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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO EDUCATION -- STATE REIMBURSEMENT

Introduced By: Representatives Carter, MacBeth, and Serpa

Date Introduced: January 12, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 16-7.2 of the General Laws entitled "The Education Equity and  
2 Property Tax Relief Act" is hereby amended by adding thereto the following sections:

3           **16-7.2-3. Special education reimbursement program.** – (a) There is hereby established,  
4 subject to appropriation, a special education reimbursement program. Said program shall  
5 reimburse municipalities for the eligible instructional costs associated with implementing  
6 individual education plans, so-called, of students receiving special education services pursuant to  
7 any applicable state and/or federal laws, including, but not limited to, chapter 16-24 ("Children  
8 with disabilities") and/or any other applicable federal or state law. Said reimbursements shall be  
9 in addition to amounts distributed pursuant to chapter 16-7 ("Foundation level school support")  
10 and shall not be included in the calculation of state aid, as set for the in said chapter 16-7, for any  
11 subsequent fiscal year. Said reimbursement shall not include costs incurred by municipalities for  
12 transportation. Charter schools shall receive reimbursements under this section in the same  
13 manner as districts. The department of elementary and secondary education shall define,  
14 consistent with this section and in regulations it shall promulgate, those instructional costs  
15 associated with implementing individual education plans for pupils that shall be eligible for  
16 reimbursement under said program.

17           (b) For the purposes of this section, the following words shall have the following  
18 meanings:

19           (1) "Instructional costs", shall include only those costs directly attributable to providing

1 the special education services on the student's individual education plan, such as salary of  
2 education personnel, salary of related services personnel, costs for specialized books, materials,  
3 or equipment, tuition costs, if the student is receiving services from other than the local public  
4 school, consultant costs if directly attributable to the student's instructional program, and  
5 instructional costs of extended day or year services if such services are a part of the individual  
6 education plan. Such costs shall be prorated as appropriate to reflect group activities or costs for  
7 part-time services. Instructional costs shall not include transportation costs, administrative or  
8 overhead costs, the costs of adapting classrooms or materials that are used by more than one  
9 student, the costs of fringe benefits of personnel employed by the school district, nor the costs  
10 associated with evaluation, development of the individual education plan, or service coordination  
11 for the student with disabilities. Instructional costs for the purposes of this reimbursement  
12 program also shall not include the salary of personnel providing educational services when such  
13 services are not specially designed instruction for the student with disabilities.

14 **16-7.2-4. Costs eligible for reimbursement.** – (a) Instructional costs eligible for  
15 reimbursement under the program shall be reported by a school district to the department in a  
16 form and manner as prescribed by the commissioner. For each such school district, the  
17 department shall review the report and approve those per pupil instructional costs that are eligible  
18 for reimbursement pursuant to the program within thirty (30) days of submission. Based upon the  
19 approved costs, the department shall calculate the reimbursement due a municipality. The costs  
20 of programs shall be reimbursed at seventy-five percent (75%) of all the approved costs that  
21 exceed four (4) times the state average per pupil foundation level, as set forth in chapter 16-7, for  
22 the previous fiscal year.

23 (b) Notwithstanding the foregoing, the reimbursement rate for students who have no  
24 father, mother, or guardian living in the state, and for any school age child placed in a school  
25 district other than a home town by, or under the auspices of the department children and families,  
26 shall be one hundred percent (100%) of all the approved costs that exceed four (4) times the state  
27 average per pupil foundation budget.

28 **16-7.2-5. Changes in calculations – Distributions.** – (a) Districts shall notify the  
29 department within thirty (30) days of any change in previously approved instructional costs,  
30 including, but not limited to, changes in a student's enrollment status or individual educational  
31 plan.

32 (b) In preparing a budget recommendation for the subsequent fiscal year for consideration  
33 by the local appropriating authority, a school district shall project special education costs and  
34 enrollments, including per pupil instructional costs eligible for reimbursement under this

1 program. The school committee's budget recommendation shall exclude any such instructional  
2 costs eligible for reimbursement under this program. Upon receipt of reimbursements paid under  
3 this program by the municipal treasurer and/or other agent designated to receive such funds for  
4 the local and/or regional schools districts, the municipality or district shall record such amounts  
5 as additional appropriations to the school committee, without any further action being required on  
6 the part of the local appropriating authority.

7 (c) Reimbursements shall be made based on the previous years' per pupil instructional  
8 costs, in compliance with department of elementary and secondary education audits and  
9 procedures. Reimbursements shall be made in installments or payments to coincide with the  
10 distribution of funds made available pursuant to chapter 16-7.

11 **16-7.2-6. Payment for private residential placements.** – (a) Notwithstanding the  
12 foregoing, the state shall continue to pay to approved private residential schools sums pursuant to  
13 chapter 16-64, authorized by this section on a direct payment basis as the request of a district and  
14 the private residential school to which that district sends a student whose tuition is partly  
15 reimbursable pursuant to this section.

16 SECTION 2. Sections 16-64-1.1, 16-64-1.2, 16-64-1.3 and 16-64-2 of the General Laws  
17 in Chapter 16-64 entitled "Residence of Children for School Purposes" are hereby amended to  
18 read as follows:

19 **16-64-1.1. Payment and reimbursement for educational costs of children placed in**  
20 **foster care, group homes, or other residential facility by a Rhode Island state agency.** -- (a)  
21 Children placed in foster care by a Rhode Island licensed child placing agency or a Rhode Island  
22 governmental agency shall be entitled to the same free appropriate public education provided to  
23 all other residents of the city or town where the child is placed. The city or town shall pay the cost  
24 of the education of the child during the time the child is in foster care in the city or town.

25 (b) Children placed by DCYF in a group home or other residential facility that does not  
26 include the delivery of educational services are to be educated by the community in which the  
27 group home or other residential facility is located, and those children shall be entitled to the same  
28 free appropriate public education provided to all other residents of the city or town where the  
29 child is placed. For purposes of payment and reimbursement for educational costs under this  
30 chapter, the term "group home or other residential facility" shall not include independent living  
31 programs. Each city and town that contains one or more group homes or other residential  
32 facilities that do not include delivery of educational services will receive funds as part of state aid  
33 to education in accordance with the following provisions:

34 (1) On December 31 of each year the DCYF shall provide the department of elementary

1 and secondary education with a precise count of how many group home or other residential  
2 facility "beds" exist in each Rhode Island city or town, counting only those "beds" in facilities  
3 that do not include the delivery of educational services. The number of "beds" in each group  
4 home or other residential facility shall be equal to the maximum number of children that may be  
5 placed in that group home or other residential facility on any given night according to the  
6 applicable licensure standards of the DCYF.

7 (2) For the fiscal year beginning July 1, 2007, if the number of beds certified by the  
8 Department of Children, Youth and Families for a school district by December 31, 2007 is greater  
9 than the number certified March 14, 2007 upon which the education aid for FY 2008 was  
10 appropriated, the education aid for that district will be increased by the number of increased beds  
11 multiplied by fifteen thousand dollars (\$15,000). Notwithstanding the provisions of this section or  
12 any law to the contrary, the education aid for all group home or other residential facility "beds"  
13 located or associated with the Children's Residential and Family Treatment (CRAFT) program  
14 located on the East Providence campus of Bradley Hospital shall be twenty-two thousand dollars  
15 (\$22,000) per bed. The Department of Elementary and Secondary Education shall include the  
16 additional aid in equal payments in March, April, May and June, and the Governor's budget  
17 recommendations pursuant to section 35-3-8 shall include the amounts required to provide the  
18 increased aid.

19 For all fiscal years beginning after June 30, 2008, education aid for each school district  
20 shall include fifteen thousand dollars (\$15,000) for each bed certified by the Department of  
21 Children, Youth and Families by the preceding December 31. Notwithstanding the provisions of  
22 this section or any law to the contrary, the education aid for all group home or other residential  
23 facility "beds" located or associated with the Children's Residential and Family Treatment  
24 (CRAFT) program located on the East Providence campus of Bradley Hospital shall be twenty-  
25 two thousand dollars (\$22,000) per bed. For all fiscal years beginning after June 30, 2008,  
26 whenever the number of beds certified by the Department of Children, Youth and Families for a  
27 school district by December 31 is greater than the number certified the prior December 31 upon  
28 which the education aid for that fiscal year was appropriated, the education aid for that district as  
29 enacted by the assembly during the prior legislative session for that fiscal year will be increased  
30 by the number of increased beds multiplied by the amount per bed authorized for that fiscal year.  
31 The Department of Elementary and Secondary Education shall include the additional aid in equal  
32 payments in March, April, May and June, and the Governor's budget recommendations pursuant  
33 to section 35-3-8 shall include the amounts required to provide the increased aid.

34 (3) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

1 (4) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

2 (5) [Deleted by P.L. 2007, ch. 73, art. 21, section 6.]

3 (c) Children placed by DCYF in a residential treatment program, group home, or other  
4 residential facility, whether or not located in the state of Rhode Island, which includes the  
5 delivery of educational services, provided by that facility (excluding facilities where students are  
6 taught on grounds for periods of time by teaching staff provided by the school district in which  
7 the facility is located), shall have the cost of their education paid for as provided for in subsection  
8 (d) of this section and section 16-64-1.2. The city or town determined to be responsible to DYCF  
9 for a per-pupil special education cost pursuant to section 16-64-1.2 shall pay its share of the cost  
10 of educational services to DCYF or to the facility providing educational services.

11 (d) Children placed by DCYF in group homes, child caring facilities, community  
12 residences, or other residential facilities shall have the entire cost of their education paid for by  
13 DCYF if:

14 (1) The facility is operated by the state of Rhode Island or the facility has a contract with  
15 DCYF to fund a pre-determined number of placements or part of the facility's program;

16 (2) The facility is state-licensed; and

17 (3) The facility operates an approved on-grounds educational program, whether or not  
18 the child attends the on-grounds program.

19 (e) Provided, that for all school years commencing after June 30, 2010, any state funds  
20 provided to cities or towns pursuant to this section shall be tracked by the department of  
21 education and paid based on the actual number of students who are being educated in the city or  
22 town. If a student moves to another residence in another city or town during the school year, the  
23 moneys paid by the state to the city or town shall be prorated and disbursed in proportion to the  
24 number of days during the year that the student is being educated by the city or town. By way of  
25 clarification, it is the intention of the general assembly that the state moneys paid shall follow the  
26 residence of the child and be utilized for the education of such child, to the greatest extent  
27 reasonably possible.

28 **16-64-1.2. Designation of residency of children in state care for purposes of financial**  
29 **responsibility under section 16-64-1.1(c) -- Effect of designation of residence. --** (a) An initial  
30 factual determination and designation of the residence of the parent(s) of a child placed in the  
31 care and custody of the state shall be made by the family court in accordance with section 33-  
32 15.1-2. The director of the department of children, youth, and families shall incorporate any  
33 designation of parent's residence on the child's intra-state education identification card and update  
34 the designation pursuant to section 42-72.4-1(b).

1 (b) If no factual determination and designation of the residence of the parent(s) of a child  
2 placed in the care and custody of the state is made by the family court pursuant to section 16-64-  
3 1.2(a), then the department of elementary and secondary education shall designate the city or  
4 town to be responsible for the per-pupil special education cost of education to be paid to DCYF  
5 or to the facility providing educational services for children in state care pursuant to section 16-  
6 64-1.1(c).

7 (c) The department of elementary and secondary education shall designate the city or  
8 town to be responsible for the per-pupil special education cost of education to be paid to DCYF  
9 for children in state care who have neither a father, mother, nor guardian living in the state or  
10 whose residence can be determined in the state or who have been surrendered for adoption or who  
11 have been freed for adoption by a court of competent jurisdiction using the following criteria: (1)  
12 last known Rhode Island residence of the child's father, mother, or guardian prior to moving from  
13 the state, dying, surrendering the child for adoption or having parental rights terminated; (2) when  
14 the child's parents are separated or divorced and neither parent resides in the state, the last known  
15 residence of the last parent known to have lived in the state. This designation by the department  
16 of elementary and secondary education shall be incorporated on the child's intra-state education  
17 identification card.

18 (d) The designation of a city or town pursuant to subsection (a), (b), or (c) of this section  
19 shall constitute prima facie evidence of parents' residence in the city or town and/or the city or  
20 town's financial responsibility for the child's education as provided in section 16-64-1.1, except as  
21 otherwise provided for in subsection (e) herein and in subsection 16-64-1.1(e). Pending any final  
22 decision under section 16-64-6 that a different city, town or agency bears any financial  
23 responsibility, the commissioner shall be authorized to order the general treasurer to deduct the  
24 amount owed from the designated community's school aid and to pay this amount to DCYF.

25 (e) Provided, that for all school years commencing after June 30, 2010, any state funds  
26 provided to cities or towns pursuant to this section shall be tracked by the department of  
27 education and paid based on the actual number of students who are being educated in the city or  
28 town. If a student moves to another residence in another city or town during the school year, the  
29 moneys paid by the state to the city or town shall be prorated and disbursed in proportion to the  
30 number of days during the year that the student is being educated by the city or town. By way of  
31 clarification, it is the intention of the general assembly that the state moneys paid shall follow the  
32 residence of the child and be utilized for the education of such child, to the greatest extent  
33 reasonably possible.

34 **16-64-1.3. Educational responsibility for children in group homes and other**

1 **residential placements.** -- (a) The city or town in which a foster home, group home, or other  
2 residential facility that does not include the delivery of educational services is located shall be  
3 responsible for the free appropriate public education of any child residing in those placements,  
4 including all procedural safeguards, evaluation, and instruction in accordance with regulations  
5 under chapter 24 of this title, for any period during which a child is residing in the city or town.  
6 The city or town shall coordinate its efforts with any other city or town to which a child moves  
7 when exiting the city or town responsible under this subsection.

8 (b) The city or town responsible for payment under section 16-64-1.1(c) for payment of a  
9 city or town's per pupil special education cost to DCYF for a child placed in a residential facility,  
10 group home, or other residential facility that includes the delivery of educational services shall be  
11 responsible for the free, appropriate public education, including all procedural safeguards,  
12 evaluation and instruction in accordance with regulations under chapter 24 of this title.

13 (c) Provided, that for all school years commencing after June 30, 2010, any state funds  
14 provided to cities or towns pursuant to this section shall be tracked by the department of  
15 education and paid based on the actual number of students who are being educated in the city or  
16 town. If a student moves to another residence in another city or town during the school year, the  
17 moneys paid by the state to the city or town shall be prorated and disbursed in proportion to the  
18 number of days during the year that the student is being educated by the city or town. By way of  
19 clarification, it is the intention of the general assembly that the state moneys paid shall follow the  
20 residence of the child and be utilized for the education of such child, to the greatest extent  
21 reasonably possible..

22 **16-64-2. Retention of residence.** -- A child shall be eligible to receive education from  
23 the city or town in which the child's residence has been established until his or her residence has  
24 been established in another city or town and that city or town has enrolled the child within its  
25 school system, unless the commissioner of elementary and secondary education, pursuant to  
26 section 16-64-6, has ordered otherwise. Nothing contained in this section shall be construed to  
27 prohibit a city or town in its own discretion from enrolling a child within its school system before  
28 a child has established technical residency within the city or town. The commissioner of  
29 elementary and secondary education shall promulgate any rules that may be needed to implement  
30 the educational provisions of the Stewart B. McKinney Homeless Assistance Act (P.L. 105-220),  
31 42 U.S.C. section 11431 et seq. Provided further, that to the greatest extent reasonably possible,  
32 state moneys paid to the city or town pursuant to this chapter shall follow the residence of the  
33 child and be utilized for the education of such child.

1 SECTION 3. 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 -- STATE REIMBURSEMENT

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1           This act would provide that cities and towns would receive a reimbursement from the  
2 state for costs to educate students receiving special education services. This act would also  
3 provide that for children in group homes and other state care, state funds paid to the cities or  
4 towns for the education of said children would follow the residence of said children. In the event  
5 a child moves to another city or town during the school year, the state funds would be prorated  
6 and distributed in proportion to the number of days during the year that the student is being  
7 educated by the city or town.

8           This act would take effect upon passage.

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