

To: Joint Fiscal Committee
From: Mark Perrault, JFO
Date: September 1, 2010
Subject: Use of Vermont's Education Jobs Fund Allocation

The recently enacted ARRA extension created an Education Jobs Fund Program. This program will allocate \$19.3 million in federal funds to Vermont to save or create elementary and secondary education jobs in FY2011. In order to receive these funds, the governor must apply to the US Department of Education by September 9th and agree, among other things, to the following conditions:

- The state must comply with maintenance of effort (MOE) requirements for state support of elementary and secondary education and public institutions of higher education.
- The state must make awards available to school districts for use in FY2011. (However, under the Tydings Amendment, school districts may use these funds through September 2012.)
- The state must distribute program funds to school districts either: (1) through the state's FY2011 primary school funding formula; or (2) on the basis of the school district's share of funds under Title I of the Elementary and Secondary Education Act (ESEA).
- The state must award at least 98% of the state's allocation of program funds to school districts, reserving no more than 2% for the cost of administering the program.

Department of Education - Although school districts have the discretion to decide how to use program funds, the commissioner of education has suggested that school districts be encouraged retain their program funds and use them to meet the FY2012 spending targets set last session. To meet the spending targets, school districts would have to reduce spending statewide by \$23.2 million.

If this approach is taken, it should be noted that the distribution of program funds to school districts under either permissible method would not match the spending reductions required by the targets. One way to address this issue would be to ask the education department to revise the spending targets to match the distribution of program funds. The education department has the authority to revise the targets.

Administration - The governor is reportedly proposing that the FY2011 education payments to school districts be reduced by an amount equal to their award. This approach would effectively force all school districts to use their entire award this year and would free up almost \$19 million for other purposes. Although this would appear

to be contrary to the intent of the program, it is possible¹; however, it would require legislative approval.

Legislative approval of this approach would be required because by law the education department must distribute FY2011 education payments to school districts as appropriated last session. Since these payments will be made incrementally between September and June, legislative approval could be obtained in the FY2011 budget adjustment bill next January.²

Withheld education payments to school districts would allow the legislature to reduce the general fund transfer to the education fund. Arguably, these freed-up general fund dollars could then be used for any purpose other than as reserve funds or for debt retirement. The “Initial Guidance for States on the Education Jobs Fund Program” provides that:

“A state may not use program funds, *directly or indirectly*, to establish or restore, or supplement a rainy day fund, or to supplant state funds in a manner that has this effect. Furthermore, a state may not use program funds, *directly or indirectly*, to reduce or retire debt obligations incurred by the state or to supplant state funds in a manner that has this effect.” (Emphasis added.)

Reportedly, the administration is considering recommending to the legislature that the freed-up general fund dollars be used to reduce the deficit in the teachers’ pension fund.

¹ This approach is possible because Vermont is able to comply with the MOE requirements even if it reduces current-law state fiscal support for elementary and secondary education in FY2011. Method 3, one of four ways to meet the MOE requirements set forth in the guidelines, is available to states with state tax collections in CY2009 that are less than state tax collections in CY2006. Under Method 3, the MOE requirement is met if the state maintains fiscal support for elementary and secondary education at *not less* than the level of such support in FY2006. Vermont qualifies for use of Method 3 and, under current law, exceeds the FY2011 MOE requirement under Method 3 by over \$129 million. Vermont is unusual in that all fiscal support for elementary and secondary education is considered to be state support; in most states, the property tax is a local source of support for elementary and secondary education.

² The education department makes the last education spending payment to “receiving” school districts on April 30th and receives a final payment from “sending” towns on June 1st.

Theresa Utton-Jerman - ARRA Funds/Pensions

B.6.

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Folks,

I write to express concern over the Governor's recommendation that we use the additional \$19.3 in federal education funds to effectively help pay for teacher retirement obligations. My concern is straightforward: We should not use one-time funds for ongoing commitments. This simply would not be prudent and would leave us with a significant budgetary hole in the very next year. That would make it more likely a future governor and legislature will underfund teacher retirement and could erode public confidence in the retirement system.

The Governor's proposal to distribute the federal funds and withhold an equal amount of State funds, for now, makes sense to me, but I encourage policymakers to instead find a way to use this one-time money as an incentive or bridge for school improvement and efficiency. We should leverage these funds in a way that will produce ongoing savings to our citizens.

Thanks for your consideration. If I am off base about what the Governor proposed or if I can be helpful in this regard, please let me know.

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