

ASSEMBLY, No. 419

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman GREGORY P. MCGUCKIN
District 10 (Ocean)

SYNOPSIS

Makes fiscal year 2016 State supplemental appropriation and reduces State appropriation to transfer appropriation from preschool education aid to TPAF.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** amending and supplementing “An Act making
2 appropriations for the support of the State Government and the
3 several public purposes for the fiscal year ending June 30, 2016
4 and regulating the disbursement thereof,” approved June 26,
5 2015 (P.L.2015, c.63).

6
7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*
9

10 1. The following items in section 1 of P.L.2015, c.63, the
11 annual appropriations act for State fiscal year 2016, are amended to
12 read as follows:
13

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural, and Intellectual Development

31 Direct Educational Services and Assistance

STATE AID

01-5120 General Formula Aid.....	[\$7,674,252,000]	
(From General Fund.....	\$3,933,000)	<u>\$6,383,218,000</u>
(From Property Tax Relief Fund....	[\$7,670,319,000]	<u>\$7,014,802,000)</u>
<hr/>		
Total State Aid Appropriation, Direct		
Educational Services and Assistance.....		
		[\$9,934,582,000]
(From General Fund.....	\$154,664,000)	
(From Property Tax Relief Fund.....		
		[\$9,779,918,000]
		<u>\$9,124,401,000)</u>
		<u>\$9,279,065,000</u>

State Aid:

[01 Preschool Education Aid (PTRF)..... (\$655,517,000)]

14
15 Notwithstanding the provisions of any law or regulation to the
16 contrary, a district’s 2015-2016 allocation of the amounts
17 hereinabove appropriated for Equalization Aid, Educational
18 Adequacy Aid, Adjustment Aid, **[Preschool Education Aid,]**
19 School Choice Aid, Security Aid, Special Education
20 Categorical Aid, Supplemental Enrollment Growth Aid,
21 Transportation Aid, Under Adequacy Aid, PARCC Readiness,
22 and Per Pupil Growth Aid, shall be as set forth in the February
23 2015 State Aid notice issued by the Commissioner of
24 Education, as amended subject to the provisions herein.
25

26 **[**Notwithstanding the provisions of any law or regulation to the
27 contrary, the preschool per pupil aid amounts set forth in
28 subsection d. of section 12 of P.L.2007, c.260 (C.18A:7F-54)
29 shall be adjusted by the geographic cost adjustment developed
30 by the commissioner pursuant to P.L.2007, c.260.**]**

31 **[**Notwithstanding the provisions of any law or regulation to the
32 contrary, amounts hereinabove appropriated for Preschool
33 Education Aid shall be used for such amounts as are necessary:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 1) in the case of a district that received Early Launch to
2 Learning Initiative aid in the 2007-2008 school year, an
3 amount equal to the district's 2007-2008 allocation of Early
4 Launch to Learning Initiative aid; 2) in the case of a school
5 district that received a 2008-2009 allocation of Preschool
6 Education Aid based on its 2007-2008 Early Childhood
7 Program Aid allocation, an aid amount equal to the district's
8 2014-2015 per pupil allocation of Preschool Education Aid
9 multiplied by the district's projected preschool enrollment; and
10 3) in the case of any other district with an allocation of
11 Preschool Education Aid in the 2014-2015 school year
12 calculated using the provisions of section 12 of P.L.2007, c.260
13 (C.18A:7F-54), an amount calculated in accordance with those
14 provisions based upon 2015--2016 projected enrollments
15 multiplied by the per pupil allocations as set forth in the
16 February 2015 State Aid notice issued by the Commissioner of
17 Education.】

18 (cf: P.L.2015, c.63, s.1)
19

20 2. In addition to the amounts appropriated under P.L.2015, c.63
21 the annual appropriation act for fiscal year 2016, there are
22 appropriated from the Property Tax Relief Fund the following
23 amount for the purpose specified:
24

34 DEPARTMENT OF EDUCATION

30 Educational, Cultural, and Intellectual Development

34 Educational Support Services

STATE AID

39-5094 Teachers' Pension and Annuity Assistance	<u>\$655,517,000</u>
Total State Aid Appropriation, Educational Support Services	<u>\$655,517,000</u>

State Aid:

39 Teachers' Pension and Annuity
Fund (PTRF)..... (\$655,517,000)

25

26 3. This act shall take effect immediately.
27

28

29

30

STATEMENT

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32 This bill amends and supplements the FY 2016 appropriations
33 act to transfer the appropriation for preschool education aid to the
34 Teachers' Pension and Annuity Fund (TPAF). By virtue of this
35 transfer, the State's contribution to that pension system will be
36 increased by \$655.5 million, or 40 percent, to a total of nearly
37 \$2.294 billion.

38 Article VIII, section IV, paragraph 1 of the Constitution of the
39 State of New Jersey stipulates that the Legislature will provide for
40 "... the maintenance and support of a thorough and efficient system
41 of free public schools for the instruction of all the children in the
State between the ages of five and eighteen years." The provision

1 of full-day preschool education to three- and four-year old children
2 exceeds the Legislature's constitutional responsibilities, and is
3 simply unaffordable given the State's current budget realities.

4 In Abbott v. Burke, 153 N.J. 180 (1998) (Abbott V), the New
5 Jersey Supreme Court declared that the provision of full-day
6 kindergarten for five-year olds was an essential part of a thorough
7 and efficient education for Abbott districts. The Court then noted
8 that since the State also recognized the benefits provided by the
9 provision of preschool programs, the State should provide half-day
10 preschool in the Abbott districts for three- and four-year olds. This
11 has since been expanded to full-day preschool in certain school
12 districts. At the time, the Court specifically declined to rule that the
13 provision of preschool was a constitutional requirement under the
14 "thorough and efficient" language of Article VIII, section IV,
15 paragraph 1 of the State's constitution.

16 To date, the Supreme Court has never ruled that the provision of
17 preschool for three- and four-year olds is a constitutional
18 requirement under Article VIII, section IV, paragraph 1, which by
19 its explicit terms applies to children between five and 18 years of
20 age. Currently, the State funds full-day preschool in certain school
21 districts at a cost to the State's taxpayers of over \$655 million.

22 At the time that the Court decided Abbott V and the State began
23 to fund preschool in certain districts, the State was in the midst of
24 an unprecedented economic expansion. During that time, the
25 State's public employee pension systems were doing so well that
26 the State skipped payments into the pension systems.

27 Today, New Jersey is in the midst of an economic crisis,
28 requiring the legislative and executive branches to make
29 exceedingly difficult decisions on budget priorities. As recently
30 noted by our Supreme Court in Burgos v. State of New Jersey, (A-
31 55-14), decided June 15, 2015, the State must get its financial house
32 in order. One of those compelling needs is the State's responsibility
33 to honor its compensation commitment to retired public employees.
34 The Court specifically determined that deciding budgetary priorities
35 in the face of competing and worthwhile demands, within the limits
36 of available funds, is essentially a decision for the political branches
37 of government, and not the judicial branch. As noted by the
38 Supreme Court in Burgos, "The determination to prioritize one
39 appropriation decision above another is best left to the marketplace
40 evaluators and the electorate, to whom the state must answer on
41 such comparative evaluations of fiscal priorities."

42 The Judicial Branch cannot exercise authority that is exclusively
43 granted to the political branches under our State constitution. In the
44 absence of a constitutional mandate to fund preschool education for
45 three- and four-year olds, it is necessary and appropriate to utilize
46 this \$655 million to help the State meet its contractual obligations
47 to current and retired public employees.