

2025 -- S 0035

LC000592

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

A N A C T

RELATING TO EDUCATION -- SCHOOL FUNDS AND PROPERTY

Introduced By: Senators Pearson, Valverde, DiMario, Euer, and DiPalma

Date Introduced: January 23, 2025

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 16-9 of the General Laws entitled "School Funds and Property" is
2 hereby amended by adding thereto the following section:

3 **16-9-11. New school construction and renovations.**

4 Not later than June 30, 2026, the department of education and the office of energy resources
5 are hereby authorized and directed to develop and adopt regulations requiring all school buildings
6 to meet the latest Northeast Collaborative for High Performance Schools (NE-CHPS) standard of
7 zero energy capable, as required by 200-RICR-20-05-04.5.1B, and defined in § 16-7-36, by
8 December 31, 2037.

9 (1) The regulations shall allow flexibility to the furthest extent possible for local education
10 agencies to pursue state and federal funding sources that assist in financing energy efficiency or
11 renewable energy systems without any penalties or reduction in state housing aid provided by the
12 department of education.

13 (2) Furthermore, for local education agencies that pursue federal funding for renewable
14 energy systems, the department's regulations shall direct and provide further guidance to local
15 education agencies to build, own, and operate solar panels utilizing federal guidance established in
16 the Internal Revenue Code, 26 U.S.C. § 6417.

17 SECTION 2. Sections 16-7-36, 16-7-39, 16-7-40 and 16-7-41.1 of the General Laws in
18 Chapter 16-7 entitled "Foundation Level School Support [See Title 16 Chapter 97 — The Rhode
19 Island Board of Education Act]" are hereby amended to read as follows:

1 **16-7-36. Definitions.**

2 The following words and phrases used in §§ 16-7-35 to 16-7-47 [and in § 16-9-11](#) have the
3 following meanings:

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

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

14 (3) “Commissioning agent” means a person or entity who ensures that systems are
15 designed, installed, functionally tested, and capable of being operated and maintained to perform
16 in conformity with the design intent of a project.

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

22 (5) “Facilities condition index” means the cost to fully repair the building divided by the
23 cost to replace the building as determined by the school building authority.

24 (6) “Functional utilization” means the ratio of the student population within a school
25 facility to the capacity of the school facility to adequately serve students as defined by the school
26 building authority.

27 (7) “Maintenance expenditures” means amounts spent for repairs or replacements for the
28 purpose of keeping a school facility open and safe for use, including repairs, maintenance, and
29 replacements to a school facility’s heating, lighting, ventilation, security, and other fixtures to keep
30 the facility or fixtures in effective working condition. Maintenance shall not include contracted or
31 direct custodial or janitorial services, expenditures for the cleaning of a school facility or its
32 fixtures, the care and upkeep of grounds, recreational facilities, or parking lots, or the cleaning of
33 or repairs and replacements to movable furnishings or equipment.

34 (8) “Owner’s program manager” means owner’s program manager as defined in § 37-2-7.

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

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

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

9 (12) "Zero energy capable" means the building:

10 (i) Meets the latest Northeast Collaborative for High Performance Schools (NE-CHPS)
11 standard of a zero energy capable school building whereby the actual annual energy delivered other
12 than as described in subsection (12)(ii) of this section, must be less than or equal to the renewable
13 energy generated onsite; or

14 (ii) The actual annual energy delivered must be less than or equal to the sum of:

15 (A) The renewable energy generated onsite;

16 (B) The renewable energy generated offsite through a power purchase agreement; and

17 (C) The value of purchased NE-GIS certificates that meet the standard for a new renewable
18 energy resources as defined in § 39-26-2.

19 **16-7-39. Computation of school housing-aid ratio.**

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

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

1 subsequent fiscal years, the minimum housing aid share shall be thirty-five percent (35%) for all
2 projects receiving council on elementary and secondary education approval after June 30, 2012.
3 The resident average daily membership shall be determined in accordance with § 16-7-22(1).

4 (2) No district shall receive a combined total of more than twenty (20) incentive percentage
5 points for projects that commence construction by June 30, 2024, and five (5) incentive points for
6 projects that commence construction thereafter; provided further, these caps shall be in addition to
7 amounts received under §§ 16-7-40(a)(1) ~~and~~, 16-7-40(a)(2), [16-7-40\(j\)\(1\)](#) and [16-7-40\(j\)\(2\)](#)..
8 Furthermore, a district's share shall not be decreased by more than half of its regular share
9 irrespective of the number of incentive points received nor shall a district's state share increase by
10 more than half of its regular share, including amounts received under §§ 16-7-40(a)(1) and 16-7-
11 40(a)(2), irrespective of the number of incentive points received. Provided further that the
12 aforementioned limit on the state share increasing by more than half of its regular share shall not
13 apply to projects submitted for reimbursement after July 1, 2023.

14 **16-7-40. Increased school housing ratio.**

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

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

20 (b) In the case of projects undertaken by districts specifically for the purposes of school
21 safety and security, the school housing aid share ratio shall be increased by five percent (5%) for
22 these specific projects only, in the calculation of school housing aid. The increased share ratio shall
23 continue to be applied for as long as the project(s) receives state housing aid. In order to qualify for
24 the increased share ratio, seventy-five percent (75%) of the project costs must be specifically
25 directed to school safety and security measures. The council on elementary and secondary
26 education shall promulgate rules and regulations for the administration and operation of this
27 section.

28 (c) For purposes of addressing health and safety deficiencies as defined by the school
29 building authority, including the remediation of hazardous materials, the school housing aid ratio
30 shall be increased by five percent (5%) so long as the construction of the project commences by
31 June 30, 2024, is completed by June 30, 2029, and a two hundred fifty million dollar (\$250,000,000)
32 general obligation bond is approved on the November 2018 ballot. In order to qualify for the
33 increased share ratio, twenty-five percent (25%) of the project costs or a minimum of five hundred
34 thousand dollars (\$500,000) must be specifically directed to this purpose.

1 (d) For purposes of educational enhancement, including projects devoted to the
2 enhancement of early childhood education and career and technical education, the school housing
3 aid ratio shall be increased by five percent (5%) so long as construction of the project commences
4 by June 30, 2024, is completed by June 30, 2029, and a two hundred fifty million dollar
5 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to
6 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
7 of five hundred thousand dollars (\$500,000) must be specifically directed to these purposes.

8 (e) For replacement of a facility that has a facilities condition index of sixty-five percent
9 (65%) or higher, the school housing ratio shall be increased by five percent (5%) so long as
10 construction of the project commences by June 30, 2024, is completed by June 30, 2029, does not
11 receive a bonus pursuant to subsection (f) or subsection (g), and a two hundred fifty million dollar
12 (\$250,000,000) general obligation bond is approved on the November 2018 ballot. In order to
13 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
14 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

15 (f) For any new construction or renovation that increases the functional utilization of any
16 facility from less than sixty percent (60%) to more than eighty percent (80%), including the
17 consolidation of school buildings within or across districts, the school housing aid ratio shall be
18 increased by five percent (5%) so long as construction of the project commences by June 30, 2024,
19 is completed by June 30, 2029, and a two hundred fifty million dollar (\$250,000,000) general
20 obligation bond is approved on the November 2018 ballot. In order to qualify for the increased
21 share ratio, twenty-five percent (25%) of the project costs or a minimum of five hundred thousand
22 dollars (\$500,000) must be specifically directed to this purpose.

23 (g) For any new construction or renovation that decreases the functional utilization of any
24 facility from more than one hundred twenty percent (120%) to between eighty-five percent (85%)
25 to one hundred five percent (105%), the school housing ratio shall be increased by five percent
26 (5%) so long as construction of the project commences by June 30, 2024, is completed by June 30,
27 2029, and a two hundred fifty million dollar (\$250,000,000) general obligation bond is approved
28 on the November 2018 ballot. In order to qualify for the increased share ratio, twenty-five percent
29 (25%) of the project costs or a minimum of five hundred thousand dollars (\$500,000) must be
30 specifically directed to this purpose.

31 (h) For consolidation of two (2) or more school buildings, within or across districts into
32 one school building, the school housing aid ratio shall be increased by five percent (5%) so long as
33 construction of the project commences by June 30, 2024, is completed by June 30, 2029, a two
34 hundred fifty million dollar (\$250,000,000) general obligation bond is approved on the November

1 2018 ballot, and does not receive a bonus pursuant to subsection (f) or subsection (g). In order to
2 qualify for the increased share ratio, twenty-five percent (25%) of the project costs or a minimum
3 of five hundred thousand dollars (\$500,000) must be specifically directed to this purpose.

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

7 (j)(1) In the case of projects undertaken by districts specifically for the purposes of high-
8 performance school design, the school housing aid share ratio shall be increased by five percent
9 (5%) for these specific projects only, in the calculation of school housing aid. The increased share
10 ratio shall continue to be applied for as long as the project(s) receives state housing aid. In order to
11 qualify for the increased share ratio, seventy-five percent (75%) of the project costs shall be
12 specifically directed to this purpose. The council on elementary and secondary education shall
13 promulgate rules and regulations for the administration and operation of this section.

14 (2) For any new construction or renovation that includes energy efficiency and renewable
15 energy upgrades for the building to meet the standard of zero energy capable school building
16 pursuant to § 16-7-36(12), the school housing aid ratio shall be increased by ten percent (10%).

17 **16-7-41.1. Eligibility for reimbursement.**

18 (a) School districts, not municipalities, may apply for and obtain approval for a project
19 under the necessity of school construction process set forth in the regulations of the council on
20 elementary and secondary education, provided, however, in the case of a municipality that issues
21 bonds through the Rhode Island health and educational building corporation to finance or refinance
22 school facilities for a school district that is not part of the municipality, the municipality may apply
23 for and obtain approval for a project. Such approval will remain valid until June 30 of the third
24 fiscal year following the fiscal year in which the council on elementary and secondary education's
25 approval is granted. Only those projects undertaken at school facilities under the care and control
26 of the school committee and located on school property may qualify for reimbursement under §§
27 16-7-35 — 16-7-47. Facilities with combined school and municipal uses or facilities that are
28 operated jointly with any other profit or nonprofit agency do not qualify for reimbursement under
29 §§ 16-7-35 — 16-7-47. Projects completed by June 30 of a fiscal year are eligible for
30 reimbursement in the following fiscal year. A project for new school housing or additional housing
31 shall be deemed to be completed when the work has been officially accepted by the school
32 committee or when the housing is occupied for its intended use by the school committee, whichever
33 is earlier.

34 (b) Notwithstanding the provisions of this section, the board of regents shall not grant final

1 approval for any project between June 30, 2011, and May 1, 2015, except for projects that are
2 necessitated by immediate health and safety reasons. In the event that a project is requested during
3 the moratorium because of immediate health and safety reasons, those proposals shall be reported
4 to the chairs of the house and senate finance committees.

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

11 (d) Beginning July 1, 2015, the council on elementary and secondary education shall
12 approve new necessity of school construction applications on an annual basis. The department of
13 elementary and secondary education shall develop an annual application timeline for local
14 education agencies seeking new necessity of school construction approvals.

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

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

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

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

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

34 (j) If, within thirty (30) years of construction, a newly constructed school is sold to a private

1 entity, the state shall receive a portion of the sale proceeds equal to that project's housing aid
2 reimbursement rate at the time of project completion.

3 (k) All projects must comply with § 37-13-6, ensuring that prevailing wage laws are being
4 followed, and § 37-14.1-6, ensuring that minority business enterprises reach the required minimum
5 participation, and § 37-13-3.1, ensuring apprenticeship program utilization.

6 (l) Using reviewable criteria, all projects seeking school housing aid shall complete an
7 independent, objective, reasoned study on all projects over ten million dollars (\$10,000,000) to
8 determine whether adoption of a project labor agreement on the proposed project or projects will
9 help achieve the goals of the state purchases act.

10 SECTION 3. Section 16-105-3 of the General Laws in Chapter 16-105 entitled "School
11 Building Authority" is hereby amended to read as follows:

12 **16-105-3. Roles and responsibilities.**

13 The school building authority roles and responsibilities shall include:

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

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

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

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

23 (5) Promulgating, managing, and maintaining school construction regulations, standards,
24 and guidelines applicable to the school housing program, based on the recommendations of the
25 school building authority advisory board, created in § 16-105-8. Said regulations shall require
26 conformance with the minority business enterprise requirements set forth in § 37-14.1-6 and with
27 the latest Northeast Collaborative for High Performance Schools (NE-CHPS) standards or
28 equivalent, contingent on approval from the council on elementary and secondary education;

29 (6) Developing a prequalification and review process for prime contractors, architects, and
30 engineers seeking to bid on projects in excess of ten million dollars (\$10,000,000) in total costs
31 subject to inflation. Notwithstanding any general laws to the contrary, a prequalification shall be
32 valid for a maximum of two (2) years from the date of issuance. Factors to be considered by the
33 school building authority in granting a prequalification to prime contractors shall include, but not
34 be limited to, the contractor's history of completing complex projects on time and on budget, track

1 record of compliance with applicable environmental and safety regulations, evidence that
2 completed prior projects prioritized the facility's future maintainability, and compliance with
3 applicable requirements for the use of women and minority owned subcontractors;

4 (i) At least annually, a list of prequalified contractors, architects, and engineers shall be
5 publicly posted with all other program information;

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

8 (8) Providing technical advice and assistance, training, and education to cities, towns,
9 and/or local education agencies and to general contractors, subcontractors, construction or project
10 managers, designers and others in planning, maintenance, and establishment of school facility
11 space;

12 (9) Developing a project priority system, based on the recommendations of the school
13 building authority advisory board, in accordance with school construction regulations for the school
14 building authority capital fund, subject to review and, if necessary, to be revised on intervals not to
15 exceed five (5) years. Project priorities shall include, but not be limited to, the following order of
16 priorities:

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

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

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

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

25 (v) Projects needed to comply with mandatory, instructional programs;

26 (10) Maintaining a current list of requested school projects and the priority given them;

27 (11) Collecting and maintaining readily available data on all the public school facilities in
28 the state;

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

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

34 (14) At least every five (5) years, conducting a needs survey to ascertain the capital

1 construction, reconstruction, maintenance, and other capital needs for schools in each district of the
2 state, including public charter schools. Beginning in 2025, this needs survey shall include progress
3 towards and recommendations for energy efficiency and renewable energy upgrades to bring all
4 state school buildings to the definition of a zero energy capable school building pursuant to § 16-
5 7-36;

6 (15) Developing a formal enrollment projection model or using projection models already
7 available;

8 (16) Encouraging local education agencies to investigate opportunities for the maximum
9 utilization of space in and around the district;

10 (17) Collecting and maintaining a clearinghouse of prototypical school plans that may be
11 consulted by eligible applicants;

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

14 (19) Hiring an appropriate staff member who shall create and implement a plan to bring all
15 Rhode Island school buildings in compliance with the standard of a zero energy capable school
16 building pursuant to § 16-7-36 and who shall provide technical advice and assistance, training, and
17 education to cities, towns, and/or local education agencies, and to general contractors,
18 subcontractors, construction or project managers, designers and others on the latest NE-CHPS
19 standards; and

20 ~~(19)~~(20) No district shall receive a combined total of more than twenty (20) incentive
21 percentage points for projects that commence construction by December 30, 2023, and five (5)
22 incentive points for projects that commence construction thereafter; provided further, these caps
23 shall be in addition to amounts received under §§ 16-7-40(a)(1), ~~and~~ 16-7-40(a)(2), 16-7-40(j)(1),
24 and 16-7-40(j)(2). Furthermore, a district's share shall not be decreased by more than half of its
25 regular share irrespective of the number of incentive points received, nor shall a district's state
26 share increase by more than half of its regular share, including amounts received under §§ 16-7-
27 40(a)(1) and 16-7-40(a)(2), irrespective of the number of incentive points received.
28 Notwithstanding any provision of the general laws to the contrary, the reimbursement or aid
29 received under this chapter or chapter 38.2 of title 45 shall not exceed one hundred percent (100%)
30 of the sum of the total project costs plus interest costs. If a two hundred and fifty million dollar
31 (\$250,000,000) general obligation bond is approved on the November 2018 ballot, projects
32 approved between May 1, 2015, and January 1, 2018, are eligible to receive incentive points (above
33 and beyond what the project was awarded at the time of approval) pursuant to § 16-7-39 and § 16-
34 7-40. Provided, however, any project approved during this time period with a project cost in excess

1 of one million five hundred thousand dollars (\$1,500,000), which does not include an owner's
2 program manager and a commissioning agent, shall only be eligible to receive five (5) incentive
3 points. Incentive points awarded pursuant to the provisions of this subsection shall only be applied
4 to reimbursements occurring on or after July 1, 2018. Any project approved between May 1, 2015,
5 and January 1, 2018, that is withdrawn and/or resubmitted for approval shall not be eligible for any
6 incentive points.

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

=====
LC000592
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO EDUCATION -- SCHOOL FUNDS AND PROPERTY

1 This act would provide that not later than June 30, 2025, the department of education would
2 develop and adopt, in consultation with the office of energy resources, regulations requiring all
3 school buildings to meet the standard of zero energy capable, as defined in § 16-7-36, by December
4 31, 2037.

5 This act would take effect upon passage.

=====
LC000592
=====