



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: March 16, 2018

Subject: Amendments to Article 9 of the FY 2019 Appropriations Act
(18-H-7200)

The Governor requests that Article 9 entitled "Relating to School Construction and Education" submitted on January 18, 2018 be replaced with the attached version. The new version makes several changes to clarify the intent of the statute and fixes some typographical errors in the original version. The proposed changes are based on feedback received from various parties, including the League of Cities and Towns, the Department of Education, the RI Health and Educational Building Corporation, and the House Fiscal Advisory Staff.

The language to be changed is highlighted in grey. Inaccurate language to be removed from the original article is stricken.

If you have any questions regarding this amendment, please feel free to call me at 222-6300.

TAM:sma 19-Amend-11

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget

1 **ARTICLE 9**

2 **RELATING TO SCHOOL CONSTRUCTION AND EDUCATION**

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

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

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

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

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

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

21 (3)(4) "Community" means any city, town, or regional school district established pursuant to law;
22 provided, however, that the member towns of the Chariho regional high school district, created by P.L.
23 1958, ch. 55, as amended, shall constitute separate and individual communities for the purposes of
24 distributing the foundation level school support for school housing for all grades financed in whole or in
25 part by the towns irrespective of any regionalization.

1 (5) “Facilities Condition Index” means the cost to fully repair the building divided by the cost to
2 replace the building as defined by the school building authority.

3 (6) “Functional Utilization” means the ratio of the student population within a school facility to the
4 capacity of the school facility to adequately serve students, as defined by the school building authority.

5 (7) “Owners Program Manager” means owner’s program manager as defined in § 37-2-7(32).

6 (8) “Prime contractor” means the **construction** contractor who is responsible for the completion of
7 a project.

8 ~~(4)~~(9) "Reference year" means the year next prior to the school year immediately preceding that in
9 which aid is to be paid.

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

14 **16-7-39 Computation of school housing aid ratio.**

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

17 (1) The adjusted equalized weighted assessed valuation for the district is divided by the resident
18 average daily membership for the district (grades twelve (12) and below); (2) the adjusted equalized
19 weighted assessed valuation for the state is divided by the resident average daily membership for the state
20 (grades twelve (12) and below); (1) is then divided by (2) and the resultant ratio is multiplied by a factor
21 currently set at sixty-two percent (62%) which represents the approximate average district share of school
22 support; the resulting product is then subtracted from one hundred percent (100%) to yield the housing aid
23 share ratio. ~~provided that in no case shall the ratio be less than thirty percent (30%). Provided, that effective~~
24 ~~July 1, 2010, and annually at the start of each fiscal year thereafter, the thirty percent (30%) floor on said~~

1 housing aid share shall be increased by five percent (5%) increments each year until said floor on the
2 housing aid share ratio reaches a minimum of not less than forty percent (40%). This provision shall apply
3 only to school housing projects completed after June 30, 2010 that received approval from the board of
4 regents prior to June 30, 2012. Provided further, for the fiscal year beginning July 1, 2012 and for
5 subsequent fiscal years, the minimum housing aid share shall be thirty five percent (35%) for all projects
6 receiving board of regents approval after June 30, 2012. Notwithstanding any other law to the contrary, for
7 the fiscal year beginning July 1, 2012 2018 and for subsequent fiscal years, the minimum housing aid share
8 for all local education agency (LEA) public school construction projects receiving council of elementary
9 and secondary education approval, the minimum housing aid share shall be thirty-five percent (35%) and
10 in no case shall the ratio be less than thirty-five percent (35%). The resident average daily membership
11 shall be determined in accordance with § 16-7-22(1).

12 **16-7-40 Increased school housing ratio for regional schools – Energy conservation – Access**
13 **for people with disabilities – Asbestos removal projects – Health and Safety – Remediation –**
14 **Technology Enabled – Space Utilization.**

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

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

20 (b) In the case of projects undertaken by regionalized and/or non-regionalized school districts, the
21 following incentive points shall be available, subject to the restrictions set forth in § 16-105-3(19):

22 (i) ~~specifically f~~ For the purposes of energy conservation, access for people with disabilities, and/or
23 asbestos removal, the school housing aid share ratio shall be increased by four percent (4%) for these
24 specific projects only, in the calculation of school housing aid. The increased share ratio shall continue to

1 be applied for as ~~long~~ long as the project(s) receive state housing aid. In order to qualify for the increased
2 share ratio, seventy-five percent (75%) of the project costs must be specifically directed to either energy
3 conservation, access for people with disabilities, and/or asbestos removal or any combination of these
4 projects. ~~The board of regents for~~ council on elementary and secondary education shall promulgate rules
5 and regulations for the administration and operation of this section.

6 (ii) For purposes of addressing health and safety deficiencies as defined by the school building
7 authority, including the remediation of hazardous materials and school security upgrades, the school
8 housing aid ratio shall be increased by five percent (5%) so long as the construction of the project
9 commences by December 30, 2022, is completed by December 30, 2027, and a \$250M general obligation
10 bond is approved on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-
11 five percent (25%) of the project costs or a minimum of \$250,000 must be specifically directed to this
12 purpose.

13 (iii) For purposes of educational enhancement, including projects devoted to the enhancement of
14 teaching science, technology, engineering, arts, and math (STEAM), early childhood education, career and
15 technical education and technology enabled facilities, the school housing aid ratio shall be increased by five
16 percent (5%) so long as construction of the project commences by December 30, 2022, is completed by
17 December 30, 2027, and a \$250M general obligation bond is approved on the November 2018 ballot. In
18 order to qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
19 of \$250,000 must be specifically directed to this purpose.

20 (iv) For replacement of a facility that has a Facilities Condition Index of 65% or higher, the school
21 housing ratio shall be increased by five percent (5%) so long as construction of the project commences by
22 December 30, 2023, is completed by December 30, 2028, and a \$250M general obligation bond is approved
23 on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-five percent (25%)
24 of the project costs or a minimum of \$250,000 must be specifically directed to this purpose.

1 (v) For any new construction or renovation that increases the functional utilization of any facility
2 from less than 60% to more than 80%, including the consolidation of buildings within or across districts,
3 the school housing aid ratio shall be increased by five percent (5%) so long as construction of the project
4 commences by December 30, 2023, is completed by December 30, 2028, and a \$250M general obligation
5 bond is approved on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-
6 five percent (25%) of the project costs or a minimum of \$250,000 must be specifically direct to this purpose.

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

13 (vii) For consolidation of two (2) or more school buildings, within or across districts into one school
14 building, the school housing aid ratio shall be increased by five percent (5%) so long as construction of the
15 project commences by December 30, 2023, is completed by December 30, 2028, and a \$250M general
16 obligation bond is approved on the November 2018 ballot. In order to qualify for the increased share ratio,
17 twenty-five percent (25%) of the project costs or a minimum of \$250,000 must be specifically directed to
18 this purpose.

19 (eviii) Upon the transfer of ownership from the state to the respective cities and towns of tThe
20 regional career and technical center buildings located in Coventry, Cranston, East Providence, Newport,
21 Providence, Warwick, Woonsocket and the Chariho regional school district, and for any future career and
22 technical center buildings created under § 16-45-6.1(c), the school housing aid share ratio shall be increased
23 by four percent (4%) for the renovation and/or repair of these buildings. ~~To qualify for the increased share~~
24 ~~ratio, as defined in § 16-7-39, renovation and repair projects must be submitted for approval through the~~

1 ~~necessity of school construction process prior to the end of the second full fiscal year following the transfer~~
2 ~~of ownership and assumption of local care and control of the building.~~ Only projects at regional career and
3 technical centers that have full program approval from the department of elementary and secondary
4 education shall be eligible for the increased share ratio. The increased share ratio shall continue to be applied
5 for as long as the renovation and/or repair project receives school housing aid.

6 **16-7-41 Computation of school housing aid.**

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

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

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

4 (c) Aid shall be paid either to the community or in the case of projects financed through the Rhode
5 Island Health and Educational Building Corporation ~~or the Rhode Island Infrastructure Bank~~, to the Rhode
6 Island Health and Educational Building Corporation ~~or the Rhode Island Infrastructure Bank~~ or its designee
7 including, but not limited to, a trustee under a bond indenture or loan and trust agreement, in support of
8 bonds issued for specific projects of the local community in accordance with this section, § 16-7-40 and §
9 16-7-44. Notwithstanding the preceding, in case of failure of any city, town or district to pay the amount
10 due in support of bonds issued on behalf of a city, town, school or district project financed by the Rhode
11 Island Health and Educational Building Corporation ~~or the Rhode Island Infrastructure Bank~~, upon
12 notification by the Rhode Island Health and Educational Building Corporation ~~or the Rhode Island~~
13 ~~Infrastructure Bank~~, the general treasurer shall deduct the amount from aid provided under this section, §
14 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city, town or district and direct said funding
15 to the Rhode Island Health and Educational Building Corporation ~~or the Rhode Island Infrastructure Bank~~
16 or its designee. Aid paid to a community, including, but not limited to, in connection with a project financed
17 through the Rhode Island Infrastructure Bank, in accordance with §46-12.2-4.2(g), shall not be pledged or
18 otherwise be available to pay principal or interest on bonds or notes or other forms of indebtedness issued
19 by the Rhode Island Infrastructure Bank, either directly or indirectly through loan agreements, bonds, notes,
20 lease revenue bonds, or capital leases, delivered by a community to the Rhode Island Infrastructure Bank.

21 (d) Notwithstanding any provisions of law to the contrary, in connection with the issuance of
22 refunding bonds benefiting any local community, any net interest savings resulting from the refunding
23 bonds issued by such community or a municipal public buildings authority for the benefit of the community
24 or by the Rhode Island health and educational building corporation ~~or the Rhode Island Infrastructure Bank~~

1 for the benefit of the community, in each case in support of school housing projects for the community,
2 shall be allocated between the community and the state of Rhode Island, by applying the applicable school
3 housing aid ratio at the time of issuance of the refunding bonds, calculated pursuant to § 16-7-39, that would
4 otherwise apply in connection with school housing projects of the community; provided however, that for
5 any refundings that occur between July 1, 2013 and December 31, 2015, the community shall receive eighty
6 percent (80%) of the total savings and the state shall receive twenty percent (20%). In connection with any
7 such refunding of bonds, the finance director or the chief financial officer of the community shall certify
8 such net interest savings to the commissioner of elementary and secondary education. Notwithstanding §
9 16-7-44 or any other provision of law to the contrary, school housing projects costs in connection with any
10 such refunding bond issue shall include bond issuance costs incurred by the community, the municipal
11 public buildings authority or the Rhode Island health and educational building corporation or the Rhode
12 Island Infrastructure Bank, as the case may be, in connection therewith. In connection with any refunding
13 bond issue, school housing project costs shall include the cost of interest payments on such refunding bonds,
14 if the cost of interest payments was included as a school housing cost for the bonds being refunded. A local
15 community or municipal public buildings authority shall not be entitled to the benefits of this subsection
16 (d) unless the net present value savings resulting from the refunding is at least three percent (3%) of the
17 refunded bond issue.

18 (e) Any provision of law to the contrary notwithstanding, the commissioner of elementary and
19 secondary education shall cause to be monitored the potential for refunding outstanding bonds of local
20 communities or municipal public building authorities or of the Rhode Island Health and Educational
21 Building Corporation or the Rhode Island Infrastructure Bank issued for the benefit of local communities
22 or municipal public building authorities and benefiting from any aid referenced in this section. In the event
23 it is determined by said monitoring that the net present value savings which could be achieved by refunding
24 such bonds of the type referenced in the prior sentence including any direct costs normally associated with

1 such refundings is equal to (i) at least one hundred thousand dollars (\$100,000) and (ii) for the state and the
2 communities or public building authorities at least three percent (3%) of the bond issue to be refunded
3 including associated costs then, in such event, the commissioner (or his or her designee) may direct the
4 local community or municipal public building authority for the benefit of which the bonds were issued, to
5 refund such bonds. Failure of the local community or municipal public buildings authority to timely refund
6 such bonds, except due to causes beyond the reasonable control of such local community or municipal
7 public building authority, shall result in the reduction by the state of the aid referenced in this § 16-7-4.1
8 associated with the bonds directed to be refunded in an amount equal to ninety percent (90%) of the net
9 present value savings reasonably estimated by the commissioner of elementary and secondary education
10 (or his or her designee) which would have been achieved had the bonds directed to be refunded been
11 refunded by the ninetieth (90th) day (or if such day is not a business day in the state of Rhode Island, the
12 next succeeding business day) following the date of issuance of the directive of the commissioner (or his
13 or her designee) to refund such bonds. Such reduction in the aid shall begin in the fiscal year following the
14 fiscal year in which the commissioner issued such directive for the remaining term of the bond.

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

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

20 **16-7-41.1 Eligibility for reimbursement.**

21 (a) School districts, not municipalities, may apply for and obtain approval for a project under the
22 necessity of school construction process set forth in the regulations of the ~~board of regents for council on~~
23 elementary and secondary education, provided, however, in the case of municipality which issues bonds
24 through the Rhode Island Health and Educational Building Corporation or the Rhode Island Infrastructure

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

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

18 (c) Any project approval granted prior to the adoption of the school construction regulations in
19 2007, and which are currently inactive; and any project approval granted prior to the adoption of the school
20 construction regulations in 2007 which did not receive voter approval or which has not been previously
21 financed, are no longer eligible for reimbursement under this chapter. The department of elementary and
22 secondary education shall develop recommendations for further cost containment strategies in the school
23 housing aid program.

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

5 (e) Beginning June 30, 2019, no state funding shall be provided for projects in excess of ten million
6 dollars (\$10,000,000) unless the prime contractor for the project has received certification from the school
7 building authority.

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

14 **16-7-44 School housing project costs.**

15 (a) School housing project costs, the date of completion of school housing projects, and the
16 applicable amount of school housing project cost commitments shall be in accordance with the regulations
17 of the commissioner of elementary and secondary education and the provisions of §§ 16-7-35 – 16-7-47;
18 provided, however, that school housing project costs shall include the purchase of sites, buildings, and
19 equipment, the construction of buildings, and additions or renovations of existing buildings and/or facilities.
20 School housing project costs shall include the cost of interest payment on any bond issued after July 1,
21 1988, provided that such bond is approved by the voters on or before June 30, 2003, or issued by a municipal
22 public building authority or by the appropriate approving authority on or before June 30, 2003. Except as
23 provided in § 16-7-41(d) and § 46-12.2-4.2(g), those projects approved after June 30, 2003, interest
24 payments may only be included in project costs provided that the bonds for these projects are issued through

1 the Rhode Island Health and Educational Building Corporation or the Rhode Island Infrastructure Bank.
2 School housing project costs shall exclude: (1) any bond issuance costs incurred by the municipality or
3 regional school district; (2) demolition costs for buildings, facilities, or sites deemed surplus by the school
4 committee; and (3) restrictions pursuant to § 16-7-44.1 below. A building, facility, or site is declared surplus
5 by a school committee when the committee no longer has such building, facility, or site under its direct care
6 and control and transfers control to the municipality, § 16-2-15. The ~~board of regents for council on~~
7 elementary and secondary education will promulgate rules and regulations for the administration of this
8 section. These rules and regulations may provide for the use of lease revenue bonds, capital leases, or capital
9 reserve funding, to finance school housing provided that the term of any bond, or capital lease shall not be
10 longer than the useful life of the project and these instruments are subject to the public review and voter
11 approval otherwise required by law for the issuance of bonds or capital leases. Cities or towns issuing
12 bonds, or leases issued by municipal public buildings authority for the benefit of a local community
13 pursuant to chapter 50 of title 45 shall not require voter approval. Effective January 1, 2008, and except for
14 interim finance mechanisms, refunding bonds, borrowing from the school building authority capital fund,
15 and bonds issued by the Rhode Island Health and Educational Building Corporation or the Rhode Island
16 Infrastructure Bank to finance school housing projects for towns, cities, or regional school districts
17 borrowing for which has previously been authorized by an enabling act of the general assembly, all bonds,
18 notes and other forms of indebtedness issued in support of school housing projects shall require passage of
19 an enabling act by the general assembly.

20 (b) Beginning July 1, 2019, school housing projects exceeding \$1,500,000 subject to inflation shall
21 be assigned an owners program manager and a commissioning agent by the school building authority. The
22 cost of the program manager and commissioning agent shall be borne by the school building authority.

1 (c) Temporary housing, or swing space, for students shall be a reimbursable expense so long as a
2 district can demonstrate that no other viable option to temporarily house students exists and provided that
3 use of the temporary space is time limited and tied to a specific construction project.

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

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

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

11 **16-105-3 Roles and responsibilities.**

12 The school building authority roles and responsibilities shall include:

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

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

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

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

21 (5) Promulgating, Managing and maintaining school construction regulations, standards, and
22 guidelines applicable to the school housing program, based on the recommendations of the school building
23 authority advisory board, created in § 16-105-8. Said regulations shall require conformance with the
24 minority business enterprise requirements set forth in § 37-14.1-6;

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

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

15 ~~(6)~~(8) Providing technical advice and assistance, training, and education to cities, towns, and/or
16 LEAs and to certified general contractors, subcontractors, construction or project managers, designers and
17 others in planning, maintenance, and establishment of school facility space;

18 ~~(7)~~(9) Developing a project priority system, based on the recommendations of the school building
19 authority advisory board, in accordance with school construction regulations for the state school housing
20 aid set forth in §§ 16-7-35 to 16-7-47 and the school building authority capital fund, subject to review and,
21 if necessary, to be revised on intervals not to exceed five (5) years. Project priorities shall ~~be in accordance~~
22 ~~with~~ include, but not be limited to, the following order of priorities:

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

- 1 (ii) Projects needed to prevent loss of accreditation;
- 2 (iii) Projects needed for the replacement, renovation, or modernization of the HVAC system in any
3 schoolhouse to increase energy conservation and decrease energy-related costs in said schoolhouse;
- 4 (iv) Projects needed to replace or add to obsolete buildings in order to provide for a full range of
5 programs consistent with state and approved local requirements; and
- 6 (v) Projects needed to comply with mandatory, instructional programs.
- 7 ~~(8)~~(10) Maintaining a current list of requested school projects and the priority given them;
- 8 ~~(9)~~(11) Collecting and maintaining readily available data on all the public school facilities in the
9 state;
- 10 (12) Collecting, maintaining, and making publicly available ~~monthly~~ quarterly progress reports of
11 ongoing school construction projects that shall include, at a minimum, the costs of the project and the time
12 schedule of each project;
- 13 ~~(10)~~(13) Recommending policies and procedures designed to reduce borrowing for school
14 construction programs at both state and local levels;
- 15 ~~(11)~~(14) At least every five (5) years, conducting a needs survey to ascertain the capital
16 construction, reconstruction, maintenance, and other capital needs for schools in each district of the state,
17 including public charter schools;
- 18 ~~(12)~~(15) Developing a formal enrollment projection model or using projection models already
19 available;
- 20 ~~(13)~~(16) Encouraging local education agencies to investigate opportunities for the maximum
21 utilization of space in and around the district;
- 22 ~~(14)~~(17) Collecting and maintaining a clearinghouse of prototypical school plans that may be
23 consulted by eligible applicants;

1 (18) Retaining the services of consultants, construction managers, program managers, architects,
2 engineers and experts, as necessary, to effectuate the roles and responsibilities listed within 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 advisory board,
5 determines will promote the purposes of this chapter. Said regulations may delineate the type and amounts
6 of any such incentive percentage points; provided, however, that no individual category of incentive points
7 shall exceed ~~two-five (2)(5)~~ five (5) additional points; and provided further, that no district shall receive a combined
8 total of more than ~~five-twenty (5)(20)~~ five (5) incentive percentage points for projects that commence construction
9 by December 30, 2023, and five (5) incentive points for projects that commence construction thereafter.

10 Such incentive points may be awarded for a district's use of highly efficient construction delivery methods;
11 remediation of hazardous substances; regionalization with other districts; superior maintenance practices
12 of a district; energy efficient and sustainable design and construction; the use of model schools as adopted
13 by the authority; and other incentives as recommended by the advisory board and determined by the
14 authority to encourage the most cost-effective and quality construction. Notwithstanding any provision of
15 the general laws to the contrary, the reimbursement or aid received under this chapter or chapter 38.2 of
16 title 45 shall not exceed one hundred percent (100%) of the sum of the total project costs plus interest costs
17 nor shall a district's share be decreased by more than half of its regular share irrespective of the number of
18 incentive points received.

19 Projects that were approved prior to July 1, 2017, but have not commenced construction as of
20 January 1, 2018 are eligible to receive a total of five (5) combined additional incentive points (above and
21 beyond what the project was awarded at the time of approval), and will be subject to the so long as an
22 owners program manager and commissioning agent requirements set forth in § 16-7-44(b) of the school
23 building authority's choosing has been employed. Any project approved prior to July 1, 2017 that is
24 withdrawn and/or resubmitted for approval shall not be eligible for any incentive points.

1 **16-105-7 Expenses incurred by the ~~department~~ school building authority.**

2 In order to provide for ~~one time or limited~~ the expenses of the ~~department of elementary and~~
3 ~~secondary education~~ school building authority under this chapter, the Rhode Island health and education
4 building corporation shall provide funding from the school building authority capital fund, fees generated
5 from the origination of municipal bonds and other financing vehicles used for school construction, and its
6 own reserves. The school building authority shall, by October 1 of each year, report to the governor and the
7 chairs of the senate and house finance committees, the senate fiscal advisor, and the house fiscal advisor
8 the amount sought for expenses for the next fiscal year.

9 **16-105-8. School building authority advisory board established.**

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

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

16 (1) The general treasurer, or his or her designee;

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

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

19 (4) The commissioner of elementary and secondary education, or his or her designee;

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

21 ~~(4)~~ Four (4) members of the public, appointed by the governor, and who serve at the pleasure of
22 the governor, each of whom shall have expertise in education and/or construction, real estate, or finance.

23 At least one of these four members shall represent a local education agency and at least one of these four
24 members shall represent the Rhode Island League of Cities and Towns.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 SECTION 3. Section 45-38.2-4 of the General Laws in Chapter 45-38.2 entitled “School Building
4 Authority Capital Fund” are hereby amended to read as follows:

5 **45-38.2-4 Payment of state funds.**

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

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

15 (c) The corporation, per order of the school building authority capital fund, is authorized to grant a
16 district or municipality its state share of an approved project cost, pursuant to §§ 16-7-39 and 16-77.1-5.
17 Construction pay-as-you-go grants received from the school building authority capital fund shall not be
18 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 city or
20 town charter provisions to the contrary, prior to July 1, 2016, no voter approval shall be required for loans
21 in any amount made to a city or town for the local education agency's share of total project costs.

22 (2) Notwithstanding the provisions of §§ 45-12-19 and 45-12-20, and notwithstanding city or town
23 charter provisions to the contrary, on or after July 1, 2016, up to five hundred thousand dollars (\$500,000)

1 may be loaned to a city or town for the local education agency 's share of total project costs without the
2 requirement of voter approval.

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

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

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

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

15 SECTION 4. Section 46-12.2-4.2 of the General Laws in Chapter 46-12.2 entitled “Rhode Island
16 Infrastructure Bank” is hereby amended to read as follows:

17 **46-12.2-4.2. Establishment of the efficient buildings fund.**

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

23 The office of energy resources shall promulgate rules and regulations establishing a project priority list for
24 efficient buildings fund and the process through which a local governmental unit may submit an application

1 for inclusion of a project on the project priority list. Upon issuance of the project priority list by the office
2 of energy resources, the project priority list shall be used by the Rhode Island infrastructure bank to
3 determine the order in which financial assistance shall be awarded. The Rhode Island infrastructure bank
4 shall promulgate rules and regulations to effectuate the provisions of this section which may include,
5 without limitation, forms for financial assistance applications, loan agreements, and other instruments. All
6 rules and regulations promulgated pursuant to this chapter shall be promulgated in accordance with the
7 provisions of chapter 35 of title 42. Eligibility for receipt of this financial assistance by a local governmental
8 unit shall be conditioned upon that local governmental unit reallocating their remaining proportional QECB
9 allocation to the state of Rhode Island.

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

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

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

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

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

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

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

23 (c) Subject to the provisions of this section and to any agreements with the holders of any bonds of
24 the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode Island

1 infrastructure bank for the account of the fund shall be applied by the Rhode Island infrastructure bank,
2 either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the
3 Rhode Island infrastructure bank or maintained under any trust agreement pertaining to bonds, either alone
4 or with other funds of the Rhode Island infrastructure bank, to the following purposes:

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

8 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase insurance
9 and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
10 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to otherwise
11 provide security for, and a source of payment for obligations of the Rhode Island infrastructure bank, by
12 pledge, lien, assignment, or otherwise as provided in this chapter;

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

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

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

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

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

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

8 ~~(g) Any financial assistance provided by the Rhode Island infrastructure bank to a public entity for~~
9 ~~the purpose of retrofitting a school building shall not be subject to the match established by Rhode Island~~
10 ~~general laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination with the Rhode Island~~
11 ~~department of education. Notwithstanding any provisions to the contrary in Chapter 16-7, but subject to~~
12 Section 16-7-41(c), any approved project as set forth in subsection (a) of this section that is also an
13 “approved project” as defined in §16-7-36 and predominately energy or environmental in nature shall be
14 eligible for school housing assistance under §§ 16-7-35 through 16-7-47, and shall include the payment of
15 interest on bonds, lease revenue bonds, capital leases, or capital reserve funding issued by a local
16 governmental unit.

17 SECTION 5. Sections 16-26-7 and 16-26-12 of the General Laws in Chapter 16-26 entitled
18 “School for the Deaf” are hereby amended to read as follows:

19 **16-26-7. Persons admissible.**

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

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

6 (c) Students who are not deaf or hard of hearing may be admitted to the Rhode Island School for
7 the Deaf in accordance with rules and regulations promulgated by the commissioner of elementary and
8 secondary education.

9 **16-26-12. Other sources of funding.**

10 (a) The 2009 general assembly, through the FY 2010 appropriation act, established a fee for a
11 service program, also known as a tuition program, for the Rhode Island school for the deaf effective July
12 1, 2009 in accordance with the fee structure developed and implemented by the department of elementary
13 and secondary education. Under this fee for service program, and the provisions of Rhode Island general
14 law § 16-26-7.1 notwithstanding, districts shall be assessed tuition to cover the costs of educational services
15 that are additional to the core deaf and hard-of-hearing education program that is provided to resident
16 students at the Rhode Island school for the deaf.

17 (b) Tuition assessed at the school for the deaf to cover costs of educational services that are
18 additional to the core deaf and hard-of-hearing education program shall be based on a graduated tuition
19 schedule correlating to the varying needs of students. Districts shall receive three (3) times each school
20 year, invoices summarizing the basis for the tuition charged. There shall be deducted from the final aid
21 payment to each school district at the end of the fiscal year any amounts owed to the state for these
22 additional educational services. All tuition paid by districts and any aid deducted for non-payment shall be
23 deposited in a restricted receipt account and shall be exempt from the indirect cost recovery provisions of
24 § 35-4-7.

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

6 (d) For students attending the Rhode Island School for the Deaf, in accordance with § 16-26-7(c),
7 costs for those students shall be funded pursuant to the provisions of § 16-7.2-3, effective as of July 1, 2018.
8 The state share of the permanent foundation education aid shall be paid directly to the Rhode Island School
9 for the Deaf pursuant to the provisions of § 16-7.2-7. The local school district shall transfer the difference
10 between the calculated state share of the permanent foundation education aid and the amount calculated
11 pursuant to the provisions of § 16-7.2-7 to the Rhode Island School for the Deaf, until the transition of the
12 state share is complete. In addition, the local school district shall pay the local share of education funding
13 to the Rhode Island School for the Deaf as outlined in § 16-7.2-5.

14 SECTION 6. This article shall take effect upon passage.

15