project priority system, based on the recommendations of the school
29 building authority advisory board, in accordance with school construction regulations for the school
30 building authority capital fund, subject to review and, if necessary, to be revised on intervals not to
31 exceed five (5) years. Project priorities shall include, but not be limited to, the following order of
32 priorities:

33 (i) Projects to replace or renovate a building that is structurally unsound or otherwise in a
34 condition seriously jeopardizing the health and safety of school children where no alternative exists;

- 1 (ii) Projects needed to prevent loss of accreditation;
- 2 (iii) Projects needed for the replacement, renovation, or modernization of the HVAC
3 system in any schoolhouse to increase energy conservation and decrease energy-related costs in
4 said schoolhouse;
- 5 (iv) Projects needed to replace or add to obsolete buildings in order to provide for a full
6 range of programs consistent with state and approved local requirements; and
- 7 (v) Projects needed to comply with mandatory, instructional programs;
- 8 (10) Maintaining a current list of requested school projects and the priority given them;
- 9 (11) Collecting and maintaining readily available data on all the public school facilities in
10 the state;
- 11 (12) Collecting, maintaining, and making publicly available quarterly progress reports of
12 all ongoing school construction projects that shall include, at a minimum, the costs of the project
13 and the time schedule of the project;
- 14 (13) Recommending policies and procedures designed to reduce borrowing for school
15 construction programs at both state and local levels;
- 16 (14) At least every five (5) years, conducting a needs survey to ascertain the capital
17 construction, reconstruction, maintenance, and other capital needs for schools in each district of the
18 state, including public charter schools. [Beginning in 2022, this needs survey shall include progress
19 towards and recommendations for energy efficiency and renewable energy upgrades to bring all
20 Rhode Island school buildings to the latest Northeast Collaborative for High Performance Schools
21 \(NE-CHPS\) standard of a Zero Energy Capable school buildings;](#)
- 22 (15) Developing a formal enrollment projection model or using projection models already
23 available;
- 24 (16) Encouraging local education agencies to investigate opportunities for the maximum
25 utilization of space in and around the district;
- 26 (17) Collecting and maintaining a clearinghouse of prototypical school plans that may be
27 consulted by eligible applicants;
- 28 (18) Retaining the services of consultants, as necessary, to effectuate the roles and
29 responsibilities listed within this section;
- 30 [\(19\) Hiring an appropriated staff member who shall create and implement a plan to bring
31 all Rhode Island school buildings to the latest Northeast Collaborative for High Performing School
32 \(NE-CHPS\) standard of a Zero Capable school building and who shall provide technical advice
33 and assistance, training, and education to cities towns, and/or local education agencies and to
34 general contractors, subcontractors, construction or project managers, designers and others on the](#)

1 [latest NE-CHPS standards;](#)

2 ~~(19)~~(20) No district shall receive a combined total of more than twenty (20) incentive
3 percentage points for projects that commence construction by December 30, ~~2023~~ [2025](#), and ~~five~~
4 ~~(5)~~ [ten \(10\)](#) incentive points for projects that commence construction thereafter; provided further,
5 these caps shall be in addition to amounts received under §§ 16-7-40(a)(1) and 16-7-40(a)(2).
6 Furthermore, a district's share shall not be decreased by more than half of its regular share
7 irrespective of the number of incentive points received, nor shall a district's state share increase by
8 more than half of its regular share, including amounts received under §§ 16-7-40(a)(1) and 16-7-
9 40(a)(2), irrespective of the number of incentive points received. Notwithstanding any provision of
10 the general laws to the contrary, the reimbursement or aid received under this chapter or chapter
11 38.2 of title 45 shall not exceed one hundred percent (100%) of the sum of the total project costs
12 plus interest costs. If a two hundred and fifty million dollar (\$250,000,000) general obligation bond
13 is approved on the November 2018 ballot, projects approved between May 1, 2015, and January 1,
14 2018, are eligible to receive incentive points (above and beyond what the project was awarded at
15 the time of approval) pursuant to § 16-7-39 and § 16-7-40. Provided, however, any project approved
16 during this time period with a project cost in excess of one million five hundred thousand dollars
17 (\$1,500,000), which does not include an owner's program manager and a commissioning agent,
18 shall only be eligible to receive five (5) incentive points. Incentive points awarded pursuant to the
19 provisions of this subsection shall only be applied to reimbursements occurring on or after July 1,
20 2018. Any project approved between May 1, 2015, and ~~January 1, 2018~~ [July 1, 2022](#), that is
21 withdrawn and/or resubmitted for approval shall not be eligible for any incentive points.

22 SECTION 16. Sections 37-13-1, 37-13-3.1 and 37-13-14.1 of the General Laws in Chapter
23 37-13 entitled "Labor and Payment of Debts by Contractors" are hereby amended to read as
24 follows:

25 **37-13-1. Definitions.**

26 As used in this chapter:

27 [\(1\) "Approved apprenticeship program" or "apprenticeship program" means an](#)
28 [apprenticeship program that has been approved by the U.S. Department of Labor, or by a](#)
29 [recognized state apprenticeship agency, pursuant to 29 C.F.R. Parts 29 and 30; however, such](#)
30 [programs shall not include those that have obtained only provisional approval status. The required](#)
31 [apprenticeship programs may either be programs that have specifically allocated funding and are](#)
32 [subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.](#)
33 [\("ERISA"\), or non-ERISA programs financed by general funds of employers.](#)

34 ~~(1)~~(2) "Public works" means any public work consisting of grading, clearing, demolition,

1 improvement, completion, repair, alteration, or construction of any public road or any bridge, or
2 portion thereof, or any public building, or portion thereof, or any heavy construction, or any public
3 works projects of any nature or kind whatsoever.

4 (3) "School construction contract" means any construction contract for a school building
5 or any school-related facility that is funded with public money.

6 ~~(2)~~(4) "School transportation services" means those transportation and related services
7 provided for the transportation of public and private students pursuant to §§ 16-21-1 and 16-21.1-
8 8.

9 (5) "User agency" means the state, municipality, quasi-governmental agency, or other
10 entity that is responsible for management of a school construction contract.

11 **37-13-3.1. State public works contract apprenticeship requirements.**

12 Notwithstanding any laws to the contrary, all general contractors and subcontractors who
13 perform work on any public works contract awarded by the state after passage of this act and valued
14 at one million dollars (\$1,000,000) or more shall employ apprentices required for the performance
15 of the awarded contract. The number of apprentices shall comply with the apprentice-to-
16 journeyman ratio for each trade approved by the ~~apprenticeship council of the department of labor~~
17 ~~and training~~ department of labor and training. To the extent that any of the provisions contained in
18 this section conflict with the requirements for federal aid contracts, federal law and regulations
19 shall control.

20 The provisions of this section shall not apply to contracts for school transportation services.

21 **37-13-14.1. Enforcement -- Hearings.**

22 (a) Before issuing an order or determination, the director of labor and training shall order
23 a hearing thereon at a time and place to be specified, and shall give notice thereof, together with a
24 copy of the complaint or the purpose thereof, or a statement of the facts disclosed upon
25 investigation, which notice shall be served personally or by mail on any person, firm, or corporation
26 affected thereby. The person, firm, or corporation shall have an opportunity to be heard in respect
27 to the matters complained of at the time and place specified in the notice, which time shall be not
28 less than five (5) days from the service of the notice personally or by mail. The hearing shall be
29 held within ~~ten (10)~~ thirty (30) days from the order of hearing. The hearing shall be conducted by
30 the director of labor and training or his or her designee. The hearing officer in the hearing shall be
31 deemed to be acting in a judicial capacity and shall have the right to issue subpoenas, administer
32 oaths, and examine witnesses. The enforcement of a subpoena issued under this section shall be
33 regulated by Rhode Island civil practice law and rules. The hearing shall be expeditiously
34 conducted, and upon such hearing, the hearing officer shall determine the issues raised thereon and

1 shall make a determination and enter an order within ~~ten (10)~~ thirty (30) days of the close of the
2 hearing, and forthwith serve a copy of the order, with a notice of the filing thereof, upon the parties
3 to the proceeding, personally or by mail. The order shall dismiss the charges or direct payment of
4 wages or supplements found to be due, including interest at the rate of twelve percentum (12%) per
5 annum from the date of the underpayment to the date of payment, and may direct payment of
6 reasonable attorney's fees and costs to the complaining party.

7 (b) In addition to directing payment of wages or supplements including interest found to
8 be due, the order shall also require payment of a further sum as a civil penalty in an amount up to
9 three times the total amount found to be due. Further, if the amount of salary owed to an employee
10 pursuant to this chapter but not paid to the employee in violation of thereof exceeds five thousand
11 dollars (\$5,000), it shall constitute a misdemeanor and shall be referred to the office of the attorney
12 general. The misdemeanor shall be punishable for a period of not more than one year in prison
13 and/or fined not more than one thousand dollars (\$1,000). In assessing the amount of the penalty,
14 due consideration shall be given to the size of the employer's business, the good faith of the
15 employer, the gravity of the violation, the history of previous violations, and the failure to comply
16 with recordkeeping or other nonwage requirements. The surety of the person, firm, or corporation
17 found to be in violation of the provisions of this chapter shall be bound to pay any penalties assessed
18 on such person, firm, or corporation. The penalty shall be paid to the department of labor and
19 training for deposit in the state treasury; provided, however, it is hereby provided that the general
20 treasurer shall establish a dedicated "prevailing wages enforcement fund" for the purpose of
21 depositing the penalties paid as provided herein. There is hereby appropriated to the annual budget
22 of the department of labor and training the amount of the fund collected annually under this section,
23 to be used at the direction of the director of labor and training for the sole purpose of enforcing
24 prevailing wage rates as provided in this chapter.

25 (c) For the purposes of this chapter, each day or part thereof of violation of any provision
26 of this chapter by a person, firm, or corporation, whether the violation is continuous or intermittent,
27 shall constitute a separate and succeeding violation.

28 (d) In addition to the above, any person, firm, or corporation found in violation of any of
29 the provisions of this chapter by the director of labor and training, an awarding authority, or the
30 hearing officer, shall be ineligible to bid on, or be awarded work by, an awarding authority or
31 perform any such work for a period of no less than eighteen (18) months and no more than thirty-
32 six (36) months from the date of the order entered by the hearing officer. Once a person, firm, or
33 corporation is found to be in violation of this chapter, all pending bids with any awarding authority
34 shall be revoked, and any bid awarded by an awarding authority prior to the commencement of the

1 work shall also be revoked.

2 (e) In addition to the above, any person, firm, or corporation found to have committed two
3 (2) or more willful violations in any period of eighteen (18) months of any of the provisions of this
4 chapter by the hearing officer, which violations are not arising from the same incident, shall be
5 ineligible to bid on, or be awarded work by, an awarding authority or perform any work for a period
6 of sixty (60) months from the date of the second violation.

7 (f) The order of the hearing officer shall remain in full force and effect unless stayed by
8 order of the superior court.

9 (g) The director of labor and training, awarding authority, or hearing officer shall notify
10 the bonding company of any person, firm, or corporation suspected of violating any section of this
11 chapter. The notice shall be mailed certified mail and shall enumerate the alleged violations being
12 investigated.

13 (h) In addition to the above, any person, firm, or corporation found to have willfully made
14 a false or fraudulent representation on certified payroll records [or in reporting their apprenticeship](#)
15 [information to any governmental agency](#) shall be referred to the office of the attorney general. A
16 first violation of this section shall be considered a misdemeanor and shall be punishable for a period
17 of not more than one year in prison and/or fined one thousand dollars (\$1,000). A second or
18 subsequent violation of this section shall be considered a felony and shall be punishable for a period
19 of not more than three (3) years imprisonment, a fine of three thousand dollars (\$3,000), or both.
20 Further, any person, firm, or corporation found to have willfully made a false or fraudulent
21 representation on certified payroll records [or in reporting their apprenticeship information to any](#)
22 [governmental agency](#) shall be required to pay a civil penalty to the department of labor and training
23 in an amount of no less than two thousand dollars (\$2,000) and not greater than fifteen thousand
24 dollars (\$15,000) per representation.

25 SECTION 17. Chapter 37-13 of the General Laws entitled "Labor and Payment of Debts
26 by Contractors" is hereby amended by adding thereto the following section:

27 **37-13-3.3. School construction contract apprenticeship requirements.**

28 [\(a\) Notwithstanding any laws to the contrary, all specifications in any invitations to bid on](#)
29 [any school construction contract valued at five million dollars \(\\$5,000,000\) or more shall include](#)
30 [a requirement that all bidders responding to an invitation to bid on a school construction contract](#)
31 [shall have an approved apprenticeship program for all suitable crafts or trades as determined by the](#)
32 [state department of labor and training that will be employed on the project at the time of bid. All](#)
33 [bidders responding to such invitation to bid shall also provide proof in the bid package of the](#)
34 [existence of an approved apprenticeship program for all suitable crafts or trades as determined by](#)

1 the state department of labor and training that will be employed on the project by all contractors
2 and subcontractors needed for the project. All general contractors and subcontractors who perform
3 work on any school construction contract valued at five million dollars (\$5,000,000) or more that
4 is awarded after passage of this section shall ensure that no less than ten percent (10%) of the labor
5 hours worked on the project shall be performed by apprentices for all suitable crafts or trades as
6 determined by the state department of labor and training that will be employed on the project. The
7 provisions of this section shall only apply to contractors and subcontractors with five (5) or more
8 employees.

9 (b) All bids for such school construction contracts valued at five million dollars
10 (\$5,000,000) or more shall fully comply with the intent and purpose of existing state law provisions
11 requiring the use of qualified, responsible bidders pursuant to § 45-55-5, including the criteria that
12 invitation for such bids shall reference this section when enumerating the objective measurable
13 criteria that will be used to make awards, as required by § 45-55-5(b).

14 (c) For the purposes of this section, the ten percent (10%) apprenticeship requirement shall
15 be applied per month.

16 (d) Upon petition by a contractor in writing, a user agency may lower the ten percent (10%)
17 apprenticeship requirement of this section for a specific project for one or more crafts or trades for
18 the following reasons:

19 (1) The demonstrated lack of availability of apprentices in specific geographic areas; or

20 (2) Participating contractors have demonstrated a good faith effort to comply with the
21 requirements of this section but have not been able to attain the ten percent (10%) requirement.

22 (e) Any determination by a user agency to lower the apprenticeship requirements according
23 to this section shall be provided in writing, to the contractor and to the state department of labor
24 and training.

25 (f) The state department of labor and training shall provide information and technical
26 assistance to any affected user agencies and contractors awarded any school construction contracts
27 relative to their obligations under this section.

28 (g) Any contractor or subcontractor awarded a school construction contract shall collect
29 and submit the following data for each project covered by this section to the user agency on certified
30 payroll forms, as required by § 37-13-13:

31 (1) The name and dollar value of the project being worked on;

32 (2) The name of each apprentice, categorized by trade or craft; each apprentice's
33 registration number; the name and address of each apprentice's approved apprenticeship program;
34 and the number of hours each apprentice has worked on the project for each month being reported;

1 (3) The name of each journey level worker, categorized by trade or craft, and the number
2 of hours each has worked on the project for each month being reported; and

3 (4) If applicable, the number, type, and rationale for the exceptions granted.

4 (h) Upon receiving the data from any contractor or subcontractor awarded a school
5 construction contract, the user agency shall provide the department of administration and the
6 department of labor and training with said data. The department of administration shall develop
7 procedures for using and comparing said data and shall annually publish a report with aggregate
8 data related to apprenticeships.

9 (i) The user agency shall withhold the next scheduled payment to any contractor or
10 subcontractor who does not submit the information required by the provisions of this section and
11 shall also notify the director of labor and training of the contractor's noncompliance. The user
12 agency shall withhold final payment until all of the information required by the provisions of this
13 section has been provided.

14 (j) The department of labor and training may also impose a penalty of up to five hundred
15 dollars (\$500) for each calendar day that any contractor or subcontractor does not comply with the
16 requirement to submit data pursuant to the provisions of this section, as determined by the director
17 of labor and training. Such penalty shall be paid by the contractor or subcontractor to the department
18 of labor and training. Mere errors or omissions shall not be grounds for imposing a penalty under
19 this subsection. The severity of any penalties shall be based on the facts and circumstances involved
20 in the violation, including whether there are repeat or multiple violations and/or willful conduct.

21 (k) Any penalties assessed pursuant to the provisions of this section shall be paid to the
22 department of labor and training's dedicated "prevailing wages enforcement fund."

23 (l) Failure of the contractors and subcontractors required to utilize apprentices or be
24 exempted shall be considered a material breach of their school construction contract, and they shall
25 be subject to any and all applicable penalties under their contract with the user agency.

26 (m) Any contractor or subcontractor aggrieved by any action taken by the director of the
27 state department of labor and training or his or her designated hearing officer, pursuant to the
28 provisions of chapter 13 of title 37, may obtain a review thereof for the purpose of obtaining relief
29 from the action or lack of action, pursuant to § 37-13-15.

30 (n) To the extent that any of the provisions contained in § 37-13-3.3 conflict with the
31 requirements for federal aid contracts, federal law and regulations shall control.

32 SECTION 18. Section 45-38.2-4 of the General Laws in Chapter 45-38.2 entitled "School
33 Building Authority Capital Fund" is hereby amended to read as follows:

34 **45-38.2-4. Payment of state funds.**

1 (a) Subject to the provisions of subsection (b), upon the written request of the corporation,
2 the general treasurer shall pay to the corporation, from time to time, from the proceeds of any bonds
3 or notes issued by the state for the purposes of this chapter or funds otherwise lawfully payable to
4 the corporation for the purposes of this chapter, such amounts as shall have been appropriated or
5 lawfully designated for the fund. All amounts so paid shall be credited to the fund in addition to
6 any other amounts credited or expected to be credited to the fund.

7 (b) The corporation and the state may enter into, execute, and deliver one or more
8 agreements setting forth or otherwise determining the terms, conditions, and procedures for, and
9 the amount, time, and manner of payment of, all amounts available from the state to the corporation
10 under this section.

11 (c) The corporation, per order of the school building authority capital fund, is authorized
12 to grant a district or municipality its state share of an approved project cost, pursuant to §§ 16-7-39
13 and 16-77.1-5. Construction pay-as-you-go grants received from the school building authority
14 capital fund shall not be considered a form of indebtedness subject to the provisions of § 16-7-44.

15 (d)(1) Notwithstanding the provisions of §§ 45-12-19 and 45-12-20, and notwithstanding
16 city or town charter provisions to the contrary, prior to July 1, 2016, no voter approval shall be
17 required for loans in any amount made to a city or town for the local education agency's share of
18 total project costs.

19 (2) Notwithstanding the provisions of §§ 45-12-19 and 45-12-20, and notwithstanding city
20 or town charter provisions to the contrary, on or after July 1, 2016, up to five hundred thousand
21 dollars (\$500,000) may be loaned to a city or town for the local education agency's share of total
22 project costs without the requirement of voter approval.

23 (e)(1) Funds from the two hundred fifty million (\$250,000,000) in general obligation
24 bonds, if approved on the November 2018 ballot and from the three hundred million (\$300,000,000)
25 in general obligation bonds, if approved on the November 2022 ballot, shall first be used to support
26 the state share of foundational housing aid and shall be offered to local education agencies on a
27 pay-as-you-go basis and not as a reimbursement of debt service for previously completed projects.

28 (2) Funds to support the state share of foundational housing aid in a given year on a pay-
29 as-you-go basis shall be offered proportionately to local education agencies based on the total state
30 share of foundational housing aid awarded to projects in that year. Funds from the three hundred
31 million (\$300,000,000) in general obligation bonds, if approved on the November 2022 ballot, shall
32 be offered to projects approved after January 1, 2022, and a minimum of fifty million (\$50,000,000)
33 of these funds must be allocated to local education agencies with high economic need, as defined
34 by the school building authority.

1 (3) Any excess funds may be transferred to the school building authority capital fund in an
2 amount not to exceed five percent (5%) of any amount of bonds issued in a given year.

3 (f) Notwithstanding any provision to the contrary, the term of any bond, capital lease, or
4 other financing instrument shall not exceed the useful life of the project being financed.

5 (g) In accordance with §§ 45-10-5.1 and 45-10-6, the auditor general shall give guidance
6 to municipalities and school districts on the uniform financial reporting of construction debt
7 authorized and issued, and on funding received from the state within ninety (90) days of the passage
8 of this article.

9 SECTION 19. Effective Date. -- Sections 1, 2, 3, 11, 12, 13, 14, 15, 16, 17, and 18 of this
10 act shall take effect upon passage. Sections 15, 16, and 17 shall be effective for all contracts entered
11 into on or after July 1, 2022. The remaining sections of this act shall take effect when and if the
12 state board of elections shall certify to the secretary of state that a majority of the qualified electors
13 voting on the propositions contained in section 1 hereof have indicated their approval of all or any
14 projects thereunder.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
CAPITAL DEVELOPMENT PROGRAMS FOR EDUCATION -- STATEWIDE
REFERENDUM

1 This act would provide for a statewide voter referendum seeking approval of capital
2 development bonds for direct funding for foundational level school housing aid and the school
3 capital building authority fund in the amount of three hundred million dollars (\$300,000,000). This
4 act is also intended to protect the state's proprietary and financial interests on major school
5 construction projects.

6 Sections 1, 2, 3, 11, 12, 13, 14, 15, 16, 17, and 18 of this act would take effect upon passage.
7 Sections 15, 16, and 17 would be effective for all contracts entered into on or after July 1, 2022. The
8 remaining sections of this act would take effect when and if the state board of elections shall certify
9 to the secretary of state that a majority of the qualified electors voting on the propositions contained
10 in section 1 hereof have indicated their approval of all or any projects thereunder.

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