

# RESOLUTION OF THE CITY COUNCIL

No. 236

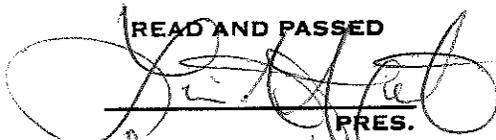
Approved April 20, 2015

RESOLVED, That the Members of the Providence City Council hereby Endorse and Urge Passage by the General Assembly of House Bill 2015 H-5434 and Senate Bill 2015 S-0100, An Act Relating to Towns and Cities - Health and Educational Building Corporation.

IN CITY COUNCIL

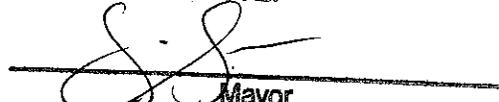
APR 16 2015

READ AND PASSED

  
PRES.

  
CLERK

I HEREBY APPROVE.

  
Mayor

Date: 4/20/15

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO TOWNS AND CITIES -- HEALTH AND EDUCATIONAL BUILDING CORPORATION

Introduced By: Representatives Regunberg, Morin, Tanzi, Ajello, and Marshall

Date Introduced: February 12, 2015

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-38.1-4 of the General Laws in Chapter 45-38.1 entitled "Health  
2 And Educational Building Corporation" is hereby amended to read as follows:

3 **45-38.1-4. Corporation established.** — (a) There is hereby created a public body  
4 corporate and agency of the state to be known as the "Rhode Island health and educational  
5 building corporation" as successor to the Rhode Island educational building corporation,  
6 previously created as a nonbusiness corporation under and pursuant to chapter 6 of title 7, as  
7 amended by chapter 121 of the Public Laws of 1966, and constituted and established as a public  
8 body corporate and agency of the state for the exercising of the powers conferred on the  
9 corporation under and pursuant to §§ 45-38.1-1 -- 45-38.1-24.

10 (b)(1) All of the powers of the corporation are vested in the board of directors of the  
11 corporation elected at the first meeting of the incorporators of the Rhode Island educational  
12 building corporation, and the members of the board shall continue to serve for the duration of the  
13 terms for which they were originally elected. Successors to the members of the board of directors  
14 shall be appointed by the governor, as follows: prior to the month of June in each year,  
15 commencing in the year 1968, the governor shall appoint a member to serve on the board of  
16 directors for a term of five (5) years to succeed the member whose term will expire in June of that  
17 year. In the event of a vacancy occurring in the membership of the board of directors, the  
18 governor shall appoint a new member of the board of directors for the unexpired term. Any

1 member of the board of directors is eligible for reappointment.

2 (2) Provided, that effective July 1, 2015, the corporation shall be governed by an  
3 executive board of directors which shall replace the board of directors in existence as of June 30,  
4 2015. The new executive board shall consist of seven (7) members as follows:

5 (i) The general treasurer;

6 (ii) The director of the department of administration, who shall serve as chairperson of  
7 the board;

8 (iii) The commissioner of elementary and secondary education; and

9 (iv) Four (4) directors who shall be appointed by the governor from the general public,  
10 with the advice and consent of the senate, each shall have expertise in educational and/or health  
11 facilities, construction, real estate, or finance. Each of the directors appointed by the governor  
12 from the general public shall serve a term pursuant to the provisions of § 45-38.1-4.1. Provided,  
13 that a public member may be reappointed to his or her position for a total of three (3) consecutive  
14 terms. The general treasurer, the director of the department of administration, and the  
15 commissioner of elementary and secondary education shall be eligible to hold their position on  
16 the board so long as they hold those public offices or positions by which they qualify for  
17 membership on the board.

18 (3) A board member shall not receive compensation for his or her service on the board  
19 but may receive a per diem and reimbursement for travel and other necessary expenses, while  
20 engaged in the performance of official duties of the board.

21 (4) There shall not be any liability in a private capacity on the part of the board or any  
22 member of the board, or any officer or employee of the board, for or on account of any act  
23 performed or obligation entered into in an official capacity, when done in good faith, without  
24 intent to defraud, and in connection with the administration, management, or conduct of this title  
25 or affairs related to this title.

26 (5) At all times, the executive board of directors shall maintain compliance with the  
27 provisions of chapter 155 of title 24.

28 (c) Each member of the board of directors and the executive board of directors, before  
29 entering upon his or her duties, shall take an oath to administer the duties of his or her office  
30 faithfully and impartially, and the oath shall be filed in the office of the secretary of state.

31 (d) Effective July 1, 2015, the executive board of directors shall elect two (2) of its  
32 members as chairperson and one of its members as a vice chairperson, and also elect a secretary,  
33 assistant secretary, treasurer, and assistant treasurer, who need not be members of the board.  
34 Three (3) Four (4) members of the executive board of directors of the corporation shall constitute

1 a quorum, and the affirmative vote of the majority of the directors present and entitled to vote at  
2 any regular or special meeting at which a quorum is present, is necessary for any action to be  
3 taken by the corporation; except, however, that the affirmative vote of ~~three (3)~~ four (4) members  
4 of the executive board of directors is necessary for the election of officers of the corporation and  
5 to amend the bylaws of the corporation. No vacancy in the membership of the executive board of  
6 directors of the corporation impairs the right of a quorum to exercise all the powers of and  
7 perform the duties of the corporation.

8 (e) Any action taken by the corporation under the provisions of this chapter may be  
9 authorized by resolution at any regular or special meeting, and each resolution takes effect  
10 immediately and need not be published or posted.

11 (f) The members of the board of directors shall receive compensation at the rate of fifty  
12 dollars (\$50.00) per meeting attended; however, the compensation shall not exceed one thousand  
13 five hundred dollars (\$1,500) per fiscal year per member until July 1, 2015. Effective July 1,  
14 2015, the members of the executive board of directors shall not receive any compensation for  
15 their service on the board.

16 (g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict  
17 of interest for a trustee, director, officer, or employee of an institution for higher education or a  
18 health care provider to serve as a member of the executive board of directors of the corporation;  
19 provided, that the trustee, director, officer, or employee abstains from deliberation, action and  
20 vote by the board under this chapter in specific respect to the institution for higher education or  
21 the health care provider of which the member is a trustee, director, officer, or employee.

22 SECTION 2. Chapter 45-38.1 of the General Laws entitled "Health And Educational  
23 Building Corporation" is hereby amended by adding thereto the following sections:

24 45-38.1-3.1. References to board to include executive board. -- Effective July 1, 2015,  
25 references in this chapter to the former "board of directors" shall be construed to mean and  
26 include the executive board of directors established pursuant to § 45-38.1-4(b).

27 45-38.1-4.1. Members -- Term of office -- Vacancies. -- (a) Two (2) of those new  
28 public members first appointed by the governor pursuant to § 45-38.1-4 shall serve initial terms  
29 of three (3) years; one of those new members first appointed by the governor pursuant to § 45-  
30 38.1-4 shall serve an initial term of two (2) years; and one of those new members, appointed by  
31 the governor pursuant to § 45-38.1-4 shall serve an initial term of one year. Thereafter, all  
32 appointed members of the board shall be appointed to serve for terms of three (3) years.

33 (b) The board members shall be eligible to succeed themselves.

34 (c) A vacancy other than by expiration shall be filled in the manner of the original

1 appointment but only for the unexpired portion of the term.

2 (d) Members of the board shall be removable by the governor pursuant to the provisions  
3 of § 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to  
4 capacity or fitness for the office shall be unlawful.

5 **45-38.1-4.2. Staffing.** -- The board shall employ an executive director who shall  
6 administer, manage, and direct the affairs and business of the corporation, subject to the policies,  
7 control, and direction of the board. The board may employ technical experts and other officers,  
8 agents, and attorneys and fix their qualifications, duties, and compensation. Employees of the  
9 corporation shall not, by reason of their employment, be employees of the state for any purpose,  
10 any provision of the general laws to the contrary notwithstanding, including, without limiting the  
11 generality of the foregoing, chapters 29, 39, and 42 of title 28 and chapters 4, 8, 9, and 10 of title  
12 36.

13 **45-38.1-4.3. Training requirements.** -- The board shall conduct a training course for  
14 newly appointed and qualified members within six (6) months of their qualification or  
15 designation. The course shall be developed by the chair or the executive director of the  
16 corporation. The board may approve the use of any board and/or staff member and/or individuals  
17 to assist with training. The training course shall include instruction in the following areas: the  
18 provisions of chapter 46 of title 42, chapter 14 of title 36, and chapter 2 of title 38; and the board's  
19 rules and regulations. The director of the department of administration shall, within ninety (90)  
20 days of the effective date of this act, prepare and disseminate training materials relating to the  
21 provision of chapters 46 of title 42, chapter 14 of title 36, and chapter 2 of title 38.

22 **45-38.1-28. School housing aid program -- Authority transferred.** -- (a) Effective July  
23 1, 2015, the corporation shall have transferred to it those powers and duties in regard to school  
24 housing aid formerly administered by the state department of elementary and secondary  
25 education, set forth in §§ 16-7-35 through 16-7-47, inclusive. References within §§ 16-7-35  
26 through 16-7-47 to the "board of education" shall be deemed to be references to the Rhode Island  
27 health and educational building corporation's executive board of directors, in so far as said  
28 references address school housing aid. References within §§ 16-7-35 through 16-7-47 to the  
29 "commissioner of education" shall be deemed to be references to the executive director of the  
30 Rhode Island health and educational building corporation in so far as said references address  
31 school housing aid. The board of education and the commissioner retain any authority granted  
32 pursuant to §§ 16-7-35 through 16-7-47 that is not related to school housing aid.

33 (b) The powers and duties transferred to the corporation pursuant to subsection (a) of this  
34 section shall be construed to be part of the corporation's authority pursuant to § 45-38.1-34, the

1 "school building assistance program." These powers and duties include, but are not limited to, the  
2 following:

3 (1) The computation of school housing aid;

4 (2) The determination of the necessity of school construction and the granting of approval  
5 for school building and facility projects; and

6 (3) The approval of standards for the design and construction of school buildings  
7 throughout the state.

8 (c) All existing debt service funds shall be transferred to the corporation's school  
9 modernization and reconstruction trust fund, to pay down any then current existing debt relating  
10 to school housing aid which funds were previously being held and administered by the state  
11 department of elementary and secondary education.

12 **45-38.1-29. Rules and regulations – Continuation of school construction regulations.**

13 -- The corporation may adopt rules and regulations or any amendments to rules and regulations  
14 according to the provisions of chapter 35 of title 42 ("administrative procedures"); provided, the  
15 school construction regulations of the department of elementary and secondary education  
16 applicable to the school housing program shall remain in full force and effect. Such regulations  
17 shall be deemed adopted by the corporation and shall be applied and implemented by the  
18 corporation, to any school construction, unless and until such regulations are amended by the  
19 corporation.

20 **45-38.1-30. Formula established -- Incentive percentage points. --** (a) The corporation  
21 shall by regulation develop and implement a formula for borrowing and issuing loans and grants  
22 under the provisions of this chapter. Such formula may be amended in different fiscal years by  
23 the corporation, so long as the amended formula is published prior to any fiscal year in which the  
24 formula is to take effect.

25 (b) In implementing such a formula, the corporation may offer additional incentive points  
26 to the school housing aid ratio calculation set forth in § 16-7-39. Incentive percentage points  
27 granted, if any, shall be in the sole discretion of the corporation. The corporation may issue  
28 regulations delineating the type and amounts of any such incentive percentage points; provided,  
29 however, that no individual category of incentive points shall exceed five (5) additional points;  
30 and provided further, that no district shall receive more than fifteen (15) incentive percentage  
31 points. Such incentive points may be awarded for a district's use of efficient construction delivery  
32 methods; regionalization with other districts; superior maintenance practices of a district; energy  
33 efficient and sustainable design and construction; major renovation rather than building new  
34 construction; the use of model schools as adopted by the corporation; and other incentives as

1 determined by the board of the corporation in order to encourage the most cost-effective and  
2 quality construction. Likewise, the corporation shall have the authority to issue penalty points.

3 **45-38.1-31. Addition to existing aid. --** The provisions of this chapter shall be in  
4 addition to any and all state aid for education, provided for in chapters 7, 7.1, and 7.2 of title 16,  
5 and in any other general or special law.

6 **45-38.1-32. Computation of school housing aid to include consideration of usable life**  
7 **of asset financed. --** In determining whether to approve new school housing projects and the  
8 amounts to finance, the corporation shall use its best efforts to match the amount and scheduling  
9 of the financing to the expected usable life of the asset being given financial assistance.

10 **45-38.1-33. Development of funding resources. --** The corporation is directed and  
11 encouraged to pursue and develop other alternative, non-traditional methods and explore the use  
12 of other resources to fund the school building assistance program.

13 **45-38.1-34. School building assistance program established. --** The costs of the school  
14 buildings are increasing at an unsustainable rate. Local governments need flexibility in school  
15 building assistance to ensure that local needs for school facility space, downtown development,  
16 open space and community space are met. Statewide, thoughtful planning and construction of  
17 school facility space is needed in order to insure safe and adequate plant facilities for the public  
18 schools. To assist towns in meeting the cost thereof, there is hereby established a school building  
19 assistance program, to be administered by the corporation.

20 **45-38.1-35. Purpose of program -- Establishment of policies and review standards. --**

21 (a) The purpose of the school building assistance program is generally to encourage and foster the  
22 thoughtful establishment and maintenance of school facility space in and among the cities and  
23 towns of the state; to conduct surveys and studies relative thereto; and to administer the  
24 provisions of this chapter relative to grants and loans to cities and towns for the planning and  
25 construction of school building and school facility projects.

26 (b) In addition, the purposes of the program shall be the provision of financial assistance  
27 to cities, towns and regional school districts as beneficiaries of the trust to finance and refinance  
28 the costs of approved school projects as provided in, and as necessary to implement this chapter,  
29 including without limitation providing for the payment of grants approved pursuant to this  
30 chapter and the payment of all costs of the corporation as to school housing program costs only,  
31 including professional and financial services incident to the conduct of its operations.

32 (c) The corporation shall establish general policy and review standards regarding school  
33 building construction, renovation, maintenance and facility space and administer the school  
34 building assistance program in accordance with this chapter. In carrying out its duties, the

1 corporation shall be guided by the following principles:

2 (1) Preservation of open space and minimization of loss of such open space; and

3 (2) Emphasis on thoughtful community development and project flexibility that addresses  
4 the needs of individual communities and municipalities.

5 (d) In accordance with the terms of any bond resolution, trust or security agreement or  
6 credit enhancement agreement, surety bond or insurance policy related to indebtedness incurred  
7 by the corporation secured by amounts provided to the trust, the holders of indebtedness and the  
8 providers of any credit enhancement, surety bond or insurance policy shall also be beneficiaries  
9 of the trust. The corporation shall apply and disburse monies and revenues of the trust without  
10 further appropriation or allotment. Provided, only the corporation shall have the ability to issue  
11 bonds and security agreements, and no bonds or security agreements shall be executed by any  
12 division of the corporation.

13 **45-38.1-36. Specific powers of the corporation in administering the program. --** (a)  
14 Specific powers of the corporation in regard to administering the program shall include, but not  
15 be limited to, the following:

16 (1) Review, approve or deny grant applications, waivers, and other requests submitted to  
17 the program; review, approve and recommend changes to grant payment schedules or suspend  
18 said schedules for program projects such as refinancing, audit findings and such other  
19 circumstances that may warrant such action;

20 (2) Provide architectural or other technical advice and assistance, training and education,  
21 to cities and towns or to joint committees thereof and to general contractors, subcontractors,  
22 construction or project managers, designers and others in the planning, maintenance and  
23 establishment of school facility space;

24 (3) Recommend to the general assembly such legislation as it may deem desirable or  
25 necessary to further the purposes of this chapter;

26 (4) Develop a formal enrollment projection model or consider using projection models  
27 already available;

28 (5) To apply for, receive, administer and comply with the conditions and requirements  
29 respecting any grant, gift or appropriation of property, services or monies;

30 (6) Develop a project priority system;

31 (7) Collect and maintain a clearinghouse of prototypical school plans which may be  
32 consulted by eligible applicants, and where cost beneficial to the state and the municipality, the  
33 corporation shall establish incentives to utilize these prototypes;

34 (8) Determine eligibility of cost components of projects for reimbursement, including

- 1 partial or full eligibility for project components for which the benefit is shared between the school  
2 and other municipal entities;
- 3 (9) Establish appropriate rules and regulations as may be necessary to carry out the  
4 purposes of this chapter;
- 5 (10) Prepare an annual budget for the administration of the program based on five (5)  
6 year capital plans submitted by districts;
- 7 (11) Collect and maintain data on all the public school facilities in the state, including  
8 information on size, usage, enrollment, available facility space and maintenance;
- 9 (12) Advise districts on the conduct of a needs survey to ascertain the capital  
10 construction, reconstruction, maintenance and other capital needs for schools in each district of  
11 the state;
- 12 (13) Develop a long-term capital plan in accordance with needs and projected funding;
- 13 (14) Establish and maintain financial reserves to support the school building program and  
14 to sustain steady growth and improvements as needed to address changes in the needs of the  
15 state's student populations;
- 16 (15) Have authority to establish and maintain a capital reserve fund to be used to create a  
17 pay-as-you-go grant/loan program designed to reduce state and local borrowing toward local  
18 school construction projects, provided that state share ratios set forth in § 16-7-39 shall apply;
- 19 (16) Provided, that as to any loan program established by the corporation, up to five  
20 hundred thousand dollars (\$500,000) may be loaned to a city or town without the requirement of  
21 voter approval, regardless of and superseding any provision in any municipality's charter  
22 requiring a vote prior to the municipality borrowing such amounts;
- 23 (17) Encourage local education agencies to investigate opportunities for the maximum  
24 utilization of space in and around the district;
- 25 (18) Disburse amounts due to cities, towns and regional school districts under grants  
26 approved by the corporation to finance or refinance costs of approved school projects and, in  
27 conjunction therewith, finance or refinance the local share of costs of these projects, through the  
28 purchase of bonds, notes or other evidences of local indebtedness, at the rates and on the terms  
29 that the corporation may in its discretion determine, and provide for the payment of all costs of  
30 the corporation, including professional and financial services incident to the conduct of its  
31 operations;
- 32 (19) Invest the funds of the trust in such investments as may be legal investments for  
33 funds of the state or any fiduciary in the state;
- 34 (20) Obtain insurance and enter into agreements of indemnification necessary or

1 convenient to the exercise of the powers of the trust;

2 (21) To sue and be sued and to prosecute and defend actions relating to the affairs of the  
3 trust; but the trust shall not be authorized to become a debtor under the United States Bankruptcy  
4 Code;

5 (22) To engage accounting, management, legal, financial, consulting and other  
6 professional services necessary to the operations of the trust;

7 (23) To establish policies and programs designed to reduce borrowing for school  
8 construction programs at both state and local levels, including, but not limited to, increased use of  
9 capital reserve funds, revolving funds, and grant programs; and

10 (24) To do all things necessary or convenient to carry out the purposes of this chapter.

11 **45-38.1-37. Order of priorities for approval of school projects and reimbursements**  
12 **under this chapter and §§ 16-7-35 through 16-7-45 -- Deferral of approval or disapproval of**  
13 **project applications. -- (a) The corporation shall approve school projects and reimbursements**  
14 **under this chapter and §§ 16-7-35 through 16-7-45 in accordance with the following order of**  
15 **priorities:**

16 (1) Priority shall be given to school projects needed in the judgment of said board to  
17 replace or renovate a building which is structurally unsound or otherwise in a condition seriously  
18 jeopardizing the health and safety of school children, where no alternative exists;

19 (2) Priority shall be given to school projects to eliminate existing severe overcrowding;

20 (3) Priority shall be given to school projects needed in the judgment of said corporation  
21 to prevent loss of accreditation;

22 (4) Priority shall be given to school projects needed in the judgment of said corporation  
23 to prevent severe overcrowding expected to result from increased enrollments which must be  
24 substantiated;

25 (5) Priority shall be given to projects needed in the judgment of said corporation for the  
26 replacement, renovation or modernization of the heating system in any schoolhouse to increase  
27 energy conservation and decrease energy related costs in said schoolhouse;

28 (6) Priority shall be given to any school project needed in the judgment of said  
29 corporation for short-term enrollment growth;

30 (7) Priority shall be given to school projects needed in the judgment of said corporation  
31 to replace or add to obsolete buildings in order to provide for a full range of programs consistent  
32 with state and approved local requirements; and

33 (8) Priority shall be given to mandatory instructional programs.

34 (b) The authority shall maintain a current list of requested school projects and the priority

1 given them.

2 (c) Notwithstanding the provisions of subsection (a) herein, the corporation may defer its  
3 approval or disapproval of any project application if such deferral is necessary for the effective  
4 implementation of the provisions of this section. The corporation may issue regulations to define  
5 the procedures pursuant to which the priorities established by this section will be implemented.  
6 Further, the corporation may elect not to approve any project or distribute any funds to a school  
7 district that has not effectively maintained existing buildings in accordance with its asset  
8 protection plan to the best of its abilities. Upon a request of a school district, the corporation may  
9 grant a waiver from said requirement for unanticipated or extraordinary changes in maintenance  
10 spending as determined by said departments including, but not limited to, the impact on said  
11 spending due to the opening of a new school building, the closing of an existing school building  
12 or the completion of a major renovation project.

13 **45-38.1-38. Overarching goals. --** (a) In undertaking any actions with regard to school  
14 facilities and projects, the corporation shall seek to promote and achieve the following  
15 overarching goals:

16 (1) To allow overcrowded districts to send students to other districts with excess capacity,  
17 pursuant to agreements negotiated between the districts;

18 (2) To facilitate the negotiation of such agreements between districts;

19 (3) To encourage school districts to maximize the utilization of existing school facilities  
20 and to minimize excess capacity, through means which may include incentives to reduce the  
21 statewide stock of school buildings and through inter-district enrollment;

22 (4) To centralize state resources to career, technical and vocational education into a few  
23 statewide institutions to ensure each has sufficient technology and capital funding; and

24 (5) To seek new innovative, long-term and self-sustaining methods to fund school facility  
25 projects in light of the challenges facing modern public education in the twenty-first century.

26 (b) In promoting the overarching goals set forth in subsection (a) of this section, the  
27 corporation shall take into account transportation issues involved in inter-district enrollment, both  
28 from a financial viewpoint and also on the amount of time a student would spend in transit to  
29 reach a school.

30 **45-38.1-39. School modernization and reconstruction trust fund established. --** (a)  
31 There is hereby established a separate fund, to be known as the school modernization and  
32 reconstruction trust fund, or "trust," to be administered by the corporation. The purpose of the  
33 fund shall be to create a new type of revenue stream to fund school facility projects, including,  
34 but not limited to, the school housing aid program set forth in §§ 16-7-35 through 16-7-45 and the

1 school building assistance program established in § 45-38.1-34.

2 (b) The general assembly shall appropriate to the trust fund in the fiscal year commencing  
3 July 1, 2015, the sum of seventy million dollars (\$70,000,000) to carry out the purposes of this  
4 chapter.

5 The RIHEBC board shall determine allocation of financial resources within the trust fund  
6 to the various programs under the school building assistance program to maximize meeting state  
7 demands at an efficient cost to taxpayers.

8 (c) Provided, that eight million, five hundred thousand dollars (\$8,500,000) of the current  
9 corporation's reserves shall immediately, upon the effective date of this act, be designated and  
10 appropriated to the school modernization and reconstruction trust fund, to initially capitalize said  
11 trust fund. In fiscal year 2016 and subsequent years, administrative fees collected by the  
12 corporation in excess of administrative costs and board-approved reserves shall be transferred to  
13 the fund.

14 **45-38.1-40. Certification of budgeting to meet obligations. --** The corporation shall  
15 certify annually to the president of the senate, speaker of the house, and the chairs of the finance  
16 committees of the senate and the house, that it has made provision in its annual budget to meet  
17 the corporation's obligations to the housing aid program pursuant to §§ 16-7-35 through 16-7-47.

18 **45-38.1-41. Utilization of trust with nonprofit entities. --** The corporation shall utilize,  
19 promote, and implement the trust as a mechanism to encourage opportunities for nonprofit  
20 entities and foundations to contribute to school construction projects. The trust shall be operated  
21 and maintained so as to qualify for the receipt of grants, funds, services, aid, and other  
22 contributions from nonprofit and not-for-profit entities and foundations.

23 SECTION 3. Section 16-60-4 of the General Laws in Chapter 16-60 entitled "Board of  
24 Regents for Elementary and Secondary Education [See Title 16 Chapter 97 - The Rhode Island  
25 Board of Education Act]" is hereby amended to read as follows:

26 **16-60-4. Council on elementary and secondary education -- Powers and duties. --**

27 The Council on Elementary and Secondary Education shall have in addition to those enumerated  
28 in § 16-60-1, the following powers and duties:

29 (1) To approve a systematic program of information gathering, processing, and analysis  
30 addressed to every aspect of elementary and secondary education in this state especially as that  
31 information relates to current and future educational needs so that current needs may be met with  
32 reasonable promptness and plans formulated to meet future needs as they arise in the most  
33 efficient and economical manner possible.

34 (2) To approve a master plan implementing the broad goals and objectives for

1 elementary and secondary education in the state that have been established by the board of  
2 education. These goals and objectives shall be expressed in terms of what men and women should  
3 know and be able to do as a result of their educational experience. The council on elementary and  
4 secondary education shall continually evaluate the efforts and results of education in the light of  
5 these objectives.

6 (3) To adopt standards and require enforcement and to exercise general supervision over  
7 all elementary and secondary public and nonpublic education in the state as provided in  
8 subdivision (8) of this section. The council on elementary and secondary education shall not  
9 engage in the operation or administration of any subordinate committee, local school district,  
10 school, school service, or school program, except its own department of elementary and  
11 secondary education, and except as specifically authorized by an act of the general assembly. The  
12 adoption and submittal of the budget and the allocation of appropriations, the acquisition,  
13 holding, disposition, and general management of property shall not be construed to come within  
14 the purview of the preceding prohibition. The council on elementary and secondary education  
15 shall communicate with and seek the advice of the commissioner of elementary and secondary  
16 education and all those concerned with and affected by its determinations as a regular procedure  
17 in arriving at its conclusions and in setting its policy.

18 (4) To allocate and coordinate the various educational functions among the educational  
19 agencies of the state and local school districts and to promote cooperation among them so that  
20 maximum efficiency and economy shall be achieved.

21 (5) (i) To prepare with the assistance of the commissioner of elementary and secondary  
22 education and to present annually to the state budget officer, in accordance with § 35-3-4, a total  
23 educational budget for the elementary and secondary sector which shall include, but not be  
24 limited to, the budgets of the department of elementary and secondary education, subordinate  
25 boards and agencies, and state aid to local school districts. Prior to submitting the budget as  
26 required by the budget office instructions and this subsection the council shall present the budget  
27 to the board of education for review and approval.

28 (ii) In the preparation of the budget, the council on elementary and secondary education  
29 shall implement the priorities established by the board of education of expenditures for  
30 elementary and secondary education purposes of state revenues and other public resources made  
31 available for the support of public elementary and secondary education among the various  
32 education agencies of the state. Nothing contained in this section shall authorize any individual or  
33 group of individuals to reallocate resources in a manner other than that prescribed in the budget as  
34 appropriations by the general assembly.

1           (6) To maintain a department of elementary and secondary education, to provide for its  
2 staffing and organization and to appoint a commissioner of elementary and secondary education  
3 pursuant to § 16-60-6 who shall serve at its pleasure. The commissioner of elementary and  
4 secondary education and the department of elementary and secondary education shall have any  
5 duties and responsibilities as defined in §§ 16-60-6 and 16-60-7.

6           (7) To establish other educational agencies or subcommittees necessary or desirable for  
7 the conduct of any or all aspects of elementary and secondary education and to determine all  
8 powers, functions,<sup>9</sup> and composition of any agencies or subcommittees and to dissolve them when<sup>6</sup>  
9 their purpose shall have been fulfilled; provided that nothing contained in this subdivision shall  
10 be construed to grant the council the power to establish subcommittees or agencies performing  
11 the duties and functions of local school committees except as provided in § 16-1-10.

12           (8) To exercise the authority previously vested in the board of regents for education with  
13 relation to secondary nonpublic educational institutions within the state under the terms of  
14 chapter 40 of this title and other laws affecting nonpublic education in the state, and to cause the  
15 department of elementary and secondary education to administer the provisions of that section.

16           (9) To exercise all the functions, powers and duties which previously were vested in the  
17 board of regents for education, under the provisions of former § 16-49-4(9), including but not  
18 limited to the following specific functions:

19           (i) To approve the basic subjects and courses of study to be taught and instructional  
20 standards required to be maintained in the public elementary and secondary schools of the state.

21           (ii) To adopt standards and qualifications for the certification of teachers and to provide  
22 for the issuance of certificates, and to establish fees for the certification of teachers. The fees  
23 collected for the certification of teachers along with various education licensing and testing fees  
24 shall be deposited by the council on elementary and secondary education as general revenues.  
25 The funds appropriated by the general assembly shall be utilized by the department of elementary  
26 and secondary education to establish and support programs which enhance the quality and  
27 diversity of the teaching profession. The commissioner of elementary and secondary education  
28 shall regularly make recommendations to the board about specific programs and projects to be  
29 supported by those funds. The commissioner shall oversee the funds, assess the effectiveness of  
30 its programs and projects, and make recommendations about the general use and operation of the  
31 funds to the board.

32           (iii) To be responsible for the distribution of state school funds.

33           (iv) ~~To determine the necessity of school construction and to approve standards for~~  
34 ~~design and construction of school buildings throughout the state.~~

- 1 (v) To set standards for school libraries and school library services.
- 2 (vi) To make recommendations relative to transportation of pupils to school, school bus  
3 routes, time schedules, and other matters relating to pupil transportation.
- 4 (vii) To enforce the provisions of all laws relating to elementary and secondary  
5 education.
- 6 (viii) To decide and determine appeals from decisions of the commissioner.
- 7 (ix) To prescribe forms for the use of local school committees and local officers when  
8 reporting to the department of elementary and secondary education.
- 9 (x) To adopt and require standard accounting procedures for local school districts, except  
10 as provided for in subdivision (3) of § 16-24-2.
- 11 (xi) To adopt and require standard uniform operating and capital budgeting procedures  
12 for local school districts.
- 13 (10) To establish rules for the approval and accrediting of elementary and secondary  
14 schools.
- 15 (11) To recommend to the general assembly changes in the size and number of the  
16 school districts within the state; and to make any further and other recommendations to the  
17 general assembly as the council on elementary and secondary education may determine to be  
18 necessary or desirable, including, but not limited to, proposals for incentives for the coordination  
19 of services and facilities of certain school districts and the feasibility of granting taxing authority  
20 to local school committees upon their request, and the impact upon the quality of education  
21 within that particular community by granting the request. In carrying out this duty, the council on  
22 elementary and secondary education shall periodically issue reports in school district  
23 organizations for selected regions and school districts.
- 24 (12) To exercise all other powers with relation to the field of elementary and secondary  
25 education within this state not specifically granted to any other department, board, or agency, and  
26 not incompatible with law, which the council on elementary and secondary education may deem  
27 advisable.
- 28 (13) To exercise the authority previously vested in the board of regents for education  
29 with relation to adult education as defined in § 16-58-2 and to establish definitive goals for and  
30 operate a comprehensive delivery system for adult education programs and services, including the  
31 counseling and testing of persons interested in obtaining high school equivalency diplomas, the  
32 issuance of diplomas, and the maintenance of a permanent record of applications, tests, and  
33 equivalency diplomas.
- 34 (14) To promote maximum efficiency and economy in the delivery of elementary and

1 secondary educational services in the state.

2 (15) To approve a training program for school committee members to enhance their  
3 individual skills and their effectiveness as a corporate body. The training program should include,  
4 but not be limited to, the following roles and responsibilities of school committees: strategic  
5 planning, human and community relations, and school finance and budgeting.

6 (16) Within ninety (90) days after the end of each fiscal year, the board shall submit an  
7 annual report to the governor, the speaker of the house of representatives, and the president of the  
8 senate of its activities during that fiscal year. The report shall provide: an operating statement  
9 summarizing meetings or hearings held, subjects addressed, decisions rendered, rules or  
10 regulations promulgated, studies conducted, policies and plans developed, approved, or modified,  
11 and programs administered or initiated; a consolidated financial statement of all funds received  
12 and expended including the source of the funds, a listing of any staff supported by these funds,  
13 and a summary of any clerical, administrative or technical support received; a summary of  
14 performance during the previous fiscal year including accomplishments, shortcomings and  
15 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the  
16 authority of the council; a briefing on anticipated activities in the upcoming fiscal year; and  
17 findings and recommendations for improvements. The director of the department of  
18 administration shall be responsible for the enforcement of the provisions of this subsection.

19 (17) To prepare with the assistance of the commissioner a multi-year plan of priority  
20 educational goals and objectives. This plan should recommend policy objectives, implementation  
21 strategies, and a timetable for major policy initiatives.

22 (18) Each year the governor shall by writing notify the council on elementary and  
23 secondary education concerning broad economic, cultural, and social needs that the education  
24 system needs to consider which the board shall address in developing educational plans and  
25 programs.

26 (19) Appoint a standing committee that will develop a schedule to systematically review  
27 all council policies over a three (3) year period.

28 (20) To prepare with the assistance of the commissioner a statement of regulatory policy.  
29 This policy should set forth the goals and objectives of state regulations which are expressed in  
30 terms of what educational inputs and outputs the board expects regulations to address.

31 (21)(i) To prepare with the assistance of the commissioner of elementary and secondary  
32 education and to present annually to the general assembly by January 1 a report on school  
33 discipline in Rhode Island schools. This report shall include:

34 (A) Expulsions by district, including duration and the reason for each action.

- 1 (B) Suspensions by district, including duration and the reason for each action.
- 2 (C) Placements to alternative programs for disciplinary reasons.
- 3 (D) Assaults of teachers, students, and school staff by students.
- 4 (E) Incidents involving possession of weapons on school property. For the purpose of  
5 this section, a weapon shall be considered any of those weapons described in §§ 11-47-2 and 11-  
6 47-42.
- 7 (F) Incidents of the sale of controlled substances by students.
- 8 (G) Incidents of the possession with the intent to sell controlled substances by students.
- 9 (H) Additional demographic information including, but not limited to, the ethnic and  
10 racial classifications, age, and gender, as prescribed by the commissioner, of each of the students  
11 involved in the incidents, events or actions described in subparagraphs (A) through (G) of this  
12 subdivision.
- 13 (I) A description of the education program provided to each student suspended for over  
14 ten (10) consecutive school days in a school year.
- 15 (ii) All school superintendents shall supply the necessary information on forms  
16 established by the commissioner of elementary and secondary education to the council on  
17 elementary and secondary education to assist in the preparation of the council's report on school  
18 discipline.
- 19 (22) To prepare and promulgate a uniform statewide school reporting system which  
20 would provide information including, but not limited to, the following:
- 21 (i) Student and teacher attendance rates;
- 22 (ii) Standardized test scores;
- 23 (iii) Demographic profiles;
- 24 (iv) Results of polls of students, parents, and teachers;
- 25 (v) Descriptions of goals, initiatives, and achievements;
- 26 (vi) Best teaching practices;
- 27 (vii) Alternative student assessments;
- 28 (viii) Special programs;
- 29 (ix) Number of student suspensions and teacher grievances and the amount of parental  
30 involvement.
- 31 (23) [Deleted by P.L. 2014, ch. 145, art. 20, § 7].

1 SECTION 4. This act shall take effect on July 1, 2015.

LC001183

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
AN ACT  
RELATING TO TOWNS AND CITIES -- HEALTH AND EDUCATIONAL BUILDING  
CORPORATION

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1           This act would expand the powers of the Health and Educational Building Corporation in  
2 regard to the financing and granting of approval for school facility projects. The corporation  
3 would have transferred to it those powers and duties in regard to school housing aid formerly  
4 administered by the state department of elementary and secondary education.

5           This act would take effect on July 1, 2015.

LC001183

2015 -- S 0100

LC000736

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO TOWNS AND CITIES -- HEALTH AND EDUCATIONAL BUILDING CORPORATION

Introduced By: Senators Pearson, Satchell, Conley, Ottiano, and Metts

Date Introduced: January 22, 2015

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-38.1-4 of the General Laws in Chapter 45-38.1 entitled "Health  
2 And Educational Building Corporation" is hereby amended to read as follows:

3 **45-38.1-4. Corporation established.** -- (a) There is hereby created a public body  
4 corporate and agency of the state to be known as the "Rhode Island health and educational  
5 building corporation" as successor to the Rhode Island educational building corporation,  
6 previously created as a nonbusiness corporation under and pursuant to chapter 6 of title 7, as  
7 amended by chapter 121 of the Public Laws of 1966, and constituted and established as a public  
8 body corporate and agency of the state for the exercising of the powers conferred on the  
9 corporation under and pursuant to §§ 45-38.1-1 -- 45-38.1-24.

10 (b)(1) All of the powers of the corporation are vested in the board of directors of the  
11 corporation elected at the first meeting of the incorporators of the Rhode Island educational  
12 building corporation, and the members of the board shall continue to serve for the duration of the  
13 terms for which they were originally elected. Successors to the members of the board of directors  
14 shall be appointed by the governor, as follows: prior to the month of June in each year,  
15 commencing in the year 1968, the governor shall appoint a member to serve on the board of  
16 directors for a term of five (5) years to succeed the member whose term will expire in June of that  
17 year. In the event of a vacancy occurring in the membership of the board of directors, the  
18 governor shall appoint a new member of the board of directors for the unexpired term. Any

1 member of the board of directors is eligible for reappointment.

2 (2) Provided, that effective July 1, 2015, the corporation shall be governed by an  
3 executive board of directors which shall replace the board of directors in existence as of June 30,  
4 2015. The new executive board shall consist of seven (7) members as follows:

5 (i) The general treasurer;

6 (ii) The director of the department of administration, who shall serve as chairperson of  
7 the board;

8 (iii) The commissioner of elementary and secondary education; and

9 (iv) Four (4) directors who shall be appointed by the governor from the general public,  
10 with the advice and consent of the senate, each shall have expertise in educational and/or health  
11 facilities, construction, real estate, or finance. Each of the directors appointed by the governor  
12 from the general public shall serve a term pursuant to the provisions of § 45-38.1-4.1. Provided,  
13 that a public member may be reappointed to his or her position for a total of three (3) consecutive  
14 terms. The general treasurer, the director of the department of administration, and the  
15 commissioner of elementary and secondary education shall be eligible to hold their position on  
16 the board so long as they hold those public offices or positions by which they qualify for  
17 membership on the board.

18 (3) A board member shall not receive compensation for his or her service on the board  
19 but may receive a per diem and reimbursement for travel and other necessary expenses, while  
20 engaged in the performance of official duties of the board.

21 (4) There shall not be any liability in a private capacity on the part of the board or any  
22 member of the board, or any officer or employee of the board, for or on account of any act  
23 performed or obligation entered into in an official capacity, when done in good faith, without  
24 intent to defraud, and in connection with the administration, management, or conduct of this title  
25 or affairs related to this title.

26 (5) At all times, the executive board of directors shall maintain compliance with the  
27 provisions of chapter 155 of title 24.

28 (c) Each member of the board of directors and the executive board of directors, before  
29 entering upon his or her duties, shall take an oath to administer the duties of his or her office  
30 faithfully and impartially, and the oath shall be filed in the office of the secretary of state.

31 (d) Effective July 1, 2015, the ~~The~~ executive board of directors shall elect two (2) of its  
32 members as chairperson and one of its members as a vice chairperson, ~~and also elect a secretary,~~  
33 ~~assistant secretary, treasurer, and assistant treasurer, who need not be members of the board.~~  
34 ~~Three (3)~~ Four (4) members of the executive board of directors of the corporation shall constitute

1 a quorum, and the affirmative vote of the majority of the directors present and entitled to vote at  
2 any regular or special meeting at which a quorum is present, is necessary for any action to be  
3 taken by the corporation; except, however, that the affirmative vote of ~~three (3)~~ four (4) members  
4 of the executive board of directors is necessary for the election of officers of the corporation and  
5 to amend the bylaws of the corporation. No vacancy in the membership of the executive board of  
6 directors of the corporation impairs the right of a quorum to exercise all the powers of and  
7 perform the duties of the corporation.

8 (e) Any action taken by the corporation under the provisions<sup>s</sup> of this chapter may be  
9 authorized by resolution at any regular or special meeting, and each resolution takes effect  
10 immediately and need not be published or posted.

11 (f) The members of the board of directors shall receive compensation at the rate of fifty  
12 dollars (\$50.00) per meeting attended; however, the compensation shall not exceed one thousand  
13 five hundred dollars (\$1,500) per fiscal year per member until July 1, 2015. Effective July 1,  
14 2015, the members of the executive board of directors shall not receive any compensation for  
15 their service on the board.

16 (g) Notwithstanding any other law to the contrary, it shall not be or constitute a conflict  
17 of interest for a trustee, director, officer, or employee of an institution for higher education or a  
18 health care provider to serve as a member of the executive board of directors of the corporation;  
19 provided, that the trustee, director, officer, or employee abstains from deliberation, action and  
20 vote by the board under this chapter in specific respect to the institution for higher education or  
21 the health care provider of which the member is a trustee, director, officer, or employee.

22 SECTION 2. Chapter 45-38.1 of the General Laws entitled "Health And Educational  
23 Building Corporation" is hereby amended by adding thereto the following sections:

24 45-38.1-3.1. References to board to include executive board. -- Effective July 1, 2015,  
25 references in this chapter to the former "board of directors" shall be construed to mean and  
26 include the executive board of directors established pursuant to § 45-38.1-4(b).

27 45-38.1-4.1. Members -- Term of office -- Vacancies. -- (a) Two (2) of those new  
28 public members first appointed by the governor pursuant to § 45-38.1-4 shall serve initial terms  
29 of three (3) years; one of those new members first appointed by the governor pursuant to § 45-  
30 38.1-4 shall serve an initial term of two (2) years; and one of those new members, appointed by  
31 the governor pursuant to § 45-38.1-4 shall serve an initial term of one year. Thereafter, all  
32 appointed members of the board shall be appointed to serve for terms of three (3) years.

33 (b) The board members shall be eligible to succeed themselves.

34 (c) A vacancy other than by expiration shall be filled in the manner of the original

1 appointment but only for the unexpired portion of the term.

2 (d) Members of the board shall be removable by the governor pursuant to the provisions  
3 of § 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to  
4 capacity or fitness for the office shall be unlawful.

5 **45-38.1-4.2. Staffing.** — The board shall employ an executive director who shall  
6 administer, manage, and direct the affairs and business of the corporation, subject to the policies,  
7 control, and direction of the board. The board may employ technical experts and other officers,  
8 agents, and attorneys and fix their qualifications, duties, and compensation. Employees of the  
9 corporation shall not, by reason of their employment, be employees of the state for any purpose,  
10 any provision of the general laws to the contrary notwithstanding, including, without limiting the  
11 generality of the foregoing, chapters 29, 39, and 42 of title 28 and chapters 4, 8, 9, and 10 of title  
12 36.

13 **45-38.1-4.3. Training requirements.** — The board shall conduct a training course for  
14 newly appointed and qualified members within six (6) months of their qualification or  
15 designation. The course shall be developed by the chair or the executive director of the  
16 corporation. The board may approve the use of any board and/or staff member and/or individuals  
17 to assist with training. The training course shall include instruction in the following areas: the  
18 provisions of chapter 46 of title 42, chapter 14 of title 36, and chapter 2 of title 38; and the board's  
19 rules and regulations. The director of the department of administration shall, within ninety (90)  
20 days of the effective date of this act, prepare and disseminate training materials relating to the  
21 provision of chapters 46 of title 42, chapter 14 of title 36, and chapter 2 of title 38.

22 **45-38.1-28. School housing aid program — Authority transferred.** — (a) Effective July  
23 1, 2015, the corporation shall have transferred to it those powers and duties in regard to school  
24 housing aid formerly administered by the state department of elementary and secondary  
25 education, set forth in §§ 16-7-35 through 16-7-47, inclusive. References within §§ 16-7-35  
26 through 16-7-47 to the "board of education" shall be deemed to be references to the Rhode Island  
27 health and educational building corporation's executive board of directors, in so far as said  
28 references address school housing aid. References within §§ 16-7-35 through 16-7-47 to the  
29 "commissioner of education" shall be deemed to be references to the executive director of the  
30 Rhode Island health and educational building corporation in so far as said references address  
31 school housing aid. The board of education and the commissioner retain any authority granted  
32 pursuant to §§ 16-7-35 through 16-7-47 that is not related to school housing aid.

33 (b) The powers and duties transferred to the corporation pursuant to subsection (a) of this  
34 section shall be construed to be part of the corporation's authority pursuant to § 45-38.1-34, the

1 "school building assistance program." These powers and duties include, but are not limited to, the  
2 following:

3 (1) The computation of school housing aid;

4 (2) The determination of the necessity of school construction and the granting of approval  
5 for school building and facility projects; and

6 (3) The approval of standards for the design and construction of school buildings  
7 throughout the state.

8 (c) All existing debt service funds shall be transferred to the corporation's school  
9 modernization and reconstruction trust fund, to pay down any then current existing debt relating  
10 to school housing aid which funds were previously being held and administered by the state  
11 department of elementary and secondary education.

12 **45-38.1-29. Rules and regulations – Continuation of school construction regulations.**

13 -- The corporation may adopt rules and regulations or any amendments to rules and regulations  
14 according to the provisions of chapter 35 of title 42 ("administrative procedures"); provided, the  
15 school construction regulations of the department of elementary and secondary education  
16 applicable to the school housing program shall remain in full force and effect. Such regulations  
17 shall be deemed adopted by the corporation and shall be applied and implemented by the  
18 corporation, to any school construction, unless and until such regulations are amended by the  
19 corporation.

20 **45-38.1-30. Formula established -- Incentive percentage points.** -- (a) The corporation  
21 shall by regulation develop and implement a formula for borrowing and issuing loans and grants  
22 under the provisions of this chapter. Such formula may be amended in different fiscal years by  
23 the corporation, so long as the amended formula is published prior to any fiscal year in which the  
24 formula is to take effect.

25 (b) In implementing such a formula, the corporation may offer additional incentive points  
26 to the school housing aid ratio calculation set forth in § 16-7-39. Incentive percentage points  
27 granted, if any, shall be in the sole discretion of the corporation. The corporation may issue  
28 regulations delineating the type and amounts of any such incentive percentage points; provided,  
29 however, that no individual category of incentive points shall exceed five (5) additional points;  
30 and provided further, that no district shall receive more than fifteen (15) incentive percentage  
31 points. Such incentive points may be awarded for a district's use of efficient construction delivery  
32 methods; regionalization with other districts; superior maintenance practices of a district; energy  
33 efficient and sustainable design and construction; major renovation rather than building new  
34 construction; the use of model schools as adopted by the corporation; and other incentives as

1 determined by the board of the corporation in order to encourage the most cost-effective and  
2 quality construction. Likewise, the corporation shall have the authority to issue penalty points.

3 **45-38.1-31. Addition to existing aid. --** The provisions of this chapter shall be in  
4 addition to any and all state aid for education, provided for in chapters 7, 7.1, and 7.2 of title 16,  
5 and in any other general or special law.

6 **45-38.1-32. Computation of school housing aid to include consideration of usable life**  
7 **of asset financed. --** In determining whether to approve new school housing projects and the  
8 amounts to finance, the corporation shall use its best efforts to match the amount and scheduling  
9 of the financing to the expected usable life of the asset being given financial assistance.

10 **45-38.1-33. Development of funding resources. --** The corporation is directed and  
11 encouraged to pursue and develop other alternative, non-traditional methods and explore the use  
12 of other resources to fund the school building assistance program.

13 **45-38.1-34. School building assistance program established. --** The costs of the school  
14 buildings are increasing at an unsustainable rate. Local governments need flexibility in school  
15 building assistance to ensure that local needs for school facility space, downtown development,  
16 open space and community space are met. Statewide, thoughtful planning and construction of  
17 school facility space is needed in order to insure safe and adequate plant facilities for the public  
18 schools. To assist towns in meeting the cost thereof, there is hereby established a school building  
19 assistance program, to be administered by the corporation.

20 **45-38.1-35. Purpose of program -- Establishment of policies and review standards. --**

21 (a) The purpose of the school building assistance program is generally to encourage and foster the  
22 thoughtful establishment and maintenance of school facility space in and among the cities and  
23 towns of the state; to conduct surveys and studies relative thereto; and to administer the  
24 provisions of this chapter relative to grants and loans to cities and towns for the planning and  
25 construction of school building and school facility projects.

26 (b) In addition, the purposes of the program shall be the provision of financial assistance  
27 to cities, towns and regional school districts as beneficiaries of the trust to finance and refinance  
28 the costs of approved school projects as provided in, and as necessary to implement this chapter,  
29 including without limitation providing for the payment of grants approved pursuant to this  
30 chapter and the payment of all costs of the corporation as to school housing program costs only,  
31 including professional and financial services incident to the conduct of its operations.

32 (c) The corporation shall establish general policy and review standards regarding school  
33 building construction, renovation, maintenance and facility space and administer the school  
34 building assistance program in accordance with this chapter. In carrying out its duties, the

1 corporation shall be guided by the following principles:

2 (1) Preservation of open space and minimization of loss of such open space; and

3 (2) Emphasis on thoughtful community development and project flexibility that addresses  
4 the needs of individual communities and municipalities.

5 (d) In accordance with the terms of any bond resolution, trust or security agreement or  
6 credit enhancement agreement, surety bond or insurance policy related to indebtedness incurred  
7 by the corporation secured by amounts provided to the trust, the holders of indebtedness and the  
8 providers of any credit enhancement, surety bond or insurance policy shall also be beneficiaries  
9 of the trust. The corporation shall apply and disburse monies and revenues of the trust without  
10 further appropriation or allotment. Provided, only the corporation shall have the ability to issue  
11 bonds and security agreements, and no bonds or security agreements shall be executed by any  
12 division of the corporation.

13 **45-38.1-36. Specific powers of the corporation in administering the program. -- (a)**  
14 Specific powers of the corporation in regard to administering the program shall include, but not  
15 be limited to, the following:

16 (1) Review, approve or deny grant applications, waivers, and other requests submitted to  
17 the program; review, approve and recommend changes to grant payment schedules or suspend  
18 said schedules for program projects such as refinancing, audit findings and such other  
19 circumstances that may warrant such action;

20 (2) Provide architectural or other technical advice and assistance, training and education,  
21 to cities and towns or to joint committees thereof and to general contractors, subcontractors,  
22 construction or project managers, designers and others in the planning, maintenance and  
23 establishment of school facility space;

24 (3) Recommend to the general assembly such legislation as it may deem desirable or  
25 necessary to further the purposes of this chapter;

26 (4) Develop a formal enrollment projection model or consider using projection models  
27 already available;

28 (5) To apply for, receive, administer and comply with the conditions and requirements  
29 respecting any grant, gift or appropriation of property, services or monies;

30 (6) Develop a project priority system;

31 (7) Collect and maintain a clearinghouse of prototypical school plans which may be  
32 consulted by eligible applicants, and where cost beneficial to the state and the municipality, the  
33 corporation shall establish incentives to utilize these prototypes;

34 (8) Determine eligibility of cost components of projects for reimbursement, including

- 1 partial or full eligibility for project components for which the benefit is shared between the school  
2 and other municipal entities;
- 3 (9) Establish appropriate rules and regulations as may be necessary to carry out the  
4 purposes of this chapter;
- 5 (10) Prepare an annual budget for the administration of the program based on five (5)  
6 year capital plans submitted by districts;
- 7 (11) Collect and maintain data on all the public school facilities in the state, including  
8 information on size, usage, enrollment, available facility space and maintenance; \*
- 9 (12) Advise districts on the conduct of a needs survey to ascertain the capital  
10 construction, reconstruction, maintenance and other capital needs for schools in each district of  
11 the state;
- 12 (13) Develop a long-term capital plan in accordance with needs and projected funding;
- 13 (14) Establish and maintain financial reserves to support the school building program and  
14 to sustain steady growth and improvements as needed to address changes in the needs of the  
15 state's student populations;
- 16 (15) Have authority to establish and maintain a capital reserve fund to be used to create a  
17 pay-as-you-go grant/loan program designed to reduce state and local borrowing toward local  
18 school construction projects, provided that state share ratios set forth in § 16-7-39 shall apply;
- 19 (16) Provided, that as to any loan program established by the corporation, up to five  
20 hundred thousand dollars (\$500,000) may be loaned to a city or town without the requirement of  
21 voter approval, regardless of and superseding any provision in any municipality's charter  
22 requiring a vote prior to the municipality borrowing such amounts;
- 23 (17) Encourage local education agencies to investigate opportunities for the maximum  
24 utilization of space in and around the district;
- 25 (18) Disburse amounts due to cities, towns and regional school districts under grants  
26 approved by the corporation to finance or refinance costs of approved school projects and, in  
27 conjunction therewith, finance or refinance the local share of costs of these projects, through the  
28 purchase of bonds, notes or other evidences of local indebtedness, at the rates and on the terms  
29 that the corporation may in its discretion determine, and provide for the payment of all costs of  
30 the corporation, including professional and financial services incident to the conduct of its  
31 operations;
- 32 (19) Invest the funds of the trust in such investments as may be legal investments for  
33 funds of the state or any fiduciary in the state;
- 34 (20) Obtain insurance and enter into agreements of indemnification necessary or

1 convenient to the exercise of the powers of the trust;

2 (21) To sue and be sued and to prosecute and defend actions relating to the affairs of the  
3 trust; but the trust shall not be authorized to become a debtor under the United States Bankruptcy  
4 Code;

5 (22) To engage accounting, management, legal, financial, consulting and other  
6 professional services necessary to the operations of the trust;

7 (23) To establish policies and programs designed to reduce borrowing for school  
8 construction programs at both state and local levels, including, but not limited to, increased use of  
9 capital reserve funds, revolving funds, and grant programs; and

10 (24) To do all things necessary or convenient to carry out the purposes of this chapter.

11 **45-38.1-37. Order of priorities for approval of school projects and reimbursements**  
12 **under this chapter and §§ 16-7-35 through 16-7-45 -- Deferral of approval or disapproval of**  
13 **project applications. -- (a) The corporation shall approve school projects and reimbursements**  
14 **under this chapter and §§ 16-7-35 through 16-7-45 in accordance with the following order of**  
15 **priorities:**

16 (1) Priority shall be given to school projects needed in the judgment of said board to  
17 replace or renovate a building which is structurally unsound or otherwise in a condition seriously  
18 jeopardizing the health and safety of school children, where no alternative exists;

19 (2) Priority shall be given to school projects to eliminate existing severe overcrowding;

20 (3) Priority shall be given to school projects needed in the judgment of said corporation  
21 to prevent loss of accreditation;

22 (4) Priority shall be given to school projects needed in the judgment of said corporation  
23 to prevent severe overcrowding expected to result from increased enrollments which must be  
24 substantiated;

25 (5) Priority shall be given to projects needed in the judgment of said corporation for the  
26 replacement, renovation or modernization of the heating system in any schoolhouse to increase  
27 energy conservation and decrease energy related costs in said schoolhouse;

28 (6) Priority shall be given to any school project needed in the judgment of said  
29 corporation for short-term enrollment growth;

30 (7) Priority shall be given to school projects needed in the judgment of said corporation  
31 to replace or add to obsolete buildings in order to provide for a full range of programs consistent  
32 with state and approved local requirements; and

33 (8) Priority shall be given to mandatory instructional programs.

34 (b) The authority shall maintain a current list of requested school projects and the priority

1 given them.

2 (c) Notwithstanding the provisions of subsection (a) herein, the corporation may defer its  
3 approval or disapproval of any project application if such deferral is necessary for the effective  
4 implementation of the provisions of this section. The corporation may issue regulations to define  
5 the procedures pursuant to which the priorities established by this section will be implemented.  
6 Further, the corporation may elect not to approve any project or distribute any funds to a school  
7 district that has not effectively maintained existing buildings in accordance with its asset  
8 protection plan to the best of its abilities. Upon a request of a school district, the corporation may  
9 grant a waiver from said requirement for unanticipated or extraordinary changes in maintenance  
10 spending as determined by said departments including, but not limited to, the impact on said  
11 spending due to the opening of a new school building, the closing of an existing school building  
12 or the completion of a major renovation project.

13 **45-38.1-38. Overarching goals. --** (a) In undertaking any actions with regard to school  
14 facilities and projects, the corporation shall seek to promote and achieve the following  
15 overarching goals:

16 (1) To allow overcrowded districts to send students to other districts with excess capacity,  
17 pursuant to agreements negotiated between the districts;

18 (2) To facilitate the negotiation of such agreements between districts;

19 (3) To encourage school districts to maximize the utilization of existing school facilities  
20 and to minimize excess capacity, through means which may include incentives to reduce the  
21 statewide stock of school buildings and through inter-district enrollment;

22 (4) To centralize state resources to career, technical and vocational education into a few  
23 statewide institutions to ensure each has sufficient technology and capital funding; and

24 (5) To seek new innovative, long-term and self-sustaining methods to fund school facility  
25 projects in light of the challenges facing modern public education in the twenty-first century.

26 (b) In promoting the overarching goals set forth in subsection (a) of this section, the  
27 corporation shall take into account transportation issues involved in inter-district enrollment, both  
28 from a financial viewpoint and also on the amount of time a student would spend in transit to  
29 reach a school.

30 **45-38.1-39. School modernization and reconstruction trust fund established. --** (a)  
31 There is hereby established a separate fund, to be known as the school modernization and  
32 reconstruction trust fund, or "trust," to be administered by the corporation. The purpose of the  
33 fund shall be to create a new type of revenue stream to fund school facility projects, including,  
34 but not limited to, the school housing aid program set forth in §§ 16-7-35 through 16-7-45 and the

1 school building assistance program established in § 45-38.1-34.

2 (b) The general assembly shall appropriate to the trust fund in the fiscal year commencing  
3 July 1, 2015, fifty-seven one-hundredths (.57) of a percentage point of the rate of the following  
4 sales and use taxes set forth in chapter 18 of title 44:

5 (1) Sales tax pursuant to § 44-18-18; and

6 (2) Use taxes pursuant to § 44-18-30. Provided, that in the fiscal year commencing July 1,  
7 2016 and subsequent fiscal years, the rate shall rise four one-hundredths (.04) of a percentage  
8 point annually until the appropriation reaches a maximum of one percentage point (1.0) of the  
9 sales and use taxes referred to herein.

10 The RIHEBC board shall determine allocation of financial resources within the trust fund  
11 to the various programs under the school building assistance program to maximize meeting state  
12 demands at an efficient cost to taxpayers.

13 (c) Provided, that eight million, five hundred thousand dollars (\$8,500,000) of the current  
14 corporation's reserves shall immediately upon the effective date of this act be designated and  
15 appropriated to the school modernization and reconstruction trust fund, to initially capitalize said  
16 trust fund. In fiscal year 2016 and subsequent years, administrative fees collected by the  
17 corporation in excess of administrative costs and board-approved reserves shall be transferred to  
18 the fund.

19 **45-38.1-40. Certification of budgeting to meet obligations.** -- The corporation shall  
20 certify annually to the president of the senate, speaker of the house, and to the chairs of the  
21 finance committees of the senate and the house, that it has made provision in its annual budget to  
22 meet the corporation's obligations to the housing aid program pursuant to §§ 16-7-35 through 16-  
23 7-47.

24 **45-38.1-41. Utilization of trust with nonprofit entities.** -- The corporation shall utilize,  
25 promote, and implement the trust as a mechanism to encourage opportunities for nonprofit  
26 entities and foundations to contribute to school construction projects. The trust shall be operated  
27 and maintained so as to qualify for the receipt of grants, funds, services, aid, and other  
28 contributions from nonprofit and not-for-profit entities and foundations.

29 SECTION 3. Section 16-60-4 of the General Laws in Chapter 16-60 entitled "Board of  
30 Regents for Elementary and Secondary Education [See Title 16 Chapter 97 - The Rhode Island  
31 Board of Education Act]" is hereby amended to read as follows:

32 **16-60-4. Council on elementary and secondary education -- Powers and duties.** --

33 The Council on Elementary and Secondary Education shall have in addition to those enumerated  
34 in § 16-60-1, the following powers and duties:

1           (1) To approve a systematic program of information gathering, processing, and analysis  
2 addressed to every aspect of elementary and secondary education in this state especially as that  
3 information relates to current and future educational needs so that current needs may be met with  
4 reasonable promptness and plans formulated to meet future needs as they arise in the most  
5 efficient and economical manner possible.

6           (2) To approve a master plan implementing the broad goals and objectives for  
7 elementary and secondary education in the state that have been established by the board of  
8 education. These goals and objectives shall be expressed in terms of what men and women should  
9 know and be able to do as a result of their educational experience. The council on elementary and  
10 secondary education shall continually evaluate the efforts and results of education in the light of  
11 these objectives.

12           (3) To adopt standards and require enforcement and to exercise general supervision over  
13 all elementary and secondary public and nonpublic education in the state as provided in  
14 subdivision (8) of this section. The council on elementary and secondary education shall not  
15 engage in the operation or administration of any subordinate committee, local school district,  
16 school, school service, or school program, except its own department of elementary and  
17 secondary education, and except as specifically authorized by an act of the general assembly. The  
18 adoption and submittal of the budget and the allocation of appropriations, the acquisition,  
19 holding, disposition, and general management of property shall not be construed to come within  
20 the purview of the preceding prohibition. The council on elementary and secondary education  
21 shall communicate with and seek the advice of the commissioner of elementary and secondary  
22 education and all those concerned with and affected by its determinations as a regular procedure  
23 in arriving at its conclusions and in setting its policy.

24           (4) To allocate and coordinate the various educational functions among the educational  
25 agencies of the state and local school districts and to promote cooperation among them so that  
26 maximum efficiency and economy shall be achieved.

27           (5) (i) To prepare with the assistance of the commissioner of elementary and secondary  
28 education and to present annually to the state budget officer, in accordance with § 35-3-4, a total  
29 educational budget for the elementary and secondary sector which shall include, but not be  
30 limited to, the budgets of the department of elementary and secondary education, subordinate  
31 boards and agencies, and state aid to local school districts. Prior to submitting the budget as  
32 required by the budget office instructions and this subsection the council shall present the budget  
33 to the board of education for review and approval.

34           (ii) In the preparation of the budget, the council on elementary and secondary education

1 shall implement the priorities established by the board of education of expenditures for  
2 elementary and secondary education purposes of state revenues and other public resources made  
3 available for the support of public elementary and secondary education among the various  
4 education agencies of the state. Nothing contained in this section shall authorize any individual or  
5 group of individuals to reallocate resources in a manner other than that prescribed in the budget as  
6 appropriations by the general assembly.

7 (6) To maintain a department of elementary and secondary education, to provide for its  
8 staffing and organization and to appoint a commissioner of elementary and secondary education  
9 pursuant to § 16-60-6 who shall serve at its pleasure. The commissioner of elementary and  
10 secondary education and the department of elementary and secondary education shall have any  
11 duties and responsibilities as defined in §§ 16-60-6 and 16-60-7.

12 (7) To establish other educational agencies or subcommittees necessary or desirable for  
13 the conduct of any or all aspects of elementary and secondary education and to determine all  
14 powers, functions, and composition of any agencies or subcommittees and to dissolve them when  
15 their purpose shall have been fulfilled; provided that nothing contained in this subdivision shall  
16 be construed to grant the council the power to establish subcommittees or agencies performing  
17 the duties and functions of local school committees except as provided in § 16-1-10.

18 (8) To exercise the authority previously vested in the board of regents for education with  
19 relation to secondary nonpublic educational institutions within the state under the terms of  
20 chapter 40 of this title and other laws affecting nonpublic education in the state, and to cause the  
21 department of elementary and secondary education to administer the provisions of that section.

22 (9) To exercise all the functions, powers and duties which previously were vested in the  
23 board of regents for education, under the provisions of former § 16-49-4(9), including but not  
24 limited to the following specific functions:

25 (i) To approve the basic subjects and courses of study to be taught and instructional  
26 standards required to be maintained in the public elementary and secondary schools of the state.

27 (ii) To adopt standards and qualifications for the certification of teachers and to provide  
28 for the issuance of certificates, and to establish fees for the certification of teachers. The fees  
29 collected for the certification of teachers along with various education licensing and testing fees  
30 shall be deposited by the council on elementary and secondary education as general revenues.  
31 The funds appropriated by the general assembly shall be utilized by the department of elementary  
32 and secondary education to establish and support programs which enhance the quality and  
33 diversity of the teaching profession. The commissioner of elementary and secondary education  
34 shall regularly make recommendations to the board about specific programs and projects to be

1 supported by those funds. The commissioner shall oversee the funds, assess the effectiveness of  
2 its programs and projects, and make recommendations about the general use and operation of the  
3 funds to the board.

4 (iii) To be responsible for the distribution of state school funds.

5 ~~(iv) To determine the necessity of school construction and to approve standards for~~  
6 ~~design and construction of school buildings throughout the state.~~

7 (v) To set standards for school libraries and school library services.

8 (vi) To make recommendations relative to transportation of pupils to school, school bus  
9 routes, time schedules, and other matters relating to pupil transportation.

10 (vii) To enforce the provisions of all laws relating to elementary and secondary  
11 education.

12 (viii) To decide and determine appeals from decisions of the commissioner.

13 (ix) To prescribe forms for the use of local school committees and local officers when  
14 reporting to the department of elementary and secondary education.

15 (x) To adopt and require standard accounting procedures for local school districts, except  
16 as provided for in subdivision (3) of § 16-24-2.

17 (xi) To adopt and require standard uniform operating and capital budgeting procedures  
18 for local school districts.

19 (10) To establish rules for the approval and accrediting of elementary and secondary  
20 schools.

21 (11) To recommend to the general assembly changes in the size and number of the  
22 school districts within the state; and to make any further and other recommendations to the  
23 general assembly as the council on elementary and secondary education may determine to be  
24 necessary or desirable, including, but not limited to, proposals for incentives for the coordination  
25 of services and facilities of certain school districts and the feasibility of granting taxing authority  
26 to local school committees upon their request, and the impact upon the quality of education  
27 within that particular community by granting the request. In carrying out this duty, the council on  
28 elementary and secondary education shall periodically issue reports in school district  
29 organizations for selected regions and school districts.

30 (12) To exercise all other powers with relation to the field of elementary and secondary  
31 education within this state not specifically granted to any other department, board, or agency, and  
32 not incompatible with law, which the council on elementary and secondary education may deem  
33 advisable.

34 (13) To exercise the authority previously vested in the board of regents for education

1 with relation to adult education as defined in § 16-58-2 and to establish definitive goals for and  
2 operate a comprehensive delivery system for adult education programs and services, including the  
3 counseling and testing of persons interested in obtaining high school equivalency diplomas, the  
4 issuance of diplomas, and the maintenance of a permanent record of applications, tests, and  
5 equivalency diplomas.

6 (14) To promote maximum efficiency and economy in the delivery of elementary and  
7 secondary educational services in the state.

8 (15) To approve a training program for school committee members to enhance their  
9 individual skills and their effectiveness as a corporate body. The training program should include,  
10 but not be limited to, the following roles and responsibilities of school committees: strategic  
11 planning, human and community relations, and school finance and budgeting.

12 (16) Within ninety (90) days after the end of each fiscal year, the board shall submit an  
13 annual report to the governor, the speaker of the house of representatives, and the president of the  
14 senate of its activities during that fiscal year. The report shall provide: an operating statement  
15 summarizing meetings or hearings held, subjects addressed, decisions rendered, rules or  
16 regulations promulgated, studies conducted, policies and plans developed, approved, or modified,  
17 and programs administered or initiated; a consolidated financial statement of all funds received  
18 and expended including the source of the funds, a listing of any staff supported by these funds,  
19 and a summary of any clerical, administrative or technical support received; a summary of  
20 performance during the previous fiscal year including accomplishments, shortcomings and  
21 remedies; a synopsis of hearings, complaints, suspensions, or other legal matters related to the  
22 authority of the council; a briefing on anticipated activities in the upcoming fiscal year; and  
23 findings and recommendations for improvements. The director of the department of  
24 administration shall be responsible for the enforcement of the provisions of this subsection.

25 (17) To prepare with the assistance of the commissioner a multi-year plan of priority  
26 educational goals and objectives. This plan should recommend policy objectives, implementation  
27 strategies, and a timetable for major policy initiatives.

28 (18) Each year the governor shall by writing notify the council on elementary and  
29 secondary education concerning broad economic, cultural, and social needs that the education  
30 system needs to consider which the board shall address in developing educational plans and  
31 programs.

32 (19) Appoint a standing committee that will develop a schedule to systematically review  
33 all council policies over a three (3) year period.

34 (20) To prepare with the assistance of the commissioner a statement of regulatory policy.

1 This policy should set forth the goals and objectives of state regulations which are expressed in  
2 terms of what educational inputs and outputs the board expects regulations to address.

3 (21)(i) To prepare with the assistance of the commissioner of elementary and secondary  
4 education and to present annually to the general assembly by January 1 a report on school  
5 discipline in Rhode Island schools. This report shall include:

6 (A) Expulsions by district, including duration and the reason for each action.

7 (B) Suspensions by district, including duration and the reason for each action.

8 (C) Placements to alternative programs for disciplinary reasons.

9 (D) Assaults of teachers, students, and school staff by students.

10 (E) Incidents involving possession of weapons on school property. For the purpose of  
11 this section, a weapon shall be considered any of those weapons described in §§ 11-47-2 and 11-  
12 47-42.

13 (F) Incidents of the sale of controlled substances by students.

14 (G) Incidents of the possession with the intent to sell controlled substances by students.

15 (H) Additional demographic information including, but not limited to, the ethnic and  
16 racial classifications, age, and gender, as prescribed by the commissioner, of each of the students  
17 involved in the incidents, events or actions described in subparagraphs (A) through (G) of this  
18 subdivision.

19 (I) A description of the education program provided to each student suspended for over  
20 ten (10) consecutive school days in a school year.

21 (ii) All school superintendents shall supply the necessary information on forms  
22 established by the commissioner of elementary and secondary education to the council on  
23 elementary and secondary education to assist in the preparation of the council's report on school  
24 discipline.

25 (22) To prepare and promulgate a uniform statewide school reporting system which  
26 would provide information including, but not limited to, the following:

27 (i) Student and teacher attendance rates;

28 (ii) Standardized test scores;

29 (iii) Demographic profiles;

30 (iv) Results of polls of students, parents, and teachers;

31 (v) Descriptions of goals, initiatives, and achievements;

32 (vi) Best teaching practices;

33 (vii) Alternative student assessments;

34 (viii) Special programs;

1 (ix) Number of student suspensions and teacher grievances and the amount of parental  
2 involvement.

3 (23) [Deleted by P.L. 2014, ch. 145, art. 20, § 7].

4 SECTION 4. This act shall take effect on July 1, 2015.

LC000736

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO TOWNS AND CITIES -- HEALTH AND EDUCATIONAL BUILDING  
CORPORATION

\*\*\*

1           This act would expand the powers of the Health and Educational Building Corporation in  
2 regard to the financing and granting of approval for school facility projects. The corporation  
3 would have transferred to it those powers and duties in regard to school housing aid formerly  
4 administered by the state department of elementary and secondary education.

5           This act would take effect on July 1, 2015.

LC000736