



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration  
BUDGET OFFICE  
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**Memorandum**

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

The Honorable Daniel DaPonte  
Chairman, Senate Finance Committee

**From:** Rosemary Booth Gallogly *RB Gallogly*  
Executive Director/State Budget Officer

**Date:** May 27, 2009

**Subject:** Amendment (or New Article) for the FY 2010 Appropriation Act (09-H-5983)

I am requesting that an amendment be made to the FY 2010 Budget relating to Interfund Transfers. This would reverse the changes which were enacted in Article 2 of the 2009 Supplemental Act due to a legal prohibition against extending the TDI transfer to the General Fund beyond the close of the fiscal year. While Article 2 in the Supplemental Budget was submitted with the good intention of bolstering our General Fund cash flow position at year-end during this period of fiscal stress, we neglected to fully research the legal history. We did discover a 1971 Supreme Court Advisory Opinion (Opinion to Senate 108 R.I. 163, 273 A.2d 485 (1971)), which indicated such a borrowing was prohibited in a similar case.

I therefore ask that the wording in the General Laws be returned to the previous language to avoid any further misconception that this authority should be used.

I apologize for any inconvenience that this may have caused.

RBG:sm09-161

cc: Michael O'Keefe  
Peter Marino  
Tim Costa  
Michael Cronan  
Gregory Stack  
Brian Stern  
Representative Robert A. Watson

1 NEW ARTICLE

2 RELATING TO INTERFUND BORROWING

3 SECTION 1. Section 35-3-23 of the General Laws in Chapter 35-3 entitled "State  
4 Budget" is hereby amended to read as follows:

5 **§ 35-3-23. Interfund transfers.** -- (a) The governor may make an interfund transfer to  
6 ~~the general fund.~~ Prior to making an interfund transfer the governor shall give five (5) days  
7 written notification of the proposed interfund transfer to the speaker of the house, the president of  
8 the senate, the chairperson of the house finance committee, the chairperson of the senate finance  
9 committee, the minority leader of the senate, and the minority leader of the house.

10 An interfund transfer must comply with this section. An interfund transfer can be made  
11 under the following circumstances and on the following conditions:

12 (1) The governor must make the findings that:

13 (i) All cash in the general fund, including the payroll clearing account, has been or is  
14 about to be exhausted;

15 (ii) The anticipated cash expenditures exceed the anticipated cash available.

16 (2) The governor may make an interfund transfer to the general fund from the:

17 (i) Temporary disability fund created in § 28-39-4; ~~and/or~~

18 (ii) Intermodal surface transportation fund created in § 35-4-11 ~~and/or~~;

19 (iii) Tobacco settlement financing trust fund created in § 42-133-9.

20 (3) Once in each fiscal quarter from each fund the governor may make an interfund  
21 transfer. The fund(s) from which money is transferred must be made whole by June 30th in the  
22 same fiscal year as the transfer is made. ~~September 30th of the following fiscal year. A~~  
23 subsequent transfer from a fund shall not be made until at least six (6) months after the fund has  
24 been made whole from the previous transfer.

25 (4) The interfund transfer may be made notwithstanding the provisions of §§ 28-37-3 and  
26 28-39-4.

SECTION 2. This article shall take effect as of April 10, 2009.