

2022 -- S 2960

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND ARCHITECTURAL COSTS; PROVIDED THAT, THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

Introduced By: Senator Louis P. DiPalma

Date Introduced: May 19, 2022

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1           SECTION 1. The town of Middletown is hereby empowered, in addition to authority  
2 previously granted, to issue bonds, notes and other evidences of indebtedness (hereinafter "bonds")  
3 up to an amount not exceeding two hundred thirty-five million dollars (\$235,000,000) from time  
4 to time under its corporate name and seal or a facsimile of such seal. The bonds of each issue may  
5 be issued in the form of serial bonds or term bonds or a combination thereof and shall be payable  
6 either by maturity of principal in the case of serial bonds or by sinking fund installments in the case  
7 of term bonds, in annual installments of principal, the first installment to be not later than five (5)  
8 years and the last installment not later than thirty (30) years after the date of the bonds. All such  
9 bonds of a particular issue may be issued in the form of zero coupon bonds, capital appreciation  
10 bonds, serial bonds or term bonds or a combination thereof. The amount of principal appreciation  
11 each year on any bonds, after the date of original issuance, shall not be considered to be principal  
12 indebtedness for the purposes of any constitutional or statutory debt limit or any other limitation.  
13 The appreciation of principal after the date of original issue shall be considered interest. Only the  
14 original principal amount shall be counted in determining the principal amount so issued and any

1 interest component shall be disregarded.

2 SECTION 2. The town may be eligible for school housing aid reimbursement on debt  
3 service pursuant to chapter 7 of title 16, or for a grant, loan or other financial assistance from  
4 proceeds of bonds issued by the State of Rhode Island (the “state”), from the Rhode Island  
5 department of education (“RIDE”) or from the Rhode Island school building authority. The amount  
6 of borrowing authorized pursuant to this act shall be reduced by the amount of certain grants  
7 actually received by the town from state bond proceeds, from RIDE or from the Rhode Island  
8 school building authority.

9 SECTION 3. The bonds shall be signed by the manual or facsimile signatures of the town  
10 finance director and the president of the town council and shall be issued and sold in such amounts  
11 as the town council may authorize by resolution. The manner of sale, denominations, maturities,  
12 interest rates and other terms, conditions and details of any bonds or notes issued under this act  
13 may be fixed by the resolutions of the town council authorizing the issue or by separate resolution  
14 of the town council or, to the extent provisions for these matters are not so made, they may be fixed  
15 by the officers authorized to sign the bonds or notes. Notwithstanding anything contained in this  
16 act to the contrary, the town may enter into financing agreements with the Rhode Island health and  
17 educational building corporation pursuant to chapter 7 of title 16 and chapter 38.1 of title 45 and,  
18 with respect to bonds or notes issued in connection with such financing agreements, if any, the  
19 town may elect to have the provisions of chapter 38.1 of title 45 apply to the issuance of the bonds  
20 or notes issued hereunder to the extent the provisions of chapter 38.1 of title 45 are inconsistent  
21 herewith. In addition, the town may enter into financing agreements with the Rhode Island  
22 infrastructure bank pursuant to the provisions of chapter 12.2 of title 46 and, with respect to bonds  
23 or notes issued in connection with such financing agreements, if any, the town may elect to have  
24 the provisions of chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued hereunder  
25 to the extent the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such election may  
26 be fixed by the proceedings of the town council authorizing such issuance or by separate resolution  
27 of the town council, or, to the extent provisions for these matters are not so made, they may be  
28 fixed by the officers authorized to sign the bonds or notes. The proceeds derived from the sale of  
29 the bonds shall be delivered to the town finance director, and such proceeds exclusive of premiums  
30 and accrued interest shall be expended: (1) To finance the construction, renovation, improvement,  
31 alteration, repair, landscaping, furnishing and equipping of schools and school facilities throughout  
32 the town, and all attendant expenses including, but not limited to, demolition, engineering and  
33 architectural costs; (2) In payment of the principal of or interest on temporary notes issued under  
34 section 4; (3) In repayment of advances under section 5; (4) In payment of related costs of issuance

1 of any bonds or notes; and/or (5) In payment of capitalized interest during construction of the  
2 project (the “project”). No purchaser of any bonds or notes under this act shall be in any way  
3 responsible for the proper application of the proceeds derived from the sale thereof. The project  
4 shall be carried out and all contracts made therefor on behalf of the town by the town council. The  
5 town council and its agents are authorized to enter, without delay and at reasonable times, any  
6 public school buildings and other public school property for the purpose of accomplishing the  
7 project and to do all acts and deeds necessary or convenient in connection with the project. The  
8 proceeds of bonds or notes issued under this act, any applicable federal or state assistance and the  
9 other monies referred to in sections 7 and 10 shall be deemed appropriated for the purposes of this  
10 act without further action than that required by this act. The bonds authorized by this act may be  
11 consolidated for the purpose of issuance and sale with any other bonds of the town heretofore or  
12 hereafter authorized; provided that, notwithstanding any such consolidation, the proceeds from the  
13 sale of the bonds authorized by this act shall be expended for the purposes set forth above.

14 SECTION 4. The town council may by resolution authorize the issuance from time to time  
15 of interest bearing or discounted notes in anticipation of the issuance of bonds or in anticipation of  
16 the receipt of federal or state aid for the purposes of this act. The amount of original notes issued  
17 in anticipation of bonds may not exceed the amount of bonds which may be issued under this act  
18 and the amount of original notes issued in anticipation of federal or state aid may not exceed the  
19 amount of available federal or state aid as estimated by the finance director. Temporary notes issued  
20 hereunder shall be signed by the manual or facsimile signatures of the town finance director and  
21 the president of the town council and shall be payable within five (5) years from their respective  
22 dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid  
23 from time to time by the issuance of other notes hereunder; provided the period from the date of an  
24 original note to the maturity of any note issued to renew or pay the same debt or interest thereon  
25 shall not exceed five (5) years. Any temporary notes in anticipation of bonds issued under this  
26 section may be refunded prior to the maturity of the notes by the issuance of additional temporary  
27 notes; provided that, no such refunding shall result in any amount of such temporary notes  
28 outstanding at any one time in excess of two hundred percent (200%) of the amount of bonds which  
29 may be issued under this act; and provided, further, that if the issuance of any such refunding notes  
30 results in any amount of such temporary notes outstanding at any one time in excess of the amount  
31 of bonds which may be issued under this act, the proceeds of such refunding notes shall be deposited  
32 in trust in a separate fund established for the notes being refunded. Pending their use to pay the  
33 notes being refunded, monies in the fund shall be invested for the benefit of the town by the paying  
34 agent at the direction of the town finance director in any investment permitted under section 6. The

1 monies in the fund and any investments held as part of the fund shall be held in trust and shall be  
2 applied by the paying agent solely to the payment or prepayment of the principal of and interest on  
3 the notes being refunded. Upon payment of all principal of and interest on the notes, any excess  
4 monies in the fund shall be distributed to the town. The town may pay the principal of and interest  
5 on notes in full from other than the issuance of refunding notes prior to the issuance of bonds  
6 pursuant to section 1 hereof. In such case, the town's authority to issue bonds or notes in  
7 anticipation of bonds under this act shall continue provided that: (1) The town council passes a  
8 resolution evidencing the town's intent to pay off the notes without extinguishing the authority to  
9 issue bonds or notes; and (2) That the period from the date of an original note to the maturity date  
10 of any other note shall not exceed five (5) years.

11 SECTION 5. Pending any authorization or issue of bonds hereunder or pending or in lieu  
12 of any authorization or issue of notes hereunder, the town finance director, with the approval of the  
13 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the  
14 treasury of the town to the purposes specified in section 3, such advances to be repaid without  
15 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of applicable  
16 federal or state assistance or from other available funds.

17 SECTION 6. Any proceeds of bonds or notes issued hereunder or of any applicable federal  
18 or state assistance, pending their expenditure may be deposited or invested by the town finance  
19 director in demand deposits, time deposits or savings deposits in banks which are members of the  
20 Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United States  
21 of America or by any agency or instrumentality thereof or as may be provided in any other  
22 applicable law of the State of Rhode Island or resolution of the town council or pursuant to an  
23 investment policy of the town.

24 SECTION 7. Any accrued interest received upon the sale of bonds or notes hereunder shall  
25 be applied to the payment of the first interest due thereon. Any premium arising from the sale of  
26 bonds or notes hereunder shall, in the discretion of the town finance director, be applied to the cost  
27 of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise provided,  
28 to the payment of the project costs, to the payment of the principal of or interest on bonds or notes  
29 issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing and  
30 marketing bonds or notes hereunder may also, in the discretion of the town finance director, be met  
31 from bond or note proceeds exclusive of accrued interest or from other monies available therefor.  
32 Any balance of bond or note proceeds remaining after payment of the cost of the projects and the  
33 cost of preparing, issuing and marketing bonds or notes hereunder, shall be applied to the payment  
34 of the principal of or interest on bonds or notes issued hereunder. To the extent permitted by

1 applicable federal laws, any earnings or net profit realized from the deposit or investment of funds  
2 hereunder may, upon receipt, be added to and dealt with as part of the revenues of the town from  
3 property taxes. In exercising any discretion under this section, the town finance director shall be  
4 governed by any instructions adopted by resolution of the town council.

5 SECTION 8. All bonds and notes issued under this act and the debts evidenced thereby  
6 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully  
7 contracted by it and shall be excepted from the operation of § 45-12-2. No such obligation shall at  
8 any time be included in the debt of the town for the purpose of ascertaining its borrowing capacity.  
9 The town shall annually appropriate a sum sufficient to pay the principal and interest coming due  
10 within the year on bonds and notes issued hereunder to the extent that monies therefor are not  
11 otherwise provided. If such sum is not appropriated, it shall nevertheless be added to the annual tax  
12 levy. In order to provide such sum in each year and notwithstanding any provision of law to the  
13 contrary, all taxable property in the town shall be subject to ad valorem taxation by the town without  
14 limitation as to rate or amount.

15 SECTION 9. Any bonds or notes issued under the provisions of this act, and coupons, if  
16 any, if properly executed by officers of the town in office on the date of execution, shall be valid  
17 and binding according to their terms notwithstanding that before the delivery thereof and payment  
18 therefor any or all of such officers shall for any reason have ceased to hold office.

19 SECTION 10. The town, acting by resolution of its town council, is authorized to apply  
20 for, contract for and expend any federal or state advances or other grants or assistance which may  
21 be available for the purposes of this act, and any such expenditures may be in addition to the monies  
22 provided in this act. To the extent of any inconsistency between any law of this state and any  
23 applicable federal law or regulation, the latter shall prevail. Federal and state advances, with interest  
24 where applicable, whether contracted for prior to or after the effective date of this act, may be  
25 repaid as project costs under section 3.

26 SECTION 11. Bonds and notes may be issued under this act without obtaining the approval  
27 of any governmental agency or the taking of any proceedings or the happening of any conditions  
28 except as specifically required by this act for such issue. In carrying out any project financed in  
29 whole or in part under this act, including where applicable the condemnation of any land or interest  
30 in land, and in the levy and collection of assessments or other charges permitted by law on account  
31 of any such project, all action shall be taken which is necessary to meet constitutional requirements  
32 whether or not such action is otherwise required by statute, but the validity of bonds and notes  
33 issued hereunder shall in no way depend upon the validity or occurrence of such action.

34 SECTION 12. The town finance director and the president of the town council, on behalf

1 of the town, are hereby authorized to execute such instruments, documents or other papers as either  
2 of them deem necessary or desirable to carry out the intent of this act and are also authorized to  
3 take all actions and execute all instruments, documents or agreements necessary to comply with  
4 federal tax and securities laws, which instruments, documents or agreements may have a term  
5 coextensive with the maturity of the bonds authorized hereby, including Rule 15c2-12 of the  
6 Securities and Exchange Commission (the “Rule”) and to execute and deliver a continuing  
7 disclosure agreement or certificate in connection with the bonds or notes in the form as shall be  
8 deemed advisable by such officers in order to comply with the Rule.

9 SECTION 13. All or any portion of the authorized but unissued authority to issue bonds  
10 and notes under this act may be extinguished by ordinance of the town council after seven (7) years  
11 shall have passed from the approval of this act provided for in section 14, without further action by  
12 the general assembly.

13 SECTION 14. The question of the approval of this act shall be submitted to the qualified  
14 voters of the town at the election to be held on November 8, 2022. The question shall be submitted  
15 in substantially the following form: “Shall an act passed at the 2022 session of the general assembly  
16 entitled ‘AN ACT AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO  
17 EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER  
18 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION,  
19 RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING  
20 AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND  
21 SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT  
22 EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND  
23 ARCHITECTURAL COSTS; PROVIDED THAT, THE AUTHORIZATION SHALL BE  
24 REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND  
25 PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE  
26 RHODE ISLAND SCHOOL BUILDING AUTHORITY’ be approved?” and the warning for the  
27 election shall contain the question to be submitted. From the time the election is warned and until  
28 it is held, it shall be the duty of the town clerk to keep a copy of this act available at the clerk’s  
29 office for public inspection, but the validity of the election shall not be affected by this requirement.  
30 To the extent of any inconsistency between this act and the town charter, this act shall prevail.

31 SECTION 15. This section and section 14 shall take effect upon the passage of this act.  
32 The remainder of this act shall take effect if both: (1) A majority of those voting on the question  
33 prescribed by section 14 shall vote in favor thereof; and (2) A majority of qualified voters of the  
34 city of Newport and a majority of those qualified voters of the town of Middletown voting at the

1 November 8, 2022 election upon the question of whether an act passed at the January, 2022 session  
2 of the general assembly entitled “AN ACT AUTHORIZING THE CITY OF NEWPORT AND  
3 THE TOWN OF MIDDLETOWN TO ESTABLISH A REGIONAL SCHOOL DISTRICT  
4 AND PROVIDING FOR STATE AID FOR SCHOOL HOUSING COSTS OF AT LEAST 80%  
5 OF DEBT SERVICE FOR EXPENDITURES ELIGIBLE FOR STATE AID” shall vote in favor  
6 thereof.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND ARCHITECTURAL COSTS; PROVIDED THAT, THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

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1           This act authorizes the town of Middletown to issue not more than \$235,000,000 bonds  
2 and notes to finance the construction, renovation, improvement, alteration, repair, landscaping,  
3 furnishing and equipping of new elementary, middle and high schools and school facilities  
4 throughout the town, and all attendant expenses including, but not limited to, demolition,  
5 engineering and architectural costs; provided that, the authorization shall be reduced by  
6 the amount of certain grants received from state bond proceeds, from the Rhode Island department  
7 of education (“RIDE”) or from the Rhode Island school building authority.

8           Sections 14 and 15 of this act shall take effect upon passage. The remainder of the act  
9 would take effect if both: (1) A majority of those voting on the question prescribed by section 14  
10 shall vote in favor thereof; and (2) A majority of qualified voters of the city of Newport and a  
11 majority of those qualified voters of the town of Middletown voting at the November 8, 2022  
12 election upon the question of whether an act passed at the January, 2022 session of the general  
13 assembly authorizing Newport and Middletown to establish a regional school district and providing  
14 for state housing aid of at least 80% of debt service for expenditures eligible for state aid shall vote  
15 in favor thereof. The amount of borrowing authorized pursuant to this act shall be reduced by the  
16 amount of certain grants actually received by the town from state bond proceeds, from RIDE or  
17 from the Rhode Island school building authority.

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