

# **Charter Schools, Funding, Anticipation Notes: New Hampshire Confusion; Other State Solutions**

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New Hampshire charter school funding needs attention now or our chartered public schools, just opened, will hit an avoidable financial wall. Per student funding should be weighted to at least reach the 80%-of-average-cost funding level proposed in the state's original school charter law (1995). And the flow of funds should flow directly from the state, if schools request this. For some but not all schools, guaranteed state funding for teaching costs still has not been forwarded from districts to students.

Two bills submitted by Representative John Hunt address 1) amount of charter school funding, and 2) the flow of state funds to charter schools. House Bill 103-FN-A suggests a reasonable appropriation for state-authorized charter schools. The House Finance Subcommittee squashed this bill yesterday, deciding that funding decisions should take place during Department of Education budget hearings. House Bill 76 is alive and well, but it should offer an option for state funding to flow directly to charter schools.

## **FOUR SIGNIFICANT \$\$ CONFUSIONS**

As of January 2005, funding confusions are rooted in three areas: how to provide reasonable state funding for state-authorized schools, a funding path that guarantees state funds reach the charter school on time, and the role of anticipation notes districts may choose to use. The "anticipation note" discussion is further confused by differing opinions as to whether or not adequacy grants are real time payments or prior-year reimbursements.

Current state adequacy grants were never meant to fully fund any student's education—and for the 2004-2005 school year, adequacy funding provides charter school students 30-40% of the average per pupil cost. Last year's weighted formula for high schools was banished for this year, hurting charter high schools. For state-authorized charter schools with no other public school funding, weighting or additional grants are needed to get schools up to 80% of funding, as originally proposed in 1995.

The Department of Education says state adequacy funding for charter schools must flow through schools districts because the state has no capacity for any other approach. This system, however, only makes sense if we can guarantee the charter school students receive funding intended for their education, and some have not. Charter schools will be unable to pay teachers if districts withhold these schools' only operational funds. Students in two charter schools currently have no public school funding whatsoever.

## **CHARTER LAW ON PAYMENT TIMELINE**

New Hampshire statute underscores the right of charter school students to have state funding received on time:

1. Section B: 11, IX: "Unless otherwise agreed upon, cash payment shall coincide with the schedule for grant payment set forth in RSA 198:42, which states:

*...from the education trust fund in 4 payments of 20 percent on September 1, 20 percent on November 1, 30 percent on January 1, and 30 percent on April 1 of each school year; provided that for a dependent school district, the grant determined in RSA 198:41 shall be distributed to the municipality, which shall appropriate and transfer the grant funds to its dependent school department.*

It's difficult to understand how this requirement can be construed to mean districts do not have to turn over a portion of state funds that come to the districts as revenue.

## **IS THIS YEAR'S ADEQUATE EDUCATION MONEY FOR THIS YEAR? OR LAST YEAR? (OR THE YEAR BEFORE)**

A confusion within the state is whether or not the state adequacy grants received by school districts this year are real time payments for this year (2004-2005) or reimbursements for a prior year (2003-2004 or 2002-2003, or even 2001-2002).

The concept of borrowing in anticipation of future payment was likely based on a confused issue—that whatever money is received this year is payment for 1-2 years

ago. The Department of Education, however, has clarified that money received this year is a real time grant for this year. They advise that using prior-year student data in the payment formula does not make payments a prior-year reimbursement. And so “districts issuing anticipation funds” must have been based on this prior-year reimbursement confusion, e.g. if state aid in any year is a reimbursement based on prior year student attendance, then the district’s payment for “current year students” will arrive “next” year; ergo, districts can issue anticipation notes and borrow in anticipation of this year’s reimbursement next year.

But if DOE clarifies that this year’s state payment is, in fact, for this year’s students, then what is there to anticipate with the anticipation note? It all just doesn’t make sense. The overarching accounting issue is revenue stream adjustment, and borrowing to anticipate the anticipated which isn’t generated seems a major accounting muddle.

### **WHO BORROWS & INCURS DEBT with anticipation notes?**

The charter statute currently states that ‘the pupil’s resident school district or department of education shall pay tuition in cash or may issue reimbursement anticipation notes as set forth in RSA 198:20-d<sup>1</sup> for each year in which a resident pupil attends a charter school.’”

On its face the law currently states that the state (department of education) can forward money directly to the charter school. National wisdom says this is the most direct and least problematic approach. But the Department clarifies that the words “the department of education” do not mean “the department of education” and instead mean the school administration unit office. Well, let’s just change this to “the state” and keep this option.

RSA 198:20-d (Reimbursement Anticipation Notes) is referenced in statute to clarify how charter schools are funded: “a school district or a city with a dependent school district may incur debt in anticipation of reimbursement ...and...the governing body, after a hearing, may elect to borrow such funds....”

The schema for use of anticipation notes, then, “in accordance with RSA 198:20-d” does not suggest that charter public schools incur debt in order to obtain its only public funding or in relation to a district or city issuing anticipation notes.

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These confusions are holding up timely payments to several charter schools. The legislature needs to step in with a solution now that charter schools are open.

## **HOW DO OTHER STATES FUND STATE-AUTHORIZED CHARTER SCHOOLS?**

And since we are the 40<sup>th</sup> state to actually open charter schools, why not just look at what other states do that seems to work:

1. **Arizona** has a “stimulus fund” and the amount per school is fixed at “up to \$100,000 during or before the first year of operation” and the school “may apply for one additional year of “up to \$100,000.” Note: Our law also includes a fund. We just have no appropriation or transfer to fill the fund. New Hampshire’s statutory charter school fund was not just for first year stimulus grants, but to equalize the amount of public funding for charter school students so they receive fair public funding—up to the state’s average per pupil cost.
2. **Connecticut** sets the amount of state money per student, currently at \$7,500, and for state-authorized schools, the money flows directly from the state to the charter schools. CT sets the amount based on state averages for different types of schools. Note: Most people interested in a workable solution want Connecticut’s model—fully-state-funded state-authorized charter schools with money passed directly from the state to the charter schools.
3. **Minnesota.** A charter school earns general education revenue on a per pupil unit basis just as though it were a school district. The general education revenue paid to a charter school is paid entirely through state aid. Note: NH could treat charter schools as districts, provide charter schools with a district code, and route state funding directly to the charter schools.
4. **Delaware** provides the charter school an amount of state aid per student determined by a “weighted” formula. Note: Until this year, New Hampshire had a weighted formula for state adequacy funding. A formula that weights state funds for charter schools would solve the problem.

## **RECAPPING THE PROBLEM AND SOLUTION**

The New Hampshire charter school pilot program is underway with seven (7) schools approved to open and six (6) operating as of January 2005. The excitement and energy of these schools is fantastic. These schools address the goals of the legislature—innovation, new and different public schools with specific programs, new opportunities for teachers, offering choice in our state, meeting needs of communities, regions, or the state as a whole.

One school evolved from the State Commission for the Deaf and has broad state support; three (3) schools are closely tied to area school districts and were conceived with district administrators and boards; (3) operating schools are statewide open enrollment schools, taking students from all over the state.

New Hampshire’s 1995 charter school law was based on providing at least 80% of average student funding to charter schools. This is a workable idea; certainly providing 30-40% of average student

costs makes no sense. Furthermore, districts incurring anticipation notes for state funds that are real time payments also seems to make no sense. Districts not forwarding any state (required) or public funding (optional) to the charter school leaves this group of public students with zero public funding. And that makes no sense.

We need to correct the charter school funding confusions now and assure these exciting, demonstration schools have a chance to thrive. In the end, we are redistributing our resources, addressing interests and needs, and making sure all public school students in our state have a fair portion of public education resources.

<sup>2</sup>**THE MUNICIPAL FINANCE ACT on ANTICIPATION NOTES:**

**CHAPTER 33:7 Tax Anticipation Notes. –**

I. **CITIES AND TOWNS.** Cities and towns may incur debt in anticipation of the taxes of the financial year in which the debt is incurred, in order to pay current maintenance and operation expenses, and may issue notes therefore to an aggregate principal amount not exceeding the total tax levy during the preceding financial year, provided that after the tax levy of the current year has been determined any city or town may borrow an amount not exceeding in the aggregate the total tax levy of the city or town for the current financial year. In order to meet necessary expenses which may arise during the period from the beginning of the financial year to the date of the annual town meeting, the treasurer of any town, with the approval of the selectmen, may issue notes, without a vote of the town therefore, to an aggregate principal amount not exceeding 30 percent of the total receipts from taxes during the preceding financial year.

II. **VILLAGE DISTRICTS.** Village districts may incur debt in anticipation of taxes and other revenue of the financial year in which the debt is incurred, in order to pay current maintenance and operation expenses, and may issue notes therefor to an aggregate principal amount not exceeding the total tax levy of the district during the preceding financial year. In order to meet necessary expenses which may arise during the period from the beginning of the financial year to the date of the annual district meeting, the treasurer of any district with the approval of the governing board, may issue notes, without a vote of the district therefor, to an aggregate principal amount not exceeding 30 percent of the total tax levy during the preceding financial year.

III. All notes issued under authority of this section shall be general obligations. They may be sold at discount and shall be payable not later than one year from their date. Notes issued for a shorter period than one year may be refunded or renewed, pursuant to a vote or resolution of the governing board, or the city councils in the case of cities, by the issue of other notes maturing within the required period, provided, however, that the period from the date of issue of the original loan to the date of maturity of the refunding or renewal loan shall not be more than one year.

IV. A village district established pursuant to RSA 52:1 may apply to the town it is situated in for tax anticipation money before the tax rate has been established for the town if said district presents to the selectmen a district budget, approved at a properly constituted district meeting called for the purpose of approving a budget. Towns may advance to any village district a share of any money borrowed by the town in anticipation of taxes, not exceeding the total approved budget amount to be paid to such district. The town may charge the district a proportionate share of the interest due on that town's tax anticipation notes.

V. For tax anticipation notes only, any town or village district at an annual meeting may adopt an article authorizing indefinitely until specific rescission of such authority the issuance of tax anticipation notes. The following shall apply:

(a) Such warrant article to be voted on shall read: "Shall the town (or village district) accept the provision of RSA 33:7 providing that any town (or village district) at an annual meeting may adopt an article authorizing indefinitely, until specific rescission of such authority, the selectmen (or commissioners) to issue tax anticipation notes?"

(b) If a majority of voters voting on the question vote in the affirmative, the proposed warrant article shall be in effect in accordance with the terms of the article until such time as the town (or village district) meeting votes to rescind its vote.

**Source.** 1953, 258:1, par. 7. RSA 33:7. 1957, 95:1; 98:1. 1967, 305:1. 1969, 171:1. 1979, 140:1. 1993, 176:4, eff. Aug. 8, 1993; 361:1, eff. Sept. 22, 1993. 1997, 105:3, 4, eff. Aug. 8, 1997.