

2022 –

STATE OF RHODE ISLAND

IN THE GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND ARCHITECTURAL COSTS, PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

Introduced By:

Date Introduced:

Referred To:

It is enacted by the general assembly as follows:

1 **SECTION 1.** The town of Middletown is hereby empowered, in addition to authority
2 previously granted, to issue bonds, notes and other evidences of indebtedness (hereinafter “bonds”)
3 up to an amount not exceeding two hundred thirty-five million dollars (\$235,000,000) from time
4 to time under its corporate name and seal or a facsimile of such seal. The bonds of each issue may
5 be issued in the form of serial bonds or term bonds or a combination thereof and shall be payable
6 either by maturity of principal in the case of serial bonds or by sinking fund installments in the

1 case of term bonds, in annual installments of principal, the first installment to be not later than five
2 (5) years and the last installment not later than thirty (30) years after the date of the bonds. All
3 such bonds of a particular issue may be issued in the form of zero coupon bonds, capital
4 appreciation bonds, serial bonds or term bonds or a combination thereof. The amount of principal
5 appreciation each year on any bonds, after the date of original issuance, shall not be considered to
6 be principal indebtedness for the purposes of any constitutional or statutory debt limit or any other
7 limitation. The appreciation of principal after the date of original issue shall be considered interest.
8 Only the original principal amount shall be counted in determining the principal amount so issued
9 and any interest component shall be disregarded.

10 **SECTION 2.** The town may be eligible for school housing aid reimbursement on debt
11 service pursuant to chapter 7 of title 16, or for a grant, loan or other financial assistance from
12 proceeds of bonds issued by the State of Rhode Island (the “State”), from the Rhode Island
13 Department of Education (“RIDE”) or from the Rhode Island School Building Authority. The
14 amount of borrowing authorized pursuant to this act shall be reduced by the amount of certain
15 grants actually received by the town from State bond proceeds, from RIDE or from the Rhode
16 Island School Building Authority.

17 **SECTION 3.** The bonds shall be signed by the manual or facsimile signatures of the town
18 finance director and the president of the town council and shall be issued and sold in such amounts
19 as the town council may authorize by resolution. The manner of sale, denominations, maturities,
20 interest rates and other terms, conditions and details of any bonds or notes issued under this act
21 may be fixed by the resolutions of the town council authorizing the issue or by separate resolution
22 of the town council or, to the extent provisions for these matters are not so made, they may be
23 fixed by the officers authorized to sign the bonds or notes. Notwithstanding anything contained

1 in this act to the contrary, the town may enter into financing agreements with the Rhode Island
2 Health and Educational Building Corporation pursuant to chapter 7 of title 16 and chapter 38.1 of
3 title 45 and, with respect to notes or bonds issued in connection with such financing agreements,
4 if any, the town may elect to have the provisions of chapter 38.1 of title 45 apply to the issuance
5 of the bonds or notes issued hereunder to the extent the provisions of chapter 38.1 of title 45 are
6 inconsistent herewith. In addition, the town may enter into financing agreements with the Rhode
7 Island Infrastructure Bank pursuant to the provisions of chapter 12.2 of title 46 and, with respect
8 to notes or bonds issued in connection with such financing agreements, if any, the town may elect
9 to have the provisions of chapter 12.2 of title 46 apply to the issuance of the bonds or notes issued
10 hereunder to the extent the provisions of chapter 12.2 of title 46 are inconsistent herewith. Such
11 election may be fixed by the proceedings of the town council authorizing such issuance of by
12 separate resolution of the town council, or, to the extent provisions for these matters are not so
13 made, they may be fixed by the officers authorized to sign the bonds or notes. The proceeds derived
14 from the sale of the bonds shall be delivered to the town finance director, and such proceeds
15 exclusive of premiums and accrued interest shall be expended: (1) to finance the construction,
16 renovation, improvement, alteration, repair, landscaping, furnishing and equipping of schools and
17 school facilities throughout the town, and all attendant expenses including, but not limited to,
18 demolition, engineering and architectural costs; (2) in payment of the principal of or interest on
19 temporary notes issued under section 4; (3) in repayment of advances under section 5; (4) in
20 payment of related costs of issuance of any bonds or notes; and/or (5) in payment of capitalized
21 interest during construction of the project (the "project"). No purchaser of any bonds or notes
22 under this act shall be in any way responsible for the proper application of the proceeds derived
23 from the sale thereof. The project shall be carried out and all contracts made therefor on behalf of

1 the town by the town council. The town council and its agents are authorized to enter, without
2 delay and at reasonable times, any public school buildings and other public school property for the
3 purpose of accomplishing the project and to do all acts and deeds necessary or convenient in
4 connection with the project. The proceeds of bonds or notes issued under this act, any applicable
5 federal or state assistance and the other monies referred to in sections 7 and 10 shall be deemed
6 appropriated for the purposes of this act without further action than that required by this act. The
7 bonds authorized by this act may be consolidated for the purpose of issuance and sale with any
8 other bonds of the town heretofore or hereafter authorized, provided that, notwithstanding any
9 such consolidation, the proceeds from the sale of the bonds authorized by this act shall be expended
10 for the purposes set forth above.

11 **SECTION 4.** The town council may by resolution authorize the issuance from time to
12 time of interest bearing or discounted notes in anticipation of the issuance of bonds or in
13 anticipation of the receipt of federal or state aid for the purposes of this act. The amount of original
14 notes issued in anticipation of bonds may not exceed the amount of bonds which may be issued
15 under this act and the amount of original notes issued in anticipation of federal or state aid may
16 not exceed the amount of available federal or state aid as estimated by the finance director.
17 Temporary notes issued hereunder shall be signed by the manual or facsimile signatures of the
18 town finance director and the president of the town council and shall be payable within five (5)
19 years from their respective dates, but the principal of and interest on notes issued for a shorter
20 period may be renewed or paid from time to time by the issuance of other notes hereunder,
21 provided the period from the date of an original note to the maturity of any note issued to renew
22 or pay the same debt or interest thereon shall not exceed five (5) years. Any temporary notes in
23 anticipation of bonds issued under this section may be refunded prior to the maturity of the notes

1 by the issuance of additional temporary notes, provided that no such refunding shall result in any
2 amount of such temporary notes outstanding at any one time in excess of two hundred percent
3 (200%) of the amount of bonds which may be issued under this act, and provided further that if
4 the issuance of any such refunding notes results in any amount of such temporary notes outstanding
5 at any one time in excess of the amount of bonds which may be issued under this act, the proceeds
6 of such refunding notes shall be deposited in trust in a separate fund established for the notes being
7 refunded. Pending their use to pay the notes being refunded, moneys in the fund shall be invested
8 for the benefit of the town by the paying agent at the direction of the town finance director in any
9 investment permitted under section 6. The moneys in the fund and any investments held as part
10 of the fund shall be held in trust and shall be applied by the paying agent solely to the payment or
11 prepayment of the principal of and interest on the notes being refunded. Upon payment of all
12 principal of and interest on the notes, any excess moneys in the fund shall be distributed to the
13 town. The town may pay the principal of and interest on notes in full from other than the issuance
14 of refunding notes prior to the issuance of bonds pursuant to section 1 hereof. In such case, the
15 town's authority to issue bonds or notes in anticipation of bonds under this act shall continue
16 provided that (1) the town council passes a resolution evidencing the town's intent to pay off the
17 notes without extinguishing the authority to issue bonds or notes and (2) that the period from the
18 date of an original note to the maturity date of any other note shall not exceed five (5) years.

19 **SECTION 5.** Pending any authorization or issue of bonds hereunder or pending or in lieu
20 of any authorization or issue of notes hereunder, the town finance director, with the approval of
21 the town council, may, to the extent that bonds or notes may be issued hereunder, apply funds in
22 the treasury of the town to the purposes specified in section 3, such advances to be repaid without

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

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

10 **SECTION 7.** Any accrued interest received upon the sale of bonds or notes hereunder
11 shall be applied to the payment of the first interest due thereon. Any premium arising from the
12 sale of bonds or notes hereunder shall, in the discretion of the town finance director, be applied to
13 the cost of preparing, issuing and marketing bonds or notes hereunder to the extent not otherwise
14 provided, to the payment of the project costs, to the payment of the principal of or interest on bonds
15 or notes issued hereunder or to any one or more of the foregoing. The cost of preparing, issuing
16 and marketing bonds or notes hereunder may also, in the discretion of the town finance director,
17 be met from bond or note proceeds exclusive of accrued interest or from other moneys available
18 therefor. Any balance of bond or note proceeds remaining after payment of the cost of the projects
19 and the cost of preparing, issuing and marketing bonds or notes hereunder, shall be applied to the
20 payment of the principal of or interest on bonds or notes issued hereunder. To the extent permitted
21 by applicable federal laws, any earnings or net profit realized from the deposit or investment of
22 funds hereunder may, upon receipt, be added to and dealt with as part of the revenues of the town

1 from property taxes. In exercising any discretion under this section, the town finance director shall
2 be governed by any instructions adopted by resolution of the town council.

3 **SECTION 8.** All bonds and notes issued under this act and the debts evidenced thereby
4 shall be obligatory on the town in the same manner and to the same extent as other debts lawfully
5 contracted by it and shall be excepted from the operation of section 45-12-2. No such obligation
6 shall at any time be included in the debt of the town for the purpose of ascertaining its borrowing
7 capacity. The town shall annually appropriate a sum sufficient to pay the principal and interest
8 coming due within the year on bonds and notes issued hereunder to the extent that moneys therefor
9 are not otherwise provided. If such sum is not appropriated, it shall nevertheless be added to the
10 annual tax levy. In order to provide such sum in each year and notwithstanding any provision of
11 law to the contrary, all taxable property in the town shall be subject to ad valorem taxation by the
12 town without limitation as to rate or amount.

13 **SECTION 9.** Any bonds or notes issued under the provisions of this act, and coupons, if
14 any, if properly executed by officers of the town in office on the date of execution, shall be valid
15 and binding according to their terms notwithstanding that before the delivery thereof and payment
16 therefor any or all of such officers shall for any reason have ceased to hold office.

17 **SECTION 10.** The town, acting by resolution of its town council, is authorized to apply
18 for, contract for and expend any federal or state advances or other grants or assistance which may
19 be available for the purposes of this act, and any such expenditures may be in addition to the
20 moneys provided in this act. To the extent of any inconsistency between any law of this state and
21 any applicable federal law or regulation, the latter shall prevail. Federal and state advances, with
22 interest where applicable, whether contracted for prior to or after the effective date of this act, may
23 be repaid as project costs under section 3.

1 **SECTION 11.** Bonds and notes may be issued under this act without obtaining the
2 approval of any governmental agency or the taking of any proceedings or the happening of any
3 conditions except as specifically required by this act for such issue. In carrying out any project
4 financed in whole or in part under this act, including where applicable the condemnation of any
5 land or interest in land, and in the levy and collection of assessments or other charges permitted
6 by law on account of any such project, all action shall be taken which is necessary to meet
7 constitutional requirements whether or not such action is otherwise required by statute, but the
8 validity of bonds and notes issued hereunder shall in no way depend upon the validity or
9 occurrence of such action.

10 **SECTION 12.** The town finance director and the president of the town council, on behalf
11 of the town, are hereby authorized to execute such instruments, documents or other papers as either
12 of them deem necessary or desirable to carry out the intent of this act and are also authorized to
13 take all actions and execute all instruments, documents or agreements necessary to comply with
14 federal tax and securities laws, which instruments, documents or agreements may have a term
15 coextensive with the maturity of the bonds authorized hereby, including Rule 15c2-12 of the
16 Securities and Exchange Commission (the “Rule”) and to execute and deliver a continuing
17 disclosure agreement or certificate in connection with the bonds or notes in the form as shall be
18 deemed advisable by such officers in order to comply with the Rule.

19 **SECTION 13.** All or any portion of the authorized but unissued authority to issue bonds
20 and notes under this act may be extinguished by ordinance of the town council after seven (7) years
21 shall have passed from the approval of this act provided for in section 14, without further action
22 by the general assembly.

1 **SECTION 14.** The question of the approval of this act shall be submitted to the qualified
2 voters of the town at the election to be held on November 8, 2022. The question shall be submitted
3 in substantially the following form: “Shall an act passed at the 2022 session of the general
4 assembly entitled ‘AN ACT AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT
5 TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER
6 EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION,
7 IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND
8 EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL
9 FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES
10 INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND
11 ARCHITECTURAL COSTS, PROVIDED THAT THE AUTHORIZATION SHALL BE
12 REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND
13 PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM
14 THE RHODE ISLAND SCHOOL BUILDING AUTHORITY’ be approved?” and the warning for
15 the election shall contain the question to be submitted. From the time the election is warned and
16 until it is held, it shall be the duty of the town clerk to keep a copy of this act available at the clerk’s
17 office for public inspection, but the validity of the election shall not be affected by this requirement.
18 To the extent of any inconsistency between this act and the town charter, this act shall prevail.

19 **SECTION 15.** This section and section 14 shall take effect upon the passage of this act.
20 The remainder of this act shall take effect if both (a) a majority of those voting on the question
21 prescribed by section 14 shall vote in favor thereof and (b) a majority of qualified voters of the
22 city of Newport and a majority of those qualified voters of the town of Middletown voting at the
23 November 8, 2022 election upon the question of whether an act passed at the January, 2022 session

1 of the general assembly entitled “AN ACT AUTHORIZING THE CITY OF NEWPORT AND
2 THE TOWN OF MIDDLETOWN TO ESTABLISH A REGIONAL SCHOOL DISTRICT AND
3 PROVIDING FOR STATE AID FOR SCHOOL HOUSING COSTS OF AT LEAST 80% OF
4 DEBT SERVICE FOR EXPENDITURES ELIGIBLE FOR STATE AID” shall vote in favor
5 thereof.

EXPLANATION

OF

AN ACT

AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND ARCHITECTURAL COSTS, PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

1 This act authorizes the town of Middletown to issue not more than \$235,000,000 bonds
2 and notes to finance the construction, renovation, improvement, alteration, repair, landscaping,
3 furnishing and equipping of new elementary, middle and high schools and school facilities
4 throughout the town, and all attendant expenses including, but not limited to, demolition,
5 engineering and architectural costs, provided that the authorization shall be reduced by the amount
6 of certain grants received from state bond proceeds, from the Rhode Island Department of
7 Education (“RIDE”) or from the Rhode Island School Building Authority.

8 Sections 14 and 15 of this act shall take effect upon passage. The remainder of the act
9 would take effect if both (a) a majority of those voting on the question prescribed by section 14
10 shall vote in favor thereof and (b) a majority of qualified voters of the city of Newport and a
11 majority of those qualified voters of the town of Middletown voting at the November 8, 2022
12 election upon the question of whether an act passed at the January, 2022 session of the general
13 assembly authorizing Newport and Middletown to establish a regional school district and

1 providing for state housing aid of at least 80% of debt service for expenditures eligible for state
2 aid shall vote in favor thereof. The amount of borrowing authorized pursuant to this act shall be
3 reduced by the amount of certain grants actually received by the town from state bond proceeds,
4 from RIDE or from the Rhode Island School Building Authority.

A N A C T

AUTHORIZING THE TOWN OF MIDDLETOWN TO ISSUE NOT TO EXCEED \$235,000,000 GENERAL OBLIGATION BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS TO FINANCE THE CONSTRUCTION, RENOVATION, IMPROVEMENT, ALTERATION, REPAIR, LANDSCAPING, FURNISHING AND EQUIPPING OF NEW ELEMENTARY, MIDDLE AND HIGH SCHOOLS AND SCHOOL FACILITIES THROUGHOUT THE TOWN, AND ALL ATTENDANT EXPENSES INCLUDING, BUT NOT LIMITED TO, DEMOLITION, ENGINEERING AND ARCHITECTURAL COSTS, PROVIDED THAT THE AUTHORIZATION SHALL BE REDUCED BY THE AMOUNT OF CERTAIN GRANTS RECEIVED FROM STATE BOND PROCEEDS, FROM THE RHODE ISLAND DEPARTMENT OF EDUCATION OR FROM THE RHODE ISLAND SCHOOL BUILDING AUTHORITY

-----Presented by