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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO EDUCATION - SCHOOL CONSTRUCTION AND FUNDING

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

Date Introduced: May 03, 2018

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 16-7-36, 16-7-39, 16-7-40, 16-7-41, 16-7-41.1, and 16-7-44 of the  
2 General Laws in Chapter 16-7 entitled "Foundation Level School Support [See Title 16 Chapter  
3 97 – The Rhode Island Board of Education Act]" are hereby amended to read as follows:

4 **16-7-36. Definitions.**

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

7 (1) "Adjusted equalized weighted assessed valuation" means the equalized weighted  
8 assessed valuation for a community as determined by the division of property valuation within the  
9 department of revenue in accordance with § 16-7-21; provided, however, that in the case of a  
10 regional school district the commissioner of elementary and secondary education shall apportion  
11 the adjusted equalized weighted assessed valuation of the member cities or towns among the  
12 regional school district and the member cities or towns according to the proportion that the  
13 number of pupils of the regional school district bears to the number of pupils of the member cities  
14 or towns.

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

18 (3) "Commissioning agent" means a person or entity who ensures the proper installation  
19 and operation of technical building systems.

1           ~~(3)~~(4) "Community" means any city, town, or regional school district established  
2 pursuant to law; provided, however, that the member towns of the Chariho regional high school  
3 district, created by P.L. 1958, ch. 55, as amended, shall constitute separate and individual  
4 communities for the purposes of distributing the foundation level school support for school  
5 housing for all grades financed in whole or in part by the towns irrespective of any  
6 regionalization.

7           (5) "Facilities condition index" means the cost to fully repair the building divided by the  
8 cost to replace the building as defined by the school building authority.

9           (6) "Functional utilization" means the ratio of the student population within a school  
10 facility to the capacity of the school facility to adequately serve students, as defined by the school  
11 building authority.

12           (7) "Owner's program manager" means owner's program manager as defined in § 37-2-  
13 7(32).

14           (8) "Prime contractor" means the contractor who is responsible for the completion of a  
15 project.

16           ~~(4)~~(9) "Reference year" means the year next prior to the school year immediately  
17 preceding that in which aid is to be paid.

18           (10) "Subject to inflation" means the base rate multiplied by the percentage of increase in  
19 the Producer Price Index (PPI) Data for Nonresidential Building Construction (NAICS 236222)  
20 as published by the United States Department of Labor, Bureau of Labor Statistics determined as  
21 of September 30 of the prior calendar year.

22           **16-7-39 Computation of school housing aid ratio.**

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

25           (1) The adjusted equalized weighted assessed valuation for the district is divided by the  
26 resident average daily membership for the district (grades twelve (12) and below); (2) the  
27 adjusted equalized weighted assessed valuation for the state is divided by the resident average  
28 daily membership for the state (grades twelve (12) and below); (1) is then divided by (2) and the  
29 resultant ratio is multiplied by a factor currently set at sixty-two percent (62%) which represents  
30 the approximate average district share of school support; the resulting product is then subtracted  
31 from one hundred percent (100%) to yield the housing aid share ratio. ~~provided that in no case~~  
32 ~~shall the ratio be less than thirty percent (30%). Provided, that effective July 1, 2010, and~~  
33 ~~annually at the start of each fiscal year thereafter, the thirty percent (30%) floor on said housing~~  
34 ~~aid share shall be increased by five percent (5%) increments each year until said floor on the~~

1 ~~housing aid share ratio reaches a minimum of not less than forty percent (40%). This provision~~  
2 ~~shall apply only to school housing projects completed after June 30, 2010 that received approval~~  
3 ~~from the board of regents prior to June 30, 2012. Provided further, for the fiscal year beginning~~  
4 ~~July 1, 2012 and for subsequent fiscal years, the minimum housing aid share shall be thirty five~~  
5 ~~percent (35%) for all projects receiving board of regents approval after June 30, 2012.~~  
6 Notwithstanding any other law to the contrary, for the fiscal year beginning July 1, 2012 and for  
7 subsequent fiscal years, the minimum housing aid share for all local education agency (LEA)  
8 public school construction projects receiving council of elementary and secondary education  
9 approval, the minimum housing aid share shall be thirty-five percent (35%) and in no case shall  
10 the ratio be less than thirty-five percent (35%). The resident average daily membership shall be  
11 determined in accordance with § 16-7-22(1).

12 ~~**16-7-40. Increased school housing ratio for regional schools -- Energy conservation --**~~  
13 ~~**-- Access for people with disabilities -- Asbestos removal projects. Increased school housing**~~  
14 ~~**ratio -- Energy conservation -- Access for people with disabilities -- Health and safety --**~~  
15 ~~**Remediation -- Technology enabled -- Space utilization.**~~

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

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

21 (b) In the case of projects undertaken by regionalized and/or non-regionalized school  
22 districts:

23 (1) ~~specifically f~~ For the purposes of energy conservation, access for people with  
24 disabilities, and/or asbestos removal, the school housing aid share ratio shall be increased by four  
25 percent (4%) for these specific projects only, in the calculation of school housing aid. The  
26 increased share ratio shall continue to be applied for as ~~log~~ long as the project(s) receive state  
27 housing aid. In order to qualify for the increased share ratio, seventy-five percent (75%) of the  
28 project costs must be specifically directed to either energy conservation, access for people with  
29 disabilities, and/or asbestos removal or any combination of these projects. The ~~board of regents~~  
30 ~~for~~ council on elementary and secondary education shall promulgate rules and regulations for the  
31 administration and operation of this section.

32 (2) For purposes of addressing health and safety deficiencies as defined by the school  
33 building authority, including the remediation of hazardous materials, the school housing aid ratio  
34 shall be increased by five percent (5%) so long as the construction of the project commences by

1 December 30, 2022. In order to qualify for the increased share ratio, twenty-five percent (25%) of  
2 the project costs or a minimum of two hundred fifty thousand dollars (\$250,000) must be  
3 specifically directed to this purpose.

4 (3) For purposes of educational enhancement, including projects devoted to the  
5 enhancement of teaching science, technology, engineering, arts, and math (STEAM), early  
6 childhood education, career and technical education and technology enabled facilities, the school  
7 housing aid ratio shall be increased by five percent (5%) so long as construction of the project  
8 commences by December 30, 2022. In order to qualify for the increased share ratio, twenty-five  
9 percent (25%) of the project costs or a minimum of two hundred fifty thousand dollars (\$250,000)  
10 must be specifically directed to this purpose.

11 (4) For replacement of a facility that has a facilities condition index of sixty-five percent  
12 (65%) or higher, the school housing ratio shall be increased by five percent (5%) so long as  
13 construction of the project commences by December 30, 2023. In order to qualify for the  
14 increased share ratio, twenty-five percent (25%) of the project costs or a minimum of two  
15 hundred fifty thousand dollars (\$250,000) must be specifically directed to this purpose.

16 (5) For any new construction or renovation that increases the functional utilization of any  
17 facility from less than sixty percent (60%) to more than eight percent (80%), including the  
18 consolidation of buildings within or across districts, the school housing aid ratio shall be  
19 increased by five percent (5%) so long as construction of the project commences by December  
20 30, 2023. In order to qualify for the increased share ratio, twenty-five percent (25%) of the  
21 project costs or a minimum of two hundred fifty thousand dollars (\$250,000) must be specifically  
22 direct to this purpose.

23 (6) For any new construction or renovation that decreases the functional utilization of any  
24 facility from more than one hundred twenty percent (120%) to between eight-five percent (85%)  
25 to one hundred five percent (105%), the school housing ratio shall be increased by five percent  
26 (5%) so long as construction of the project commences by December 30, 2023. In order to qualify  
27 for the increased share ratio, twenty-five (25%) of the project costs or a minimum of two hundred  
28 fifty thousand dollars (\$250,000) must be specifically directed to this purpose.

29 (7) For consolidation of two (2) or more buildings, within or across districts into one  
30 building, the school housing aid ratio shall be increased by five percent (5%) so long as  
31 construction of the project commences by December 30, 2023. In order to qualify for the  
32 increased share ratio, twenty-five percent (25%) of the project costs or a minimum of two  
33 hundred fifty thousand dollars (\$250,000) must be specifically directed to this purpose.

34 ~~(c) Upon the transfer of ownership from the state to the respective cities and towns of the~~

1 [The](#) regional career and technical center buildings located in [Coventry](#), Cranston, East  
2 Providence, Newport, Providence, Warwick, Woonsocket and the Charho regional school  
3 district, the school housing aid share ratio shall be increased by four percent (4%) for the  
4 renovation and/or repair of these buildings. ~~To qualify for the increased share ratio, as defined in~~  
5 ~~§ 16-7-39, renovation and repair projects must be submitted for approval through the necessity of~~  
6 ~~school construction process prior to the end of the second full fiscal year following the transfer of~~  
7 ~~ownership and assumption of local care and control of the building.~~ Only projects at regional  
8 career and technical centers that have full program approval from the department of elementary  
9 and secondary education shall be eligible for the increased share ratio. The increased share ratio  
10 shall continue to be applied for as long as the renovation and/or repair project receives school  
11 housing aid.

12 **16-7-41 Computation of school housing aid.**

13 (a) In each fiscal year the state shall pay to each community a grant to be applied to the  
14 cost of school housing equal to the following:

15 The cost of each new school housing project certified to the commissioner of elementary  
16 and secondary education not later than July 15 of the fiscal year shall be divided by the actual  
17 number of years of the bond issued by the local community, ~~or~~ the Rhode Island Health and  
18 Educational Building Corporation, [or the Rhode Island Infrastructure Bank](#) in support of the  
19 specific project, times the school housing aid ratio; and provided, further, with respect to costs of  
20 new school projects financed with proceeds of bonds issued by the local community, ~~or~~ the  
21 Rhode Island Health and Educational Building Corporation, [or the Rhode Island infrastructure](#)  
22 [bank](#) in support of the specific project, the amount of the school housing aid payable in each  
23 fiscal year shall not exceed the amount arrived at by multiplying the principal and interest of the  
24 bonds payable in each fiscal year by the school housing aid ratio and which principal and interest  
25 amount over the life of the bonds, shall, in no event, exceed the costs of each new school housing  
26 project certified to the commissioner of elementary and secondary education. If a community fails  
27 to specify or identify the appropriate reimbursement schedule, the commissioner of elementary  
28 and secondary education may at his or her discretion set up to a five (5) year reimbursement cycle  
29 for projects under five hundred thousand dollars (\$500,000); up to ten (10) years for projects up  
30 to three million dollars (\$3,000,000); and up to twenty (20) years for projects over three million  
31 dollars (\$3,000,000).

32 (b) Aid shall be provided for the same period as the life of the bonds issued in support of  
33 the project and at the school housing aid ratio applicable to the local community at the time of the  
34 bonds issued in support of the project as set forth in § 16-7-39.

1           (c) Aid shall be paid either to the community or in the case of projects financed through  
2 the Rhode Island Health and Educational Building Corporation [or the Rhode Island infrastructure](#)  
3 [bank](#), to the Rhode Island Health and Educational Building Corporation [or the Rhode Island](#)  
4 [infrastructure bank](#) or its designee including, but not limited to, a trustee under a bond indenture  
5 or loan and trust agreement, in support of bonds issued for specific projects of the local  
6 community in accordance with this section, § 16-7-40 and § 16-7-44. Notwithstanding the  
7 preceding, in case of failure of any city, town or district to pay the amount due in support of  
8 bonds issued on behalf of a city, town, school or district project financed by the Rhode Island  
9 Health and Educational Building Corporation [or the Rhode Island infrastructure bank](#), upon  
10 notification by the Rhode Island Health and Educational Building Corporation [or the Rhode](#)  
11 [Island infrastructure bank](#), the general treasurer shall deduct the amount from aid provided under  
12 this section, § 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city, town or district  
13 and direct said funding to the Rhode Island Health and Educational Building Corporation [or the](#)  
14 [Rhode Island infrastructure bank](#) or its designee.

15           (d) Notwithstanding any provisions of law to the contrary, in connection with the  
16 issuance of refunding bonds benefiting any local community, any net interest savings resulting  
17 from the refunding bonds issued by such community or a municipal public buildings authority for  
18 the benefit of the community or by the Rhode Island health and educational building corporation  
19 [or the Rhode Island infrastructure bank](#) for the benefit of the community, in each case in support  
20 of school housing projects for the community, shall be allocated between the community and the  
21 state of Rhode Island, by applying the applicable school housing aid ratio at the time of issuance  
22 of the refunding bonds, calculated pursuant to § 16-7-39, that would otherwise apply in  
23 connection with school housing projects of the community; provided however, that for any  
24 refundings that occur between July 1, 2013 and December 31, 2015, the community shall receive  
25 eighty percent (80%) of the total savings and the state shall receive twenty percent (20%). In  
26 connection with any such refunding of bonds, the finance director or the chief financial officer of  
27 the community shall certify such net interest savings to the commissioner of elementary and  
28 secondary education. Notwithstanding § 16-7-44 or any other provision of law to the contrary,  
29 school housing projects costs in connection with any such refunding bond issue shall include  
30 bond issuance costs incurred by the community, the municipal public buildings authority or the  
31 Rhode Island health and educational building corporation [or the Rhode Island infrastructure bank](#),  
32 as the case may be, in connection therewith. In connection with any refunding bond issue, school  
33 housing project costs shall include the cost of interest payments on such refunding bonds, if the  
34 cost of interest payments was included as a school housing cost for the bonds being refunded. A

1 local community or municipal public buildings authority shall not be entitled to the benefits of  
2 this subsection (d) unless the net present value savings resulting from the refunding is at least  
3 three percent (3%) of the refunded bond issue.

4 (e) Any provision of law to the contrary notwithstanding, the commissioner of  
5 elementary and secondary education shall cause to be monitored the potential for refunding  
6 outstanding bonds of local communities or municipal public building authorities or of the Rhode  
7 Island Health and Educational Building Corporation [or the Rhode Island infrastructure bank](#)  
8 issued for the benefit of local communities or municipal public building authorities and benefiting  
9 from any aid referenced in this section. In the event it is determined by said monitoring that the  
10 net present value savings which could be achieved by refunding such bonds of the type  
11 referenced in the prior sentence including any direct costs normally associated with such  
12 refundings is equal to (i) at least one hundred thousand dollars (\$100,000) and (ii) for the state  
13 and the communities or public building authorities at least three percent (3%) of the bond issue to  
14 be refunded including associated costs then, in such event, the commissioner (or his or her  
15 designee) may direct the local community or municipal public building authority for the benefit  
16 of which the bonds were issued, to refund such bonds. Failure of the local community or  
17 municipal public buildings authority to timely refund such bonds, except due to causes beyond  
18 the reasonable control of such local community or municipal public building authority, shall  
19 result in the reduction by the state of the aid referenced in this § 16-7-4.1 associated with the  
20 bonds directed to be refunded in an amount equal to ninety percent (90%) of the net present value  
21 savings reasonably estimated by the commissioner of elementary and secondary education (or his  
22 or her designee) which would have been achieved had the bonds directed to be refunded been  
23 refunded by the ninetieth (90th) day (or if such day is not a business day in the state of Rhode  
24 Island, the next succeeding business day) following the date of issuance of the directive of the  
25 commissioner (or his or her designee) to refund such bonds. Such reduction in the aid shall begin  
26 in the fiscal year following the fiscal year in which the commissioner issued such directive for the  
27 remaining term of the bond.

28 (f) Payments shall be made in accordance with § 16-7-40 and this section.

29 (g) For purposes of financing or refinancing school facilities in the city of Central Falls  
30 through the issuance bonds through the Rhode Island Health and Educational Building  
31 Corporation [or the Rhode Island infrastructure bank](#), the city of Central Falls shall be considered  
32 an "educational institution" within the meaning of subdivision 45-38.1-3(13) of the general laws.

33 **16-7-41.1 Eligibility for reimbursement.**

34 (a) School districts, not municipalities, may apply for and obtain approval for a project

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

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

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

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

33 (e) Beginning June 30, 2019, no state funding shall be provided for projects in excess of  
34 ten million dollars (\$10,000,000) unless the prime contractor for the project has received

1 [certification from the school building authority.](#)

2 [\(f\) Beginning July 1, 2019, the necessity of school construction process set forth in the](#)  
3 [regulations of the council on elementary and secondary education shall include a single statewide](#)  
4 [process, developed with the consultation of the department of environmental management, that](#)  
5 [will ensure community involvement throughout the investigation and remediation of](#)  
6 [contaminated building sites for possible reuse as the location of a school. That process will fulfill](#)  
7 [all provisions of § 23-19.14-5 related to the investigation of reuse of such sites for schools.](#)

8 **16-7-44 School housing project costs.**

9 [\(a\)](#) School housing project costs, the date of completion of school housing projects, and  
10 the applicable amount of school housing project cost commitments shall be in accordance with  
11 the regulations of the commissioner of elementary and secondary education and the provisions of  
12 §§ 16-7-35 – 16-7-47; provided, however, that school housing project costs shall include the  
13 purchase of sites, buildings, and equipment, the construction of buildings, and additions or  
14 renovations of existing buildings and/or facilities. School housing project costs shall include the  
15 cost of interest payment on any bond issued after July 1, 1988, provided that such bond is  
16 approved by the voters on or before June 30, 2003, or issued by a municipal public building  
17 authority or by the appropriate approving authority on or before June 30, 2003. Except as  
18 provided in § 16-7-41(d) [and § 46-12.2-4.2\(g\)](#), those projects approved after June 30, 2003,  
19 interest payments may only be included in project costs provided that the bonds for these projects  
20 are issued through the Rhode Island Health and Educational Building Corporation [or the Rhode](#)  
21 [Island infrastructure bank](#). School housing project costs shall exclude: (1) any bond issuance costs  
22 incurred by the municipality or regional school district; (2) demolition costs for buildings,  
23 facilities, or sites deemed surplus by the school committee; and (3) restrictions pursuant to § 16-  
24 7-44.1 below. A building, facility, or site is declared surplus by a school committee when the  
25 committee no longer has such building, facility, or site under its direct care and control and  
26 transfers control to the municipality, § 16-2-15. The ~~board of regents for~~ [council on](#) elementary  
27 and secondary education will promulgate rules and regulations for the administration of this  
28 section. These rules and regulations may provide for the use of lease revenue bonds, capital  
29 leases, or capital reserve funding, to finance school housing provided that the term of any bond,  
30 or capital lease shall not be longer than the useful life of the project and these instruments are  
31 subject to the public review and voter approval otherwise required by law for the issuance of  
32 bonds or capital leases. Cities or towns issuing bonds, or leases issued by municipal public  
33 buildings authority for the benefit of a local community pursuant to chapter 50 of title 45 shall not  
34 require voter approval. Effective January 1, 2008, and except for interim finance mechanisms,

1 refunding bonds, borrowing from the school building authority capital fund, and bonds issued by  
2 the Rhode Island Health and Educational Building Corporation [or the Rhode Island infrastructure](#)  
3 [bank](#) to finance school housing projects for towns, cities, or regional school districts borrowing  
4 for which has previously been authorized by an enabling act of the general assembly, all bonds,  
5 notes and other forms of indebtedness issued in support of school housing projects shall require  
6 passage of an enabling act by the general assembly.

7 [\(b\) Beginning July 1, 2019, school housing projects exceeding one million five hundred](#)  
8 [thousand dollars \(\\$1,500,000\) subject to inflation shall be assigned an owners program manager](#)  
9 [and a commissioning agent by the school building authority. The cost of the program manager](#)  
10 [and commission agent shall be borne by the school building authority.](#)

11 [\(c\) Temporary housing, or swing space, for student shall be a reimbursable expense so](#)  
12 [long as a district can demonstrate that no other viable option to temporarily house students exists.](#)

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

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

18 SECTION 2. Sections 16-26-7 and 16-26-12 of the General Laws in Chapter 16-26  
19 entitled "School for the Deaf" are hereby amended to read as follows:

20 **16-26-7. Persons admissible.**

21 (a) All children of parents, or under the control of guardians or other persons, legal  
22 residents of this state, between the ages from birth to twenty-one (21) years, whose hearing or  
23 speech, or both, are impaired as to make it impracticable for this student to make progress toward  
24 his or her educational goals by attending the public schools may attend the Rhode Island School  
25 for the Deaf, without charge, under any rules and regulations as the board of regents for  
26 elementary and secondary education may establish.

27 (b) Deaf persons from birth to twenty-one (21) years, who are legal residents of the state,  
28 shall be entitled to the privilege of the school without charge, and for any period of time in each  
29 individual case as may be deemed appropriate by the board of regents for elementary and  
30 secondary education; residents of other states may be admitted upon the payment of any rates of  
31 board and tuition as may be fixed by the board.

32 [\(c\) Students who are not deaf or hard-of-hearing may be admitted to the Rhode Island](#)  
33 [school for the deaf, in accordance with rules and regulations promulgated by the commissioner of](#)  
34 [elementary and secondary education.](#)

1           **16-26-12. Other sources of funding.**

2           (a) The 2009 general assembly, through the FY 2010 appropriation act, established a fee  
3 for a service program, also known as a tuition program, for the Rhode Island school for the deaf  
4 effective July 1, 2009 in accordance with the fee structure developed and implemented by the  
5 department of elementary and secondary education. Under this fee for service program, and the  
6 provisions of Rhode Island general law § 16-26-7.1 notwithstanding, districts shall be assessed  
7 tuition to cover the costs of educational services that are additional to the core deaf and hard-of-  
8 hearing education program that is provided to resident students at the Rhode Island school for the  
9 deaf.

10          (b) Tuition assessed at the school for the deaf to cover costs of educational services that  
11 are additional to the core deaf and hard-of-hearing education program shall be based on a  
12 graduated tuition schedule correlating to the varying needs of students. Districts shall receive  
13 three (3) times each school year, invoices summarizing the basis for the tuition charged. There  
14 shall be deducted from the final aid payment to each school district at the end of the fiscal year  
15 any amounts owed to the state for these additional educational services. All tuition paid by  
16 districts and any aid deducted for non-payment shall be deposited in a restricted receipt account  
17 and shall be exempt from the indirect cost recovery provisions of § 35-4-7.

18          (c) The school for the deaf is hereby authorized to rent or lease space in its school  
19 building. The school shall deposit any revenues from such agreements into a restricted receipt  
20 account, to be known as the school for the deaf rental income account, to be used for the same  
21 educational purposes that its state appropriation is used. Any such rental agreements must receive  
22 prior approval from the school's board of trustees and by the state properties committee.

23          (d) Effective July 1, 2018, costs for students attending the Rhode Island school for the  
24 deaf, in accordance with § 16-26-7(c), costs for those students shall be funded pursuant to the  
25 provisions of § 16-7.2-3. The state share of the permanent foundation education aid shall be paid  
26 directly to the Rhode Island school for the deaf pursuant to the provisions of § 16-7.2-7. The local  
27 school district shall transfer the difference between the calculated state share of the permanent  
28 foundation education aid and the amount calculated pursuant to § 16-7.2-7 to the Rhode Island  
29 school for the deaf, until the transition of the state share is complete. In addition, the local school  
30 district shall also pay the local share of education funding to the Rhode Island school for the deaf  
31 as outlined in § 16-7.2-5.

32          SECTION 3. Sections 16-105-3, 16-105-7, and 16-105-8 of the General Laws in Chapter  
33 16-105 entitled "School Building Authority" are hereby amended to read as follows:

34           **16-105-3 Roles and responsibilities.**

1 The school building authority roles and responsibilities shall include:

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

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

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

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

11 (5) ~~Managing~~ Promulgating, managing and maintaining school construction regulations,  
12 standards, and guidelines applicable to the school housing program, based on the  
13 recommendations of the school building authority advisory board, created in § 16-105-8. The  
14 regulations shall require conformance with the minority business enterprise criteria and  
15 guidelines as set forth in § 37-14.1-6;

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

25 (7) Developing a mandatory statewide maintenance checklist and facilities standards for  
26 all school buildings, that includes a minimum annual spending requirement for maintenance  
27 and/or a requirement for capital reserve funds dedicated exclusively for annual maintenance in  
28 accordance with national best practices. Districts shall adhere to the maintenance spending  
29 requirements beginning June 30, 2019 and facilities standards beginning June 30, 2021.

30 ~~(6)~~(8) Providing technical advice and assistance, training, and education to cities, towns,  
31 and/or LEAs and to certified general contractors, subcontractors, construction or project  
32 managers, designers and others in planning, maintenance, and establishment of school facility  
33 space;

34 ~~(7)~~(9) Developing a project priority system, based on the recommendations of the school

1 building authority advisory board, in accordance with school construction regulations for the state  
2 school housing aid set forth in §§ 16-7-35 to 16-7-47 and the school building authority capital  
3 fund, subject to review and, if necessary, to be revised on intervals not to exceed five (5) years.

4 Project priorities shall ~~be in accordance with~~ include, but not be limited to, the following order of  
5 priorities:

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

9 (ii) Projects needed to prevent loss of accreditation;

10 (iii) Projects needed for the replacement, renovation, or modernization of the HVAC  
11 system in any schoolhouse to increase energy conservation and decrease energy-related costs in  
12 said schoolhouse;

13 (iv) Projects needed to replace or add to obsolete buildings in order to provide for a full  
14 range of programs consistent with state and approved local requirements; and

15 (v) Projects needed to comply with mandatory, instructional programs.

16 ~~(8)~~(10) Maintaining a current list of requested school projects and the priority given  
17 them;

18 ~~(9)~~(11) Collecting and maintaining readily available data on all the public school  
19 facilities in the state;

20 (12) Collecting, maintaining, and making publicly available monthly progress reports of  
21 ongoing school construction projects, that shall include, at a minimum, the costs of the project  
22 and the time schedule of each project;

23 ~~(10)~~(13) Recommending policies and procedures designed to reduce borrowing for  
24 school construction programs at both state and local levels;

25 ~~(11)~~(14) At least every five (5) years, conducting a needs survey to ascertain the capital  
26 construction, reconstruction, maintenance, and other capital needs for schools in each district of  
27 the state, including public charter schools;

28 ~~(12)~~(15) Developing a formal enrollment projection model or using projection models  
29 already available;

30 ~~(13)~~(16) Encouraging local education agencies to investigate opportunities for the  
31 maximum utilization of space in and around the district;

32 ~~(14)~~(17) Collecting and maintaining a clearinghouse of prototypical school plans that  
33 may be consulted by eligible applicants;

34 (18) Retaining the services of consultants, construction managers, program managers,

1 [architects, engineers and experts, as necessary, to effectuate the roles and responsibilities set forth](#)  
2 [in this section;](#)

3 ~~(15)~~(19) By regulation, offering additional incentive points to the school housing aid ratio  
4 calculation set forth in § 16-7-39, as the authority, based upon the recommendation of the  
5 advisory board, determines will promote the purposes of this chapter. Said regulations may  
6 delineate the type and amounts of any such incentive percentage points; provided, however, that  
7 no individual category of incentive points shall exceed ~~two (2)~~ [five \(5\)](#) additional points; and  
8 provided further, that no district shall receive a combined total of more than ~~five (5)~~ [twenty \(20\)](#)  
9 incentive percentage points [for projects that commence construction by December 30, 2023, and](#)  
10 [five \(5\) incentive points for projects that commence construction thereafter.](#) Such incentive points  
11 may be awarded for a district's use of highly efficient construction delivery methods; [remediation](#)  
12 [of hazardous substances;](#) regionalization with other districts; superior maintenance practices of a  
13 district; energy efficient and sustainable design and construction; the use of model schools as  
14 adopted by the authority; and other incentives as recommended by the advisory board and  
15 determined by the authority to encourage the most cost-effective and quality construction.  
16 Notwithstanding any provision of the general laws to the contrary, the reimbursement or aid  
17 received under this chapter or chapter 38.2 of title 45 shall not exceed one hundred percent  
18 (100%) of the sum of the total project costs plus interest costs [nor shall a district's share be](#)  
19 [decreased by more than half of its regular share irrespective of the number of incentive points](#)  
20 [received.](#)

21 [Projects that were approved prior to July 1, 2017, but have not commenced construction](#)  
22 [as of January 1, 2018, are eligible to receive a total of five \(5\) combined incentive points so long](#)  
23 [as an owner's program manager and commissioning agent of the school building authority's](#)  
24 [choosing, has been employed. Any project approved prior to July 1, 2017, that is withdrawn](#)  
25 [and/or resubmitted for approval, shall not be eligible for any incentive points.](#)

26 **16-105-7 Expenses incurred by the ~~department~~ school building authority.**

27 In order to provide for ~~one-time or limited the~~ expenses of the ~~department of elementary~~  
28 ~~and secondary education~~ [school building authority](#) under this chapter, the [Rhode Island health and](#)  
29 [education building](#) corporation shall provide funding from the school building authority capital  
30 fund, [fees generated from the origination of municipal bonds and other financing vehicles used](#)  
31 [for school construction, and its own reserves.](#) The school building authority shall, by October 1 of  
32 each year, report to the governor and the chairs of the senate and house finance committees, the  
33 senate fiscal advisor, and the house fiscal advisor the amount sought for expenses for the next  
34 fiscal year.

1 There is also hereby established a restricted receipt account, within the budget of the  
2 department of elementary and secondary education entitled "school construction services", to be  
3 financed by the Rhode Island health and education building corporation's sub-allotments of fees  
4 generated from the origination of municipal bonds and other financing vehicles used for school  
5 construction and its own reserves. Effective July 1, 2018, this account shall be utilized for the  
6 express purpose of supporting any departmental expenditures incurred in the administration of the  
7 school construction aid program.

8 **16-105-8. School building authority advisory board established.**

9 (a) There is hereby established a school building authority advisory board that shall  
10 advise the school building authority regarding the best use of the school building authority capital  
11 fund, including the setting of statewide priorities, criteria for project approval, and  
12 recommendations for project approval and prioritization.

13 (b) The school building authority advisory board shall consist of ~~seven (7)~~ nine (9)  
14 members as follows:

15 (1) The general treasurer;

16 (2) The director of the department of administration, who shall serve as chair;

17 (3) A member of the governor's staff, as designated by the governor;

18 (4) The commissioner of elementary and secondary education, or their designee;

19 (5) The chair of the Rhode Island health and educational building corporation; and

20 ~~(4)~~ (6) Four (4) members of the public, appointed by the governor, and who serve at the  
21 pleasure of the governor, each of whom shall have expertise in education and/or construction, real  
22 estate, or finance. At least one of these four members shall represent a local education agency.

23 (c) In addition to the purposes in subsection (a), the school building authority advisory  
24 board shall advise the school building authority on, including but not limited to, the following:

25 (1) The project priorities for the school building authority capital fund;

26 (2) Legislation as it may deem desirable or necessary related to the school building  
27 authority capital fund and the school housing aid program set forth in §§ 16-7-35 to 16-7-47;

28 (3) Policies and procedures designed to reduce borrowing for school construction  
29 programs at both state and local levels;

30 (4) Development of a formal enrollment projection model or consideration of using  
31 projection models already available;

32 (5) Processes and procedures necessary to apply for, receive, administer, and comply  
33 with the conditions and requirements respecting any grant, gift, or appropriation of property,  
34 services, or monies;

1 (6) The collection and maintenance of a clearinghouse of prototypical school plans which  
2 may be consulted by eligible applicants and recommend incentives to utilize these prototypes;

3 (7) The determination of eligible cost components of projects for funding or  
4 reimbursement, including partial or full eligibility for project components for which the benefit is  
5 shared between the school and other municipal and community entities;

6 (8) Development of a long-term capital plan in accordance with needs and projected  
7 funding;

8 (9) Collection and maintenance of data on all the public school facilities in the state,  
9 including information on size, usage, enrollment, available facility space, and maintenance;

10 (10) Advising districts on the conduct of a needs survey to ascertain the capital  
11 construction, reconstruction, maintenance, and other capital needs for schools across the state;

12 (11) The recommendation of policies, rules, and regulations that move the state toward a  
13 pay-as-you-go funding system for school construction programs; and

14 (12) Encouraging local education agencies to investigate opportunities for the maximum  
15 utilization of space in and around the district.

16 SECTION 4. Section 45-38.2-4 of the General Laws in Chapter 45-38.2 entitled "School  
17 Building Authority Capital Fund" are hereby amended to read as follows:

18 **45-38.2-4 Payment of state funds.**

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

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

30 (c) The corporation, per order of the school building authority capital fund, is authorized  
31 to grant a district or municipality its state share of an approved project cost, pursuant to §§ 16-7-  
32 39 and 16-77.1-5. Construction pay-as-you-go grants received from the school building authority  
33 capital fund shall not be considered a form of indebtedness subject to the provisions of § 16-7-44.

34 (d)(1) Notwithstanding the provisions of §§ 45-12-19 and 45-12-20, and notwithstanding

1 city or town charter provisions to the contrary, prior to July 1, 2016, no voter approval shall be  
2 required for loans in any amount made to a city or town for the local education agency's share of  
3 total project costs.

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

8 (e)(1) If the school building authority deems the amount of funding in the capital fund to  
9 be in excess of what is necessary to meet the state obligation for projects receiving support from  
10 the capital fund in a given year, the school building authority may direct excess funds to support  
11 the state share of foundational housing aid.

12 (2) Funds transferred from the capital fund to support the state share of foundational  
13 housing aid shall be offered to LEAs on a pay-as-you-go basis and not as a reimbursement of debt  
14 service for previously completed projects.

15 (3) Funds transferred from the capital fund to support the state share of foundational  
16 housing aid in a given year on a pay-as-you-go basis shall be offered proportionately to LEAs  
17 based on the total state share of foundational housing aid awarded to projects in that year.

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

20 SECTION 5. Section 46-12.2-4.2 of the General Laws in Chapter 46-12.2 entitled  
21 "Rhode Island Infrastructure Bank" is hereby amended to read as follows:

22 **46-12.2-4.2. Establishment of the efficient buildings fund.**

23 (a) There is hereby authorized and created within the Rhode Island infrastructure bank an  
24 efficient buildings fund for the purpose of providing technical, administrative and financial  
25 assistance to local governmental units for energy efficient and renewable energy upgrades to  
26 public buildings and infrastructure, including, but not limited to, streetlights. The Rhode Island  
27 infrastructure bank shall review and approve all applications for projects to be financed through  
28 the efficient buildings fund.

29 The office of energy resources shall promulgate rules and regulations establishing a  
30 project priority list for efficient buildings fund and the process through which a local  
31 governmental unit may submit an application for inclusion of a project on the project priority list.  
32 Upon issuance of the project priority list by the office of energy resources, the project priority list  
33 shall be used by the Rhode Island infrastructure bank to determine the order in which financial  
34 assistance shall be awarded. The Rhode Island infrastructure bank shall promulgate rules and

1 regulations to effectuate the provisions of this section which may include, without limitation,  
2 forms for financial assistance applications, loan agreements, and other instruments. All rules and  
3 regulations promulgated pursuant to this chapter shall be promulgated in accordance with the  
4 provisions of chapter 35 of title 42. Eligibility for receipt of this financial assistance by a local  
5 governmental unit shall be conditioned upon that local governmental unit reallocating their  
6 remaining proportional QECB allocation to the state of Rhode Island.

7 (b) The Rhode Island infrastructure bank shall have all the powers necessary and  
8 convenient to carry out and effectuate the purposes and provisions of this section including,  
9 without limiting the generality of the preceding statement, the authority:

10 (1) To receive and disburse such funds from the state and federal government as may be  
11 available for the purpose of the fund subject to the provisions of this section;

12 (2) To make and enter into binding commitments to provide financial assistance to  
13 eligible borrowers from amounts on deposit in the fund;

14 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the  
15 provisions of this section, provided the fees have been previously authorized by an agreement  
16 between the Rhode Island infrastructure bank and the eligible borrower;

17 (4) To engage the services of third-party vendors to provide professional services;

18 (5) To establish one or more accounts within the fund; and

19 (6) Such other authority as granted to the Rhode Island infrastructure bank under this  
20 chapter.

21 (c) Subject to the provisions of this section and to any agreements with the holders of any  
22 bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode  
23 Island infrastructure bank for the account of the fund shall be applied by the Rhode Island  
24 infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other  
25 funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust  
26 agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure  
27 bank, to the following purposes:

28 (1) To provide financial assistance to local governmental units to finance costs of  
29 approved projects, as set forth in subsection (a), and to refinance the costs of the projects, subject  
30 to such terms and conditions, if any, as are determined by the Rhode Island infrastructure bank;

31 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase  
32 insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit  
33 and costs of reimbursement to the issuers thereof for any payments made thereon or on any  
34 insurance, and to otherwise provide security for, and a source of payment for obligations of the

1 Rhode Island infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this  
2 chapter;

3 (3) To pay expenses of the Rhode Island infrastructure bank in administering the fund;

4 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on  
5 loans and obligations outstanding in the event of default thereof; amounts in any account in the  
6 fund may be applied to defaults on loans outstanding to the borrower for which the account was  
7 established and, on a parity basis with all other accounts, to defaults on any loans or obligations  
8 outstanding; and

9 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or  
10 otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

11 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan  
12 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover  
13 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure  
14 bank together with any other actual damages the Rhode Island infrastructure bank shall have  
15 sustained from the failure or refusal of the borrower to make the payments or abide by the terms  
16 of the loan agreement.

17 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds  
18 to serve as further security for any loans made by the Rhode Island infrastructure bank or any  
19 bonds of the Rhode Island infrastructure bank issued to fund energy efficiency improvements in  
20 public buildings in accordance with this section.

21 (f) To the extent possible, and in accordance with law, the infrastructure bank shall  
22 encourage the use of project labor agreements for projects over ten million dollars (\$10,000,000)  
23 and local hiring on projects funded under this section.

24 (g) ~~Any financial assistance provided by the Rhode Island infrastructure bank to a public~~  
25 ~~entity for the purpose of retrofitting a school building shall not be subject to the match established~~  
26 ~~by Rhode Island general laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination~~  
27 ~~with the Rhode Island department of education.~~ Notwithstanding any provisions to the contrary in  
28 chapter 7 of title 16, but subject to § 16-7-41(c), any approved project, as set forth in subsection  
29 (a) of this section, that is also an "approved project" as defined in § 16-7-36 and predominately  
30 energy or environmental in nature, shall be eligible for school housing assistance under §§ 16-7-  
31 35 through 16-7-47, and shall include the payment of interest on bonds, lease revenue bonds,  
32 capital leases, or capital reserve funding issued by a local governmental unit.

1 SECTION 6. This act shall take effect upon passage.

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LC005486  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION - SCHOOL CONSTRUCTION AND FUNDING

\*\*\*

1           This act would temporarily expand incentives to enhance the school housing aid ratio to  
2 encourage new school and renovation projects. School districts would be eligible for share ratio  
3 increases for projects that address health and safety deficiencies, specific high-demand subject  
4 areas, replacing and consolidating facilities. Charter schools would also be eligible to receive  
5 these new incentives and would receive an increase in their minimum share.

6           This act would take effect upon passage.

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