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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO SCHOOL CONSTRUCTION AND EDUCATION

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 16-7-23, 16-7-36, 16-7-39, 16-7-40, 16-7-41, 16-7-41.1, and 16-7-
2 44 of the General Laws in Chapter 16-7 entitled "Foundation Level School Support [See Title 16
3 Chapter 97 – The Rhode Island Board of Education Act]" are hereby amended to read as follows:

4 **16-7-23. Community requirements -- Adequate minimum budget provision.**

5 (a) The school committee's budget provisions of each community for current
6 expenditures in each budget year shall provide for an amount from all sources sufficient to
7 support the basic program and all other approved programs shared by the state. Each community
8 shall contribute local funds to its school committee in an amount not less than its local
9 contribution for schools in the previous fiscal year except to the extent permitted by §§ 16-7-23.1
10 and 16-7-23.2. Provided, that for the fiscal years 2010 and 2011 each community shall contribute
11 to its school committee in an amount not less than ninety-five percent (95.0%) of its local
12 contribution for schools for the fiscal year 2009. Calculation of the annual local contribution shall
13 not include Medicaid revenues received by the municipality or district pursuant to chapter 8 of
14 title 40. A community which has a decrease in enrollment may compute maintenance of effort on
15 a per pupil rather than on an aggregate basis when determining its local contribution; furthermore,
16 a community which experiences a nonrecurring expenditure for its schools may deduct the
17 nonrecurring expenditure in computing its maintenance of effort. The deduction of nonrecurring
18 expenditures shall be with the approval of the commissioner. Provided, however, that
19 notwithstanding any provision of this title to the contrary, debt service that is no longer carried on

1 the books of any school district shall not be included in any school ~~districts'~~ district's annual
2 budget, nor shall non-recurring debt service be included in maintenance of effort as set forth in
3 this chapter, nor shall any non-recruiting debt service be included in the operating budget of any
4 school district. For the purposes set forth above non-recurring capital lease payments shall be
5 considered non-recurring debt service. The courts of this state shall enforce this section by means
6 of injunctive relief.

7 (b) Districts' annual maintenance expenditures must meet the requirements of subsection
8 (b)(1), (b)(2), or (b)(3) of this section.

9 (1) A minimum of three percent (3%) of the operating budget shall be dedicated
10 exclusively for maintenance expenditures as defined in § 16-7-36(11) provided that for FY 2019,
11 that amount shall be one and one-half percent (1.5%), for FY 2020 that amount shall be two
12 percent (2%), and for FY 2021 that amount shall be two and one-half percent (2.5%).

13 (2) A minimum of three percent (3%) of the replacement value shall be dedicated
14 exclusively for maintenance expenditures as defined in § 16-7-36(11) provided that for FY 2019,
15 that amount shall be one percent (1%), for FY 2020 that amount shall be one and one-half percent
16 (1.5%), for FY 2021 that amount shall be two percent (2%), and for FY 2022 that amount shall be
17 two and one-half percent (2.5%).

18 (3) A minimum of three dollars (\$3.00), subject to inflation, per square foot of building
19 space shall be dedicated exclusively for maintenance expenditures as defined in § 16-7-36(11).

20 (c) The department of elementary and secondary education shall be responsible for
21 establishing a reporting mechanism to ensure the intent of this section is being met. In the event
22 that a district does not meet its minimum expenditure requirement in a given year, the state shall
23 direct state housing aid paid pursuant to § 16-4-41-or § 16-105-5, in an amount equal to the
24 shortfall, to a restricted fund created by the district and dedicated solely to meeting maintenance
25 requirements.

26 ~~(b)~~(d) Whenever any state funds are appropriated for educational purposes, the funds
27 shall be used for educational purposes only and all state funds appropriated for educational
28 purposes must be used to supplement any and all money allocated by a city or town for
29 educational purposes and, in no event, shall state funds be used to supplant, directly or indirectly,
30 any money allocated by a city or town for educational purposes. All state funds shall be
31 appropriated by the municipality to the school committee for educational purposes in the same
32 fiscal year in which they are appropriated at the state level even if the municipality has already
33 adopted a school budget. All state and local funds unexpended by the end of the fiscal year of
34 appropriation shall remain a surplus of the school committee and shall not revert to the

1 municipality. Any surplus of state or local funds appropriated for educational purposes shall not
2 in any respect affect the requirement that each community contribute local funds in an amount not
3 less than its local contribution for schools in the previous fiscal year, subject to subsection (a) of
4 this section, and shall not in any event be deducted from the amount of the local appropriation
5 required to meet the maintenance of effort provision in any given year.

6 **16-7-36. Definitions.**

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

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

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

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

23 ~~(3)~~(4) "Community" means any city, town, or regional school district established
24 pursuant to law; provided, however, that the member towns of the Chariho regional high school
25 district, created by P.L. 1958, ch. 55, as amended, shall constitute separate and individual
26 communities for the purposes of distributing the foundation level school support for school
27 housing for all grades financed in whole or in part by the towns irrespective of any
28 regionalization.

29 (5) "Facilities Condition Index" means the cost to fully repair the building divided by the
30 cost to replace the building as determined by the school building authority.

31 (6) "Functional Utilization" means the ratio of the student population within a school
32 facility to the capacity of the school facility to adequately serve students as defined by the school
33 building authority.

34 (7) "Owners Program Manager" means owner's program manager as defined in § 37-2-7.

1 (8) "Prime contractor" means the construction contractor who is responsible for the
2 completion of a project.

3 ~~(4)~~(9) "Reference year" means the year next prior to the school year immediately
4 preceding that in which aid is to be paid.

5 (10) "Subject to inflation" means the base amount multiplied by the percentage of
6 increase in the Producer Price Index (PPI) Data for Nonresidential Building Construction (NAICS
7 236222) as published by the United States Department of Labor, Bureau of Labor Statistics
8 determined as of September 30 of the prior calendar year.

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

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

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

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

1 determined in accordance with § 16-7-22(1).

2 (2) 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, and five (5)
4 incentive points for projects that commence construction thereafter. Furthermore, a district's share
5 shall not be decreased by more than half of its regular share irrespective of the number of
6 incentive points received nor shall a district's state share increase by more than half of its regular
7 share irrespective of the number of incentive points received.

8 ~~**16-7-40 Increased school housing ratio for regional schools—Energy conservation—**~~
9 ~~**Access for people with disabilities—Asbestos removal projects Increased school housing**~~
10 ~~**ratio.**~~

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

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

16 (b) ~~In the case of projects undertaken by regionalized and/or non-regionalized school~~
17 ~~districts specifically for the purposes of energy conservation, access for people with disabilities,~~
18 ~~and/or asbestos removal, the school housing aid share ratio shall be increased by four percent~~
19 ~~(4%) for these specific projects only, in the calculation of school housing aid. The increased share~~
20 ~~ratio shall continue to be applied for as long as the project(s) receive state housing aid. In order to~~
21 ~~qualify for the increased share ratio, seventy five percent (75%) of the project costs must be~~
22 ~~specifically directed to either energy conservation, access for people with disabilities, and/or~~
23 ~~asbestos removal or any combination of these projects. The board of regents for elementary and~~
24 ~~secondary education shall promulgate rules and regulations for the administration and operation~~
25 ~~of this section.~~ In the case of projects undertaken by districts specifically for the purposes of
26 school safety and security, the school housing aid share ratio shall be increased by five percent
27 (5%) for these specific projects only, in the calculation of school housing aid. The increased share
28 ratio shall continue to be applied for as long as the project(s) receives state housing aid. In order
29 to qualify for the increased share ratio, seventy-five percent (75%) of the project costs must be
30 specifically directed to school safety and security measures. The council on elementary and
31 secondary education shall promulgate rules and regulations for the administration and operation
32 of this section.

33 (c) ~~Upon the transfer of ownership from the state to the respective cities and towns of the~~
34 ~~regional career and technical center buildings located in Cranston, East Providence, Newport,~~

1 ~~Providence, Warwick, Woonsocket and the Chariho regional school district, the school housing~~
2 ~~aid share ratio shall be increased by four percent (4%) for the renovation and/or repair of these~~
3 ~~buildings. To qualify for the increased share ratio, as defined in § 16-7-39, renovation and repair~~
4 ~~projects must be submitted for approval through the necessity of school construction process prior~~
5 ~~to the end of the second full fiscal year following the transfer of ownership and assumption of~~
6 ~~local care and control of the building. Only projects at regional career and technical centers that~~
7 ~~have full program approval from the department of elementary and secondary education shall be~~
8 ~~eligible for the increased share ratio. The increased share ratio shall continue to be applied for as~~
9 ~~long as the renovation and/or repair project receives school housing aid. For purposes of~~
10 addressing health and safety deficiencies as defined by the school building authority, including
11 the remediation of hazardous materials, the school housing aid ratio shall be increased by five
12 percent (5%) so long as the construction of the project commences by December 30, 2022, is
13 completed by December 30, 2027, and a two hundred fifty million dollar (\$250,000,000) general
14 obligation bond is approved on the November 2018 ballot. In order to qualify for the increased
15 share ratio, twenty-five percent (25%) of the project costs or a minimum of five hundred thousand
16 dollars (\$500,000) must be specifically directed to this purpose.

17 (d) For purposes of educational enhancement, including projects devoted to the
18 enhancement of early childhood education and career and technical education, the school housing
19 aid ratio shall be increased by five percent (5%) so long as construction of the project commences
20 by December 30, 2022, is completed by December 30, 2027, and a two hundred fifty million
21 dollar (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order
22 to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a
23 minimum of five hundred thousand dollars (\$500,000) must be specifically directed to these
24 purposes.

25 (e) For replacement of a facility that has a Facilities Condition Index of sixty-five percent
26 (65%) or higher, the school housing ratio shall be increased by five percent (5%) so long as
27 construction of the project commences by December 30, 2023, is completed by December 30,
28 2028, does not receive a bonus pursuant to § 16-7-40(f) or § 16-7-40(g), and a two hundred fifty
29 million dollar (\$250,000,000) general obligation bond is approved on the November 2018 ballot.
30 In order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or
31 a minimum of five hundred thousand dollars (\$500,000) must be specifically directed to this
32 purpose.

33 (f) For any new construction or renovation that increases the functional utilization of any
34 facility from less than sixty percent (60%) to more than eight percent (80%), including the

1 consolidation of buildings within or across districts, the school housing aid ratio shall be
2 increased by five percent (5%) so long as construction of the project commences by December
3 30, 2023, is completed by December 30, 2028, and a two hundred fifty million dollar
4 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to
5 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
6 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

7 (g) For any new construction or renovation that decreases the functional utilization of any
8 facility from more than one hundred twenty percent (120%) to between eighty-five percent (85%)
9 to one hundred five percent (105%), the school housing ratio shall be increased by five percent
10 (5%) so long as construction of the project commences by December 30, 2023, is completed by
11 December 30, 2028, and a two hundred fifty million dollar (\$250,000,000) general obligation
12 bond is approved on the November 2018 ballot. In order to qualify for the increased share ratio,
13 twenty-five percent (25%) of the project costs or a minimum of five hundred thousand dollars
14 (\$500,000) must be specifically directed to this purpose.

15 (h) For consolidation of two (2) or more school buildings, within or across districts into
16 one school building, the school housing aid ratio shall be increased by five percent (5%) so long
17 as construction of the project commences by December 30, 2023, is completed by December 30,
18 2028, a two hundred fifty million dollar (\$250,000,000) general obligation bond is approved on
19 the November 2018 ballot, and does not receive a bonus pursuant to § 16-7-40(f) or § 16-7-40(g).
20 In order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or
21 a minimum of five hundred thousand dollars (\$500,000) must be specifically directed to this
22 purpose.

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

26 **16-7-41 Computation of school housing aid.**

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

29 The cost of each new school housing project certified to the commissioner of elementary
30 and secondary education not later than July 15 of the fiscal year shall be divided by the actual
31 number of years of the bond issued by the local community or the Rhode Island Health and
32 Educational Building Corporation in support of the specific project, times the school housing aid
33 ratio; and provided, further, with respect to costs of new school projects financed with proceeds
34 of bonds issued by the local community or the Rhode Island Health and Educational Building

1 Corporation in support of the specific project, the amount of the school housing aid payable in
2 each fiscal year shall not exceed the amount arrived at by multiplying the principal and interest of
3 the bonds payable in each fiscal year by the school housing aid ratio and which principal and
4 interest amount over the life of the bonds, shall, in no event, exceed the costs of each new school
5 housing project certified to the commissioner of elementary and secondary education. If a
6 community fails to specify or identify the appropriate reimbursement schedule, the commissioner
7 of elementary and secondary education may at his or her discretion set up to a five (5) year
8 reimbursement cycle for projects under five hundred thousand dollars (\$500,000); up to ten (10)
9 years for projects up to three million dollars (\$3,000,000); and up to twenty (20) years for
10 projects over three million dollars (\$3,000,000).

11 (b) Aid shall be provided for the same period as the life of the bonds issued in support of
12 the project and at the school housing aid ratio applicable to the local community as set forth in §
13 16-7-39 at the time ~~of the bonds issued in support of the project as set forth in § 16-7-39~~ the
14 project is approved by the council on elementary and secondary education.

15 (c) Aid shall be paid either to the community or in the case of projects financed through
16 the Rhode Island Health and Educational Building, to the Rhode Island Health and Educational
17 Building Corporation or its designee including, but not limited to, a trustee under a bond
18 indenture or loan and trust agreement, in support of bonds issued for specific projects of the local
19 community in accordance with this section, § 16-7-40 and § 16-7-44. Notwithstanding the
20 preceding, in case of failure of any city, town or district to pay the amount due in support of
21 bonds issued on behalf of a city, town, school or district project financed by the Rhode Island
22 Health and Educational Building Corporation, upon notification by the Rhode Island Health and
23 Educational Building Corporation, the general treasurer shall deduct the amount from aid
24 provided under this section, § 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city,
25 town or district and direct said funding to the Rhode Island Health and Educational Building
26 Corporation or its designee.

27 (d) Notwithstanding any provisions of law to the contrary, in connection with the
28 issuance of refunding bonds benefiting any local community, any net interest savings resulting
29 from the refunding bonds issued by such community or a municipal public buildings authority for
30 the benefit of the community or by the Rhode Island health and educational building corporation
31 for the benefit of the community, in each case in support of school housing projects for the
32 community, shall be allocated between the community and the state of Rhode Island, by applying
33 the applicable school housing aid ratio at the time of issuance of the refunding bonds, calculated
34 pursuant to § 16-7-39, that would otherwise apply in connection with school housing projects of

1 the community; provided however, that for any refundings that occur between July 1, 2013 and
2 December 31, 2015, the community shall receive eighty percent (80%) of the total savings and
3 the state shall receive twenty percent (20%). In connection with any such refunding of bonds, the
4 finance director or the chief financial officer of the community shall certify such net interest
5 savings to the commissioner of elementary and secondary education. Notwithstanding § 16-7-44
6 or any other provision of law to the contrary, school housing projects costs in connection with
7 any such refunding bond issue shall include bond issuance costs incurred by the community, the
8 municipal public buildings authority or the Rhode Island health and educational building
9 corporation, as the case may be, in connection therewith. In connection with any refunding bond
10 issue, school housing project costs shall include the cost of interest payments on such refunding
11 bonds, if the cost of interest payments was included as a school housing cost for the bonds being
12 refunded. A local community or municipal public buildings authority shall not be entitled to the
13 benefits of this subsection (d) unless the net present value savings resulting from the refunding is
14 at least three percent (3%) of the refunded bond issue.

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

1 of the directive of the commissioner (or his or her designee) to refund such bonds. Such reduction
2 in the aid shall begin in the fiscal year following the fiscal year in which the commissioner issued
3 such directive for the remaining term of the bond.

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

5 (g) For purposes of financing or refinancing school facilities in the city of Central Falls
6 through the issuance bonds through the Rhode Island Health and Educational Building
7 Corporation, the city of Central Falls shall be considered an "educational institution" within the
8 meaning of subdivision 45-38.1-3(13) of the general laws.

9 **16-7-41.1 Eligibility for reimbursement.**

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

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

31 (c) Any project approval granted prior to the adoption of the school construction
32 regulations in 2007, and which are currently inactive; and any project approval granted prior to
33 the adoption of the school construction regulations in 2007 which did not receive voter approval
34 or which has not been previously financed, are no longer eligible for reimbursement under this

1 chapter. The department of elementary and secondary education shall develop recommendations
2 for further cost containment strategies in the school housing aid program.

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

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

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

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

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

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

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

29 (k) All projects must comply with § 37-13-6, ensuring that prevailing wage laws are
30 being followed, and § 37-14.1-6, ensuring that minority business enterprises reach a minimum of
31 ten percent (10%) of the dollar value of the bid.

32 **16-7-44 School housing project costs.**

33 School housing project costs, the date of completion of school housing projects, and the
34 applicable amount of school housing project cost commitments shall be in accordance with the

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

30 SECTION 2. Sections 16-105-3, 16-105-7, and 16-105-8 of the General Laws in Chapter
31 16-105 entitled "School Building Authority" are hereby amended to read as follows:

32 **16-105-3 Roles and responsibilities.**

33 The school building authority roles and responsibilities shall include:

34 (1) Management of a system with the goal of ensuring equitable and adequate school

1 housing for all public school children in the state;

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

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

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

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

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

23 (i) At least annually, a list of prequalified contractors, architects, and engineers shall be
24 publically posted with all other program information.

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

27 ~~(6)~~(8) Providing technical advice and assistance, training, and education to cities, towns,
28 and/or LEAs and to general contractors, subcontractors, construction or project managers,
29 designers and others in planning, maintenance, and establishment of school facility space;

30 ~~(7)~~(9) Developing a project priority system, based on the recommendations of the school
31 building authority advisory board, in accordance with school construction regulations for ~~the state~~
32 ~~school housing aid set forth in §§ 16-7-35 to 16-7-47 and~~ the school building authority capital
33 fund, subject to review and, if necessary, to be revised on intervals not to exceed five (5) years.
34 Project priorities shall ~~be in accordance with~~ include, but not be limited to, the following order of

1 priorities:

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

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

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

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

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

12 ~~(8)~~(10) Maintaining a current list of requested school projects and the priority given
13 them;

14 ~~(9)~~(11) Collecting and maintaining readily available data on all the public school
15 facilities in the state;

16 (12) Collecting, maintaining, and making publicly available quarterly progress reports of
17 all ongoing school construction projects that shall include, at a minimum, the costs of the project
18 and the time schedule of the project;

19 ~~(10)~~(13) Recommending policies and procedures designed to reduce borrowing for
20 school construction programs at both state and local levels;

21 ~~(11)~~(14) At least every five (5) years, conducting a needs survey to ascertain the capital
22 construction, reconstruction, maintenance, and other capital needs for schools in each district of
23 the state, including public charter schools;

24 ~~(12)~~(15) Developing a formal enrollment projection model or using projection models
25 already available;

26 ~~(13)~~(16) Encouraging local education agencies to investigate opportunities for the
27 maximum utilization of space in and around the district;

28 ~~(14)~~(17) Collecting and maintaining a clearinghouse of prototypical school plans that
29 may be consulted by eligible applicants;

30 (18) Retaining the services of consultants, as necessary, to effectuate the roles and
31 responsibilities listed within this section;

32 ~~(15)~~(19) ~~By regulation, offering additional incentive points to the school housing aid ratio~~
33 ~~calculation set forth in § 16-7-39, as the authority, based upon the recommendation of the~~
34 ~~advisory board, determines will promote the purposes of this chapter. Said regulations may~~

1 ~~delineate the type and amounts of any such incentive percentage points; provided, however, that~~
2 ~~no individual category of incentive points shall exceed two (2) additional points; and provided~~
3 ~~further, that no district shall receive a combined total of more than five (5) incentive percentage~~
4 ~~points. Such incentive points may be awarded for a district's use of highly efficient construction~~
5 ~~delivery methods; regionalization with other districts; superior maintenance practices of a district;~~
6 ~~energy efficient and sustainable design and construction; the use of model schools as adopted by~~
7 ~~the authority; and other incentives as recommended by the advisory board and determined by the~~
8 ~~authority to encourage the most cost effective and quality construction.~~ No district shall receive a
9 combined total of more than twenty (20) incentive percentage points for projects that commence
10 construction by December 30, 2023, and five (5) incentive points for projects that commence
11 construction thereafter; provided further, these caps shall be in addition to amounts received
12 under §§ 16-7-40(a)(1) and 16-7-40(a)(2). Furthermore, a district's share shall not be decreased
13 by more than half of its regular share irrespective of the number of incentive points received, nor
14 shall a district's state share increase by more than half of its regular share, including amounts
15 received under §§ 16-7-40(a)(1) and 16-7-40(a)(2), irrespective of the number of incentive points
16 received. Notwithstanding any provision of the general laws to the contrary, the reimbursement
17 or aid 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. If a two hundred and fifty million
19 dollar (\$250,000,000) general obligation bond is approved on the November 2018 ballot, projects
20 approved between May 1, 2015 and January 1, 2018 are eligible to receive incentive points
21 (above and beyond what the project was awarded at the time of approval) pursuant to § 16-7-39
22 and § 16-7-40. Provided, however, any project approved during this time period with a project
23 cost in excess of one million five hundred thousand dollars (\$1,500,000), which does not include
24 an owners program manager and a commissioning agent, shall only be eligible to receive five (5)
25 incentive points. Incentive points awarded pursuant to the provisions of this subsection shall only
26 be applied to reimbursements occurring on or after July 1, 2018. Any project approved between
27 May 1, 2015 and January 1, 2018 that is withdrawn and/or resubmitted for approval shall not be
28 eligible for any incentive points.

29 **16-105-7 Expenses incurred by the department school building authority Expenses**
30 **incurred by the school building authority.**

31 In order to provide for one-time or limited-expenses of the ~~department of elementary and~~
32 ~~secondary education~~ school building authority under this chapter, the Rhode Island health and
33 educational building corporation shall provide funding from the school building authority capital
34 fund, fees generated from the origination of municipal bonds and other financing vehicles used

1 [for school construction, and its own reserves](#). The school building authority shall, by October 1 of
2 each year, report to the governor and the chairs of the senate and house finance committees, the
3 senate fiscal advisor, and the house fiscal advisor the amount sought for expenses for the next
4 fiscal year.

5 [There is also hereby established a restricted receipt account within the budget of the](#)
6 [department of elementary and secondary education entitled "school construction services", to be](#)
7 [financed by the Rhode Island health and educational building corporation's sub-allotments of fees](#)
8 [generated from the origination of municipal bonds and other financing vehicles used for school](#)
9 [construction and its own reserves. Effective July 1, 2018, this account shall be utilized for the](#)
10 [express purpose of supporting personnel expenditures directly related to the administration of the](#)
11 [school construction aid program.](#)

12 **16-105-8. School building authority advisory board established.**

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

17 (b) The school building authority advisory board shall consist of seven (7)-members as
18 follows:

19 (1) The general treasurer, [or designee](#);

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

21 (3) ~~A member of the governor's staff, as designated by the governor~~ [The chair of the](#)
22 [Rhode Island health and educational building corporation](#); and

23 (4) Four (4) members of the public, appointed by the governor, and who serve at the
24 pleasure of the governor, each of whom shall have expertise in education and/or construction, real
25 estate, or finance. At least one of these four (4) members shall represent a local education agency
26 [and at least one of these four \(4\) members shall be an educator.](#)

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

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

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

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

34 (4) Development of a formal enrollment projection model or consideration of using

1 projection models already available;

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

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

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

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

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

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

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

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

20 SECTION 3. Sections 45-38.2-2, 45-38.2-3 and 45-38.2-4 of the General Laws in
21 Chapter 45-38.2 entitled "School Building Authority Capital Fund" are hereby amended to read
22 as follows:

23 **45-38.2-2. School building authority capital fund.**

24 (a) There is hereby established a school building authority capital fund. The corporation
25 shall establish and set up on its books the fund, to be held in trust and to be administered by the
26 corporation as provided in this chapter. This fund shall be in addition to the annual appropriation
27 for committed expenses related to the repayment of housing aid commitments. The corporation
28 shall deposit the following monies into the fund:

29 (1) The difference between the annual housing aid appropriation and housing aid
30 commitment amounts appropriated or designated to the corporation by the state for the purposes
31 of the foundation program for school housing; [provided that for FY 2019 and FY 2020 that](#)
32 [amount shall be used for technical assistance to districts pursuant to § 16-105-3\(7\);](#)

33 (2) Loan repayments, bond refinance interest savings, and other payments received by the
34 corporation pursuant to loan or financing agreements with cities, towns, or LEAs executed in

1 accordance with this chapter;

2 (3) Investment earnings on amounts credited to the fund;

3 (4) Proceeds of bonds of the corporation issued in connection with this chapter to the
4 extent required by any trust agreement for such bonds;

5 (5) Administrative fees levied by the corporation, with respect to financial assistance
6 rendered under this chapter and specified in § 45-38.2-3(a)(4), less operating expenses;

7 (6) Other amounts required by provisions of this chapter or agreement, or any other law
8 or any trust agreement pertaining to bonds to be credited to the fund; and

9 (7) Any other funds permitted by law which the corporation in its discretion shall
10 determine to credit thereto.

11 (b) The corporation shall establish and maintain fiscal controls and accounting
12 procedures conforming to generally accepted government accounting standards sufficient to
13 ensure proper accounting for receipts in and disbursements from the school building authority
14 capital fund.

15 (c) The school building authority shall establish and maintain internal controls to ensure
16 that LEAs are providing adequate asset protection plans, all LEAs have equal access and
17 opportunity to address facility improvements on a priority basis, and to ensure that funding from
18 the school building authority capital fund has the greatest impact on facility gaps in state priority
19 areas. The school building authority will also manage necessity of school construction approvals
20 in accordance with the funding levels set forth by the general assembly.

21 **45-38.2-3. Administration.**

22 (a) The corporation shall have all the powers necessary or incidental to carry out and
23 effectuate the purposes and provisions of this chapter including:

24 (1) To receive and disburse such funds from the state as may be available for the purpose
25 of the fund subject to the provisions of this chapter;

26 (2) To make and enter into binding commitments to provide financial assistance to cities,
27 towns and LEAs from amounts on deposit in the fund;

28 (3) To enter into binding commitments to provide subsidy assistance for loans and city,
29 town, and LEA obligations from amounts on deposit in the fund;

30 (4) To levy administrative fees on cities, towns, and LEAs as necessary to effectuate the
31 provisions of this chapter; ~~provided the fees have been previously authorized by an agreement~~
32 ~~between the corporation and the city, town, or LEA;~~ provided that the fee does not exceed one
33 tenth of one percent (0.001) of the principal amount;

34 (5) To engage the services of third-party vendors to provide professional services;

1 (6) To establish one or more accounts within the fund; and

2 (7) Such other authority as granted to the corporation under chapter 38.1 of title 45.

3 (b) Subject to the provisions of this chapter, and to any agreements with the holders of
4 any bonds of the corporation or any trustee therefor, amounts held by the corporation for the
5 account of the fund shall be applied by the corporation, either by direct expenditure,
6 disbursement, or transfer to one or more other funds and accounts held by the corporation or a
7 trustee under a trust agreement or trust indenture entered into by the corporation with respect to
8 bonds or notes issued by the corporation under this chapter or by a holder of bonds or notes
9 issued by the corporation under this chapter, either alone or with other funds of the corporation, to
10 the following purposes:

11 (1) To provide financial assistance to cities, towns and LEAs to finance costs of approved
12 projects, and to refinance the costs of the projects, subject to such terms and conditions, if any, as
13 are determined by the department and/or the corporation;

14 (2) To fund reserves for bonds of the corporation and to purchase insurance and pay the
15 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
16 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
17 otherwise provide security for, and a source of payment for obligations of the corporation, by
18 pledge, lien, assignment, or otherwise as provided in chapter 38.1 of title 45;

19 (3) To pay or provide for subsidy assistance as determined by the school building
20 authority;

21 (4) To provide a reserve for, or to otherwise secure, amounts payable by cities, towns,
22 and LEAs on loans and city, town, and LEA obligations outstanding in the event of default
23 thereof; amounts in any account in the fund may be applied to defaults on loans outstanding to the
24 city, town, or LEA for which the account was established and, on a parity basis with all other
25 accounts, to defaults on any loans or city, town, or LEA obligations outstanding; and

26 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or
27 otherwise as provided in chapter 38.1 of title 45, any bonds or notes of the corporation issued
28 under this chapter.

29 (c) The repayment obligations of the city, town, or LEA for loans shall be in accordance
30 with its eligibility for state aid for school housing as set forth in §§ 16-7-39, 16-77.1-5, and 105-
31 3(15).

32 (d) In addition to other remedies of the corporation under any loan or financing
33 agreement or otherwise provided by law, the corporation may also recover from a city, town or
34 LEA, in an action in superior court, any amount due the corporation together with any other

1 actual damages the corporation shall have sustained from the failure or refusal of the city, town,
2 or LEA to make the payments or abide by the terms of the loan or financing agreement.

3 **45-38.2-4 Payment of state funds.**

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

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

15 (c) The corporation, per order of the school building authority capital fund, is authorized
16 to grant a district or municipality its state share of an approved project cost, pursuant to §§ 16-7-
17 39 and 16-77.1-5. Construction pay-as-you-go grants received from the school building authority
18 capital fund shall not be considered a form of indebtedness subject to the provisions of § 16-7-44.

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

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

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

31 (2) Funds to support the state share of foundational housing aid in a given year on a pay-
32 as-you-go basis shall be offered proportionately to LEAs based on the total state share of
33 foundational housing aid awarded to projects in that year.

34 (3) Any excess funds may be transferred to the school building authority capital fund in

1 [an amount not to exceed five percent \(5%\) of any amount of bonds issued in a given year.](#)

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

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

8 SECTION 4. This act shall take effect upon passage.

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LC005486/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO SCHOOL CONSTRUCTION AND EDUCATION

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.

5 This act would take effect upon passage.

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LC005486/SUB A
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