State of Connecticut
SENATOR LEONARD A. FASANO
SENATE REPUBLICAN PRESIDENT PRO TEMPORE
34TH DISTRICT

LEGISLATIVE OFFICE BUILDING
300 CAPITOL AVENUE, SUITE 3400
HARTFORD, CONNECTICUT 06106-1591
www.SenatorFasano.com

HARTFORD: (860) 240-8800
TOLL FREE: (800) 842-1421
FAX: (860) 240-8306
Len.Fasano@cga.ct.gov

August 18, 2017

The Honorable George C. Jepsen
Attorney General State of Connecticut
55 Elm Street
Hartford, CT 06106

Dear Attorney General Jepsen:

I. QUESTIONS PRESENTED

Pursuant to Section 3-125 of the Connecticut General Statutes, I request your opinion on the following questions:

(1) Does the Governor have the authority to unilaterally reduce the Excess Cost grants for state aid for special education as required by Section 10-76g of the Connecticut General Statutes?

(2) Does the Governor have the authority to unilaterally withhold funding mandated by the Municipal Revenue Sharing Program required by Section 4-66l of the Connecticut General Statutes?

(3) Does the Governor have the authority to unilaterally adjust the motor vehicle mill rate tax cap as mandated in Section 12-71e of the Connecticut General Statutes?

II. DISCUSSION

C.G.S. Sec. 10-76g mandates the distribution and amount of state aid for special education provided to municipalities, part of this mandate is the Excess Cost grant. A municipality's eligibility for, and the amount of, the grant is determined by a spending ratio formula clearly stated in C.G.S. Sec. 10-76(c), "Such grant shall be equal to the product of a town's eligible excess costs and the town's base aid ratio "

Deviance from this stated amount is only permitted in one instance and only through the method stated in C.G.S. Sec. 10-76(d). Any such reduction in aid "shall be reduced proportionately if the total of such grants in such year exceeds the amount appropriated for the purposes of this section for such year." In the absence of a budget appropriating funds for the purposes of this section, the state is operating under the direction of the C.G.S. Sec. 10-76(c) and no reduction in the amount of the Excess Cost grants can occur. The governor must award the Excess Cost grants using the formula stated in C.G.S. Sec. 10-76(c). The governor acknowledged this statutory requirement in the Executive Order Allocation Plan presented on June 26, 2017. However his revised Executive Order Allocation Plan of August 18, 2017 flat funds Excess Cost from fiscal year 2017 without legislative authority to do so.

In 2015 the legislature enacted and the governor signed into law legislation creating Municipal Revenue Sharing grants. Municipalities shall receive these grants pursuant to the statutory mandates. For the fiscal years of 2017, 2018, and 2019, municipalities shall receive grants according to the specific amount stated in C.G.S. Sec. 4-66l(d) and in the out years the grant amounts shall be calculated according to a formula stated in C.G.S. Sec. 4-66l(f). The statute does not contemplate, nor does it permit, the governor's deviation from the mandated amounts of state aid stated in C.G.S. Sec. 4-66l. The governor acknowledged this statutory requirement in the Executive Order Allocation Plan presented on June 26, 2017. However his revised Executive Order Allocation Plan of August 18, 2017 eliminates municipal aid from the Municipal Revenue Sharing Account as it relates to the general revenue sharing and enhanced payment in lieu of taxes components without legislative authority to do so.

The third major component of the Municipal Revenue Sharing Account is to reimburse municipalities for lost property tax revenue from the imposition of a motor vehicle mill rate cap. On July 1, 2017 the maximum mill rate that can be assessed against motor vehicles was statutorily reduced from 37 mills to 32 mills. The governor's revised Executive Order Allocation Plan of August 18, 2017 provides funding to reimburse municipalities at 37 mills and not the 32 mills as required in 12-71e of the Connecticut General Statutes.

III. CONCLUSION

While the state is unfortunately living without a budget for the fiscal year 2018 to fiscal year 2019 biennium and the governor is exercising his executive authority to continue the operations of the state of Connecticut, he is not above the Connecticut General Statues and must operate within existing statutory constraints. It is my contention that the governor's Revised Executive Order Allocation Plan of August 18, 2017 is in violation of clear statutory mandates and the only way the governor can adjust these three statutory mandates is with legislative approval.

Thank you for your time and attention to this matter.

Sincerely,

Len Fasano
Senate Republican President Pro Tempore