

2018 -- S 2193

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO EDUCATION - FOUNDATION LEVEL SCHOOL SUPPORT

Introduced By: Senators Pearson, DiPalma, Gallo, Metts, and Seveney

Date Introduced: February 01, 2018

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 16-7-41, 16-7-41.1 and 16-7-44 of the General Laws in Chapter  
2   16-7 entitled "Foundation Level School Support [See Title 16 Chapter 97 - The Rhode Island  
3   Board Of Education Act]" are hereby amended to read as follows:

4           **16-7-41. Computation of school housing aid.**

5           (a) In each fiscal year the state shall pay to each community a grant to be applied to the  
6   cost of school housing equal to the following:

7           The cost of each new school housing project certified to the commissioner of elementary  
8   and secondary education not later than July 15 of the fiscal year shall be divided by the actual  
9   number of years of the bond issued by the local community or the Rhode Island Health and  
10   Educational Building Corporation, or the Rhode Island Infrastructure Bank in support of the  
11   specific project, times the school housing aid ratio; and provided, further, with respect to costs of  
12   new school projects financed with proceeds of bonds issued by the local community or the Rhode  
13   Island Health and Educational Building Corporation, or the Rhode Island Infrastructure Bank in  
14   support of the specific project, the amount of the school housing aid payable in each fiscal year  
15   shall not exceed the amount arrived at by multiplying the principal and interest of the bonds  
16   payable in each fiscal year by the school housing aid ratio and which principal and interest  
17   amount over the life of the bonds, shall, in no event, exceed the costs of each new school housing  
18   project certified to the commissioner of elementary and secondary education. If a community fails  
19   to specify or identify the appropriate reimbursement schedule, the commissioner of elementary

1 and secondary education may at his or her discretion set up to a five (5) year reimbursement cycle  
2 for projects under five hundred thousand dollars (\$500,000); up to ten (10) years for projects up  
3 to three million dollars (\$3,000,000); and up to twenty (20) years for projects over three million  
4 dollars (\$3,000,000).

5 (b) Aid shall be provided for the same period as the life of the bonds issued in support of  
6 the project and at the school housing aid ratio applicable to the local community at the time of the  
7 bonds issued in support of the project as set forth in § 16-7-39.

8 (c) Aid shall be paid either to the community or in the case of projects financed through  
9 the Rhode Island Health and Educational Building Corporation [or the Rhode Island Infrastructure](#)  
10 [Bank](#), to the Rhode Island Health and Educational Building Corporation [or the Rhode Island](#)  
11 [Infrastructure Bank](#) or its designee including, but not limited to, a trustee under a bond indenture  
12 or loan and trust agreement, in support of bonds issued for specific projects of the local  
13 community in accordance with this section, § 16-7-40 and § 16-7-44. Notwithstanding the  
14 preceding, in case of failure of any city, town or district to pay the amount due in support of  
15 bonds issued on behalf of a city, town, school or district project financed by the Rhode Island  
16 Health and Educational Building Corporation [or the Rhode Island Infrastructure Bank](#), upon  
17 notification by the Rhode Island Health and Educational Building Corporation [or the Rhode](#)  
18 [Island Infrastructure Bank](#), the general treasurer shall deduct the amount from aid provided under  
19 this section, § 16-7-40, § 16-7-44 and § 16-7-15 through § 16-7-34.3 due the city, town or district  
20 and direct said funding to the Rhode Island Health and Educational Building Corporation [or the](#)  
21 [Rhode Island Infrastructure Bank](#) or its designee.

22 (d) Notwithstanding any provisions of law to the contrary, in connection with the  
23 issuance of refunding bonds benefiting any local community, any net interest savings resulting  
24 from the refunding bonds issued by such community or a municipal public buildings authority for  
25 the benefit of the community or by the Rhode Island health and educational building corporation  
26 [or the Rhode Island Infrastructure Bank](#) for the benefit of the community, in each case in support  
27 of school housing projects for the community, shall be allocated between the community and the  
28 state of Rhode Island, by applying the applicable school housing aid ratio at the time of issuance  
29 of the refunding bonds, calculated pursuant to § 16-7-39, that would otherwise apply in  
30 connection with school housing projects of the community; provided however, that for any  
31 refundings that occur between July 1, 2013 and December 31, 2015, the community shall receive  
32 eighty percent (80%) of the total savings and the state shall receive twenty percent (20%). In  
33 connection with any such refunding of bonds, the finance director or the chief financial officer of  
34 the community shall certify such net interest savings to the commissioner of elementary and

1 secondary education. Notwithstanding § 16-7-44 or any other provision of law to the contrary,  
2 school housing projects costs in connection with any such refunding bond issue shall include  
3 bond issuance costs incurred by the community, the municipal public buildings authority or the  
4 Rhode Island health and educational building corporation [or the Rhode Island Infrastructure](#)  
5 [Bank](#), as the case may be, in connection therewith. In connection with any refunding bond issue,  
6 school housing project costs shall include the cost of interest payments on such refunding bonds,  
7 if the cost of interest payments was included as a school housing cost for the bonds being  
8 refunded. A local community or municipal public buildings authority shall not be entitled to the  
9 benefits of this subsection (d) unless the net present value savings resulting from the refunding is  
10 at least three percent (3%) of the refunded bond issue.

11 (e) Any provision of law to the contrary notwithstanding, the commissioner of  
12 elementary and secondary education shall cause to be monitored the potential for refunding  
13 outstanding bonds of local communities or municipal public building authorities or of the Rhode  
14 Island Health and Educational Building Corporation [or the Rhode Island Infrastructure Bank](#)  
15 issued for the benefit of local communities or municipal public building authorities and benefiting  
16 from any aid referenced in this section. In the event it is determined by said monitoring that the  
17 net present value savings which could be achieved by refunding such bonds of the type  
18 referenced in the prior sentence including any direct costs normally associated with such  
19 refundings is equal to (i) at least one hundred thousand dollars (\$100,000) and (ii) for the state  
20 and the communities or public building authorities at least three percent (3%) of the bond issue to  
21 be refunded including associated costs then, in such event, the commissioner (or his or her  
22 designee) may direct the local community or municipal public building authority for the benefit  
23 of which the bonds were issued, to refund such bonds. Failure of the local community or  
24 municipal public buildings authority to timely refund such bonds, except due to causes beyond  
25 the reasonable control of such local community or municipal public building authority, shall  
26 result in the reduction by the state of the aid referenced in this ~~§ 16-7-4.1~~ [§ 16-7-41](#) associated  
27 with the bonds directed to be refunded in an amount equal to ninety percent (90%) of the net  
28 present value savings reasonably estimated by the commissioner of elementary and secondary  
29 education (or his or her designee) which would have been achieved had the bonds directed to be  
30 refunded been refunded by the ninetieth (90th) day (or if such day is not a business day in the  
31 state of Rhode Island, the next succeeding business day) following the date of issuance of the  
32 directive of the commissioner (or his or her designee) to refund such bonds. Such reduction in the  
33 aid shall begin in the fiscal year following the fiscal year in which the commissioner issued such  
34 directive for the remaining term of the bond.

1 (f) Payments shall be made in accordance with § 16-7-40 and this section.

2 (g) For purposes of financing or refinancing school facilities in the city of Central Falls  
3 through the issuance bonds through the Rhode Island Health and Educational Building  
4 Corporation [or the Rhode Island Infrastructure Bank](#), the city of Central Falls shall be considered  
5 an "educational institution" within the meaning of subdivision 45-38.1-3(13) of the general laws.

6 **16-7-41.1. Eligibility for reimbursement.**

7 (a) School districts, not municipalities, may apply for and obtain approval for a project  
8 under the necessity of school construction process set forth in the regulations of the board of  
9 regents for elementary and secondary education, provided, however, in the case of municipality  
10 which issues bonds through the Rhode Island Health and Educational Building Corporation [or the](#)  
11 [Rhode Island Infrastructure Bank](#) to finance or refinance school facilities for a school district  
12 which is not part of the municipality, the municipality may apply for and obtain approval for a  
13 project. Such approval will remain valid until June 30 of the third fiscal year following the fiscal  
14 year in which the board of regents for elementary and secondary education's approval is granted.  
15 Only those projects undertaken at school facilities under the care and control of the school  
16 committee and located on school property may qualify for reimbursement under §§ 16-7-35 -- 16-  
17 7-47. Facilities with combined school and municipal uses or facilities that are operated jointly  
18 with any other profit or non-profit agency do not qualify for reimbursement under §§ 16-7-35 --  
19 16-7-47. Projects completed by June 30 of a fiscal year are eligible for reimbursement in the  
20 following fiscal year. A project for new school housing or additional housing shall be deemed to  
21 be completed when the work has been officially accepted by the school committee or when the  
22 housing is occupied for its intended use by the school committee, whichever is earlier.

23 (b) Notwithstanding the provisions of this section, the board of regents shall not grant  
24 final approval for any project between June 30, 2011 and May 1, 2015 except for projects that are  
25 necessitated by immediate health and safety reasons. In the event that a project is requested  
26 during the moratorium because of immediate health and safety reasons, those proposals shall be  
27 reported to the chairs of the house and senate finance committees.

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

34 (d) Beginning July 1, 2015, the council on elementary and secondary education shall

1 approve new necessity of school construction applications on an annual basis. The department of  
2 elementary and secondary education shall develop an annual application timeline for LEAs  
3 seeking new necessity of school construction approvals.

4 **16-7-44. School housing project costs.**

5 School housing project costs, the date of completion of school housing projects, and the  
6 applicable amount of school housing project cost commitments shall be in accordance with the  
7 regulations of the commissioner of elementary and secondary education and the provisions of §§  
8 16-7-35 -- 16-7-47; provided, however, that school housing project costs shall include the  
9 purchase of sites, buildings, and equipment, the construction of buildings, and additions or  
10 renovations of existing buildings and/or facilities. School housing project costs shall include the  
11 cost of interest payment on any bond issued after July 1, 1988, provided that such bond is  
12 approved by the voters on or before June 30, 2003, or issued by a municipal public building  
13 authority or by the appropriate approving authority on or before June 30, 2003. Except as  
14 provided in § 16-7-41(d), those projects approved after June 30, 2003, interest payments may  
15 only be included in project costs provided that the bonds for these projects are issued through the  
16 Rhode Island Health and Educational Building Corporation [or the Rhode Island Infrastructure](#)  
17 [Bank](#). School housing project costs shall exclude: (1) any bond issuance costs incurred by the  
18 municipality or regional school district; (2) demolition costs for buildings, facilities, or sites  
19 deemed surplus by the school committee; and (3) restrictions pursuant to § 16-7-44.1 below. A  
20 building, facility, or site is declared surplus by a school committee when the committee no longer  
21 has such building, facility, or site under its direct care and control and transfers control to the  
22 municipality, § 16-2-15. The board of regents for elementary and secondary education will  
23 promulgate rules and regulations for the administration of this section. These rules and  
24 regulations may provide for the use of lease revenue bonds, capital leases, or capital reserve  
25 funding, to finance school housing provided that the term of any bond, or capital lease shall not  
26 be longer than the useful life of the project and these instruments are subject to the public review  
27 and voter approval otherwise required by law for the issuance of bonds or capital leases. Cities or  
28 towns issuing bonds, or leases issued by municipal public buildings authority for the benefit of a  
29 local community pursuant to chapter 50 of title 45 shall not require voter approval. Effective  
30 January 1, 2008, and except for interim finance mechanisms, refunding bonds, borrowing from  
31 the school building authority capital fund, and bonds issued by the Rhode Island Health and  
32 Educational Building Corporation [or the Rhode Island Infrastructure Bank](#) to finance school  
33 housing projects for towns, cities, or regional school districts borrowing for which has previously  
34 been authorized by an enabling act of the general assembly, all bonds, notes and other forms of

1 indebtedness issued in support of school housing projects shall require passage of an enabling act  
2 by the general assembly.

3 SECTION 2. Section 24-18-7 of the General Laws in Chapter 24-18 entitled "Municipal  
4 Road and Bridge Revolving Fund" is hereby amended to read as follows:

5 **24-18-7. Procedure for project approval.**

6 (a) By September 1, 2013, the department shall promulgate rules and regulations  
7 establishing the project evaluation criteria and the process through which a city or town may  
8 submit an infrastructure plan. By December 31, 2013, the agency shall promulgate rules and  
9 regulations to effectuate the provisions of this chapter which may include, without limitation,  
10 forms for financial assistance applications, loan agreements, and other instruments. All rules and  
11 regulations promulgated pursuant to this chapter shall be promulgated in accordance with the  
12 provisions of chapter 35 of title 42.

13 (b) Cities and towns shall submit infrastructure plans to the department in accordance  
14 with the department's rules and regulations promulgated pursuant to subsection (a) of this section.

15 (c) The department shall evaluate all submitted infrastructure plans and, in accordance  
16 with the project evaluation criteria, identify all eligible projects, and ~~after a public hearing, the~~  
17 ~~department~~ shall finalize and provide the agency and statewide planning with a project priority  
18 list. The agency shall not award financial assistance to any project not listed on the project  
19 priority list.

20 (d) The agency shall not obligate more than fifty percent (50%) of available funding in  
21 any calendar year to any one city or town unless there are no other eligible projects on the project  
22 priority list.

23 (e) Upon issuance of the project priority list, the agency shall award financial assistance  
24 to cities and towns for approved projects. The agency may decline to award financial assistance to  
25 an approved project that the agency determines will have a substantial adverse effect on the  
26 interests of holders of bonds or other indebtedness of the agency or the interests of other  
27 participants in the financial assistance program, or for good and sufficient cause affecting the  
28 finances of the agency. All financial assistance shall be made pursuant to a loan agreement  
29 between the agency and the city or town, acting by and through the officer or officers, board,  
30 committee, or other body authorized by law, or otherwise its chief executive officer, according to  
31 terms and conditions as determined by the agency, and each loan shall be evidenced and secured  
32 by the issue to the agency of city or town obligations in fully marketable form in principal  
33 amount, bearing interest at the rate or rates specified in the applicable loan agreement, and shall  
34 otherwise bear such terms and conditions as authorized by this chapter and/or the loan agreement.

1 SECTION 3. Section 46-12.2-4.2 of the General Laws in Chapter 46-12.2 entitled  
2 "Rhode Island Infrastructure Bank" is hereby amended to read as follows:

3 **46-12.2-4.2. Establishment of the efficient buildings fund.**

4 (a) There is hereby authorized and created within the Rhode Island infrastructure bank an  
5 efficient buildings fund for the purpose of providing technical, administrative and financial  
6 assistance to local governmental units for energy efficient and renewable energy upgrades to  
7 public buildings and infrastructure, including, but not limited to, streetlights. The Rhode Island  
8 infrastructure bank shall review and approve all applications for projects to be financed through  
9 the efficient buildings fund.

10 The office of energy resources shall promulgate rules and regulations establishing a  
11 project priority list for efficient buildings fund and the process through which a local  
12 governmental unit may submit an application for inclusion of a project on the project priority list.  
13 Upon issuance of the project priority list by the office of energy resources, the project priority list  
14 shall be used by the Rhode Island infrastructure bank to determine the order in which financial  
15 assistance shall be awarded. The Rhode Island infrastructure bank shall promulgate rules and  
16 regulations to effectuate the provisions of this section which may include, without limitation,  
17 forms for financial assistance applications, loan agreements, and other instruments. All rules and  
18 regulations promulgated pursuant to this chapter shall be promulgated in accordance with the  
19 provisions of chapter 35 of title 42. Eligibility for receipt of this financial assistance by a local  
20 governmental unit shall be conditioned upon that local governmental unit reallocating their  
21 remaining proportional QECB allocation to the state of Rhode Island.

22 (b) The Rhode Island infrastructure bank shall have all the powers necessary and  
23 convenient to carry out and effectuate the purposes and provisions of this section including,  
24 without limiting the generality of the preceding statement, the authority:

25 (1) To receive and disburse such funds from the state and federal government as may be  
26 available for the purpose of the fund subject to the provisions of this section;

27 (2) To make and enter into binding commitments to provide financial assistance to  
28 eligible borrowers from amounts on deposit in the fund;

29 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the  
30 provisions of this section, provided the fees have been previously authorized by an agreement  
31 between the Rhode Island infrastructure bank and the eligible borrower;

32 (4) To engage the services of third-party vendors to provide professional services;

33 (5) To establish one or more accounts within the fund; and

34 (6) Such other authority as granted to the Rhode Island infrastructure bank under this

1 chapter.

2 (c) Subject to the provisions of this section and to any agreements with the holders of any  
3 bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode  
4 Island infrastructure bank for the account of the fund shall be applied by the Rhode Island  
5 infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other  
6 funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust  
7 agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure  
8 bank, to the following purposes:

9 (1) To provide financial assistance to local governmental units to finance costs of  
10 approved projects, as set forth in subsection (a), and to refinance the costs of the projects, subject  
11 to such terms and conditions, if any, as are determined by the Rhode Island infrastructure bank;

12 (2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase  
13 insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit  
14 and costs of reimbursement to the issuers thereof for any payments made thereon or on any  
15 insurance, and to otherwise provide security for, and a source of payment for obligations of the  
16 Rhode Island infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this  
17 chapter;

18 (3) To pay expenses of the Rhode Island infrastructure bank in administering the fund;

19 (4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on  
20 loans and obligations outstanding in the event of default thereof; amounts in any account in the  
21 fund may be applied to defaults on loans outstanding to the borrower for which the account was  
22 established and, on a parity basis with all other accounts, to defaults on any loans or obligations  
23 outstanding; and

24 (5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or  
25 otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

26 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan  
27 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover  
28 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure  
29 bank together with any other actual damages the Rhode Island infrastructure bank shall have  
30 sustained from the failure or refusal of the borrower to make the payments or abide by the terms  
31 of the loan agreement.

32 (e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds  
33 to serve as further security for any loans made by the Rhode Island infrastructure bank or any  
34 bonds of the Rhode Island infrastructure bank issued to fund energy efficiency improvements in



1 public buildings in accordance with this section.

2 (f) To the extent possible, and in accordance with law, the infrastructure bank shall  
3 encourage the use of project labor agreements for projects over ten million dollars (\$10,000,000)  
4 and local hiring on projects funded under this section.

5 (g) ~~Any financial assistance provided by the Rhode Island infrastructure bank to a public~~  
6 ~~entity for the purpose of retrofitting a school building shall not be subject to the match established~~  
7 ~~by Rhode Island general laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination~~  
8 ~~with the Rhode Island department of education.~~ Any approved project as set forth in subsection  
9 (a) of this section that is also an "approved project" as defined in § 16-7-6 shall be eligible for  
10 school housing aid assistance under §§ 16-7-35 and 16-6-47.

11 SECTION 4. Section 46-15.3-11 of the General Laws in Chapter 46-15.3 entitled "Public  
12 Drinking Water Supply System Protection" is hereby amended to read as follows:

13 **46-15.3-11. Disbursements from the funds.**

14 (a) Only suppliers which withdraw water from wells, reservoirs, springs, or other original  
15 sources of potable water shall be entitled to disbursements from the first of the two (2) mentioned  
16 funds created under § 46-15.3-10 administered by the water resources board. From amounts  
17 available from bond proceeds held by the water resources board, that board shall disburse to each  
18 supplier contributing to the fund a proportional amount based upon each supplier's pro rata  
19 withdrawal of water by volume from wells, reservoirs, springs, or other original sources of water  
20 averaged over the three (3) calendar years preceding disbursement as determined by the water  
21 resources board. Suppliers shall be required to expend this money ~~as follows:~~ for any eligible  
22 expenditure as defined in § 46-15.3-4 including, but not limited to

23 ~~(1) Not less than fifty five percent (55%) shall be spent for acquisition of~~ land or rights in  
24 land or physical improvements to acquired land required to protect the quality of raw water of the  
25 water supply system. Expenditures for maintenance, administration, and payment of taxes on land  
26 acquired under this chapter shall be included within this subdivision.

27 ~~(2) Any remaining funds may be used for any eligible expenditures as defined in § 46-~~  
28 ~~15.3-4.~~

29 (b) The city of Providence shall make expenditures from amounts available in the fund  
30 held by the city of Providence based on the same ~~formula as in subdivisions (a)(1) and (a)(2)~~  
31 requirements set forth in subsection (a) of this section above; provided, however, the city of  
32 Providence shall be exempt from participating in the use of an alternate deicing mixture within  
33 the Scituate watershed unless drinking water supply sodium levels exceed fifteen (15) ppm (parts  
34 per million) for three (3) consecutive years or seventeen (17) ppm (parts per million) for one year.

1 The city of Providence will monitor sodium levels and report sodium testing results to the Rhode  
2 Island department of health and the public on a yearly basis. If drinking water supply sodium  
3 levels exceed fifteen (15) ppm for three (3) consecutive years or seventeen (17) ppm for one year,  
4 the city of Providence shall immediately participate in the use of an alternative deicing mixture  
5 within the Scituate watershed. In December of 2008, the city of Providence will provide a three  
6 (3) year report to the Rhode Island department of environmental management, the general  
7 assembly and the public. Every three (3) years, the city of Providence will submit a report to the  
8 general assembly on monitoring data for sodium levels within the Scituate watershed. This report  
9 will include monitoring data from the previous three (3) year period.

10 (c) In making decisions about the expenditure of money under the provisions of this  
11 chapter, suppliers shall take into account the following factors:

12 (1) The likelihood of development of the specific parcel proposed for acquisition;

13 (2) The existing land uses, as well as the likelihood of development, in the watershed;

14 (3) The potential threat to public drinking water sources posed by development in the  
15 watershed including, but not limited to, the intensity of development, the types of land uses,  
16 proximity to reservoirs and/or well heads, and the buffering and filtration capacity of the natural  
17 systems;

18 (4) Whether alternative protection measures are available and/or have been attempted,  
19 including local land use regulations;

20 (5) The number of persons who presently depend on the sources for their drinking water,  
21 as well as the number of persons who may depend on it in the future;

22 (6) The anticipated cost of the parcel proposed to be purchased, and whether less than a  
23 fee interest may be acquired which would reduce the cost significantly while still providing  
24 protection to the source;

25 (7) Other cost effectiveness considerations, including whether protection of the source  
26 can be provided by the construction of physical improvements;

27 (8) Whether acquisition of the specific parcel, and the protection of the watershed of  
28 which it is a part, is consistent with other planning considerations;

29 (9) Proposed management techniques for the parcel proposed to be acquired which will  
30 maximize its capacity to protect the source.

31 (d) The costs of issuance of notes and bonds authorized by § 46-15.3-10 may be payable  
32 from any monies in the water quality protection funds.

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1 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO EDUCATION - FOUNDATION LEVEL SCHOOL SUPPORT

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1           This act would incorporate bonds issued by the Rhode Island Infrastructure Bank into the  
2 computation of school housing aid assistance and school housing project costs. The act would  
3 also remove certain requirements as to how suppliers must expend funds for certain eligible  
4 expenditures related to conservation or improvements to watershed lands.

5           This act would take effect upon passage.

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