

1 **ARTICLE 7**

2 RELATING TO HIGHER EDUCATION ASSISTANCE AUTHORITY

3 SECTION 1. Chapter 16-37 entitled "Best and Brightest Scholarship Fund" is hereby
4 repealed.

5 ~~**16-37-1 Short title.**— This chapter shall be known and may be cited as the "Best and
6 Brightest Scholarship Act."~~

7 ~~**16-37-2 Establishment of scholarship fund.**— There is established the best and brightest
8 scholarship fund, sometimes referred to as the "fund" or the "scholarship fund," which shall be
9 utilized to attract the best and the brightest of the state's high school graduates, as defined in this
10 chapter, into public school teaching within the state. The general assembly shall annually
11 appropriate any funds as it deems necessary to implement the purposes of this chapter.~~

12 ~~**16-37-3 Scholarship committee—Members—Meetings—Officers.**— There is
13 established the best and brightest scholarship committee, consisting of nine (9) members: one
14 shall be the commissioner of elementary and secondary education, or the commissioner's
15 designee; one shall be the commissioner of higher education, or the commissioner's designee; one
16 shall be the president of the Rhode Island Federation of Teachers, or the president's designee; one
17 shall be the president of the National Education Association of Rhode Island, or the president's
18 designee; one shall be the president of the Rhode Island association of school committees, or the
19 president's designee; one shall be the president of the Rhode Island Association of
20 Superintendents of Schools, or the president's designee; one shall be the executive director of the
21 Rhode Island higher education assistance authority, or the director's designee; and two (2) shall
22 be the parents of public or private school students, to be appointed by the governor for a two (2)
23 year term. The committee shall elect a chairperson, vice chairperson, secretary, and treasurer for
24 one year terms.~~

25 ~~**16-37-4 Scholarship committee—Powers.**— The committee is authorized and
26 empowered:~~

27 ~~(1) To adopt rules and regulations designed to implement the provisions of this chapter;~~

28 ~~(2) To adopt selection criteria, consistent with this chapter, for best and brightest
29 scholars;~~

30 ~~(3) To select annually the best and brightest scholars;~~

- 1 ~~(4) To grant appropriate extensions pursuant to § 16-37-8;~~
2 ~~(5) To supervise the disbursement of the best and brightest scholarship fund;~~
3 ~~(6) To work in cooperation with the Rhode Island higher education assistance authority~~
4 ~~which is directed to provide the committee with staff assistance necessary to carry out the~~
5 ~~purposes of this chapter;~~
6 ~~(7) To receive donations and grants from sources including, but not limited to, the federal~~
7 ~~government, governmental and private foundations, and corporate and individual donors; these~~
8 ~~donations and grants to be deposited in the scholarship fund.~~

9 ~~**16-37-5 Eligibility for scholarship.**— To be considered for the scholarship, all applicants~~
10 ~~must:~~

- 11 ~~(1) Be a graduating senior at a public, parochial, or private high school in Rhode Island;~~
12 ~~(2) Be accepted for admission at an accredited college or university in the United States~~
13 ~~or Canada;~~
14 ~~(3) Achieve one or more of the following distinctions:~~
15 ~~(i) Be in the top ten percent (10%) of the applicant's graduating class as of the end of the~~
16 ~~second quarter of the senior year;~~
17 ~~(ii) Have a score in the ninetieth (90th) percentile or above on either the mathematics or~~
18 ~~verbal section of the scholastic aptitude test (S.A.T.);~~
19 ~~(iii) Have a combined mathematics and verbal S.A.T. score in the eighty fifth (85th)~~
20 ~~percentile or above.~~

21 ~~**16-37-6 Award of scholarship—Conditions.**— At any time that sufficient funds become~~
22 ~~available the committee shall award scholarships in the amount of five thousand dollars (\$5,000)~~
23 ~~for each of the four (4) years of college attendance to each of the eligible applicants which the~~
24 ~~committee deems to be most qualified for the scholarship; provided, that to maintain entitlement~~
25 ~~to the scholarship each recipient must:~~

- 26 ~~(1) Be enrolled as a full time student in an accredited college or university;~~
27 ~~(2) Pursue a course of study leading to Rhode Island teacher certification; and~~
28 ~~(3) Maintain satisfactory progress as determined by the college or university attended by~~
29 ~~the recipient.~~

30 ~~**16-37-7 Requirement of public school teaching services.**— Each recipient of the~~
31 ~~scholarship shall be required to teach in the public schools of this state for two (2) years for each~~
32 ~~year of scholarship assistance. This requirement must be completed within ten (10) years of~~
33 ~~college graduation if the scholarship was used for all four (4) years of college, within eight (8)~~
34 ~~years if used for three (3) full years of college, within six (6) years if used for two (2) full years of~~

1 college, and within four (4) years if used for one full year of college; provided, however, that a
2 recipient shall be granted an extension of the requirement upon a showing by the recipient that he
3 or she:

4 (1) Returns to a full time course of study related to the field of public school teaching or
5 administration;

6 (2) Is serving, not in excess of three (3) years, as a member of the armed forces of the
7 United States;

8 (3) Is temporarily totally disabled for a period of time not to exceed three (3) years as
9 established by the sworn affidavit of a qualified physician; or

10 (4) Is seeking and unable to find employment in Rhode Island as a certified public school
11 teacher.

12 ~~**16-37-8 Failure to comply with § 16-37-7—Exceptions.** Any recipient who fails to~~
13 ~~comply with the requirements of § 16-37-7 shall be required to reimburse the scholarship fund for~~
14 ~~all money received by the recipient, together with interest at a rate to be set by the Rhode Island~~
15 ~~higher education assistance authority in conformity with the interest rate of the guaranteed~~
16 ~~student loan program in effect at the time any required repayment begins; provided, that no~~
17 ~~person shall be required to reimburse the fund who has become permanently disabled as~~
18 ~~determined by a physician qualified by this state to render this opinion.~~

19 ~~**16-37-9 Severability.** If any provision of this chapter or of any rule or regulation made~~
20 ~~under this chapter, or its application to any person or circumstance, is held invalid by a court of~~
21 ~~competent jurisdiction, the remainder of the chapter, rule, or regulation and the application of the~~
22 ~~provision to other persons or circumstances shall not be affected by its invalidity. The invalidity~~
23 ~~of any section or sections or parts of any section or sections of this chapter shall not affect the~~
24 ~~validity of the remainder of this chapter.~~

25 SECTION 2. Sections 16-41-3 and 16-41-5 of the General Laws in Chapter 16-41
26 entitled "New England Higher Education Compact" are hereby amended to read as follows:

27 ~~**16-41-3 Rhode Island board members – Qualifications.**~~ – (a) The ~~authority~~ governor
28 shall appoint four (4) resident members from Rhode Island who shall serve in accordance with
29 article II of the compact. In the month of May in each year the ~~authority~~ governor shall appoint
30 successors to those members of the compact whose terms shall expire in that year, to hold office
31 on the first day of June in the year of appointment and until the first day of June in the third year
32 after their successors are appointed and qualified.

33 (b) The president of the senate shall appoint two (2) members of the senate to serve in
34 accordance with article II for the member's legislative term.

1 (c) The speaker of the house shall appoint two (2) members of the house to serve in
2 accordance with article II for the member's legislative term.

3 (d) Any vacancy of a member which shall occur in the commission shall be filled by the
4 appointing authority for the remainder of the unexpired term. All members shall serve without
5 compensation but shall be entitled to receive reimbursement for reasonable and necessary
6 expenses actually incurred in the performance of their duties.

7 **16-41-5 Repayment of loans.** – (a) Dental, medical, optometry, osteopathic, and
8 veterinary medical students that attend schools under the Rhode Island health professions contract
9 program which are supported by funds from the state may decrease their indebtedness to the state
10 under the following options:

11 (1) Upon completion of his or her dental, medical, optometry, osteopathic, or veterinary
12 training, including internship and residency training, a student who establishes residency in the
13 state will be relieved of fifteen percent (15%) of that indebtedness per year for each year that the
14 student is employed by the state in a full time capacity for a maximum cancellation of seventy-
15 five percent (75%) for five (5) years of employment.

16 (2) Any graduate who establishes residency in the state will be relieved of ten percent
17 (10%) of that indebtedness per year for each year that he or she practices dentistry, medicine,
18 optometry, osteopathy, or veterinary medicine in the state in a full time capacity for a maximum
19 cancellation of fifty percent (50%) for five (5) years of practice.

20 (b) In no event shall any student's cancellation of indebtedness under subsection (a)
21 exceed seventy-five percent (75%).

22 (c) In no event shall any student be entitled to a refund of any sums paid on his or her
23 indebtedness by virtue of the provisions of this section.

24 (d) The ~~authority~~ [office of the postsecondary commissioner](#) shall promulgate rules and
25 regulations which are necessary and proper to promote the full implementation of this section.

26 SECTION 3. Sections 16-56-3, 16-56-7, 16-56-8, 16-56-9 and 16-56-13 of the General
27 Laws in Chapter 16-56 entitled "Postsecondary Student Financial Assistance" are hereby
28 repealed.

29 ~~**16-56-3 General eligibility requirements.** – (a) Eligibility of individuals. An applicant~~
30 ~~is eligible for a monetary award when the authority finds:~~

31 ~~(1) That the applicant is a resident of this state;~~

32 ~~(2) That the applicant is enrolled or intends to be enrolled in a program of study which~~
33 ~~leads to a certificate or degree at an eligible postsecondary institution;~~

34 ~~(3) That the applicant exhibits financial need.~~

1 ~~(b) Eligibility of institutions. An applicant may apply for an award for the purpose of~~
2 ~~attending an institution of postsecondary education whether designated as a university, college,~~
3 ~~community college, junior college, or scientific or technical school, which either:~~

4 ~~(1) Is an institution that has gained accreditation from an accrediting agency which is~~
5 ~~recognized by the United States office of education; or~~

6 ~~(2) Has gained the explicit endorsement from the authority for the purpose of Rhode~~
7 ~~Island postsecondary student financial assistance.~~

8 ~~§ 16-56-7 Need based scholarships.—(a) Amount of funds allocated. In accordance with~~
9 ~~authority policies, the authority shall allocate annually to need based scholarships any portion of~~
10 ~~the total appropriation to this chapter as it may deem appropriate for the purpose of carrying out~~
11 ~~the provisions of this section.~~

12 ~~(b) Definitions:~~

13 ~~(1) "Educational costs" means the same as defined in § 16-56-6.~~

14 ~~(2) "Family contribution" means the same as defined in § 16-56-6.~~

15 ~~(3) "Federal grant assistance" means the same as defined in § 16-56-6.~~

16 ~~(4) "Self help" means the same as defined in § 16-56-6.~~

17 ~~(5) "State grant assistance" shall be of any sum awarded to the student as determined in~~
18 ~~need based grants pursuant to § 16-56-6.~~

19 ~~(c) Eligibility of individuals. Eligibility for need based scholarships shall be determined~~
20 ~~by the authority when it is established that the applicant is found to meet the general eligibility~~
21 ~~requirements as stated in § 16-56-3; and that the applicant is judged to be an outstanding student~~
22 ~~on the basis of criteria approved by the authority. The criteria, at a minimum, shall consider the~~
23 ~~following:~~

24 ~~(1) A student's scholastic ability and promise; and/or~~

25 ~~(2) A student's subject competencies including those that might extend beyond the~~
26 ~~academic fields.~~

27 ~~(d) Amount of the awards. The amount of the need based scholarships shall be not less~~
28 ~~than two hundred and fifty dollars (\$250) and no greater than two thousand dollars (\$2,000) and~~
29 ~~shall be based upon the following formula: need equals educational costs less the sum of family~~
30 ~~contribution plus self help plus federal grant assistance plus state grant assistance. Honorary~~
31 ~~awards shall be presented to students who are determined to have insufficient financial need for~~
32 ~~monetary awards.~~

33 ~~(e)(1) Number and terms of awards. The number of awards to be granted in any one fiscal~~
34 ~~year shall be contingent upon the funds allocated to this section. Students determined to be most~~

1 ~~outstanding shall receive priority for an award.~~

2 ~~(2) Each award is renewable by the authority annually for a period of time equivalent to~~
3 ~~what is reasonably required for the completion of a baccalaureate or associate degree. The~~
4 ~~authority shall grant a renewal only upon the student's application and upon the authority's~~
5 ~~finding that:~~

6 ~~(i) The applicant has completed successfully the work of the preceding year and has~~
7 ~~demonstrated continued scholarly achievement;~~

8 ~~(ii) The applicant remains a resident of this state; and~~

9 ~~(iii) The applicant's financial situation continues to warrant receipt of a monetary award.~~

10 ~~**16-56-8 Need based work opportunities.** (a) Amount of funds allocated. The authority~~
11 ~~shall allocate an amount annually to need based work opportunities not exceeding twenty percent~~
12 ~~(20%) of the total appropriation to this chapter.~~

13 ~~(b) Eligibility of individuals. Eligibility for need based work opportunities shall be~~
14 ~~determined by the authority when it is established that the applicant is found to meet the general~~
15 ~~eligibility requirements stated in § 16-56-3.~~

16 ~~(c) Number and terms of work opportunities.~~

17 ~~(1) Each applicant is eligible for consideration for participation in need based work~~
18 ~~opportunities for a period of time equivalent to what is reasonably required for the completion of~~
19 ~~the baccalaureate or associate degree. The authority shall grant a renewal only upon the student's~~
20 ~~application and upon the authority's finding that:~~

21 ~~(i) The applicant has completed successfully the academic work of the preceding year;~~

22 ~~(ii) The applicant remains a resident of this state; and~~

23 ~~(iii) The applicant's financial situation continues to warrant the work opportunities.~~

24 ~~(2) If the funds available are insufficient to satisfy fully the financial need of the total~~
25 ~~number of applicants, priorities shall be determined by the authority.~~

26 ~~(d) Suitable employment. Students may enter into employment with agencies deemed~~
27 ~~eligible for participation in the federal college work study program.~~

28 ~~**16-56-9 Granting of awards.** The authority may distribute the funds allocated to the~~
29 ~~need based work opportunity program to eligible Rhode Island institutions or directly to eligible~~
30 ~~students as the authority may deem appropriate.~~

31 ~~**16-56-13 Income exclusion from financial aid needs test.** Notwithstanding any other~~
32 ~~provision of this chapter, chapter 57 of this title, or any other general or public law, or regulations~~
33 ~~issued pursuant to these, to the extent permitted by federal law, the first twenty five thousand~~
34 ~~dollars (\$25,000) of Rhode Island savings bond investment or the first twenty five thousand~~

1 ~~dollars (\$25,000) of United States savings bonds issued after December 31, 1989 or any~~
2 ~~combination of these not exceeding twenty five thousand dollars (\$25,000) shall not be~~
3 ~~considered in evaluating the financial situation of a student, or be deemed a financial resource of~~
4 ~~or a form of financial aid or assistance to the student, for the purposes of determining the~~
5 ~~eligibility of the student for any guaranteed loan, scholarship, grant, monetary assistance, or need~~
6 ~~based work opportunity, awarded by the Rhode Island higher education assistance authority or the~~
7 ~~state pursuant to any other law of this state; nor shall any Rhode Island savings bond investment~~
8 ~~or United States savings bonds issued after December 31, 1989, provided for a student reduce the~~
9 ~~amount of any guaranteed loan, scholarship, grant, or monetary assistance which the student is~~
10 ~~entitled to be awarded by the Rhode Island higher education assistance authority in accordance~~
11 ~~with any other law of this state.~~

12 SECTION 4. Sections 16-56-2, 16-56-5, 16-56-6, and 16-56-10 of the General Laws in
13 Chapter 16-56 entitled "Postsecondary Student Financial Assistance" are hereby amended to read
14 as follows.

15 **16-56-2 General appropriation.** -- (a) The general assembly shall appropriate annually a
16 sum to provide postsecondary financial assistance ~~pay every award authorized by §§ 16-56-2—~~
17 ~~16-56-12. For each fiscal year the appropriation shall be determined by multiplying forty percent~~
18 ~~(40%) of the October enrollment for the prior four (4) June graduating classes eligible for new or~~
19 ~~renewed awards times one thousand dollars (\$1,000). This sum may be supplemented from time~~
20 to time by other sources of revenue including but not limited to federal programs.

21 ~~(b) Notwithstanding the provisions of subsection (a), the sums appropriated in each fiscal~~
22 ~~year are the sums appropriated for this purpose in Article 1 of P.L. 1992, ch. 133.~~

23 **16-56-5 Annual evaluation.** -- An evaluation of this chapter shall be performed annually
24 by the authority office of the postsecondary commissioner. The evaluation shall provide, as a
25 minimum, a summary of the following information relating to award recipients: family income,
26 student financial needs, basic educational opportunity grant awards, state awards, institutional
27 based student assistance awards, federally guaranteed loans, other student assistance, institution
28 attended, and other pertinent information.

29 **16-56-6 Need based grants.** -- (a) *Amount of funds allocated.* ~~In accordance with~~
30 ~~authority policies, the authority shall allocate annually to need based grants any portion of the~~
31 ~~total appropriation to this chapter as it may deem appropriate for the purpose of carrying out the~~
32 ~~provisions of this section.~~ The commissioner of postsecondary education shall allocate annually
33 the appropriation for need based scholarships and grants. Of the total amount appropriated for
34 need based scholarship and grants, the lesser of twenty percent (20%) or two million dollars

1 (\$2,000,000) shall be distributed to qualified students attending participating independent, non-
2 profit, higher education institutions in Rhode Island. The remainder of funds shall be limited to
3 public higher education institutions in Rhode Island. As part of the annual budget submission, the
4 office of postsecondary commissioner shall include a plan of how the need based scholarship and
5 grant funds will be allocated to each public institution receiving funds pursuant to this chapter,
6 and how the funds will be distributed to students attending independent, non-profit institutions.

7 ~~(b) Definitions. The following words and phrases have the following definitions for the~~
8 ~~purpose of this chapter except to the extent that any of these words or phrases is specifically~~
9 ~~qualified by its context:~~

10 ~~(1) "Educational costs" shall be equal to the costs to a student attending the institution of~~
11 ~~the student's choice.~~

12 ~~(2) "Family contribution" shall be the sum expected to be contributed by the family,~~
13 ~~which amount shall be determined by an approved needs analysis system.~~

14 ~~(3) "Federal grant assistance" shall be that grant in aid which is provided by the federal~~
15 ~~government to students for the purpose of attending postsecondary education. This assistance~~
16 ~~may include, but not necessarily be limited to, basic educational opportunity grants, social~~
17 ~~security benefits, and veterans survivors' benefits.~~

18 ~~(4) "Self help" shall be a sum determined by the authority and shall be a total determined~~
19 ~~by considering the ability of the student to earn or borrow during full time enrollment.~~

20 ~~(b)(e) Eligibility of individuals. Eligibility for need based grants~~ and scholarships ~~shall be~~
21 ~~determined by the authority when it is established that the applicant is found to meet the general~~
22 ~~eligibility requirements stated in § 16-56-3~~ office of the postsecondary commissioner.

23 ~~(d) Amount of the awards. The amount of the need based grants shall be not less than two~~
24 ~~hundred and fifty dollars (\$250) and no greater than two thousand dollars (\$2,000) and shall be~~
25 ~~based upon the following formula: need equals educational cost less the sum of family~~
26 ~~contribution plus self help plus federal grant assistance.~~

27 ~~(c)(e) Number and terms of awards. (1)~~ The number of awards to be granted in any one
28 fiscal year shall be contingent upon the funds allocated to this section.

29 ~~(2) If the funds available are insufficient to satisfy fully the financial need of the eligible~~
30 ~~students, priority of students shall be determined by the authority.~~

31 ~~(3) Each applicant is eligible for consideration for an award for a period of time~~
32 ~~equivalent to what is required for the completion of a baccalaureate or associate degree on a full~~
33 ~~time basis. The authority shall grant a renewal only upon the student's application and upon the~~
34 ~~authority's finding that:~~

1 ~~(i) The applicant has completed successfully the work of the preceding year;~~

2 ~~(ii) The applicant remains a resident of the state; and~~

3 ~~(iii) The applicant's financial situation continues to warrant receipt of a monetary award.~~

4 **16-56-10 Rules and regulations.** -- In addition to the powers and duties prescribed in
5 previous sections of this chapter, the ~~authority~~ office of the postsecondary commissioner shall
6 promulgate rules and regulations and take any other actions which will promote the full
7 implementation of all provisions of this chapter.

8 SECTION 5. Sections 16-57-5, 16-57-6, 16-57-6.6, 16-57-11, 16-57-13, 16-57-14, 16-
9 57-15 and 16-57-17 of the General Laws in Chapter 16-57 entitled "Higher Education Assistance
10 Authority" [See Title 16 Chapter 97 – The Rhode Island Board of Education Act] are hereby
11 repealed.

12 ~~**16-57-5 General powers.**— The authority shall have all of the powers necessary and
13 convenient to carry out and effectuate the purposes and provisions of this chapter, including
14 without limiting the generality of the foregoing the power:~~

15 ~~(1) To sue and be sued, complain and defend, in its corporate name.~~

16 ~~(2) To have a seal which may be altered at pleasure and to use the seal by causing it, or a
17 facsimile of it, to be impressed or affixed or in any other manner reproduced.~~

18 ~~(3) To acquire the assets and assume the liabilities or to effect the merger into itself of
19 any corporation or other organization incorporated or organized under the laws of this state,
20 which corporation or organization has as its principal business the guaranteeing of loans to
21 students in eligible institutions, all upon any terms and for any consideration as the authority shall
22 deem to be appropriate.~~

23 ~~(4) To make contracts and guarantees and incur liabilities, and borrow money at any rates
24 of interest as the authority may determine.~~

25 ~~(5) To make and execute all contracts, agreements, and instruments necessary or
26 convenient in the exercise of the powers and functions of the authority granted by this chapter.~~

27 ~~(6) To lend money for its purposes, and to invest and reinvest its funds.~~

28 ~~(7) To conduct its activities, carry on its operations, and have offices and exercise the
29 powers granted by this chapter, within or without the state.~~

30 ~~(8) To elect, appoint, or employ in its discretion officers and agents of the authority, and
31 define their duties.~~

32 ~~(9) To make and alter bylaws, not inconsistent with this chapter, for the administration
33 and regulation of the affairs of the authority, and the bylaws may contain provisions indemnifying
34 any person who is or was a director, officer, employee, or agent of the authority, in the manner~~

1 ~~and to the extent provided in § 7-1.2-814.~~

2 ~~(10) To have and exercise all powers necessary or convenient to effect its purposes.~~

3 ~~**16-57-6 Additional general powers.** (a) In addition to the powers enumerated in § 16-~~
4 ~~57-5, the authority shall have power:~~

5 ~~(1) To guarantee one hundred percent (100%) of the unpaid principal and accrued interest~~
6 ~~of any eligible loan made by a lender to any eligible borrower for the purpose of assisting the~~
7 ~~students in obtaining an education in an eligible institution.~~

8 ~~(2) To procure insurance of every nature to protect the authority against losses which may~~
9 ~~be incurred in connection with its property, assets, activities, or the exercise of the powers granted~~
10 ~~under this chapter.~~

11 ~~(3) To provide advisory, consultative, training, and educational services, technical~~
12 ~~assistance and advice to any person, firm, partnership, or corporation, whether the advisee is~~
13 ~~public or private, in order to carry out the purposes of this chapter.~~

14 ~~(4) When the authority deems it necessary or desirable, to consent to the modification,~~
15 ~~with respect to security, rate of interest, time of payment of interest or principal, or any other term~~
16 ~~of a bond or note, contract, or agreement between the authority and the recipient or maker of a~~
17 ~~loan, bond, or note holder, or agency or institution guaranteeing the repayment of, purchasing, or~~
18 ~~selling an eligible loan.~~

19 ~~(5) To engage the services of consultants on a contract basis for rendering professional~~
20 ~~and technical assistance and advice, and to employ attorneys, accountants, financial experts, and~~
21 ~~any other advisers, consultants, and agents as may be necessary in its judgment, and to fix their~~
22 ~~compensation.~~

23 ~~(6) To contract for and to accept any gifts, grants, loans, funds, property, real or personal,~~
24 ~~or financial or other assistance in any form from the United States or any agency or~~
25 ~~instrumentality of the United States, or from the state or any agency or instrumentality of the~~
26 ~~state, or from any other source, and to comply, subject to the provisions of this chapter, with the~~
27 ~~terms and conditions of those entities. Loans provided pursuant to subsection (b) of this section~~
28 ~~shall be repaid to the authority and deposited as general revenues of the state.~~

29 ~~(7) To prescribe rules and regulations deemed necessary or desirable to carry out the~~
30 ~~purposes of this chapter, including without limitation rules and regulations:~~

31 ~~(i) To insure compliance by the authority with the requirements imposed by statutes or~~
32 ~~regulation governing the guaranty, insurance, purchase, or other dealing in eligible loans by~~
33 ~~federal agencies, instrumentalities, or corporations,~~

34 ~~(ii) To set standards of eligibility for educational institutions, students, and lenders and to~~

1 ~~define residency and all other terms as the authority deems necessary to carry out the purposes of~~
2 ~~this chapter, and~~

3 ~~(iii) To set standards for the administration of programs of postsecondary student~~
4 ~~financial assistance assigned by law to the authority, including but not limited to savings~~
5 ~~programs. Administrative rules governing savings programs shall authorize the authority, in~~
6 ~~conjunction with the executive director of the Rhode Island student loan authority and the~~
7 ~~commissioner of higher education, to negotiate reciprocal agreements with institutions in other~~
8 ~~states offering similar savings programs for the purpose of maximizing educational benefits to~~
9 ~~residents, students and institutions in this state.~~

10 ~~(8) To establish penalties for violations of any order, rule, or regulation of the authority,~~
11 ~~and a method for enforcing these.~~

12 ~~(9) To set and collect fees and charges, in connection with its guaranties and servicing,~~
13 ~~including without limitation reimbursement of costs of financing by the authority, service~~
14 ~~charges, and insurance premiums and fees and costs associated with implementing and~~
15 ~~administering savings programs established pursuant to this chapter. Fees collected due to the~~
16 ~~Rhode Island work study program or due to unclaimed checks shall be deposited as general~~
17 ~~revenues of the state.~~

18 ~~(10) To enter into an agreement with any university to secure positions for Rhode Island~~
19 ~~applicants in a complete course of study in its school of veterinary medicine, medicine, dentistry,~~
20 ~~optometry, and three (3) positions in osteopathic medicine and to guarantee and pay the~~
21 ~~university for each position.~~

22 ~~(11) To enter into agreements with loan applicants providing preferential rates and terms~~
23 ~~relative to other applicants; provided, that the loan applicants agree to work in a licensed child~~
24 ~~care facility in Rhode Island for at least two (2) years upon completion or graduation in a course~~
25 ~~of study in early childhood education or child care.~~

26 ~~(12) To develop and administer, in conjunction with the executive director of the Rhode~~
27 ~~Island student loan authority and the commissioner of higher education, savings programs on~~
28 ~~behalf of itself, the state, students, parents, or any other private parties, all in cooperation with~~
29 ~~any other public and private parties and in accordance with any criteria or guidelines as the~~
30 ~~authority shall deem appropriate to effectuate the purposes of this chapter. To the extent~~
31 ~~practicable, these savings programs shall provide students, parents, and others an opportunity to~~
32 ~~participate conveniently and shall enable them to set aside relatively small amounts of money at a~~
33 ~~time and shall incorporate or be available in conjunction with, directly or indirectly, tuition~~
34 ~~agreements from as many eligible institutions as feasible.~~

1 ~~(13) In connection with any savings program, the authority may accept, hold, and invest~~
2 ~~funds of students, parents, institutions of higher education, and others and may establish special~~
3 ~~accounts for carrying out the purposes of this chapter.~~

4 ~~(14) To enter into contracts with institutions of higher education, financial institutions,~~
5 ~~financial consultants, attorneys, and other qualified entities on terms and conditions and for a~~
6 ~~term as it may deem advisable or desirable for the purpose of establishing and maintaining~~
7 ~~savings programs authorized pursuant to this chapter.~~

8 ~~(15) To create and supervise a marketing plan dedicated to the promotion of savings~~
9 ~~programs created pursuant to this chapter and to hire professional consultants and attorneys for~~
10 ~~these purposes.~~

11 ~~(16) To assist the general treasurer in the implementation of the college and university~~
12 ~~savings bond program established under chapter 15 of title 35.~~

13 ~~(b) The authority shall enter into agreements with the prospective students to the~~
14 ~~university for the repayment by the students of the money advanced under any terms and~~
15 ~~conditions as are reasonable. The authority may charge students interest on the money advanced~~
16 ~~under this chapter at a fixed or variable rate not exceeding the greater of seven and one half~~
17 ~~percent (7 1/2%) per annum or the maximum rate allowable under 42 U.S.C. § 292 et seq. and the~~
18 ~~regulations promulgated under that act by the United States office of education.~~

19 ~~**16-57-6.6. Exclusion from financial aid needs test.** --- Notwithstanding any other~~
20 ~~provision of this chapter or chapter 56 of this title, no moneys invested in the tuition savings~~
21 ~~program shall be considered to be an asset for purposes of determining an individual's eligibility~~
22 ~~for a need-based grant, need-based scholarship or need-based work opportunity offered by the~~
23 ~~state under the provisions of chapter 56 of this title.~~

24 ~~**16-57-11 Exemption from taxation.** (a) The exercise of the powers granted by this~~
25 ~~chapter will be in all respects for the benefit of the people of this state, the increase of their~~
26 ~~commerce, welfare, and prosperity and for the improvement of their living conditions and will~~
27 ~~constitute the performance of an essential governmental function and the authority shall not be~~
28 ~~required to pay any taxes or assessments upon or in respect of any transaction or of any property~~
29 ~~or money of the authority, levied by any municipality or political subdivision of the state.~~

30 ~~(b) The authority shall not be required to pay state taxes of any kind, and the authority,~~
31 ~~its property, and money shall at all times be free from taxation of every kind by the state and by~~
32 ~~the municipalities and all political subdivisions of the state. The authority shall not be required to~~
33 ~~pay any transfer tax of any kind on account of instruments recorded by it or on its behalf.~~

34 ~~**§ 16-57-13 Authorization to accept appropriated money.** The authority is authorized~~

1 ~~to accept any money as may be appropriated by the general assembly for effectuating its~~
2 ~~corporate purposes including, without limitation, the payment of the initial expenses of~~
3 ~~administration and operation and the establishment of reserves or contingency funds to be~~
4 ~~available for the payment of obligations of the authority and to reimburse the authority for sums~~
5 ~~forgiven pursuant to § 16-41-5.~~

6 ~~**16-57-14 Assistance by state officer, departments, boards, and commissions.** (a) All~~
7 ~~state agencies may render any services to the authority within their respective functions as may be~~
8 ~~requested by the authority.~~

9 ~~(b) Upon request of the authority, any state agency is authorized and empowered to~~
10 ~~transfer to the authority any officers and employees as it may deem necessary to assist the~~
11 ~~authority in carrying out its functions and duties under this chapter. Officers and employees~~
12 ~~transferred shall not lose their civil service status or rights.~~

13 ~~**16-57-15 Annual report.** The authority shall submit to the governor within four (4)~~
14 ~~months after the close of its fiscal year a report of its activities for the preceding fiscal year, and~~
15 ~~the report shall set forth a complete operating and financial statement covering the authority's~~
16 ~~operations during the preceding fiscal year. The authority shall include in its report the names and~~
17 ~~addresses of each recipient. The authority shall cause an audit of its books and accounts to be~~
18 ~~made at least once each fiscal year by certified public accountants selected by it and its cost shall~~
19 ~~be paid by the authority from funds available to it pursuant to this chapter.~~

20 ~~**16-57-17 Other statutes.** Nothing contained in this chapter shall restrict or limit the~~
21 ~~powers of the authority arising under any laws of this state except where those powers are~~
22 ~~expressly contrary to the provisions of this chapter. This chapter shall be construed to provide a~~
23 ~~complete additional and alternative method for doing the things authorized by it and shall be~~
24 ~~regarded as supplemental and in addition to the powers conferred by other laws. The making of~~
25 ~~any guaranty under the provisions of this chapter need not comply with the requirements of any~~
26 ~~other statute applicable to the making of guaranties. Except as provided in this chapter no~~
27 ~~proceedings or notice of approval shall be required for the making of any guaranty.~~

28 SECTION 6. Sections 16-57-1, 16-57-2, 16-57-3, 16-57-4, 16-57-6.1, 16-57-6.2, 16-57-
29 6.3, 16-57-6.5, 16-57-7, 16-57-8, 16-57-9, 16-57-10 and 16-57-12 of the General Laws in Chapter
30 16-57 entitled "Higher Education Assistance Authority" [See Title 16 Chapter 97 – The Rhode
31 Island Board of Education Act] are hereby amended to read as follows:

32 ~~**16-57-1 Short title.** -- This chapter shall be known as the "Rhode Island Higher~~
33 ~~Education Assistance Authority Act".~~

34 ~~**16-57-2 Findings.** -- The purpose of this chapter is to authorize a system of financial~~

1 assistance, consisting of loan guaranties, savings programs, and other aids, for qualified students,
2 parents, and others responsible for paying the costs of education to enable them to obtain an
3 education beyond the high school level by attending public or private educational institutions.
4 The general assembly has found and declares that it is in the public interest and essential to the
5 welfare and well being of the inhabitants of the state and to the proper growth and development
6 of the state to foster and provide financial assistance to qualified students, parents, and others
7 responsible for paying the costs of education in order to help prospective students to obtain an
8 education beyond the high school level. The general assembly has found that many inhabitants of
9 the state who are fully qualified to enroll in appropriate educational institutions for furthering
10 their education beyond the high school level lack the financial means and are unable, without
11 financial assistance as authorized under this chapter, to pay the cost of their education, with a
12 consequent irreparable loss to the state of valuable talents vital to its welfare. The general
13 assembly also recognizes that educational institutions for higher education are in need of
14 appropriate additional means to provide financial assistance to qualified students, parents, and
15 others responsible for paying the costs of education. The general assembly has determined that
16 the establishment of a proper system of financial assistance, containing eligibility opportunities
17 for students and residents of this state and other states serves a public purpose and is fully
18 consistent with the long established policy of the state to encourage, promote, and assist the
19 education of the people of the state. [The general assembly further finds that higher education
20 financial assistance needs of Rhode Islanders will be better served by transferring all of the
21 functions and programs of the Rhode Island higher education assistance authority to the Rhode
22 Island division of higher education assistance and the office of the general treasurer.](#)

23 **16-57-3 Definitions.** -- As used in this chapter, the following words and terms have the
24 following meanings unless the context indicates another or different meaning or intent:

25 (1) "Authority" means the governmental agency and public instrumentality [previously](#)
26 authorized, created, and established pursuant to § 16-57-4.

27 (2) "Commissioner of ~~higher~~ [postsecondary](#) education" means the commissioner
28 appointed by the ~~Rhode Island board of governors for higher education~~ [council on postsecondary](#)
29 [education pursuant to § 16-59-6](#) or his or her designee.

30 (3) "Eligible borrower" means a student, or the parent of a student, who is either a resident
31 of the state or who, under rules promulgated by the ~~authority~~ [office](#), is qualified to make an
32 eligible loan.

33 (4) "Eligible institution", subject to further particular or more restrictive definition by
34 regulation of the ~~authority~~ [office](#), means:

- 1 (i) An institution of higher learning;
- 2 (ii) A vocational school; or
- 3 (iii) With respect to students who are nationals of the United States, an institution outside
- 4 the United States which is comparable to an institution of higher education or to a vocational
- 5 school and which has been approved by the ~~authority and by the~~ commissioner of postsecondary
- 6 education for purposes of the guaranteed student loan program.
- 7 (5) "Eligible loan" means a loan to a student or to the parent of a student insured or
- 8 guaranteed by the commissioner of postsecondary education, ~~by the authority~~, or by any other
- 9 governmental or private agency, corporation, or organization having a reinsurance or guaranty
- 10 agreement with the commissioner applicable to the student loan.
- 11 (6) "Guaranteed student loan program" means the program of federal student loan
- 12 insurance and reinsurance administered by the commissioner of postsecondary education.
- 13 (7) "Lender", subject to further particular or more restrictive definition by regulation of
- 14 the ~~authority~~ office, means any governmental or private agency, corporation, organization, or
- 15 institution designated as an "eligible lender" by federal statute, regulation, or administrative
- 16 ruling for the purposes of the guaranteed student loan program.
- 17 (8) "Participant" means an individual, corporation, trust or other "person" within the
- 18 meaning of § 529 of the Internal Revenue Code [26 U.S.C. § 529], who makes contributions to
- 19 the tuition savings program established pursuant to § 16-57-6.1 for purposes of paying qualified
- 20 higher education expenses on behalf of a beneficiary.
- 21 (9) "Participating institution" means an institution for higher education which agrees to
- 22 participate in a savings program or prepaid tuition program established pursuant to this chapter.
- 23 (10) "Prepaid tuition program" means a program administered by the ~~authority~~ division,
- 24 in conjunction with the executive director of the Rhode Island Student Loan Authority, and the
- 25 commissioner of postsecondary ~~higher~~ education, which provides a means for qualified students,
- 26 parents and others responsible for paying the costs of education to fix all or a portion of the direct
- 27 cost of attendance at participating institutions in one or more future years.
- 28 (11) "Program" means the tuition savings program established pursuant to § 16-57-6.1.
- 29 (12) "Qualified higher education expenses" means the costs of tuition, fees, books,
- 30 supplies and equipment required for enrollment or attendance at an institution of higher
- 31 education, and other education costs defined by federal law.
- 32 (13) "Secretary" means the United States secretary of education.
- 33 (14) "State" means the state of Rhode Island and Providence Plantations.
- 34 (15) "Student", as used with reference to the guaranteed student loan program and the

1 parent loan program, means an individual who, under rules promulgated by the ~~authority~~ division,
2 is enrolled or accepted for enrollment at an eligible institution and who is making suitable
3 progress in his or her education toward obtaining a degree or other appropriate certification in
4 accordance with standards acceptable to the authority.

5 (16) "Tuition savings program" or "Savings program" means a program approved and
6 administered by the ~~authority~~ General Treasurer, in conjunction with the executive director of the
7 Rhode Island Student Loan Authority, and the commissioner of postsecondary ~~higher~~-education,
8 designed to facilitate and encourage savings by or on behalf of students, future students and
9 parents for the purpose of paying the costs of attending institutions of higher education.

10 (17) "Council" means the council on postsecondary education established pursuant to §
11 16-59-1.

12 (18) "Division" means the Rhode Island division of higher education assistance, the
13 division authorized, created and established pursuant to § 16-57-4.

14 **16-57-4 Creation.** -- (a) There is authorized, created, and established within the office of
15 the commissioner of postsecondary education, a division of higher education assistance hereby
16 granted and authorized to use all of ~~public corporation of the state having a distinct legal~~
17 ~~existence from the state and not constituting a department of state government, which is a~~
18 ~~governmental agency and public instrumentality of the state, to be known as the "Rhode Island~~
19 ~~higher education assistance authority" with~~ the powers set forth in this chapter, for the purposes
20 of guaranteeing eligible loans to students in eligible institutions and to parents of those students
21 and of administering other programs of postsecondary student financial assistance assigned by
22 law to the ~~authority~~ division.

23 (b) The exercise by the ~~authority~~ division of the powers conferred by this chapter shall be
24 deemed and held to be the performance of an essential governmental function of the state for
25 public purposes. It is the intent of the general assembly by the passage of this chapter to vest in
26 the ~~authority~~ division office all powers, authority, rights, privileges, and titles which may be
27 necessary to enable it to accomplish the purposes set forth in this section and this chapter and the
28 powers granted by it shall be liberally construed in conformity with these purposes.

29 (c) The authority and its corporate existence shall be terminated on July 1, 2015 or upon
30 approval by the U.S. department of education, whichever is later, and ~~continue until terminated~~
31 ~~by law or until the authority shall cease entirely and continuously to conduct or be involved in~~
32 ~~any business in furtherance of its purposes; provided, that no termination shall take effect so long~~
33 ~~as the authority shall have guaranties or other obligations outstanding, unless adequate provision~~
34 ~~shall have been made for the payment of the obligations pursuant to the documents securing them~~

1 ~~or to this law. Upon termination of the existence of the authority,~~ all its rights and properties shall
2 pass to and be vested in the ~~state. At no time shall the assets or other property of the authority~~
3 ~~inure to the benefit of any person or other corporation or entity.~~ division of higher education
4 assistance, except as otherwise provided in § 16-57-6.1 and except for any real property held by
5 the authority, the legal title to which is hereby passed to and vested in (in trust for the state) the
6 council on postsecondary education. The division shall continue until terminated by law or until
7 the division shall cease entirely and continuously to conduct or be involved in any business in
8 furtherance of its purposes; provided, that no termination shall take effect so long as the division
9 shall have guaranties or other obligations outstanding, unless adequate provision shall have been
10 made for the payment of the obligations pursuant to the documents securing them or to this law.
11 Upon termination of the existence of the division, all its rights and properties shall pass to and be
12 vested in the state. At no time shall the assets or other property of the division inure to the benefit
13 of any person or other corporation or entity.

14 (d) Except as provided in § 16-57-6.1, effective July 1, 2015 or upon approval by the
15 U.S. department of education, whichever is later:

16 (i) All functions formerly administered by the Rhode Island higher education assistance
17 authority are hereby transferred to the Rhode Island division of higher education assistance;

18 (ii) The Rhode Island division of higher education assistance shall assume all rights,
19 duties, assets, liabilities and obligations of the former Rhode Island higher education assistance
20 authority and the Rhode Island division of higher education assistance shall be considered to be
21 the successor-in-interest to the Rhode Island higher education assistance authority; and

22 (iii) All contracts and agreements of whatsoever kind of the Rhode Island higher
23 education assistance authority are hereby assigned, transferred to and assumed by the Rhode
24 Island division of higher education assistance.

25 (e) Upon the completion of the transfer, the corporation known as the "Rhode Island
26 higher education assistance authority" shall cease to exist. Whenever in any general law or public
27 law reference is made to the "Rhode Island higher education assistance authority," the reference
28 shall be deemed to refer to and mean the "Rhode Island division of higher education assistance,"
29 which also may be referred to as the "division."

30 **16-57-6.1 Tuition savings program.** -- (a) The ~~authority~~ general treasurer shall, in
31 conjunction with the division, the state investment commission, executive director of the Rhode
32 Island student loan authority and the commissioner of ~~higher~~ postsecondary education, shall
33 establish in any form as ~~it~~ he or she deems appropriate, a tuition savings program to allow persons
34 to save money for the sole purpose of meeting qualified higher education expenses.

1 (b) All money received in connection with the tuition savings program shall be
2 segregated from all other funds ~~of the authority~~ into two (2) funds, a program fund and an
3 administrative fund. No more than two percent (2%) of money in the program fund may be
4 transferred annually to the administrative fund for the purpose of paying operating costs of
5 administering the tuition savings program. Money accrued by participants in the program fund
6 may be used for payments to an eligible institution. All proceeds from the tuition savings program
7 shall be directed to the administrative fund, and to the extent they exceed the operating costs of
8 administering the tuition savings program, said excess shall be used for financial aid related
9 activities in Rhode Island pursuant to § 16-56-6.

10 (c) The state investment commission shall invest money within the program fund in any
11 investments which are authorized by the general laws, including equities and fixed income
12 securities. The composition of investments shall be determined by the state investment
13 commission, ~~subject to the approval of the authority. The state investment commission shall~~
14 ~~consider the recommendations of the commissioner of higher education and the executive director~~
15 ~~of the Rhode Island Student Loan Authority with respect to the appropriate composition of~~
16 ~~investments within the program fund.~~

17 (d) A participant may at any time withdraw funds from the participant's account in the
18 tuition savings program in an amount up to the value of the account at the time the withdrawal is
19 implemented, less such administrative fee as may be levied by the ~~authority~~ treasurer in
20 connection with the withdrawal.

21 (e) Notwithstanding any of the foregoing provisions, no administrative fee may be levied
22 by the ~~authority~~ treasurer in the event that a participant requests withdrawal of funds from the
23 participant's account in the tuition savings program on account of, and within the meanings of §
24 529 of the Internal Revenue Code [26 U.S.C. § 529]:

25 (1) The death of the beneficiary of the account;

26 (2) The disability of the beneficiary; or

27 (3) A scholarship, allowance, or payment received by the beneficiary to the extent that
28 the amount of the refund does not exceed the amount of the scholarship, allowance, or payment.

29 (f) In the event that a participant requests a withdrawal from an account in the tuition
30 savings program other than (1) a withdrawal used for qualified higher education expenses of the
31 beneficiary of the account, or (2) for a reason referred to in subdivision (e)(1), (e)(2), or (e)(3) of
32 this section, the ~~authority~~ treasurer shall impose a more than de minimus penalty on the earnings
33 portion of the withdrawal in accordance with § 529 of the Internal Revenue Code [26 U.S.C. §
34 529]; provided that no penalty shall be imposed with respect to any such withdrawal, or any other

1 withdrawal, from any account in the tuition savings plan to which the tax made applicable by §
2 529 of the Internal Revenue Code [26 U.S.C. § 529] is effective.

3 ~~(g) Resources of the authority and the Rhode Island student loan authority shall be~~
4 ~~employed to effect implementation of the tuition savings program.~~

5 **16-57-6.2 Ownership of assets -- Transfer of ownership rights.** -- (a) The participant
6 retains ownership of all assets properly allocated to an account maintained for the participant in
7 the tuition savings program up to the date of withdrawal or distribution of these from the
8 program.

9 (b) All assets of the tuition savings program shall be considered to be held in trust. As
10 required by the Internal Revenue Code, no interest in the tuition savings program or any portion
11 of these may be used as security for a loan.

12 ~~(e) Any amounts paid to the administrative fund of the tuition savings program are owned~~
13 ~~by the authority. These amounts may include, but are not limited to, appropriated state funds.~~

14 ~~(d)~~(c) A participant may transfer ownership rights in the tuition savings program to
15 another participant or designate a new beneficiary insofar as permitted by § 529 of the Internal
16 Revenue Code [26 U.S.C. § 529] under such conditions as the **authority** treasurer deems
17 appropriate.

18 **16-57-6.3 Tax exempt earnings.** -- (a) For state income tax purposes, annual earnings of
19 the tuition savings program and the prepaid tuition program shall be exempt from tax to the
20 program, and shall not be includible in the Rhode Island income of either beneficiaries or
21 participants in the program until withdrawn or distributed from it, and then in accordance with
22 chapter 30 of title 44.

23 (b) The tax administrator, ~~in consultation with the authority,~~ may adopt rules and
24 regulations necessary to monitor, implement, and administer the Rhode Island personal income
25 tax provisions referred to in subsection (a) relating to this chapter. These regulations shall provide
26 for each taxable year for the timely submission to the tax administrator by the program manager
27 of the tuition savings program of this information in the form the tax administrator shall prescribe
28 concerning contributions to, and withdrawals including transfers and rollovers from, the tuition
29 savings program during that year.

30 **16-57-6.5 Annual audited financial report to the governor and general assembly.** --

31 (a) The **authority** treasurer, shall submit to the governor, the speaker of the house of
32 representatives, the president of the senate, and the secretary of state an annual audited financial
33 report, prepared in accordance with generally accepted accounting principles, on the operations of
34 the tuition savings program by November 1 of each year. The annual audit shall be made either

1 by the auditor general or by an independent certified public accountant approved by the auditor
2 general and shall include direct and indirect costs attributable to the use of outside consultants,
3 independent contractors, and any other persons who are not state employees.

4 (b) The annual audited financial report shall be supplemented by the following
5 information, to be submitted by April 1 of each year, on the operations of the program for the
6 previous calendar year:

7 ~~(1) A summary of meetings or hearings held, meeting minutes, subjects addressed,~~
8 ~~decisions rendered, rules or regulations promulgated, studies conducted, policies and plans~~
9 ~~developed, approved, or modified, and programs administered or initiated; and a summary of any~~
10 ~~clerical, administrative or technical support received; a summary of performance during the~~
11 ~~previous fiscal year including accomplishments, shortcomings and remedies; a synopsis of~~
12 ~~hearings, complaints, suspensions or other legal matters related to the authority of the board; a~~
13 ~~summary of any training courses held pursuant to subsection 16-57-7(a)(2); a briefing on~~
14 ~~anticipated activities in the upcoming fiscal year; and findings and recommendations for~~
15 ~~improvements;~~

16 ~~(2)~~(1) A summary of the benefits provided by the tuition savings program including the
17 number of participants and beneficiaries;

18 ~~(3)~~(2) Any other information which is relevant in order to make a full, fair and effective
19 disclosure of the assets and operations of the program; and

20 ~~(4)~~(3) The foregoing supplemental information shall be posted electronically on the
21 general assembly's and the secretary of state's websites as prescribed in § 42-20-8.2 of the Rhode
22 Island general laws. The treasurer ~~director of the department of administration~~ shall be
23 responsible for the enforcement of this provision.

24 **16-57-7 Directors, officers, and employees Council on Postsecondary Education.--**

25 ~~(a)(1) The powers of the authority shall be vested in a board of directors consisting of nine (9)~~
26 ~~members, five (5) of whom shall be appointed by the governor from among members of the~~
27 ~~general public, who are qualified by training or experience in education finance or personal~~
28 ~~investment consulting and made in accordance with subsection (b) of this section; three (3) of~~
29 ~~whom shall be appointed by the governor, who shall give due consideration to the~~
30 ~~recommendations made by the chairperson of the board of governors for higher education and by~~
31 ~~the Rhode Island Independent Higher Education Association for those appointments; and the state~~
32 ~~general treasurer ex officio or his or her designee who shall be a subordinate from within the~~
33 ~~office of the general treasurer. All gubernatorial appointments made to this board shall be subject~~
34 ~~to the advice and consent of the senate. All board members first appointed to the board after the~~

1 ~~effective date of this act shall be residents of this state. Designees of members serving ex officio~~
2 ~~shall represent him or her at all meetings of the board. Except for the chairpersons of the house~~
3 ~~and senate finance committees or their designees who shall cease to be members of the authority~~
4 ~~upon the effective date of this act, each member shall serve until his or her successor is appointed~~
5 ~~and qualified. The original members appointed by the governor shall be appointed in a manner as~~
6 ~~to provide for the expiration of the term of one member on the first day of July of each year. The~~
7 ~~council on postsecondary education established pursuant to § 16-59-1 shall retain all authority~~
8 ~~formerly vested in the higher education assistance authority board of directors, except as provided~~
9 ~~by § 16-57-6.1. Whenever in any general or public law reference is made to the "board of~~
10 ~~directors of the higher education assistance authority," the reference shall be deemed to refer to~~
11 ~~and mean the "council on postsecondary education." The council on postsecondary education~~
12 ~~shall be the employer of record for the division of higher education assistance.~~

13 ~~(2) Newly appointed and qualified public members and designees of ex officio members~~
14 ~~shall, within six (6) months of their qualification or designation, attend a training course that shall~~
15 ~~be developed with board approval and conducted by the chair of the board and shall include~~
16 ~~instruction in the following areas: the provisions of chapters 16-57, 42-46, 36-14 and 38-2; and~~
17 ~~the board's rules and regulations. The director of the department of administration shall, within~~
18 ~~ninety (90) days of the effective date of this act, prepare and disseminate training materials~~
19 ~~relating to the provisions of chapters 42-46, 36-14 and 38-2.~~

20 ~~(3) Public members of the board shall be removable by the appointing authority for cause~~
21 ~~only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the~~
22 ~~office shall be unlawful.~~

23 ~~(b) During the month of June of each year, the governor shall appoint a member to~~
24 ~~succeed the member whose term will then next expire to serve for a term of five (5) years~~
25 ~~commencing on the first day of July then next following, and after this, until a successor is~~
26 ~~appointed and qualified. As soon as practicable after the effective date of this act, the governor~~
27 ~~shall appoint a member to serve an initial term to expire on July 1, 2010. Thereafter, all members~~
28 ~~appointed by the general treasurer shall be appointed to terms of five (5) years, and the governor~~
29 ~~shall, during the month of June preceding the expiration of each term, appoint a member whose~~
30 ~~term will then next expire. In the event of a vacancy occurring in the office of a member by death,~~
31 ~~resignation, removal, or otherwise, the vacancy shall be filled in the same manner as an original~~
32 ~~appointment but only for the remainder of the term of the former member.~~

33 ~~(c) The directors shall receive no compensation for the performance of their duties under~~
34 ~~this chapter, but each director shall be reimbursed for his or her reasonable expenses incurred in~~

1 ~~carrying out the duties. A director may engage in private employment or in a profession or~~
2 ~~business.~~

3 ~~(d) Upon appointment and qualification of the original board of directors, and during the~~
4 ~~month of July of each year after this, the board of directors shall elect one of its members to serve~~
5 ~~as chairperson. The board may elect from among its members such other officers as they deem~~
6 ~~necessary. Five (5) directors shall constitute a quorum and any action to be taken by the authority~~
7 ~~under the provisions of this chapter may be authorized by resolution approved by a majority of~~
8 ~~the directors present and voting at any regular or special meeting at which a quorum is present. A~~
9 ~~vacancy in the membership of the board of directors shall not impair the right of a quorum to~~
10 ~~exercise all the rights and perform all the duties of the authority.~~

11 ~~(e)(1) In addition to electing a chairperson, the board of directors shall appoint a secretary~~
12 ~~and any additional officers and staff members as they shall deem appropriate. The board of~~
13 ~~directors shall appoint an executive director who shall be in the unclassified service and vest in~~
14 ~~that person or his or her subordinates the authorization to appoint additional staff members who~~
15 ~~shall be in the classified service and to determine the amount of compensation each individual~~
16 ~~shall receive. Those persons who were regularly established full time employees of the authority,~~
17 ~~prior to March 27, 1979, and who are required to be in the classified service may be placed in~~
18 ~~appropriate classifications within the classified service without the requirement of competitive~~
19 ~~examination (as approved by the executive director). All employees hired after March 27, 1979,~~
20 ~~will be hired in accordance with the requirements of the classified service for examination,~~
21 ~~approved state lists, and other procedures of the state division of personnel. Those persons who~~
22 ~~were regularly established full time employees of the authority, prior to March 27, 1979, shall~~
23 ~~have the right to purchase retirement credits for the period commencing November 1, 1977, to~~
24 ~~March 27, 1979, at the its full actuarial cost.~~

25 ~~(2) Any employee in either the classified or unclassified service who was, prior to his or~~
26 ~~her hiring by the authority, a participant in the retirement program adopted for personnel at any~~
27 ~~state or private college shall have the option to either remain with that retirement program while~~
28 ~~an employee of the authority or become a participant in the employees' retirement system of the~~
29 ~~state.~~

30 ~~(f)(b)~~ No full time employee shall during the period of his or her employment by the
31 ~~authority~~ division engage in any other private employment, profession, or business, except with
32 the approval of the ~~board of directors~~ commissioner of postsecondary education; provided, that
33 the executive director shall not engage in any other private employment, profession, or business,
34 including, but not limited to consulting.

1 ~~(g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict~~
2 ~~of interest for a director, officer, or employee of any financial institution, investment banking~~
3 ~~firm, brokerage firm, commercial bank, trust company, savings and loan association, credit union,~~
4 ~~insurance company, educational institution, or any other firm, person, or corporation to serve as a~~
5 ~~director of the authority, nor shall any contract or transaction between the authority and any~~
6 ~~financial institution, investment banking firm, brokerage firm, commercial bank, trust company,~~
7 ~~savings and loan association, credit union, insurance company, educational institution, or any~~
8 ~~other firm, person, or corporation be void or voidable by reason of any service as director of the~~
9 ~~authority. If any director, officer, or employee of the authority shall be interested either directly or~~
10 ~~indirectly, or shall be a director, officer, or employee of or have an ownership interest (other than~~
11 ~~as the owner of less than one percent (1%) of the shares of a publicly held corporation) in any~~
12 ~~firm or corporation interested directly or indirectly in any contract with the authority, the interest~~
13 ~~shall be disclosed to the authority and set forth in the minutes of the authority, and the director,~~
14 ~~officer, or employee having interest in this shall not participate on behalf of the authority in the~~
15 ~~authorization of any contract. Interested directors may be counted in determining the presence of~~
16 ~~a quorum at a meeting of the board of directors of the authority which authorizes the contract or~~
17 ~~transaction.~~

18 ~~(h) Any action taken by the authority under the provisions of this chapter may be~~
19 ~~authorized by vote at any regular or special meeting, and each vote shall take effect immediately.~~

20 ~~(i) The board of directors may designate from among its members an executive~~
21 ~~committee and one or more other committees each of which, to the extent authorized by the board~~
22 ~~of directors, shall have and may exercise all the authority of the board of directors, but no~~
23 ~~committee shall have the authority of the board of directors in reference to the disposition of all~~
24 ~~or substantially all the property and assets of the authority or amending the bylaws of the~~
25 ~~authority.~~

26 **16-57-8 Designated agency.** -- The ~~authority~~ division established within the office of the
27 postsecondary commissioner is designated the state agency ~~or corporation~~ to apply for, receive,
28 accept, and disburse federal funds, and funds from other public and private sources, made
29 available to the state for use as reserves to guarantee student loans or as administrative money to
30 operate student loan programs, and is designated to administer any statewide programs of student
31 assistance that shall be ~~established under~~ established under federal law.

32 **16-57-9 Loans to minors -- Loan obligations.** -- (a) Any person qualifying for an
33 eligible loan shall not be disqualified to receive a loan guaranteed by the ~~authority~~ division by
34 reason of his or her being a minor. For the purpose of applying for, securing, receiving, and

1 repaying a loan, any person shall be deemed to have full legal capacity to act and shall have all
2 the rights, powers, privileges, and obligations of a person of full age with respect to a loan.

3 (b) No loan obligation incurred by any individual under the provisions of this chapter
4 may be expunged, reduced, or discharged in any proceeding, including any proceeding in federal
5 bankruptcy court. Any individual receiving a loan under the provisions of this chapter shall be
6 required to sign an affidavit acknowledging the loan and agreeing to this condition.

7 **16-57-10 Reserve funds.** -- (a) To assure the continued operation and solvency of the
8 ~~authority~~ guaranteed student loan program ~~for the carrying out of its corporate purposes,~~ the
9 ~~authority~~ office of the postsecondary commissioner shall ~~may~~ create and establish ~~any~~ reserve
10 funds ~~as may be necessary or desirable for its corporate purposes,~~ and may pay into the funds any
11 money appropriated and made available by the state, ~~the commissioner,~~ or any other source for
12 the purpose of the funds, and any money collected by the ~~authority~~ division as fees for the
13 guaranty of eligible loans.

14 (b) ~~To assure continued solvency of the authority's, the authority operating fund shall be~~
15 ~~used solely for the ordinary operating expenses of the authority.~~ Furthermore, it is the intent of
16 the general assembly that these funds eventually be used to increase financial assistance to Rhode
17 Island students in the form of scholarships and grants as approved by the commissioner of
18 postsecondary education and as directed by the U.S. Department of Education, and in accordance
19 with federal statutes and regulations governing the use of funds in the guaranty agency's
20 operating fund pursuant to the provisions and restrictions of the 1998 reauthorization of the
21 federal higher education act.

22 (c) ~~Given the decline of available sources to support the agency, the Governor's FY 2016~~
23 ~~budget recommendations shall include a proposal for the transfer of higher education assistance~~
24 ~~authority's programs to appropriate agencies within state government. All departments and~~
25 ~~agencies of the state shall furnish such advice and information, documentary or otherwise to the~~
26 ~~director of the department of administration and its agents as is deemed necessary or desirable to~~
27 ~~facilitate the recommendation.~~

28 **16-57-12 Credit of state.** -- Guaranties made under the provisions of this chapter shall
29 not constitute debts, liabilities, or obligations of the state or of any political subdivision of the
30 state other than the division of higher education assistance ~~authority~~ or a pledge of the faith and
31 credit of the state or any political subdivision other than the division of higher education
32 assistance ~~authority~~, but shall be payable solely from the revenues or assets of ~~the authority~~
33 reserve funds set forth in § 16-57-10.

34 SECTION 7. Sections 16-59-1, 16-59-4, and 16-59-6 of the General Laws in Chapter 16-

1 59 entitled "Board of Governors for Higher Education" [See Title 16 Chapter 97 – The Rhode
2 Island Board of Education Act] are hereby amended to read as follows:

3 **16-59-1 Council on Postsecondary Education established.** -- (a) There is created a
4 council on postsecondary education, sometimes referred to as the "council", which shall be and is
5 constituted a public corporation, empowered to sue and be sued in its own name, and to exercise
6 all the powers, in addition to those specifically enumerated in this chapter, usually appertaining to
7 public corporations entrusted with control of postsecondary educational institutions and
8 functions. Upon its organization the council shall be invested with the legal title (in trust for the
9 state) to all property, real and personal, now owned by and/or under the control or in custody of
10 the board of regents for education for the use of the University of Rhode Island, Rhode Island
11 College, Community College of Rhode Island and the system of community colleges of Rhode
12 Island including all departments, divisions, and branches of these.

13 (b) The council is empowered to hold and operate the property in trust for the state; to
14 acquire, hold, and dispose of the property and other like property as deemed necessary for the
15 execution of its corporate purposes. The council is made successor to all powers, rights, duties,
16 and privileges formerly belonging to the board of regents for education pertaining to
17 postsecondary education and the board of governors for higher education.

18 (c) The council shall be the employer of record for higher education and the office of
19 postsecondary education. It shall retain all authority formerly vested in the board of education
20 regarding the employment of faculty and staff at the public higher education institutions.

21 (d) The council shall be the governing body for the Rhode Island division of higher
22 education assistance and shall retain all authority formerly vested in the higher education
23 assistance authority board of directors pursuant to § 16-57-7; however, any debts, liabilities, or
24 obligations of the council that result from its status as such governing body shall be payable
25 solely from the revenues or assets of reserve funds set forth and established by the prior Rhode
26 Island higher education assistance authority and/or the Rhode Island division of higher education
27 assistance created pursuant to Chapter 57 of this title, and not from any assets or property held by
28 the council on public higher education pursuant to this chapter.

29 (e) The council on postsecondary education shall be the employer of record for the
30 division of higher education assistance.

31 **16-59-4 Powers and duties of the council on postsecondary education.** – (a) The
32 council on postsecondary education shall have, in addition to those enumerated in § 16-59-1, the
33 following powers and duties:

34 (1) To approve a systematic program of information gathering, processing, and analysis

1 addressed to every level, aspect, and form of higher education in this state especially as that
2 information relates to current and future educational needs so that current needs may be met with
3 reasonable promptness and plans formulated to meet future needs as they arise in the most
4 efficient and economical manner possible.

5 (2) To develop and approve a strategic plan implementing broad goals and objectives for
6 higher education in the state as established by the board of education, including a comprehensive
7 capital development program.

8 (3) To formulate broad policy to implement the goals and objectives established and
9 adopted by the board of education, to adopt standards and require enforcement and to exercise
10 general supervision over all higher public education in the state and over independent higher
11 education in the state as provided in subdivision (8) and (9) of this section. The board of
12 education and the council shall not engage in the operation or administration of any subordinate
13 committee, university, junior college, or community college, except its own office of
14 postsecondary education and except as specifically authorized by an act of the general assembly;
15 provided, the presidents of each institution of higher learning shall be the chief administrative and
16 executive officers of that institution; and provided that nothing contained in this section shall
17 prohibit their direct access to or interfere with the relationship between the presidents and the
18 board of education and the council.

19 (4) To communicate with and seek the advice of the commissioner of postsecondary
20 education, the presidents of the public higher education institutions and all those concerned with
21 and affected by its determinations as a regular procedure in arriving at its conclusions and in
22 setting its policy.

23 (5) To prepare and maintain a five (5) year funding plan for higher education that
24 implements the strategic financing recommendations of the board of education; to prepare with
25 the assistance of the commissioner of postsecondary education and to present annually to the state
26 budget officer in accordance with § 35-3-4 a state higher education budget, which shall include,
27 but not be limited to, the budget of the office of postsecondary education and the budget of the
28 state colleges. In the preparation of the budget, the council shall implement priorities established
29 by the board of education of expenditures for public higher education purposes of state revenues
30 and other public resources made available for the support of higher public education. Prior to
31 submitting the budget to the state budget officer as required by the budget office instructions and
32 this subsection, the council shall present the budget to the board of education for its review and
33 approval. Nothing contained in this subdivision shall authorize the council to alter the allocation
34 of grants or aid otherwise provided by law.

1 (6) To maintain an office of postsecondary commissioner; to provide for its staffing and
2 organization; and to manage and oversee a commissioner of postsecondary education pursuant to
3 duties and responsibilities defined in § 16-59-6 and § 16-59-7. The commissioner of
4 postsecondary education and the office of postsecondary commissioner shall have the duties and
5 responsibilities as defined in §§ 16-59-6 and 16-59-7.

6 (7) To appoint and dismiss presidents of the public institutions of higher learning with the
7 assistance of the commissioner of postsecondary education, and to establish procedures for this,
8 and with the assistance of the commissioner to approve or disapprove vice presidents of the
9 public institutions of higher learning appointed by the respective presidents of the public
10 institutions of higher learning.

11 (8) To establish other educational agencies or subcommittees necessary or desirable for
12 the conduct of any or all aspects of higher education and to determine all powers, functions, and
13 composition of any agencies or subcommittees and to dissolve them when their purpose shall
14 have been fulfilled.

15 (9) To exercise the authority vested in the board of regents for education with relation to
16 independent higher educational institutions within the state under the terms of chapter 40 of this
17 title, and other laws affecting independent higher education in the state.

18 (10) To enforce the provisions of all laws relating to higher education, public and
19 independent.

20 (11) To be responsible for all the functions, powers, and duties which were vested in the
21 board of regents for education relating to higher education, including but not limited to the
22 following specific functions:

23 (i) To approve the role and scope of programs at public institutions of higher learning
24 with the assistance of the commissioner of postsecondary education which shall include but not
25 be limited to populations to be served, the type and level of programs and academic fields
26 offered.

27 (ii) To adopt and require standard accounting procedures for the office of postsecondary
28 commissioner and all public colleges and universities.

29 (iii) To approve a clear and definitive mission for each public institution of higher
30 learning with the assistance of the commissioner of postsecondary education that is consistent
31 with the role and scope of programs at the public institutions.

32 (iv) To promote maximum efficiency, economy, and cooperation in the delivery of public
33 higher educational services in the state and cooperation with independent institutions of higher
34 education.

1 (12) To incorporate into its own affirmative action reporting process periodic reports
2 monitoring specific faculty and staff searches by the chairperson of the search committee to
3 include the rationale for granting those interviews and the final hiring results. The institutions
4 must empower their affirmative action officer to monitor searches in this manner, to intervene
5 during the search, and, when necessary, to cause a search to cease if affirmative action goals are
6 not being adequately served.

7 (13) To incorporate a specific category for accountability on affirmative action goals and
8 implementation as part of the board's annual evaluations and three (3) year reviews for the
9 presidents of each of the public institutions of higher education.

10 (14) To make a formal request of the governor that whenever an opportunity arises to
11 make new appointments to the board, that the governor make every effort to increase the number
12 of African Americans, Native Americans, Asians, and Hispanics on the board.

13 (15) To develop coherent plans for the elimination of unnecessary duplication in public
14 higher education and addressing the future needs of public education within the state in the most
15 efficient and economical manner possible.

16 (16) To delegate to the presidents of each public higher education institution the authority
17 and responsibility for operational and management decisions related to their institutions,
18 consistent with the goals of the statewide strategic plan for postsecondary education provided
19 however that the presidents may be required to provide information or updates to the council
20 regarding any delegated operational or management decisions.

21 (17) To serve as the governing body of the division of higher education assistance and
22 exercise all powers and duties of the division of higher education assistance as set forth under the
23 terms of Chapter 57 of this title; however, any debts, liabilities, or obligations of the council that
24 result from its status as such governing body shall be payable solely from the revenues or assets
25 of reserve funds set forth and established by the prior Rhode Island higher education assistance
26 authority and/or the Rhode Island division of higher education assistance created pursuant to
27 Chapter 57 of this title, and not from any assets or property held by the council on postsecondary
28 education pursuant to this chapter.

29 (18) To guarantee one hundred percent (100%) of the unpaid principal and accrued
30 interest of any eligible loan made by a lender to any eligible borrower in existence prior to July 1,
31 2015 for the purpose of assisting the students in obtaining an education in an eligible institution,
32 subject, however, to the limitation regarding any debts, liabilities, or obligations of the council set
33 forth in section (17) above, and in § 16-57-12.

34 (19) To prescribe rules and regulations deemed necessary or desirable to carry out the

1 purposes of serving as a guaranty agency for the loans set forth in § 16-59-4 (18), including
2 without limitation rules and regulations:

3 (i) To ensure compliance by the division with the requirements imposed by statutes or
4 regulation governing the guaranty, insurance, purchase, or other dealing in eligible loans by
5 federal agencies, instrumentalities, or corporations,

6 (ii) To set standards of eligibility for educational institutions, students, and lenders and to
7 define residency and all other terms as the division deems necessary to carry out the purposes of
8 this chapter, and

9 (iii) To set standards for the administration of programs of postsecondary student
10 financial assistance assigned by law to the division, including but not limited to savings
11 programs. Administrative rules governing savings programs shall authorize the division, in
12 conjunction with commissioner of postsecondary education, to negotiate reciprocal agreements
13 with institutions in other states offering similar savings programs for the purpose of maximizing
14 educational benefits to students in this state.

15 (20) To establish penalties for violations of any order, rule, or regulation of the division,
16 and a method for enforcing these.

17 (21) To set and collect fees and charges, in connection with its guaranties and servicing,
18 including without limitation reimbursement of costs of financing by the division, service charges,
19 and insurance premiums and fees and costs associated with implementing and administering
20 savings programs established pursuant to this chapter.

21 (22) To hold and operate property previously held by the higher education assistance
22 authority in trust for the state, and to acquire, hold, and dispose of the property and other like
23 property as deemed necessary for the execution of its corporate purposes.

24 **16-59-6 Commissioner of postsecondary education. --** The council on postsecondary
25 education, with approval of the board, shall appoint a commissioner of postsecondary education,
26 who shall serve at the pleasure of the council, provided that his or her initial engagement by the
27 council shall be for a period of not more than three (3) years. For the purpose of appointing,
28 retaining, or dismissing a commissioner of postsecondary education, the governor shall serve as
29 an additional voting member of the council. The position of commissioner shall be in the
30 unclassified service of the state and he or she shall serve as the chief executive officer of the
31 council on postsecondary education, ~~and as~~ the chief administrative officer of the office of
32 postsecondary commissioner, and the executive director of the division of higher education
33 assistance. The commissioner of postsecondary education shall have any duties that are defined in
34 this section and in this title and other additional duties as may be determined by the council, and

1 shall perform any other duties as may be vested in him or her by law. In addition to these duties
2 and general supervision of the office of postsecondary commissioner and the appointment of the
3 several officers and employees of the office, it shall be the duty of the commissioner of
4 postsecondary education:

5 (1) To develop and implement a systematic program of information gathering,
6 processing, and analysis addressed to every aspect of higher education in the state, especially as
7 that information relates to current and future educational needs.

8 (2) To prepare a strategic plan for higher education in the state aligned with the goals of
9 the board of education's strategic plan; to coordinate the goals and objectives of the higher public
10 education sector with the goals of the council on elementary and secondary education, and
11 activities of the independent higher education sector where feasible.

12 (3) To communicate with and seek the advice of those concerned with and affected by the
13 board of education's and council's determinations.

14 (4) To implement broad policy as it pertains to the goals and objectives established by the
15 board of education and council on postsecondary education; to promote better coordination
16 between higher public education in the state, independent higher education in the state as
17 provided in subdivision (10) of this section and pre k-12 education; to assist in the preparation of
18 the budget for public higher education and to be responsible upon direction of the council for the
19 allocation of appropriations, the acquisition, holding, disposition of property.

20 (5) To be responsible for the coordination of the various higher educational functions of
21 the state so that maximum efficiency and economy can be achieved.

22 (6) To assist the board of education in preparation and maintenance of a five (5) year
23 strategic funding plan for higher education; to assist the council in the preparation and
24 presentation annually to the state budget officer in accordance with § 35-3-4 of a total public
25 higher educational budget.

26 (7) To recommend to the council on postsecondary education after consultation with the
27 presidents, a clear and definitive mission for each public institution of higher learning.

28 (8) To annually recommend to the council on postsecondary education after consultation
29 with the presidents, the creation, abolition, retention, or consolidation of departments, divisions,
30 programs, and courses of study within the public colleges and universities to eliminate
31 unnecessary duplication in public higher education, to address the future needs of public higher
32 education in the state, and to advance proposals recommended by the presidents of the public
33 colleges and universities pursuant to §§ 16-32-2.1, 16-33-2.1 and 16-33.1-2.1 of the general laws.

34 (9) To supervise the operations of the office of postsecondary commissioner, [including](#)

1 [the division of higher education assistance](#), and any other additional duties and responsibilities
2 that may be assigned by the council.

3 (10) To perform the duties vested in the council with relation to independent higher
4 educational institutions within the state under the terms of chapter 40 of this title and any other
5 laws that affect independent higher education in the state.

6 (11) To be responsible for the administration of policies, rules, and regulations of the
7 council on postsecondary education with relation to the entire field of higher education within the
8 state, not specifically granted to any other department, board, or agency and not incompatible
9 with law.

10 (12) To prepare standard accounting procedures for public higher education and all public
11 colleges and universities.

12 (13) To carry out the policies and directives of the board of education and the council on
13 postsecondary education through the office of postsecondary commissioner and through
14 utilization of the resources of the public institutions of higher learning.

15 [\(14\) To exercise all powers and duties of the division of higher education assistance as](#)
16 [set forth under the terms of chapter 57 of this title.](#)

17 SECTION 8. Section 16-62-3 of the General Laws in Chapter 16-62 entitled "The Rhode
18 Island Student Loan Authority" is hereby amended to read as follows:

19 **16-62-3 Definitions.** -- As used in this chapter, the following words and terms shall have
20 the following meanings unless the context shall indicate another or different meaning or intent:

21 (1) "Authority" means the governmental agency and public instrumentality authorized,
22 created, and established pursuant to § 16-62-4.

23 (2) "Bonds" and "notes" means the bonds, notes, securities, or other obligations or
24 evidences of indebtedness issued by the authority pursuant to this chapter, all of which shall be
25 issued under the name of or known as obligations of the Rhode Island student loan authority.

26 (3) "Education loan" means a loan to a student or the parent, legal guardian, or sponsor of
27 the student, or to an eligible institution, for the purpose of financing a student's attendance at the
28 eligible institution. The loan may provide that the student, parent, legal guardian, or sponsor of
29 the student or eligible institution may be held jointly and severally liable for the education loan.

30 (4) "Eligible institution" means, subject to further particular or more restrictive definition
31 by regulation of the authority: (i) an institution of higher learning, (ii) a vocational school, or (iii)
32 with respect to students who are nationals of the United States, an institution outside the United
33 States which is comparable to an institution of higher education or to a vocational school and
34 which has been approved by the authority and by the secretary for purposes of the guaranteed

1 student loan program.

2 (5) "Eligible loan" means a loan to a student or to the parent of a student insured or
3 guaranteed by the secretary, Rhode Island [division of](#) higher education assistance ~~authority~~, or by
4 any other governmental or private agency, corporation, or organization having a reinsurance or
5 guaranty agreement with the secretary applicable to that loan.

6 (6) "Guaranteed student loan program" means the program of federal student loan
7 insurance and reinsurance administered by the secretary.

8 (7) "Lender" means, subject to further particular or more restrictive definition by
9 regulation of the authority, any governmental or private agency, corporation, organization, or
10 institution (including educational institutions and the authority itself) designated as an "eligible
11 lender" by federal statute, regulation, or administrative ruling for the purposes of the guaranteed
12 student loan program.

13 (8) "Secretary" means the United States secretary of education or the secretary of health
14 and human services.

15 (9) "State" means the state of Rhode Island and Providence Plantations.

16 (10) "Student" means an individual who under rules promulgated by the authority meets
17 the enrollment and satisfactory progress requirement necessary for making an eligible student
18 loan or an education loan, as applicable. This designation shall include dependent and
19 independent undergraduate students, and graduate and professional students. 25-2-18.1

20 SECTION 9. Section 16-63-7 of the General Laws in Chapter 16-63 entitled "Adult
21 Education" [See Title 16 Chapter 97 – The Rhode Island Board of Education Act] is hereby
22 amended to read as follows:

23 **16-63-7 Functions of office. --** The functions of the office may include, but may not
24 necessarily be limited to, the following:

25 (1) The development of recommendations to the commissioner and the implementation of
26 any approved recommendations, including:

27 (i) The utilization of federal and state funds for any purpose prescribed or allowed by the
28 laws and/or regulations authorizing and/or appropriating those funds;

29 (ii) The sub-granting of those federal and state funds to selected deliverers of programs
30 and services, including those contemplated in subdivisions (2) and (3);

31 (iii) The operation and networking of statewide adult level guidance services;

32 (iv) The operation of a high school equivalency or general educational development,
33 testing, and certification program;

34 (v) Administration of the provisions for the approval and regulation of private career,

1 trade, and technical schools, pursuant to chapter 40 of this title, and of any other nonpublic
2 entities, whether non-business or proprietary, which provide or purport to provide adult education
3 programs and services to residents of the state;

4 (vi) Professional development of administrators, teachers, counselors, paraprofessionals,
5 and other personnel employed or engaged in delivering adult education programs and services
6 within the state; and

7 (vii) Continuous research and planning in adult education, including assistance to the
8 commission in conducting the comprehensive study of adult education prescribed in § 16-58-6,
9 needs assessments in conjunction with local planning and assessment processes, and the
10 development and utilization of relevant data.

11 (2) Coordination with programs and services administered and/or operated by other
12 agencies and institutions, including:

13 (i) All programs in categories 1, 2, 3, and 5 as defined by this chapter;

14 (ii) Outreach, recruitment, and intake for program components throughout the delivery
15 system defined in this chapter;

16 (iii) Dissemination of information on financial aid for adult learners, including loans,
17 grants, scholarships, and other forms of financial aid, in cooperation with the Rhode Island
18 division of higher education assistance ~~authority~~, pursuant to chapters 56 and 57 of this title;

19 (iv) Psychological testing in relation to education and training, basic skills diagnostic and
20 evaluation services, and multi-phasic vocational testing;

21 (v) Competency based adult high school diploma assessment and certification, as
22 conducted by local education agencies in accordance with this chapter; and

23 (vi) The college level examination program and other mechanisms for establishing and
24 recording postsecondary achievement and competencies in terms of academic credit.

25 (3) General advocacy and communicative relationships with other agencies, institutions,
26 and organizations engaged in or interested in adult education or related activities in the state,
27 including:

28 (i) Programs and services for adult learners in public and private colleges, schools, and
29 other settings, at elementary, secondary, and postsecondary levels;

30 (ii) Adult education programs and services, in any of the categories defined in this
31 chapter, conducted in libraries and other community based settings;

32 (iii) Pre-service, in-service, and upgrading education and training programs, generally in
33 category 2 as defined by this chapter, conducted in employment settings;

34 (iv) Activities, generally in category 2 as defined by this chapter, conducted in the state

1 pursuant to the Job Training Partnership Act, 29 U.S.C. § 1501 et seq., and any amendments to it,
2 extensions of it, or successor legislation;

3 (v) All activities in categories 4 and 6, as defined by this chapter;

4 (vi) Programs and services, generally in categories 1, 2, 3, 5, and 7, as defined by this
5 chapter, conducted in custodial, correctional, and curative institutions in the state;

6 (vii) Programs and services for adults with special needs, such as people with disabilities,
7 immigrants and refugees, women and displaced homemakers, senior citizens, persons of
8 multilingual or multicultural backgrounds, and persons being discharged from the care of
9 institutions referenced in subdivision (3)(vi);

10 (viii) Programs of family and homelife education and parent effectiveness training;

11 (ix) Educational and public service programming on radio and television, including that
12 transmitted electronically and through cable systems; and

13 (x) Automobile and motorcycle driver safety education; and

14 (4) Staff support services for the commission.

15 SECTION 10. Section 22-13-9 of the General Laws in Chapter 22-13 entitled "Auditor
16 General" is hereby amended to read as follows:

17 **22-13-9 Access to executive sessions of a public agency -- Access to records --**

18 **Disclosure by the auditor general. --** (a) Whenever a public agency goes into executive session,
19 the auditor general or his or her designated representative shall be permitted to attend the
20 executive session or if the auditor general or his or her designee is not in attendance at the
21 executive session, the auditor general or his or her designee, upon written request, shall be
22 furnished with copies of all data or materials furnished to the members of the public agency at the
23 executive session. If the auditor general or his or her designee attends the executive session, the
24 auditor general shall be furnished the same data in the same form and at the same time as
25 members of the public agency.

26 (b) Within three (3) working days of a written request by the auditor general, the public
27 agency shall furnish a copy, whether approved by the agency or not, of the minutes of any
28 meeting, including any executive session of the public agency.

29 (c) The auditor general shall have full and unlimited access to any and all records of any
30 public agency, in whatever form or mode the records may be, unless the auditor general's access
31 to the records is specifically prohibited or limited by federal or state law. In no case shall any
32 confidentiality provisions of state law be construed to restrict the auditor general's access to the
33 records; provided, the auditor general's access to any confidential data shall not in any way
34 change the confidential nature of the data obtained. Where an audit or investigative finding

1 emanates from confidential data, specific confidential information will not be made public. The
2 records shall include those in the immediate possession of a public agency as well as records
3 which the agency itself has a right to. In the event of a dispute between the agency involved and
4 the auditor general as to whether or not the data involved are confidential by law, the matter will
5 be referred to the attorney general for resolution.

6 (d)(1) If in the course of an executive session any fact comes to the attention of the
7 auditor general or his or her designated representative, which in his or her judgment constitutes an
8 impropriety, irregularity, or illegal transaction, or points to the onset of an impropriety or illegal
9 transaction, then the auditor general shall disclose that information to the joint committee on
10 legislative services, the director of administration, and the chairperson of the public agency
11 involved. Where the facts or the data upon which the facts are based are deemed confidential
12 pursuant to the provisions of federal or state law, the auditor general's access to the information
13 shall not in any way change the confidential nature of the data obtained.

14 (2) In the event of a dispute between the agency involved and the auditor general as to
15 whether or not the data involved are confidential by law, the matter will be referred to the
16 attorney general for resolution.

17 (e) The auditor general or his or her designated representative shall be immune from any
18 liability to any party for claims arising out of disclosure authorized by this section.

19 (f) For the purposes of this section, the phrase "public agency" shall include the
20 following: the Rhode Island industrial building authority, the Rhode Island recreational building
21 authority, the Rhode Island economic development corporation, the Rhode Island industrial
22 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and
23 mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island
24 public transit authority, the Rhode Island student loan authority, the water resources board, the
25 Rhode Island health and educational building corporation, ~~the Rhode Island higher education~~
26 ~~assistance authority~~, the Rhode Island turnpike and bridge authority, the Narragansett Bay
27 commission, the convention center authority, their successors and assigns, and any other body
28 corporate and politic which has been or which is subsequently created or established within this
29 state.

30 SECTION 11. Sections 23-14.1-2, 23-14.1-3, 23-14.1-4, 23-14.1-5, 23-14.1-6, 23-14.1-8
31 and 23-14.1-9 of the General Laws in Chapter 23-14.1 entitled "Health Professional Loan
32 Repayment Program" are hereby amended to read as follows:

33 **23-14.1-2 Definitions.** -- For the purpose of this chapter, the following words and terms
34 have the following meanings unless the context clearly requires otherwise:

1 ~~(1) "Authority" means the higher education assistance authority.~~

2 ~~(2)~~(1) "Board" means the health professional loan repayment board.

3 (2) "Commissioner" means the commissioner of postsecondary education.

4 (3) "Community health center" means a health care facility as defined and licensed under
5 chapter 17 of this title.

6 (4) ~~"Director" means the director of the higher education assistance authority.~~ "Division"
7 means the Rhode Island division of higher education assistance.

8 (5) "Eligible health professional" means a physician, dentist, dental hygienist, nurse
9 practitioner, certified nurse midwife, physician assistant, or any other eligible health care
10 professional under § 338A of the Public Health Service Act, 42 U.S.C. § 254l, licensed in the
11 state who has entered into a contract with the board to serve medically underserved populations.

12 (6) "Loan repayment" means an amount of money to be repaid to satisfy loan obligations
13 incurred to obtain a degree or certification in an eligible health profession as defined in
14 subdivision (5).

15 **23-14.1-3 Health professional loan repayment program established.** -- There is
16 established within the division ~~higher education assistance authority~~, to be administered by the
17 commissioner ~~director~~, the health professional loan repayment program whose purpose shall be to
18 provide loan repayment to eligible health professionals to defray the cost of their professional
19 education.

20 **23-14.1-4 Health professional loan repayment board.** -- (a) There is created the health
21 professional loan repayment board, which shall consist of the director of the department of health
22 and eight (8) members appointed by the governor with the advice and consent of the senate. The
23 governor shall give due consideration to any recommendations for nominations submitted to him
24 or her by the Rhode Island Medical Society; the Rhode Island Dental Association; the Rhode
25 Island Health Center Association; the dean of the Brown University Medical School; the dean of
26 the College of Nursing at the University of Rhode Island; the Rhode Island State Nurses'
27 Association; the Hospital Association of Rhode Island; the Rhode Island division of higher
28 education assistance ~~authority~~. All appointed members shall serve for terms of three (3) years and
29 shall receive no compensation for their services. Board members shall be eligible to succeed
30 themselves.

31 (b) The director of the department of health shall serve as chairperson. The board shall
32 elect such other officers as it deems necessary from among its members. All meetings shall be
33 called by the chairperson.

34 (c) Members of the board shall be removable by the governor pursuant to the provisions

1 of § 36-1-7 of the general laws and for cause only, and removal solely for partisan or personal
2 reasons unrelated to capacity or fitness for the office shall be unlawful.

3 **23-14.1-5 Duties of the board.** -- The board shall:

4 (1) Determine which areas of the state shall be eligible to participate in the loan
5 repayment program each year, based on health professional shortage area designations.

6 (2) Receive and consider all applications for loan repayment made by eligible health
7 professionals.

8 (3) Conduct a careful and full investigation of the ability, character, financial needs, and
9 qualifications of each applicant.

10 (4) Consider the intent of the applicant to practice in a health professional shortage area
11 and to adhere to all the requirements for participation in the loan repayment program.

12 (5) Submit to the [commissioner](#) ~~director~~ a list of those individuals eligible for loan
13 repayment and amount of loan repayment to be granted.

14 (6) Promulgate rules and regulations to ensure an effective implementation and
15 administration of the program.

16 (7) Within ninety (90) days after the end of each fiscal year, the board shall approve and
17 submit an annual report to the governor, the speaker of the house of representatives, the president
18 of the senate, and the secretary of state, of its activities during that fiscal year. The report shall
19 provide: an operating statement summarizing meetings or hearings held, including meeting
20 minutes, subjects addressed, decisions rendered, applications considered and their disposition,
21 rules or regulations promulgated, studies conducted, policies and plans developed, approved, or
22 modified, and programs administered or initiated; a consolidated financial statement of all funds
23 received and expended including the source of the funds, a listing of any staff supported by these
24 funds, and a summary of any clerical, administrative or technical support received; a summary of
25 performance during the previous fiscal year including accomplishments, shortcomings and
26 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the
27 committee; a summary of any training courses held pursuant to this chapter; a briefing on
28 anticipated activities in the upcoming fiscal year, and findings and recommendations for
29 improvements. The report shall be posted electronically on the websites of the general assembly
30 and the secretary of state pursuant to the provisions of § 42-20-8.2. The director of the department
31 of administration shall be responsible for the enforcement of the provisions of this subsection.

32 (8) Conduct a training course for newly appointed and qualified members within six (6)
33 months of their qualification or designation. The course shall be developed by the chair of the
34 board, be approved by the board, and be conducted by the chair of the board. The board may

1 approve the use of any board and/or staff members and/or individuals to assist with training. The
2 training course shall include instruction in the following areas: the provisions of chapters 42-46,
3 36-14 and 38-2; and the board's rules and regulations. The director of the department of
4 administration shall, within ninety (90) days of June 16, 2006, prepare and disseminate training
5 materials relating to the provisions of chapters 42-46, 36-14, and 38-2.

6 **23-14.1-6 ~~Duties of the director~~ Duties of the Commissioner.** -- The ~~director~~
7 commissioner shall:

- 8 (1) Grant loan repayments to successful applicants as determined by the board.
9 (2) Enter into contracts, on behalf of the division ~~higher education assistance authority~~
10 with each successful applicant, reflecting the purpose and intent of this chapter.

11 **23-14.1-8 Contracts required.** -- Prior to being granted loan repayment each eligible
12 health professional shall enter into a contract with the ~~authority~~ division agreeing to the terms and
13 conditions upon which the loan repayment is granted. The contract shall include any provisions
14 that are required to fulfill the purposes of this chapter and those deemed advisable by the ~~director~~
15 commissioner.

16 **23-14.1-9 Penalty for failure to complete contract.** -- (a) If the recipient of a loan
17 repayment fails, without justifiable cause, to practice pursuant to the terms and conditions of his
18 or her contract with the ~~authority~~ division, a penalty for the failure to complete the contract will
19 be imposed. If the recipient fails to complete the period of obligated service, he or she shall be
20 liable to the state of Rhode Island for:

- 21 (1) An amount equal to the total paid on behalf of the recipient; and
22 (2) An unserved obligation penalty equal to the number of months of obligated service
23 not completed by the recipient multiplied by one thousand dollars (\$1,000).

24 (b) If the recipient fails to complete one year of service, he or she shall be liable to the
25 state of Rhode Island for:

- 26 (1) An amount equal to the total paid on behalf of the recipient; and
27 (2) An unserved obligation penalty equal to the number of months in the full period
28 multiplied by one thousand dollars (\$1,000).

29 (c) Any amount owed shall be paid to the State of Rhode Island within one year of the
30 date that the recipient is in breach of contract.

31 (d) Where the ~~director~~ commissioner, subject to the approval of the board, determines
32 that there exists justifiable cause for the failure of a recipient to practice pursuant to the terms and
33 conditions of the contract, he or she may relieve the recipient of the obligation to fulfill any or all
34 of the terms of the contract.

1 SECTION 12. Section 25-2-18.1 of the General Laws in Chapter 25-2 entitled "Days of
2 Special Observance" is hereby amended to read as follows:

3 **25-2-18.1 Martin Luther King, Jr. State Holiday Commission.** -- (a) There is created a
4 permanent commission to be known as the Martin Luther King, Jr. State Holiday Commission to
5 consist of thirteen (13) members, three (3) of whom shall be from the house of representatives,
6 not more than two (2) from the same political party, to be appointed by the speaker; three (3) of
7 whom shall be from the senate, not more than two (2) from the same political party to be
8 appointed by the president of the senate; three (3) of whom shall be representatives of the general
9 public, to be appointed by the speaker; two (2) of whom shall be representatives of the general
10 public to be appointed by the president of the senate; one of whom shall be a representative of the
11 governor's office, to be appointed by the governor; and one of whom shall be the lieutenant
12 governor, all of the foregoing to be known as commission members. The commission shall
13 appoint not more than sixteen (16) representatives from organizations and groups generally
14 identified with and thought to epitomize the ideals of Dr. Martin Luther King, Jr., all of whom
15 shall be known as non-voting affiliate members, to serve for two (2) year terms.

16 (b) The purpose of the commission shall be to plan, supervise and administer, in
17 conjunction with the federal Martin Luther King Day Commission and the Martin Luther King
18 Center for Non-Violent Social Change, an appropriate celebration to commemorate the birthday
19 of Dr. Martin Luther King, Jr., and the annual observance of Dr. Martin Luther King Day, which
20 will be observed on the third Monday in January each year. The commission shall not limit its
21 activities to the annual celebration, but shall endeavor to promote educational efforts throughout
22 the year, as well as to promote seminar events during the annual celebration that will be of
23 informative value to all segments of the Rhode Island community.

24 (c) The members of the commission shall, in February of each odd-numbered year, elect
25 from among themselves a chairperson, who shall be a legislator, and a vice-chairperson, who
26 shall not be a government official or employee. Vacancies in the commission shall be filled in
27 like manner as the original appointment.

28 (d) The commission is empowered to appoint committees to study specialized areas of
29 concern and to report their findings and recommendations to the commission; provided, however,
30 that one of these committees shall be an education committee.

31 (e) The commission is empowered to establish a Martin Luther King Scholarship Fund
32 and to award scholarships from the fund. Decisions concerning scholarship awards shall be made
33 by the education committee of the commission in conjunction with the division of higher
34 education assistance ~~authority~~.

1 (f) The commission is empowered to apply for and receive grants, appropriations, or gifts
2 from any federal, state, or local agency, from any public or private foundation, and from any
3 person, firm, or corporation in order to carry out the purposes of this chapter. The allocation of
4 any funds received shall be decided by a majority vote of voting members in attendance at a
5 meeting duly convened for the conduct of business by the commission.

6 (g) Seven (7) members of the commission shall constitute a quorum.

7 (h) The commission shall meet at least four (4) times per year.

8 (i) The commission shall adopt policies concerning the responsibilities of its voting
9 members and non-voting affiliate members, including attendance at commission meetings.

10 (j) All departments and agencies of the state shall furnish advice and information,
11 documentary and otherwise, to the commission and its agents as may be necessary or desirable to
12 facilitate the purposes of this chapter.

13 (k) The speaker is authorized and directed to provide suitable quarters for the
14 commission.

15 (l) The commission shall file a report with the general assembly outlining its plans for
16 the celebration on or before December 15th each year prior to the celebration.

17 SECTION 13. Section 30-30-2 of the General Laws in Chapter 30-30 entitled "Benefits
18 for Dependents of Deceased Veterans, P.O.W.S., and M.I.A.S" is hereby amended to read as
19 follows:

20 **30-30-2 Administration.** -- The division of higher education assistance ~~authority~~ shall be
21 designated as the administering authority for this chapter and shall, no later than August 30, 1987,
22 establish rules, regulations, procedures, and safeguards for the implementation of this chapter.
23 The regulations and procedures shall include but not be limited to the establishment of income
24 guidelines and academic performance criteria. No funds shall be awarded under this chapter until
25 these regulatory and administrative measures are established.

26 SECTION 14. Sections 35-10-1 and 35-10-4 of the General Laws in Chapter 35-10
27 entitled "State Investment Commission" are hereby amended to read as follows:

28 **35-10-1 Establishment – Membership – Officers – Quorum – Investment votes –**
29 **Fund managers.** -- (a) There is hereby authorized, created and established in the office of the
30 general treasurer a state investment commission, the membership of which shall consist of the
31 general treasurer, ex officio, or a deputy general treasurer as his or her designee, who shall act as
32 chairperson, the director of administration, ex officio, or any assistant director of administration
33 as his or her designee, who shall act as secretary, ~~director of the higher education assistance~~
34 ~~authority, or his or her designee to be appointed by the general treasurer,~~ an active or retired

1 teacher, state, or municipal employee member of the retirement system or official from the
2 teacher, state, or municipal employee unions to be appointed by the general treasurer for a term of
3 three (3) years, the executive director of the state retirement board, who shall be a nonvoting
4 member, ~~two (2)~~ three (3) members of the general public to be appointed by the general treasurer,
5 one of whom shall serve for an initial term of one year, and one of whom shall serve for an initial
6 term of two (2) years and until his or her successor is appointed and qualified and three (3)
7 members of the general public to be appointed by the governor, one of whom shall serve for an
8 initial term of three (3) years, one of whom shall serve for an initial term of two (2) years, and
9 one of whom shall serve for an initial term of one year and until his or her successor is appointed
10 and qualified. Thereafter, the general public members shall serve for three (3) year terms and
11 until his or her successor is appointed and qualified. The members of the general public appointed
12 by the governor and the general treasurer shall be qualified by training or experience in the field
13 of investment or finance.

14 The commission may elect from among its own members such other officers as they
15 deem necessary. All general treasurer and gubernatorial appointments made under this section
16 after the effective date of this act [July 4, 2006] shall be subject to the advice and consent of the
17 senate. No one shall be eligible for appointment unless he or she is a resident of this state.

18 Public members of the board shall be removable by the chair for cause only, and removal
19 solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be
20 unlawful.

21 Newly appointed and qualified public members shall, within six (6) months of their
22 appointment, attend a training course that shall be developed and provided by the office of the
23 general treasurer and shall include instruction in the following areas: the provisions of chapters
24 35-10, 42-46, 36-14 and 38-2 of the Rhode Island general laws; and the board's rules and
25 regulations. The director of the department of administration shall, within ninety (90) days of the
26 effective date of this act [July 4, 2006], prepare and disseminate training materials relating to the
27 provisions of chapters 42-46, 36-14 and 38-2.

28 Any member of the general public who was appointed by the governor or general
29 treasurer prior to the effective date of this act [July 4, 2006] shall continue to serve until such
30 time as a successor is appointed and qualified.

31 (b) A member shall be eligible to succeed himself or herself. In the event of a vacancy in
32 the office of an appointive member, the vacancy shall be filled by the appointing authority for the
33 unexpired term.

34 (c) A majority of all the members of the commission shall be necessary to constitute a

1 quorum thereof. The approval of a majority of the commission shall be required prior to the
2 purchase or sale of any investment, excepting those investments made by investment managers
3 engaged by the commission and invested in accordance with the commission's statement of
4 investment objectives and policies, day to day cash investments by the general treasurer, and,
5 because of the importance of speedy action, investments in obligations of the United States
6 government or certificates of deposit maturing within one year. These investments may be made
7 within the framework of a policy established by the commission without prior approval of each
8 transaction. The commission shall be empowered to engage one or more fund managers and to
9 delegate to the manager or managers the authority to carry out the investment of the funds within
10 the commission's control, or any portion thereof, in accordance with the objectives of the
11 commission as set forth in its statement of investment objectives and policies.

12 (d) The day-to-day administration of the commission, including the voting of proxies and
13 the execution of investment acquisitions and dispositions of the commission's assets, shall be
14 carried out by the office of the general treasurer; provided, that the costs and expenses incurred in
15 the management of the funds within the commission's control shall remain the obligation of those
16 funds and not that of the general treasurer.

17 (e) Within ninety (90) days after the end of each fiscal year during which the board has
18 conducted business, the commission shall submit an annual report to the governor, the speaker of
19 the house of representatives, the president of the senate, and the secretary of state of its activities
20 during that fiscal year. The report shall provide: an operating statement summarizing meetings or
21 hearings held, meeting minutes if requested, subjects addressed, decisions rendered, rules or
22 regulations promulgated, studies conducted, policies and plans developed, approved, or modified,
23 and programs administered or initiated; a consolidated financial statement of all the funds
24 received and expended including the source of funds, a listing of any staff supported by these
25 funds, and a summary of any clerical, administrative or technical support received; a summary of
26 performance during the previous fiscal year including accomplishments, shortcomings and
27 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the
28 authority of the board; a summary of any training courses held pursuant to § 35-10-1; a briefing
29 on anticipated activities in the upcoming fiscal year; and findings and recommendations for
30 improvements. The report shall be posted electronically on the general assembly and the secretary
31 of state's website as prescribed in § 42-20-8.2 of the Rhode Island general laws. The director of
32 the department of administration shall be responsible for the enforcement of this provision.

33 **35-10-4 Funds not subject to investment.** -- The commission shall not invest money in
34 funds which are subject to the control of the board of governors for higher education; provided,

1 however, that the commission shall not be prohibited from investing moneys in the college
2 savings program created by § 16-57-6.1 ~~and administered by the Rhode Island Higher Education~~
3 ~~Assistance Authority in conjunction with the executive director of the Rhode Island Student Loan~~
4 ~~Authority and the commissioner of higher education.~~

5 SECTION 15. Section 37-2-7 of the General Laws in Chapter 37-2 entitled "State
6 Purchases" is hereby amended to read as follows:

7 **37-2-7 Definitions.** -- The words defined in this section have the meanings set forth
8 below whenever they appear in this chapter, unless the context in which they are used clearly
9 requires a different meaning or a different definition is prescribed for a particular section, group
10 of sections, or provision:

11 (1) "Business" means any corporation, partnership, individual, sole proprietorship, joint
12 stock company, joint venture, or any other legal entity through which business is conducted.

13 (2) "Change order" means a written authorization signed by the purchasing agent
14 directing or allowing the contractor to proceed with changes, alterations, or modifications to the
15 terms, conditions, or scope of work on a previously awarded contract

16 (3) "Chief purchasing officer" shall mean: (i) for a state agency, the director of the
17 department of administration, and (ii) for a public agency, the executive director or the chief
18 operational officer of the agency.

19 (4) "Construction" means the process of building, altering, repairing, improving, or
20 demolishing any public structures or building, or other public improvements of any kind to any
21 public real property. It does not include the routine maintenance or repair of existing structures,
22 buildings, or real property performed by salaried employees of the state of Rhode Island in the
23 usual course of their jobs.

24 (5) "Contract" means all types of agreements, including grants and orders, for the
25 purchase or disposal of supplies, services, construction, or any other item. It includes awards;
26 contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for
27 the issuance of job or task orders; leases; letter contracts; purchase orders; and construction
28 management contracts. It also includes supplemental agreements with respect to any of the
29 foregoing. "Contract" does not include labor contracts with employees of state agencies.

30 (6) "Contract amendment" means any written alteration in the specifications, delivery
31 point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing
32 contract, whether accomplished by unilateral action in accordance with a contract provision, or by
33 mutual action of the parties to the contract. It includes bilateral actions, such as supplemental
34 agreements, and unilateral actions, such as change orders, administrative changes, notices of

1 termination, and notices of the exercise of a contract option.

2 (7) "Contractor" means any person having a contract with a governmental body.

3 (8) "Data" means recorded information, regardless of form or characteristic.

4 (9) "Designee" means a duly authorized representative of a person holding a superior
5 position.

6 (10) "Employee" means an individual drawing a salary from a state governmental entity.

7 (11) "State governmental entity" means any entity created as a legislative body or a
8 public or state agency by the general assembly or constitution of this state, except for municipal,
9 regional, or county governmental entities.

10 (12) "May" means permissive.

11 (13) "Negotiation" means contracting by either the method set forth in § 37-2-19, 37-2-
12 20, or 37-2-21.

13 (14) "Person" means any business, individual, organization, or group of individuals.

14 (15) "Procurement" means the purchasing, buying, renting, leasing, or otherwise
15 obtaining of any supplies, services, or construction. It also includes all functions that pertain to
16 the obtaining of any supply, service, or construction item, including a description of
17 requirements, selection and solicitation of sources, preparation, and award of contract, and all
18 phases of contract administration.

19 (16) "Public agency" shall mean the Rhode Island industrial recreational building
20 authority, the Rhode Island economic development corporation, the Rhode Island industrial
21 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and
22 mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island
23 public transit authority, the Rhode Island student loan authority, the Howard development
24 corporation, the water resources board corporate, the Rhode Island health and education building
25 corporation, ~~the Rhode Island higher education assistance authority,~~ the Rhode Island turnpike
26 and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water
27 quality management district commission, the Rhode Island telecommunications authority, the
28 convention center authority, the Channel 36 foundation, the Rhode Island lottery commission
29 their successors and assigns, any other body corporate and politic which has been or will be
30 created or established within this state excepting cities and towns, and the board of governors for
31 higher education for all purchases which are funded by restricted, sponsored, or auxiliary monies.

32 (17) "Purchase request" or "purchase requisition" means that document whereby a using
33 agency requests that a contract be entered into to obtain goods and/or services for a specified
34 need, and may include, but is not limited to, the technical description of the requested item,

1 delivery requirements, transportation mode request, criteria for evaluation of proposals, and/or
2 preparation of suggested sources of supply, and information supplied for the making of any
3 written determination and finding required by § 37-2-6.

4 (18) "Purchasing agency" means any state governmental entity which is authorized by
5 this chapter, its implementing regulations, or by way of delegation from the chief purchasing
6 officer to contract on its own behalf rather than through the central contracting authority of the
7 chief purchasing officer.

8 (19) "Purchasing agent" means any person authorized by a governmental entity in
9 accordance with procedures prescribed by regulations, to enter into and administer contracts and
10 make written determinations and findings with respect to contracts. The term also includes an
11 authorized representative acting within the limits of authority. "Purchasing agent" also means the
12 person appointed in accordance with § 37-2-1.

13 (20) "Services" means the rendering, by a contractor, of its time and effort rather than the
14 furnishing of a specific end product, other than reports which are merely incidental to the required
15 performance of services. "Services" does not include labor contracts with employees of state
16 agencies.

17 (21) "Shall" means imperative.

18 (22) "State" means the state of Rhode Island and any of its departments or agencies and
19 public agencies.

20 (23) "Supplemental agreement" means any contract modification which is accomplished
21 by the mutual action of the parties.

22 (24) "Supplies" means all property, including, but not limited to, leases of real property,
23 printing, and insurance, except land or permanent interest in land.

24 (25) "Using agency" means any state governmental entity which utilizes any supplies,
25 services, or construction purchased under this chapter.

26 (26) As used in § 37-2-59, "architect" or "engineer" services means those professional
27 services within the scope of practice of architecture, professional engineering, or registered land
28 surveying pertaining to construction, as defined by the laws of this state. "Consultant" means any
29 person with whom the state and/or a public agency has a contract which contract provides for the
30 person to give direction or information as regards a particular area of knowledge in which the
31 person is a specialist and/or has expertise.

32 (27) For purposes of §§ 37-2-62 – 37-2-70, "directors" means those members of a public
33 agency appointed pursuant to a statute who comprise the governing authority of the board,
34 commission, authority, and/or corporation.

1 (28) "State agency" means any department, commission, council, board, bureau,
2 committee, institution, or other governmental entity of the executive or judicial branch of this
3 state not otherwise established as a body corporate and politic, and includes, without limitation,
4 the board of governors for higher education except for purchases which are funded by restricted,
5 sponsored, or auxiliary moneys and the board of regents for elementary and secondary education.

6 (29) "Governmental entity" means any department, commission, council, board, bureau,
7 committee, institution, legislative body, agency, or government corporation of the executive,
8 legislative, or judicial branches of state, federal, and/or local governments.

9 (30) "Construction management at-risk" or "construction management at-risk services" or
10 "construction management at-risk delivery method" is a construction method wherein a
11 construction manager at-risk provides a range of preconstruction services and construction
12 management services which may include cost estimation and consultation regarding the design of
13 the building project, the preparation and coordination of bid packages, scheduling, cost control,
14 and value engineering, acting as the general contractor during the construction, detailing the trade
15 contractor scope of work, holding the trade contracts and other contracts, evaluating trade
16 contractors and subcontractors, and providing management and construction services, all at a
17 guaranteed maximum price, which shall represent the maximum amount to be paid by the using
18 agency for the building project, including the cost of work, the general conditions and the fee
19 payable to the construction management at-risk firm.

20 (31) "Construction manager at-risk" or "construction management at-risk firm" is a
21 person or business experienced in construction that has the ability to evaluate and to implement
22 drawings and specifications as they affect time, cost and quality of construction and the ability to
23 coordinate and deliver the construction of the project within a guaranteed maximum price, which
24 shall represent the maximum amount to be paid by the using agency for the building project,
25 including the cost of the work, the general conditions and the fee payable to the construction
26 management at-risk firm. The construction manager at-risk provides consultation services during
27 the preconstruction and construction phases of the project. The project engineer, architect or
28 owner's program manager may not serve as the construction manager at-risk.

29 (32) "Owner's program manager" shall be an entity engaged to provide project
30 management services on behalf of a state agency for the construction and supervision of the
31 construction of a building project. The owner's program manager acts as the owner's agent in all
32 aspects of the construction project, including, but not limited to, architectural programming,
33 planning, design, construction, and the selection and procurement of an appropriate construction
34 delivery method. The owner's program manager shall have at least seven (7) years experience in

1 the construction and supervision of construction of buildings of similar size and complexity. The
2 owner's program manager shall not have been employed during the preceding year by the design
3 firm, the construction firm, and/or the subcontractors associated with the project.

4 SECTION 16. Section 37-13-7 of the General Laws in Chapter 37-13 entitled "Labor and
5 Payment of Debts by Contractors" is hereby amended to read as follows:

6 **37-13-7 Specification in contract of amount and frequency of payment of wages. --**

7 (a) Every call for bids for every contract in excess of one thousand dollars (\$1,000), to which the
8 state of Rhode Island or any political subdivision thereof or any public agency or quasi-public
9 agency is a party, for construction, alteration, and/or repair, including painting and decorating, of
10 public buildings or public works of the state of Rhode Island or any political subdivision thereof,
11 or any public agency or quasi-public agency and which requires or involves the employment of
12 employees, shall contain a provision stating the minimum wages to be paid various types of
13 employees which shall be based upon the wages that will be determined by the director of labor
14 and training to be prevailing for the corresponding types of employees employed on projects of a
15 character similar to the contract work in the city, town, village, or other appropriate political
16 subdivision of the state of Rhode Island in which the work is to be performed. Every contract
17 shall contain a stipulation that the contractor or his or her subcontractor shall pay all the
18 employees employed directly upon the site of the work, unconditionally and not less often than
19 once a week, and without subsequent deduction or rebate on any account, the full amounts
20 accrued at time of payment computed at wage rates not less than those stated in the call for bids,
21 regardless of any contractual relationships which may be alleged to exist between the contractor
22 or subcontractor and the employees, and that the scale of wages to be paid shall be posted by the
23 contractor in a prominent and easily accessible place at the site of the work; and the further
24 stipulation that there may be withheld from the contractor so much of the accrued payments as
25 may be considered necessary to pay to the employees employed by the contractor, or any
26 subcontractor on the work, the difference between the rates of wages required by the contract to
27 be paid the employees on the work and the rates of wages received by the employees and not
28 refunded to the contractor, subcontractors, or their agents.

29 (b) The terms "wages", "scale of wages", "wage rates", "minimum wages", and
30 "prevailing wages" shall include:

31 (1) The basic hourly rate of pay; and

32 (2) The amount of:

33 (A) The rate of contribution made by a contractor or subcontractor to a trustee or to a
34 third person pursuant to a fund, plan, or program; and

1 (B) The rate of costs to the contractor or subcontractor which may be reasonably
2 anticipated in providing benefits to employees pursuant to an enforceable commitment to carry
3 out a financially responsible plan or program which was communicated in writing to the
4 employees affected, for medical or hospital care, pensions on retirement or death, compensation
5 for injuries or illness resulting from occupational activity, or insurance to provide any of the
6 foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or
7 accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other
8 similar programs, or for other bona fide fringe benefits, but only where the contractor or
9 subcontractor is not required by other federal, state, or local law to provide any of the benefits;
10 provided, that the obligation of a contractor or subcontractor to make payment in accordance with
11 the prevailing wage determinations of the director of labor and training insofar as this chapter of
12 this title and other acts incorporating this chapter of this title by reference are concerned may be
13 discharged by the making of payments in cash, by the making of contributions of a type referred
14 to in subsection (b)(2), or by the assumption of an enforceable commitment to bear the costs of a
15 plan or program of a type referred to in this subdivision, or any combination thereof, where the
16 aggregate of any payments, contributions, and costs is not less than the rate of pay described in
17 subsection (b)(1) plus the amount referred to in subsection (b)(2).

18 (c) The term "employees", as used in this section, shall include employees of contractors
19 or subcontractors performing jobs on various types of public works including mechanics,
20 apprentices, teamsters, chauffeurs, and laborers engaged in the transportation of gravel or fill to
21 the site of public works, the removal and/or delivery of gravel or fill or ready-mix concrete, sand,
22 bituminous stone, or asphalt flowable fill from the site of public works, or the transportation or
23 removal of gravel or fill from one location to another on the site of public works, and the
24 employment of the employees shall be subject to the provisions of subsections (a) and (b).

25 (d) The terms "public agency" and "quasi-public agency" shall include, but not be limited
26 to, the Rhode Island industrial recreational building authority, the Rhode Island economic
27 development corporation, the Rhode Island airport corporation, the Rhode Island industrial
28 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and
29 mortgage finance corporation, the Rhode Island resource recovery corporation, the Rhode Island
30 public transit authority, the Rhode Island student loan authority, the water resources board
31 corporate, the Rhode Island health and education building corporation, ~~the Rhode Island higher~~
32 ~~education assistance authority~~, the Rhode Island turnpike and bridge authority, the Narragansett
33 Bay water quality management district commission, Rhode Island telecommunications authority,
34 the convention center authority, the board of governors for higher education, the board of regents

1 for elementary and secondary education, the capital center commission, the housing resources
2 commission, the Quonset Point-Davisville management corporation, the Rhode Island children's
3 crusade for higher education, the Rhode Island depositors economic protection corporation, the
4 Rhode Island lottery commission, the Rhode Island partnership for science and technology, the
5 Rhode Island public building authority, and the Rhode Island underground storage tank board.

6 SECTION 17. Section 42-11.3-1 of the General Laws in Chapter 42-11.3 entitled "Motor
7 Vehicles Owned by a Governmental Body" is hereby amended to read as follows:

8 **42-11.3-1 Definition.** -- As used in this chapter, the following terms have the following
9 meanings unless otherwise specified:

10 (1) "General officer" means the governor, the lieutenant governor, the attorney general,
11 the secretary of state, and the general treasurer.

12 (2)(i) "Governmental body" means any department, commission, council, board, bureau,
13 committee, institution, legislative body, agency, government corporation, including, without
14 limitation, the board of governors for higher education and board of regents for elementary and
15 secondary education or other establishment of the executive, legislative or judicial branch of the
16 state.

17 (ii) "Governmental body" also means the Rhode Island industrial recreational building
18 authority, the Rhode Island economic development corporation, the Rhode Island industrial
19 facilities corporation, the Rhode Island refunding bond authority, the Rhode Island housing and
20 mortgage finance corporation, the Rhode Island solid waste management corporation, the Rhode
21 Island public transit authority, the Rhode Island student loan authority, the Howard development
22 corporation, the water resources board, the Rhode Island health and education building
23 corporation, ~~the Rhode Island higher education assistance authority,~~ the Rhode Island turnpike
24 and bridge authority, the Blackstone Valley district commission, the Narragansett Bay water
25 quality management district commission, Rhode Island telecommunications authority, the
26 convention center authority, channel 36 foundation, their successors and assigns, and any other
27 body corporate and politic which has been here before or which is hereinafter created or
28 established within this state excepting cities and towns.

29 (3) "Own" means control and the intent to control and includes any type of arrangement,
30 including by way of illustration, and not by limitation, a lease arrangement, whereby an employee
31 of a governmental body is supplied principal or exclusive use of a motor vehicle by his or her
32 employer.

33 (4) "Law enforcement officer" means an individual: (i) who is employed on a full-time
34 basis by a governmental body that is responsible for the prevention or investigation of crime

1 involving injury to persons or property (including the apprehension or detention of persons for
2 such crimes); (ii) who is authorized by law to carry firearms, execute search warrants, and to
3 make arrests (other than merely a citizen's arrest); and (iii) who regularly carries firearms (except
4 when it is not possible to do so because of the requirements of undercover work). The term law
5 enforcement officer shall include an arson investigator if the investigator otherwise meets these
6 requirements.

7 (5) "Commuting" means driving a motor vehicle owned by a governmental body to and
8 from the work place and the employee's residence.

9 (6) "Employee" means an individual who works for a governmental body not less than
10 thirty-five (35) hours a week.

11 SECTION 18. Section 42-35-1 of the General Laws in Chapter 42-35 entitled
12 "Administrative Procedures" is hereby amended to read as follows:

13 **42-35-1 Definitions.** -- As used in this chapter:

14 (1) "Agency" includes each state board, commission, department, or officer, other than
15 the legislature or the courts, authorized by law to make rules or to determine contested cases, and
16 all "authorities", as that term is defined below;

17 (2) "Authorities" includes the following: the Rhode Island industrial building authority,
18 the Rhode Island recreational building authority, the Rhode Island economic development
19 corporation, the Rhode Island industrial facilities corporation, the Rhode Island refunding bond
20 authority, the Rhode Island housing and mortgage finance corporation, the Rhode Island solid
21 waste management corporation, the Rhode Island public transit authority, the Rhode Island
22 student loan authority, the Howard development corporation, the water resources board, the
23 Rhode Island health and educational building corporation, ~~the Rhode Island higher education~~
24 ~~assistance authority~~, the Rhode Island turnpike and bridge authority, the Blackstone Valley
25 district commission, the Narragansett Bay water quality management district commission, their
26 successors and assigns, and any body corporate and politic with the power to issue bonds and
27 notes, which are direct, guaranteed, contingent, or moral obligations of the state, which is
28 hereinafter created or established in this state.

29 (3) "Contested case" means a proceeding, including but not restricted to ratemaking, price
30 fixing, and licensing, in which the legal rights, duties, or privileges of a specific party are required
31 by law to be determined by an agency after an opportunity for hearing;

32 (4) "License" includes the whole or part of any agency permit, certificate, approval,
33 registration, charter, or similar form of permission required by law, but it does not include a
34 license required solely for revenue purposes;

1 (5) "Licensing" includes the agency process respecting the grant, denial, renewal,
2 revocation, suspension, annulment, withdrawal, or amendment of a license;

3 (6) "Party" means each person or agency named or admitted as a party, or properly
4 seeking and entitled as of right to be admitted as a party;

5 (7) "Person" means any individual, partnership, corporation, association, the department
6 of environmental management, governmental subdivision, or public or private organization of
7 any character other than an agency;

8 (8) "Rule" means each agency statement of general applicability that implements,
9 interprets, or prescribes law or policy or describes the organization, procedure, or practice
10 requirements of any agency. The term includes the amendment or repeal of a prior rule, but does
11 not include: (1) statements concerning only the internal management of an agency and not
12 affecting private rights or procedures available to the public, or (2) declaratory rulings issued
13 pursuant to § 42-35-8, (3) intra-agency memoranda, or (4) an order;

14 (9) "Small business" shall shall have the same meanings that are provided for under title
15 13, volume 1, part 121 of the Code of Federal Regulations (13 CFR 121, as may be amended
16 from time to time);

17 (10) "Order" means the whole or a part of a final disposition, whether affirmative,
18 negative, injunctive or declaratory in form, of a contested case;

19 (11) "Small business advocate" means the person appointed by the director of the
20 economic development corporation as provided in § 42-64-34.

21 SECTION 19. Section 42-104-1 of the General Laws in Chapter 42-104 entitled "The
22 William P. Robinson, Jr., Building" is hereby amended to read as follows:

23 **42-104-1 The William P. Robinson, Jr., Building.** -- The Rhode Island [division of](#)
24 higher education assistance ~~authority~~ building on Jefferson Boulevard in the city of Warwick
25 shall be named the "William P. Robinson, Jr., Building".

26 SECTION 20. Section 42-155-3 of the General Laws in Chapter 42-155 entitled "Quasi-
27 Public Corporations Accountability and Transparency Act" is hereby amended to read as follows:

28 **42-155-3 Definitions. [Effective January 1, 2015.]** -- (a) As used in this chapter, "quasi-
29 public corporation" means any body corporate and politic created, or to be created, pursuant to
30 the general laws, including, but not limited to, the following:

- 31 (1) Capital center commission;
- 32 (2) Rhode Island convention center authority;
- 33 (3) Rhode Island industrial facilities corporation;
- 34 (4) Rhode Island industrial-recreational building authority;

- 1 (5) Rhode Island small business loan fund corporation;
2 (6) Quonset development corporation;
3 (7) Rhode Island airport corporation;
4 (8) I-195 redevelopment district commission;
5 (9) Rhode Island health and educational building corporation;
6 (10) Rhode Island housing and mortgage finance corporation;
7 ~~(11) Rhode Island higher education assistance authority;~~
8 ~~(12)~~(11) Rhode Island student loan authority;
9 ~~(13)~~(12) Narragansett bay commission;
10 ~~(14)~~(13) Rhode Island clean water finance agency;
11 ~~(15)~~(14) Rhode Island water resources board;
12 ~~(16)~~(15) Rhode Island resource recovery corporation;
13 ~~(17)~~(16) Rhode Island public rail corporation;
14 ~~(18)~~(17) Rhode Island public transit authority;
15 ~~(19)~~(18) Rhode Island turnpike and bridge authority;
16 ~~(20)~~(19) Rhode Island tobacco settlement financing corporation; and
17 ~~(21)~~(20) Any subsidiary of the Rhode Island commerce corporation.

18 (b) Cities, towns, and any corporation created that is an instrumentality and agency of a
19 city or town, and any corporation created by a state law that has been authorized to transact
20 business and exercise its powers by a city or town pursuant to ordinance or resolution, and fire
21 and water districts are not subject to the provisions of this chapter.

22 (c) The Rhode Island commerce corporation, being subject to similar transparency and
23 accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail
24 corporation established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag
25 utility district shall not be subject to the provisions of this chapter.

26 SECTION 21. Sections 44-30.1-1, 44-30.1-3 and 44-30.1-5 of the General Laws in
27 Chapter 44-30.1 entitled "Setoff of Refund of Personal Income Tax" are hereby amended to read
28 as follows:

29 **44-30.1-1 Definitions.** -- (a) "Benefit overpayments and interest owed" means any
30 amount in excess of five hundred dollars (\$500) determined to be recoverable under the
31 provisions of chapters 39 – 44 of title 28.

32 (b) "Cash assistance benefit overpayments" means any amount of cash assistance benefits
33 which constitutes an overpayment of benefits under the provisions of the Rhode Island Works
34 Program as previously established by chapter 5.2 of title 40, and/or the predecessor family

1 assistance programs, formerly known as the Family Independence Program, as previously
2 established by chapter 5.1 of title 40, and the Aid to Families With Dependent Children program,
3 as previously established by § 40-6-4, which overpayment amount has been established by court
4 order, by administrative hearing conducted by the department of human services, or by written
5 agreement between the department of human services and the individual.

6 (c) "Claimant agency" means either:

7 (1) The department of human services, with respect (1) to past-due support which has
8 been assigned to the department of human services by public assistance and medical assistance
9 recipients or by the department for children, youth and families, (2) past-due support which it is
10 attempting to collect on behalf of any individual not eligible as a public assistance recipient, and
11 (3) cash assistance benefit overpayments or medical assistance benefit overpayments, as defined
12 herein; or

13 (2)(i) The Rhode Island [division of](#) higher education assistance ~~authority (RIHEAA)~~,
14 with respect to obligations owed to that agency or to the state of Rhode Island by reason of
15 default or failure to pay student loans, health professions contract advances or scholarships or
16 grant over-awards, or

17 (ii) The Rhode Island [division of](#) higher education assistance ~~authority (RIHEAA)~~, acting
18 as agent for the United States Department of Education or other student loan guarantee agencies
19 in other states which have negotiated a reciprocal arrangement with [the Rhode Island division of](#)
20 [higher education assistance](#) ~~RIHEAA~~ for the setoff of refunds of personal income taxes against
21 defaulted loan obligations.

22 (3) The Rhode Island court administrative office, with respect to court costs, fines, and
23 restitution owed; or

24 (4) The department of labor and training with respect to benefit overpayments and
25 interest owed in excess of five hundred dollars (\$500).

26 (d) "Court costs owed" means any fines, fees, and/or court costs which have been
27 assessed pursuant to a criminal disposition by a judge of the district, family and superior courts,
28 including, but not limited to, those amounts assessed pursuant to chapters 20 and 25 of title 12
29 and those amounts assessed pursuant to title 31, including also those fines, fees, and/or court costs
30 assessed by the traffic tribunal or municipal court associated with motor vehicle violations which
31 have not been paid and which have been declared delinquent by the administrative judge of the
32 court making the assessment.

33 (e) "Debtor" means:

34 (1) Any individual who owes past-due support which has been assigned to the department

1 of human services by public assistance and medical assistance recipients or by the department of
2 children, youth and families, or owes past due support to any individual not eligible as a public
3 assistance recipient;

4 (2) Any individual who has obligations owed to [the Rhode Island division of higher](#)
5 [education assistance](#) ~~RIHEAA~~ or the state of Rhode Island, the United States Department of
6 Education or other states and agencies that have negotiated reciprocal agreements with [the Rhode](#)
7 [Island division of higher education assistance](#) ~~RIHEAA~~;

8 (3) Any individual who owes fines, fees, and/or court costs to the superior, family,
9 district courts and the traffic tribunal and municipal court associated with motor vehicle
10 violations;

11 (4) Any individual who owes restitution to any victim of any offense which has been
12 ordered by a judge of the district, family and superior courts pursuant to a disposition in a
13 criminal case and which has been made payable through the administrative office of state courts
14 pursuant to § 12-19-34 except that obligations discharged in bankruptcy shall not be included;

15 (5) Any individual who owes any sum in excess of five hundred dollars (\$500) for benefit
16 overpayments and interest to the department of labor and training determined to be recoverable
17 under the provisions of chapters 39-44 of title 28.

18 (6) Any individual who owes any sum of cash assistance benefit overpayments to the
19 department of human services.

20 (7) Any individual who has obligations owed to the Rhode Island Student Loan Authority
21 (RISLA), or other states and agencies that have negotiated reciprocal agreements with RISLA.

22 (f) "Division" means the department of revenue, division of taxation.

23 (g) "Fines owed" means any fines, fees, and/or court costs which have been ordered paid
24 as a penalty in a criminal case by a judge of the district, family and superior courts and those
25 fines, fees, and/or court costs ordered paid by the traffic tribunal or municipal court for motor
26 vehicle violations as described in § 31-41.1-4 which have not been paid and which have been
27 declared delinquent by the administrative judge of the court making the assessment.

28 (h) "Medical assistance benefit overpayment" means any amount of medical assistance
29 benefits which constitutes an overpayment of medical assistance benefits. The department is
30 authorized to promulgate rules and regulations to provide for notice and hearing prior to the
31 income tax intercept by the department for income tax intercept for medical assistance benefits
32 overpaid to the recipient. The amount of overpayment of benefits may include the overpayment
33 of benefits due to the fact that the Medicaid recipient failed to pay the cost share obligation
34 lawfully imposed in accordance with Rhode Island law.

1 (i) "Medical assistance cost share arrearage" means any amount due and owing to the
2 department of human services as a result of a Medicaid recipient's failure to pay their cost share
3 obligation, including any amount due for a cost sharing obligation or medical assistance premium
4 obligation, imposed in accordance with Title 40, Chapter 8.4 of the Rhode Island General Laws.

5 (j) "Obligation owed" means the total amount owed by any individual on:

6 (1) Any guaranteed student loan or parent loan for undergraduate students for which [the](#)
7 [Rhode Island division of higher education assistance](#) ~~RIHEAA~~ has had to pay the guarantee, or
8 for which [the Rhode Island division of higher education assistance](#) ~~RIHEAA~~ is acting as agent on
9 behalf of the United States Department of Education or other state cooperating agencies which
10 have had to pay a guarantee,

11 (2) Any contract fee advanced by either [the Rhode Island division of higher education](#)
12 [assistance](#) ~~RIHEAA~~ or the state of Rhode Island on behalf of any individual participating in a
13 health professions educational program for which payment has not been made according to the
14 terms of the contract, and

15 (3) Any amount of scholarship or grant funds which constitutes an over-award, whether
16 due to error or to the submission of false information, and for which repayment has been
17 demanded by the agency, but which has not been paid.

18 (4) Any education loan held by the Rhode Island Student Loan Authority (RISLA) not
19 guaranteed by the [Rhode Island division of higher education assistance](#) ~~RIHEAA~~ or other
20 guarantor.

21 (k) "Past-due support" means the amount of court-ordered child support or maintenance,
22 child medical support or a spousal support order for a custodial parent having custody of a minor
23 child, which is overdue or otherwise in arrears, regardless of whether there is an outstanding
24 judgment for that amount, and whether the order for the support or maintenance has been
25 established by a court or by an administrative process authorized under the laws of any state.

26 (l) "Refund" means the Rhode Island income tax refund which the division of taxation
27 determines to be due to a taxpayer.

28 (m) "Restitution owed" means any amount which has been ordered paid pursuant to a
29 criminal case disposition by a judge of the district, family and superior courts pursuant to chapter
30 19 of title 12, which has not been paid and which has been declared delinquent by the
31 administrative judge of the court making the assessment.

32 **44-30.1-3 Collection of debts by setoff. --** Within a time frame established by the
33 division of taxation, the claimant agency shall supply the information necessary relative to each
34 debtor owing the state money, and further, shall certify the amount of debt or debts owed to the

1 state by each debtor. Upon receiving notice from the claimant agency that a named debtor owes
2 past-due support, delinquent court costs, fines, or restitution or benefit overpayments and interest
3 owed, has obligations owed as described in § 44-30.1-1(g), cash assistance benefit overpayments,
4 medical assistance benefit overpayments, or medical assistance cost share arrearages, the division
5 of taxation shall determine whether any amount, as a refund of taxes paid, is payable to the
6 debtor, regardless of whether the debtor filed an income tax return as a married or unmarried
7 individual. If the division of taxation determines that any refund is payable, the division of
8 taxation shall set off the past-due support, delinquent court costs, fines or restitution or benefit
9 overpayments and interest owed, the obligation owed, cash assistance benefit overpayments,
10 medical assistance benefit overpayments, or medical assistance cost share arrearages, against the
11 debtor's refund and shall reduce the debtor's refund by the amount so determined. The division of
12 taxation shall transfer the amount of past-due support, delinquent court costs, fines or restitution,
13 or benefit overpayments and interest owed, obligation owed, cash assistance benefit
14 overpayments, medical assistance benefit overpayments, or medical assistance cost share
15 arrearages, set off against the debtor's refund to the claimant agency or in the case of the United
16 States Department of Education or other out-of-state agencies, to [the Rhode Island division of](#)
17 [higher education assistance ~~authority \(RIHEAA\)~~](#) as its agent, and in the case of education loans
18 held by the Rhode Island Student Loan Authority (RISLA) for itself or as agent for another out-
19 of-state education loan agency and which education loans are not guaranteed by [the Rhode Island](#)
20 [division of higher education assistance ~~RIHEAA~~](#) or another guarantor, to RISLA. The pendency
21 of judicial proceedings to contest the setoff shall not stay nor delay the setoff and transfer of
22 refunds to the claimant agency. If the amount of the debtor's refund exceeds the amount of the
23 past-due support, delinquent court costs, fines, or restitution or benefit overpayments and interest
24 owed, obligation owed, cash assistance benefit overpayments, medical assistance benefit
25 overpayments, or medical assistance cost share arrearages, the division of taxation shall refund
26 the excess amount to the debtor. If in any instance with regard to the debtor the division of
27 taxation has received notice from more than one claimant agency, the claim by the bureau of
28 child support shall receive first priority, the obligations owed shall have second priority, and the
29 delinquent court costs, fines or restitution shall have third priority, the benefit overpayments and
30 interest owed the fourth priority and the cash assistance benefit overpayments the fifth priority,
31 and medical assistance benefit overpayments, or medical assistance cost share arrearages the sixth
32 priority.

33 **44-30.1-5 Hearing procedures.** -- (a) If the claimant agency receives written application
34 pursuant to § 44-30.1-4(b) contesting the setoff or the delinquent court costs, fines or restitution

1 or the past-due support or benefit overpayments and interest owed or the obligation owed upon
2 which the setoff is based, it shall grant a hearing to the applicant in accordance with chapter 35 of
3 title 42, "Administrative Procedure".

4 (b) Appeals from the administrative decisions made by the claimant agency shall be in
5 accordance with chapter 35 of title 42, "Administrative Procedures". Appeals contesting the setoff
6 of past due support shall be to the family court of Providence County.

7 (c) In those cases where the Rhode Island division of higher education assistance
8 ~~authority (RIHEAA)~~ acts as agent for the United States Department of Education or other out-of-
9 state agencies, the Rhode Island division of higher education assistance ~~RIHEAA~~ must obtain
10 appropriate documentation of the obligation owed such as promissory notes, evidence of
11 guarantees paid and any other items that may be necessary to conduct a fair hearing. The Rhode
12 Island division of higher education assistance ~~RIHEAA~~ as agent for other states shall negotiate
13 appropriate reciprocal agreements with those states for purposes of transferring funds and setting
14 charges for cost of services.

15 (d) In those cases where the Rhode Island Student Loan Authority (RISLA) is the
16 claimant either for itself or as agent for another out-of-state education loan agency, RISLA must
17 obtain appropriate documentation of the obligation owed such as promissory notes, and any other
18 items that may be necessary to conduct a fair hearing. RISLA as agent for other states or agencies
19 shall negotiate appropriate reciprocal agreements with those states and agencies for purposes of
20 transferring funds and setting charges for cost of services.

21 SECTION 22. This article shall take effect as of July 1, 2015.