

**2017 -- S 0946**

LC002798

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2017**

**A N A C T**

AUTHORIZING THE TOWN OF LINCOLN TO ISSUE BONDS AND NOTES IN AN AMOUNT NOT EXCEEDING \$60,000,000 TO FINANCE THE CONSTRUCTION, RENOVATION, REHABILITATION, REPAIR, IMPROVEMENTS, FURNISHING AND EQUIPPING OF AND/OR ADDITIONS TO LINCOLN HIGH SCHOOL AND SCHOOL FACILITIES IN THE TOWN

Introduced By: Senators Paolino, and Pearson

Date Introduced: June 08, 2017

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. The town of Lincoln is hereby empowered, in addition to authority  
2 previously granted, to issue bonds in an amount not exceeding sixty million dollars (\$60,000,000)  
3 from time to time under its corporate name and seal. The bonds of each issue may be issued in  
4 the form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a  
5 combination thereof and shall be payable either by maturity of principal in the case of serial  
6 bonds or by mandatory serial redemption in the case of term bonds, in installments of principal,  
7 the first installment to be not later than five (5) years and the last installment not later than thirty  
8 (30) years after the date the bonds are issued. All such bonds of a particular issue may be issued  
9 in the form of zero coupon bonds, capital appreciation bonds, serial bonds or term bonds or a  
10 combination thereof, and may bear interest at a fixed rate or rates or at a variable or auction rate  
11 or rates. The bonds may be sold by a negotiated sale or by competitive bid and may be issued  
12 pursuant to a resolution or an indenture of trust. Annual installments of principal may be provided  
13 for by maturity of principal in the case of serial bonds or by mandatory serial redemption in the  
14 case of term bonds. The amount of principal appreciation each year on any bonds, after the date  
15 of original issuance, shall not be considered to be principal indebtedness for the purposes of any  
16 constitutional or statutory debt limit or any other limitation. The appreciation of principal after  
17 the date of original issue shall be considered interest. Only the original principal amount shall be

1 counted in determining the principal amount so issued and any interest component or premium  
2 shall be disregarded.

3 SECTION 2. The bonds shall be signed by the town director of finance, the town  
4 administrator and the president of the town council and shall be issued and sold in such amounts  
5 as the town council may authorize. The manner of sale, denominations, maturities, interest rates  
6 and other terms, conditions and details of any bonds or notes issued under this act may be fixed  
7 by the proceedings of the town council authorizing the issue or by separate resolution of the town  
8 council or, to the extent provisions for these matters are not so made, they may be fixed by the  
9 officers authorized to sign the bonds or notes. The proceeds derived from the sale of the bonds  
10 shall be delivered to the director of finance, and such proceeds exclusive of premiums and  
11 accrued interest shall be expended: (1) For the construction, renovation, rehabilitation, repair,  
12 improvements, furnishing and equipping of and/or additions to Lincoln High School and school  
13 facilities in the Town; (2) For payment of the principal or interest on temporary notes issued  
14 under Section 3; (3) In payment of capitalized interest on bonds or notes; (4) In repayment of  
15 advances under Section 4; or (5) In payment of related costs of issuance of any bonds or notes.  
16 No purchaser of any bonds or notes under this act shall be in any way responsible for the proper  
17 application of the proceeds derived from the sales thereof. The project shall be carried out and all  
18 contracts made therefor on behalf of the town by the town administrator, subject to approval of  
19 the town council. The proceeds of bonds or notes issued under this act, any applicable federal or  
20 state assistance and other moneys referred to in Sections 6 and 9, shall be deemed appropriated  
21 for the purposes of this act without further action than that required by this act. The bond issue  
22 authorized by this act may be consolidated for the purposes of issuance and sale with any other  
23 bond issue of the town heretofore or hereafter authorized; provided that, notwithstanding any  
24 such consolidation, the proceeds from the sale of the bonds authorized by this act shall be  
25 expended for the purposes set forth above. The director of finance, the town administrator and  
26 the president of the town council, on behalf of the town, are hereby authorized to execute such  
27 instruments, documents or other papers as either of them deem necessary or desirable to carry out  
28 the intent of this act and are also authorized to take all actions and execute all documents or  
29 agreements necessary to comply with federal tax and securities laws, which documents or  
30 agreements may have a term coextensive with the maturity of the bonds authorized hereby,  
31 including Rule 15c2-12 of the Securities and Exchange Commission the Rule and to execute and  
32 deliver a continuing disclosure agreement or certificate in connection with the bonds or notes.

33 SECTION 3. The town council may by resolution authorize the issue from time to time of  
34 interest bearing or discounted notes in anticipation of the issue of bonds or in anticipation of the

1 receipt of federal or state aid for the purposes of this act. The amount of original notes issued in  
2 anticipation of bonds may not exceed the amount of bonds which may be issued under this act  
3 and the amount of original notes issued in anticipation of federal or state aid may not exceed the  
4 amount of available federal or state aid as estimated by the director of finance. Temporary notes  
5 issued hereunder shall be signed by the manual or facsimile signatures of the director of finance,  
6 the town manager and the president of the town council, shall be payable within five (5) years  
7 from their respective dates, but the principal of and interest on notes issued for a shorter period  
8 may be renewed or paid from time to time by the issue of other notes thereunder; provided, the  
9 period from the date of an original note to the maturity or any note issued to renew or pay the  
10 same debt or the interest thereon shall not exceed five (5) years. Any temporary notes in  
11 anticipation of bonds issued under this section may be refunded prior to the maturity of the notes  
12 by the issuance of additional temporary notes, provided that no such refunding shall result in any  
13 amount of such temporary notes outstanding at any one time in excess of two hundred percent  
14 (200%) of the amount of bonds which may be issued under this act; and provided, further, that if  
15 the issuance of any such refunding notes results in any amount of such temporary notes  
16 outstanding at any one time in excess of the amount of bonds which may be issued under this act,  
17 the proceeds of such refunding notes shall be deposited in a separate fund established with the  
18 bank which is paying agent for the notes being refunded. Pending their use to pay the notes being  
19 refunded, moneys in the fund shall be invested for the benefit of the town by the paying agent at  
20 the direction of the director of finance in any investment permitted under Section 5. The moneys  
21 in the fund and any investments held as a part of the fund shall be held in trust and shall be  
22 applied by the paying agent solely to the payment or prepayment of the principal of and interest  
23 on the notes being refunded. Upon payment of all principal of and interest on the notes, any  
24 excess moneys in the fund shall be distributed to the town. The town may pay the principal of and  
25 interest on notes in full from other than the issuance of refunding notes prior to the issuance of  
26 bonds pursuant to Section 1 hereof. In such case, the town's authority to issue bonds or notes in  
27 anticipation of bonds under this act shall continue provided that: (1) The town council passes a  
28 resolution evidencing the town's intent to pay off the notes without extinguishing the authority to  
29 issue bonds or notes; and (2) That the period from the date of an original note to the maturity date  
30 of any other note shall not exceed five (5) years.

31 SECTION 4. Pending any authorization or issue of bonds hereunder or pending or in lieu  
32 of any authorization or issue of notes hereunder, the director of finance, with the approval of the  
33 town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in the  
34 treasury of the town to the purposes specified in Section 2, such advances to be repaid without

1 interest from the proceeds of bonds or notes subsequently issued or from the proceeds of  
2 applicable federal or state assistance or from other available funds.

3 SECTION 5. Any proceeds of bonds or notes issued hereunder or of any applicable  
4 federal or state assistance, pending their expenditure, may be deposited or invested by the director  
5 of finance in demand deposits, time deposits or savings deposits in banks which are members of  
6 the Federal Deposit Insurance Corporation or in obligations issued or guaranteed by the United  
7 States of America or by any agency or instrumentality thereof or as may be provided in any other  
8 applicable law of the state of Rhode Island or resolution of the town council or pursuant to an  
9 investment policy of the town.

10 SECTION 6. Any accrued interest received upon the sale of bonds or notes hereunder  
11 shall be applied to the payment of the first interest due thereon. Any premiums arising from the  
12 sale of bonds or notes hereunder and any earnings or net profit realized from the deposit or  
13 investment of funds hereunder shall, in the discretion of the director of finance, be applied to the  
14 cost of preparing, issuing, and marketing bonds or notes hereunder to the extent not otherwise  
15 provided, to the payment of the cost of the project, to the payment of the principal of or interest  
16 on bonds or notes issued hereunder or to any one or more of the foregoing. The cost of preparing,  
17 issuing and marketing bonds or notes hereunder may also, in the discretion of the director of  
18 finance, be met from bond or note proceeds exclusive of accrued interest or from other moneys  
19 available therefor. Any balance of bond or note proceeds remaining after payment of the cost of  
20 the projects and the cost of preparing, issuing and marketing bonds or notes hereunder shall be  
21 applied to the payment of the principal of or interest on bonds or notes issued hereunder. To the  
22 extent permitted by applicable federal laws, any earnings or net profit realized from the deposit or  
23 investment of funds hereunder may, upon receipt, be added to and dealt with as part of the  
24 revenues of the town from property taxes. In exercising any discretion under this section, the  
25 director of finance shall be governed by any instructions adopted by resolution of the town  
26 council.

27 SECTION 7. All bonds and notes issued under this act and the debts evidenced thereby  
28 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully  
29 contracted by it and shall be excepted from the operation of §45-12-2 of the general laws. No  
30 such obligation shall at any time be included in the debt of the town for the purpose of  
31 ascertaining its borrowing capacity. The town shall annually appropriate a sum sufficient to pay  
32 the principal and interest coming due within the year on bonds and notes issued hereunder to the  
33 extent that moneys therefor are not otherwise provided. If such sum is not appropriated, it shall  
34 nevertheless be added to the annual tax levy. In order to provide such sum in each year and

1 notwithstanding any provision of law to the contrary, all taxable property in the town shall be  
2 subject to ad valorem taxation by the town without limitation as to rate or amount.

3 SECTION 8. Any bonds or notes issued under the provisions of this act, if properly  
4 executed by officers of the town in office on the date of execution, shall be valid and binding  
5 according to their terms notwithstanding that before the delivery thereof and payment therefor  
6 any or all of such officers shall for any reason have ceased to hold office.

7 SECTION 9. The town, acting by resolution of its town council is authorized to apply for,  
8 contract for and expend any federal or state advances or other grants or assistance which may be  
9 available for the purposes of this act, and any such expenditures may be in addition to other  
10 moneys provided in this act. To the extent of any inconsistency between any law of this state and  
11 any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with  
12 interest where applicable, whether contracted for prior to or after the effective date of this act,  
13 may be repaid as project costs under Section 2.

14 SECTION 10. Bonds and notes may be issued under this act without obtaining the  
15 approval of any governmental agency or the taking of any proceedings or the happening of any  
16 conditions except as specifically required by this act for such issue. In carrying out any project  
17 financed in whole or in part under this act, including where applicable the condemnation of any  
18 land or interest in land, and in the levy and collection of assessments or other charges permitted  
19 by law on account of any such project, all action shall be taken which is necessary to meet  
20 constitutional requirements whether or not such action is otherwise required by statute; but the  
21 validity of bonds and notes issued hereunder shall in no way depend upon the validity or  
22 occurrence of such action.

23 SECTION 11. All or any portion of the authority to issue bonds and notes under this act  
24 may be extinguished by resolution of the town council, without further action by the general  
25 assembly.

26 SECTION 12. The director of finance, the town administrator, and the president of the  
27 town council, on behalf of the town, are hereby authorized to execute such documents or other  
28 papers as either of them deem necessary or desirable to carry out the intent of this act and are also  
29 authorized to take all actions and execute all documents or agreements necessary to comply with  
30 federal tax and securities laws, which documents or agreements may have a term coextensive  
31 with the maturity of the bonds authorized hereby, including Rule 15c2-12 of the Securities and  
32 Exchange Commission (the Rule) and to execute and deliver a continuing disclosure agreement  
33 or certificate in connection with the bonds or notes in the form as shall be deemed advisable by  
34 such officers in order to comply with the Rule.

1           SECTION 13. This act shall constitute an enabling act of the general assembly that is  
2 required pursuant to §16-7-44. Bonds or other evidences of indebtedness issued under this act for  
3 school projects shall not be eligible for state aid reimbursement pursuant to §16-7-44 unless the  
4 school projects have been approved by the Rhode Island Department of Education.  
5 Notwithstanding anything contained in this act, the town may enter into financing agreements  
6 with the Rhode Island Health and Educational Building Corporation pursuant to Chapter 38.1 of  
7 Title 45 of the General Laws.

8           SECTION 14. The question of the approval of this act shall be submitted to the electors  
9 of the town at a special election (other than a primary), on a date as shall be designated by the  
10 town council. The question shall be submitted in substantially the following form: "Shall an Act,  
11 passed at the 2017 session of the General Assembly, entitled, 'AN ACT AUTHORIZING THE  
12 TOWN OF LINCOLN TO ISSUE GENERAL OBLIGATION BONDS AND NOTES IN AN  
13 AMOUNT NOT TO EXCEED SIXTY MILLION DOLLARS (\$60,000,000) FOR THE  
14 PURPOSE OF FINANCING THE CONSTRUCTION, RENOVATION, REHABILITATION,  
15 REPAIR, IMPROVEMENTS, FURNISHING AND EQUIPPING OF AND/OR ADDITIONS  
16 TO LINCOLN HIGH SCHOOL AND SCHOOL FACILITIES IN THE TOWN' be approved?"  
17 and the warning for the election shall contain the question to be submitted. From the time the  
18 election is warned and until it is held, it shall be the duty of the town clerk to keep a copy of the  
19 act available at their office for public inspection, but the validity of the election shall not be  
20 affected by this requirement. The town of Lincoln is authorized to hold a special election for  
21 consideration of the above question any time prior to December 31, 2018, as determined by the  
22 town council.

23           SECTION 15. This section and the foregoing section shall take effect upon the passage of  
24 this act. The remainder of this act shall take effect upon the approval of this act by a majority of  
25 those voting on the question at the election prescribed by the foregoing section.

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EXPLANATION

OF

A N A C T

AUTHORIZING THE TOWN OF LINCOLN TO ISSUE BONDS AND NOTES IN AN AMOUNT NOT EXCEEDING \$60,000,000 TO FINANCE THE CONSTRUCTION, RENOVATION, REHABILITATION, REPAIR, IMPROVEMENTS, FURNISHING AND EQUIPPING OF AND/OR ADDITIONS TO LINCOLN HIGH SCHOOL AND SCHOOL FACILITIES IN THE TOWN

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1           This act would authorize the town of Lincoln to issue bonds and notes in an amount not  
2 exceeding \$60,000,000 to finance the construction, renovation, rehabilitation, repair,  
3 improvements, furnishing and equipping of and/or additions to Lincoln High School and school  
4 facilities in the town, including financing through the Rhode Island Health and Educational  
5 Building Corporation.

6           Sections 14 and 15 would take effect upon passage. The remainder of the act would take  
7 effect upon approval of the question provided for in Section 14.

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