



Department of Administration  
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03-26-10 P02:3

**Memorandum**

**To:** The Honorable Steven M. Costantino  
Chairman, House Finance Committee

The Honorable Daniel DaPonte  
Chairman, Senate Finance Committee

**From:** Thomas A. Mullaney *Thomas A. Mullaney*  
Executive Director/State Budget Officer

**Date:** March 24, 2010

**Subject:** Revised Article 9 for FY 2010 Appropriations Act (10-H-7105)

The Governor requests Article 9 of the FY 2010 Appropriations Act entitled "Relating to Education Aid" be replaced with the attached version. According to guidance from the federal government, the 0.5% administrative fee that states may charge to ARRA grants may not be taken out of the Education Stabilization Fund portion of the State Fiscal Stabilization Funds. The assessment associated with these funds, however, may be taken from the General Government Stabilization Fund instead.

As a result, \$402,600 that was originally budgeted in Elementary and Secondary Education for the administrative fee on the Education Stabilization Fund will be distributed to the LEAs, including local districts, state schools, and charter schools, as education aid. This distribution will be offset by an identical reduction in general revenue education aid, so that there will be no net funding change for the LEAs. Similarly, \$402,600 in General Government Stabilization Funds that were budgeted in State Police for personnel costs will now be budgeted for the OERR administration fee, including the share relating to the Education Stabilization funding. The general revenue budget for State Police will be increased by \$402,600 so that there will be no net change for the State Police. Statewide there is no net change of general revenue or State Fiscal Stabilization Fund budgets. These changes will also be reflected in forthcoming amendments to Article 1.

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The revised version of Article 9 implements the switch of \$362,464 for the local districts, \$22,621 for Central Falls, and \$8,344 for charter schools. The remainder of the funds goes to state schools (Davies, School for the Deaf, and the Met School) that are not included in Article 9. The revised language in Article 9 is indicated by shading. This version of the article incorporates the amendments requested on January 6, 2010.

If you have any questions regarding the revised article, please feel free to call me at 222-6300 or William Trimble at 222-6421.

TAM:sm 10-29

Attachment

cc: Representative Robert A. Watson  
Senator Dennis L. Algieri  
~~Sharon Reynolds Ferland~~  
Peter Marino  
Tim Costa  
Michael Cronan  
Rosemary Booth Gallogly  
William Trimble  
Carolyn Dias  
Gregory Stack

**ARTICLE 9 (Revised 3/24/10)**

**RELATING TO EDUCATION AID**

SECTION 1. Section 16-2-21.4 of the General Laws in Chapter 16-2 entitled "School Committees and Superintendents" is hereby amended to read as follows:

**§ 16-2-21.4 School budgets – Compliance with certain requirements. – (a)**

Notwithstanding any provision of the general or public laws to the contrary, whenever a city, town, or regional school committee determines that its budget is insufficient to comply with the provisions of § 16-2-21, 16-7-23, or 16-7-24, the city, town, or regional school committee shall adhere to the appropriated budget or the provisions of § 16-2-23 in the absence of an appropriated budget. The chairperson of the city, town, or regional school committee, in accordance with the provisions of § 16-2-9, shall be required to petition the commissioner, in writing, to seek alternatives for the district to comply with state regulations and/or provide waivers to state regulations and, in particular, those which are more restrictive than federal regulations that allow the school committee to operate with a balanced budget. Waivers which affect the health and safety of students and staff or which violate the provisions of chapter 24 of this title shall not be granted. The commissioner must consider alternatives for districts to comply with regulations and/or provide waivers to regulations in order that the school committee may operate with a balanced budget within the previously authorized appropriation. In the petition to the commissioner, the school committee shall be required to identify the alternatives to meet regulations and/or identify the waivers it seeks in order to provide the commissioner with the revised budget which allows it to have a balanced budget within the previously authorized appropriation. The commissioner shall respond within fifteen (15) calendar days from the date of the written petition from the school committee. If the commissioner does not approve of the alternatives to meet regulations or the waivers from regulations which are sought by the school committee, or if the commissioner does not approve of the modified expenditure plan submitted by the school committee, then: (1) within ten (10) days of receiving the commissioner's response,

the school committee may submit a written request to the city or town council for the council of the municipality to decide whether to increase the appropriation for schools to meet expenditures. The decision to increase any appropriations shall be conducted pursuant to the local charter or the public law controlling the approval of appropriations within the municipality; or (2) in a regional school district, the chairperson of the school committee may, within ten (10) days of receiving the commissioner's response, submit a written request to the chief elected official of each of the municipalities to request that the city or town council in each of their respective towns meet to decide whether or not to increase the appropriation for schools to meet expenditures. The decision to increase any appropriations shall be conducted pursuant to the local charter or the public law controlling the approval of appropriations within the municipality.

(b) In the event of a negative vote by the appropriating authority, the school committee shall have the right to seek additional appropriations by bringing an action in the superior court for the county of Providence and shall be required to demonstrate that the school committee lacks the ability to adequately run the schools for that school year with a balanced budget within the previously authorized appropriation or in accordance with §§ 16-2-21, 16-2-23, 16-7-23, and 16-7-24. In no event shall any court order obtained by the school committee have force and effect for any period longer than the fiscal year for which the litigation is brought. Any action filed pursuant to this section shall be set down for a hearing at the earliest possible time and shall be given precedence over all matters except older matters of the same character. The court shall render its decision within thirty (30) days of the close of the hearings. Upon the bringing of an action in the superior court by the school committee to increase appropriations, the chief executive officer of the municipality, or in the case of a regional school district the chief elected officials from each of the member municipalities, shall cause to have a financial and performance audit in compliance with the generally acceptable governmental auditing standards of the school department conducted by the auditor general, the bureau of audits, or a certified public accounting firm qualified in performance audits. The results of the audit shall be made public upon

completion and paid for by the school committee to the state or private certified public accounting firm.

(c) The auditor general shall select the auditor if the audit is not directly performed by his or her office.

(d) Notwithstanding any provision of general or public laws to the contrary, when a category of state aid to education or state aid appropriated pursuant to section 45-13 of the general laws is reduced or suspended to any local school district or municipal government after July 1, 2009, the provisions of subsections 16-2-21.4(a), 16-2-21.4(b), and 16-2-21.4(c) shall be abated for the fiscal year in which the reduction or suspension of any aid is implemented. In the event of such a reduction in state aid in the enacted budget the Governor shall convene a three (3) member panel to create a remedy, or a municipality or school committee may petition the Governor to convene a three (3) member panel. The three (3) member panel shall act as binding arbitrators and shall consist of the commissioner of education or his/her designee, the director of revenue or his/her designee, and the auditor general or his/her designee. The panel shall select a chairperson. A corrective action plan shall be developed by the panel within sixty (60) days of convening. The plan may include the suspension of any contracts or non-contractual provisions to the extent that state aid has been reduced and to the extent legally permissible. Should the suggested alterations to the terms of a contract not be permissible until the expiration of the bargaining agreement, such alterations and terms should be considered in upcoming contractual negotiations. The corrective action plan must be monitored and enforced by the department of education.

SECTION 2. Section 16-7.1-15 of the General Laws in Chapter 16-7.1 entitled "The Paul W. Crowley Rhode Island Student Investment Initiative" is hereby amended to read as follows:

**§ 16-7.1-15 The Paul W. Crowley Rhode Island student investment initiative.**  
~~[Effective July 1, 2010.]~~ (a) Each locally or regionally operated school district shall receive as a base the same amount of school aid as each district received in fiscal year 1997-1998, adjusted

to reflect the increases or decreases in aid enacted to meet the minimum and maximum funding levels established for FY 2000 through FY 2008. Each school district shall also receive school aid through each investment fund for which that district qualifies pursuant to §§ 16-7.1-8, 16-7.1-9, 16-7.1-10, 16-7.1-11, 16-7.1-12, 16-7.1-16 and 16-7.1-19. These sums shall be in addition to the base amount described in this section. For FY 2009 and FY 2010, the reference year for the data used in the calculation of aid pursuant to § 16-7.1-8, § 16-7.1-9, § 16-7.1-10, § 16-7.1-11, § 16-7.1-11.1, § 16-7.1-12, § 16-7.1-16, § 16-7.1-19 and 16-77.1-2(b) shall be FY 2004. Calculation and distribution of education aid under §§ 16-5-31, 16-5-32, 16-7-20, 16-7-20.5, 16-7-34.2, 16-7-34.3, 16-24-6, 16-54-4, and 16-67-4 is hereby suspended. Provided, however, calculation and distribution of education aid under § 16-7.1-10 is suspended for FY 2009 and FY 2010. School districts may continue to maintain professional development programs and may reduce other education programs to achieve savings during FY 2009 and FY 2010. The funding of the purposes and activities of chapter 67 of this title, the Rhode Island Literacy and Dropout Prevention Act of 1967, shall be the same amount of the base amount of each district funded for that purpose in fiscal year 1997-1998. In addition each district shall expend three percent (3%) of its student equity and early childhood funds under the provisions of chapter 67 of this title.

(b) Funding for full day kindergarten programs in accordance with § 16-7.1-11.1 shall be in addition to funding received under this section.

(c) Funding distributed under §§ 16-77.1-2(b) and 16-64-1.1 shall be in addition to funding distributed under this section.

(d) For FY 2009, aid to school districts shall be reduced by the equivalent savings that are realized due to a reduction of payments to the teachers' retirement system. The reduction for the Chariho regional school district shall be prorated among the member communities. In addition, for FY 2009 aid to school districts shall be reduced by any amount of previously appropriated school housing aid determined to be ineligible for reimbursement in accordance with § 16-7-44.2. For FY 2009 aid shall also be reduced by the amount of projected revenue for the period

December 1, 2008 through June 30, 2009 from the permanent school fund. The projected revenue shall be determined by annualizing actual earnings from the period May 12, 2008 through November 30, 2008. The department of elementary and secondary education shall reduce aid in two equal installments, payable in May and June; provided however, that East Providence shall receive one payment of reduced aid in May.

For FY 2009, aid to school districts shall include thirty eight million, three hundred twenty-four thousand, eight hundred twenty-two dollars (\$38,324,822) from federal fiscal stabilization funds offset by a like reduction from general revenues. The distribution shall be in the same proportion as general operating aid.

(e) (1) For FY 2010, aid to school districts shall be reduced by the equivalent savings that are realized due to a reduction of payments to the teachers' retirement system. The reduction for the Chariho regional school district shall be prorated among the member communities. For FY 2010, aid to school districts shall be reduced by thirty-three million nine hundred twenty-eight thousand two hundred sixteen dollars (\$33,928,216) based on the school district's share of total FY 2009 enacted education aid, including state schools and charter schools. For FY 2010, a distribution of stabilization funds per the American Recovery and Reinvestment Act (ARRA) totaling thirty-four million one hundred seven thousand one hundred ninety-five dollars (\$34,107,195) shall be allocated to school districts proportionately based on their share of total FY 2009 enacted education aid, including state schools and charter schools.

(2) For FY 2010, aid to school districts shall be further reduced by twenty-three million eight hundred fifty-nine thousand four hundred fifty-six dollars (\$23,859,456) based on the school district's share of total FY 2010 originally enacted education aid, including state schools and charter schools. For FY 2010, an additional distribution of stabilization funds per the American Recovery and Reinvestment Act (ARRA) totaling four million nine hundred sixty-nine thousand nine hundred eighty dollars (\$4,969,980) shall be allocated to school districts

proportionately based on their share of total FY 2010 originally enacted education aid, including state schools and charter schools.

(3) Districts shall comply with the assurances and reporting requirements provided in the federal guidance for the (ARRA) allocation and by the commissioner of elementary and secondary education.

(f) There shall be an appropriation to ensure that total aid distributed to communities in FY 2010 under this section and §§ 16-7.1-11.1, 16-64-1.1 and 16-77.1-2(b) and excluding any FY 2009 Stabilization reappropriations shall be as follows:

	General Revenues	FY 2010 Stimulus Fiscal Stabilization Allocation
Barrington	1,863,090 <u>1,363,219</u>	128,427 <u>146,594</u>
Burrillville	12,928,167 <u>12,201,541</u>	684,478 <u>784,573</u>
Charlestown	1,697,497 <u>1,569,700</u>	98,948 <u>113,289</u>
Coventry	18,056,601 <u>16,653,588</u>	991,787 <u>1,136,141</u>
Cranston	31,662,364 <u>29,098,233</u>	1,752,647 <u>2,007,524</u>
Cumberland	11,829,002 <u>10,868,920</u>	654,948 <u>750,190</u>
East Greenwich	1,503,975 <u>1,116,869</u>	96,326 <u>110,015</u>
East Providence	24,499,858 <u>22,904,534</u>	1,328,384 <u>1,522,126</u>
Foster	1,286,565 <u>1,197,486</u>	69,979 <u>80,179</u>
Glocester	2,927,940 <u>2,736,856</u>	158,776 <u>181,933</u>
Hopkinton	5,677,786 <u>5,253,368</u>	308,347 <u>353,277</u>
Jamestown	398,901 <u>314,470</u>	26,278 <u>30,018</u>
Johnston	9,596,568 <u>8,797,696</u>	531,110 <u>608,333</u>
Lincoln	6,363,969 <u>5,634,945</u>	365,750 <u>418,649</u>
Little Compton	296,650 <u>240,726</u>	18,221 <u>20,829</u>



Middletown	9,533,084 <u>8,818,203</u>	518,598 <u>594,153</u>
Narragansett	1,467,137 <u>1,168,565</u>	93,727 <u>107,100</u>
Newport	10,744,683 <u>10,034,609</u>	586,477 <u>671,962</u>
New Shoreham	64,987 <u>27,280</u>	5,254 <u>5,978</u>
North Kingstown	10,631,113 <u>9,696,556</u>	592,155 <u>678,179</u>
North Providence	12,081,507 <u>11,128,284</u>	661,166 <u>757,416</u>
North Smithfield	4,344,329 <u>3,965,044</u>	238,830 <u>273,562</u>
Pawtucket	62,176,676 <u>58,831,656</u>	3,311,223 <u>3,795,311</u>
Portsmouth	5,923,071 <u>5,410,520</u>	331,008 <u>379,088</u>
Providence	178,309,944 <u>168,671,406</u>	9,577,917 <u>10,977,178</u>
Richmond	5,652,344 <u>5,229,993</u>	305,742 <u>350,307</u>
Scituate	2,926,243 <u>2,612,130</u>	168,328 <u>192,686</u>
Smithfield	4,992,643 <u>4,477,705</u>	283,754 <u>324,864</u>
South Kingstown	9,224,287 <u>8,307,851</u>	521,147 <u>596,707</u>
Tiverton	5,271,861 <u>4,817,358</u>	293,067 <u>335,654</u>
Warwick	33,468,879 <u>30,599,283</u>	1,858,870 <u>2,129,021</u>
Westerly	5,774,932 <u>5,050,631</u>	338,074 <u>386,866</u>
West Warwick	18,738,108 <u>17,539,972</u>	1,009,842 <u>1,157,210</u>
Woonsocket	44,074,702 <u>41,737,807</u>	2,342,811 <u>2,685,395</u>
Bristol-Warren	18,764,456 <u>17,613,617</u>	1,009,726 <u>1,157,127</u>
Exeter-West Greenwich	6,814,331 <u>6,270,552</u>	374,779 <u>429,313</u>
Chariho	378,758 <u>364,509</u>	19,679 <u>22,565</u>
Foster-Glocester	5,194,804 <u>4,830,682</u>	283,077 <u>324,330</u>
Central Falls	42,507,399 <u>40,464,209</u>	2,167,539 <u>2,481,534</u>

In addition to the amounts listed above, the department of elementary and secondary education shall allocate monthly to each school district all funds received into the permanent

school fund pursuant to § 42-61.2-7, as amended by chapter 13 of the 2008 Public Laws entitled "An Act Relating to State Affairs and Government", up to \$14.1 million, in the same proportion as the aid distribution in the FY 2009 enacted appropriations act.

This special provision shall not limit entitlements as determined by application of other formula provisions in this section.

(g) For FY 2009 payments to charter public schools shall be reduced by the equivalent savings that are realized due to a reduction of payments to the teachers' retirement system. The reduction for district sponsored charter schools shall be incorporated in the sponsoring school district's aid as noted in subsection (f). Aid to charter public schools shall be reduced in the April quarterly payment. For FY 2009, charter public school funding is as follows:

Beacon Charter School 1,512,785

Blackstone Academy 1,469,349

Compass 614,485

Paul Cuffee 4,449,006

CVS Highlander 2,596,782

International 2,863,818

Kingston Hill Academy 736,784

Learning Community 3,669,529

NE Laborer's 1,508,866

Textron 2,361,370

Times 2 Academy 6,870,410

(h) (1) For FY 2010, payments to charter public schools shall be reduced by the equivalent savings that are realized due to a ~~deferral~~ reduction of payments to the teachers' retirement system. The reduction for district sponsored charter schools shall be incorporated in the sponsoring schools district's aid as noted in subsection (f). For FY 2010, payments to charter public schools shall be reduced by one million four hundred sixty-three thousand three hundred

sixty-seven dollars (\$1,463,367) based on the charter schools' share of total FY 2009 enacted education aid, including school districts and state schools. For FY 2010, a distribution of stabilization funds per the American Recovery and Reinvestment Act (ARRA) totaling one million four hundred seventy-one thousand eighty-seven dollars (\$1,471,087) shall be allocated to charter public schools proportionately based on their share of total FY 2009 enacted education aid, including school districts and state schools.

(2) For FY 2010, payments to charter public schools shall be further reduced by one million one hundred sixty-six thousand three hundred forty-five dollars (\$1,166,345) based on the charter schools' share of total FY 2010 originally enacted education aid. For FY 2010, an additional distribution of stabilization funds per the American Recovery and Reinvestment Act (ARRA) totaling two hundred six thousand ninety-six dollars (\$206,096) shall be allocated to charter public schools proportionately based on their share of total FY 2010 originally enacted education aid.

(3) Public charter schools shall comply with the assurances and reporting requirements provided in the federal guidance for the (ARRA) allocation and by the commissioner of elementary and secondary education.

(i) There shall be deducted from the final aid payment to each school district any amounts owed to the state at the end of the fiscal year for transportation of the district's students under the statewide transportation system established pursuant to R.I.G.L. 16-21.1-7 and 16-21.1-8. Districts shall receive monthly invoices summarizing the basis of the transportation fees charged. Any such deductions in aid shall be transferred to the statewide student transportation services restricted receipt account.

(j) The provisions of R.I.G.L. 16-26-7.1 notwithstanding, districts shall be assessed tuition to cover the costs of educational services that are additional to the core deaf and hard of hearing education program that is provided to resident students at the Rhode Island School for the Deaf. This tuition shall be based on a graduated tuition schedule that is based on the varying

needs of students. The department of elementary and secondary education shall develop and implement the schedule. Districts shall receive monthly invoices summarizing the basis for the tuition charged. There shall be deducted from the final aid payment to each school district at the end of the fiscal year any amounts owed to the state for these additional educational services.

(#) (k) *Children with disabilities.* (1) Based on its review of special education within the context of Rhode Island school reform, the general assembly recommends addressing the needs of all children and preventing disability through scientific research based, as described in the No Child Left Behind Act of 2001, Title 1, Part B, Section 1208 [20 U.S.C. § 6368], reading instruction and the development of Personal Literacy Programs for students in the early grades performing below grade level in reading and implement a system of student accountability that will enable the state to track individual students over time. Additionally, the department of elementary and secondary education must provide districts with rigorous criteria and procedures for identifying students with learning disabilities and speech/language impairments. Additional study is required of factors that influence programming for students with low incidence disabilities; those with disabilities that severely compromise life functions; and programming for students with disabilities through urban special education. Alternatives for funding special education require examination.

(2) All departments and agencies of the state shall furnish any advice and information, documentary and otherwise, to the general assembly and its agents that is deemed necessary or desirable by the study to facilitate the purposes of this section.

SECTION 3. Section 16-2-21.6 of the General Laws in Chapter 16-2 entitled "School Committees and Superintendents" is hereby amended to read as follows:

**§ 16-2-21.6 Collective bargaining fiscal impact statements.** – (a) Prior to executing any collective bargaining agreement between a school committee and representatives of teachers and/or other school employees, the school committee shall prepare or cause to be prepared a collective bargaining fiscal impact statement. These statements shall set forth, in dollar amounts,

estimates of the fiscal impact, during the term of the proposed agreement. No comment or opinion relative to the merits of the terms of the contract shall be included, except that technical or mechanical errors or defects may be noted.

(b) The fiscal impact statement and the awarded contract shall be publicized and shall be made immediately available upon ratification of the contract.

(c) The final execution of a collective bargaining agreement between a School Committee and representatives of teachers and/or other school employees shall require approval of the city or town council(s) in which the school district is located.

SECTION 4. Sections 1 and 2 of this article shall take effect upon passage and shall apply retroactively to July 1, 2009. Section 3 of this article shall take effect upon passage.