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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 170
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 170's Bill Analysis](#)

Version: As Reported by House Finance

Primary Sponsors: Reps. Bird and Richardson

Local Impact Statement Procedure Required: No

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Highlights

- The bill appropriates a total of \$857.1 million in FY 2021 for the Ohio Department of Education to provide additional federal emergency relief funds to public and nonpublic schools in response to the COVID-19 pandemic.
- The bill appropriates \$173.0 million in FY 2021 under the Public Health Emergency Response Fund (Fund 3HP0) for the Ohio Department of Health for activities related to the COVID-19 pandemic.
- The bill appropriates an additional \$8.0 million in FY 2021 for the Ohio Adjutant General for activities related to the COVID-19 pandemic.

Detailed Analysis

Department of Education

The bill appropriates a total of \$857.1 million in FY 2021 across three federally funded line items for the Ohio Department of Education (ODE) to provide additional relief in response to the COVID-19 pandemic. Additional details are provided below.

Elementary and Secondary School Emergency Relief Fund

Of the total for ODE, \$683.2 million (79.7%) is appropriated under Fund 3HS0 line item 200640, Federal Coronavirus School Relief. ODE uses Fund 3HS0 to distribute Ohio's allocation of the Elementary and Secondary School Emergency Relief Fund (ESSER) created by the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and later supplemented by the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act, which was enacted as part of the federal Consolidated Appropriations (CAA) Act, 2021, and the American Rescue Plan (ARP) Act of 2021. Funds received from the ESSER Fund under the CARES Act ("ESSER I") must be

spent by September 30, 2022, while ESSER funds from the CRRSA Act (“ESSER II”) must be spent by September 30, 2023, and ESSER funds from the ARP (“ESSER III”) Act must be spent by September 30, 2024. The bill’s appropriation of \$683.2 million is in addition to an FY 2021 appropriation of \$180.0 million approved by the Controlling Board on June 1, 2020.

The federal acts require ODE to distribute at least 90% of federal ESSER funds to local education agencies in proportion to their share of Title I, Part A funds, while up to 0.5% of the state’s allocation may be used for administrative costs and the remainder may be used for certain state-level activities. Under the CARES Act and CRRSA, these state activity funds must be used to respond to emergency needs related to COVID-19, as determined by ODE. The ARP Act is somewhat different. In general, the ARP Act requires ODE to use its state activity funds as follows: (1) at least 5% to address learning loss, (2) at least 1% for summer enrichment programs, (3) at least 1% for after-school programs, and (4) the remainder for emergency needs. The bill prohibits ODE from spending ARP Act emergency needs funds and subjects ODE’s other state activity funds under the ARP Act and its allocation for emergency needs under the CARES Act and CRRSA to Controlling Board approval before they can be spent or encumbered.

Local education agency (LEA) ESSER funds may be used for a variety of eligible activities, including maintaining continuity of services and employment of staff; purchasing educational technology to assist in distance learning; coordinating and improving COVID-19 preparedness and response efforts; training staff on sanitation and purchasing supplies to sanitize school facilities; providing mental health services and supports; addressing the needs of individual schools and the unique needs of low-income children, students with disabilities, and other vulnerable populations; and planning and implementing summer learning and supplemental afterschool programs; among others. The ARP Act requires an LEA to use at least 20% of its ESSER III allocation to address learning loss.

Governor’s Emergency Education Relief Fund

The bill also appropriates \$173.9 million (20.1%) from the Governor’s Emergency Education Relief Fund (Fund 3HQ0) line items 200651, Emergency Assistance to Non-Public Schools, and 200627, Governor Emergency Education Relief – EDU. The majority, \$154.9 million, is appropriated under line item 200651 to provide emergency support to nonpublic schools through the Emergency Assistance to Non-Public Schools (EANS) Program. Nonpublic schools wishing to receive services or assistance must apply to ODE, which must prioritize services or assistance to nonpublic schools that enroll low-income students and are most impacted by the pandemic. The funds may be used for a variety of COVID-19-related activities.

The remaining \$19.1 million from Fund 3HQ0 is provided for other education entities that do not receive subsidies through line item 200640. The bill requires that these funds, appropriated in line item 200627, Governor Emergency Education Relief – EDU, be distributed to joint vocational school districts (JVSDs), educational service centers (ESCs), and county boards of developmental disabilities (CBDDs) serving school age students under a methodology determined by ODE. It also requires the funds be used consistent with allowable uses as defined in the CARES Act and in CRRSA. Thus far in FY 2021, the Controlling Board has approved requests to appropriate \$27.8 million from item 200627. Under the current methodology, ESCs receive \$10 per pupil for the students served by their client school districts, JVSDs receive \$200 per pupil based on prior year enrollment, CBDDs receive \$200 per pupil based on weighted enrollment, and the State School for the Blind and the School for the Deaf each receive \$500,000. The bill

requires ODE to obtain the Controlling Board's approval prior to expending or encumbering any Governor's Emergency Education Relief (GEER) funds, including those appropriated in the bill and any other GEER funds ODE receives.

Reappropriations

The bill reappropriates the unexpended, unencumbered balances of Fund 3HS0 and Fund 3HQ0 appropriations at the end of FY 2021 and FY 2022 for the same purposes for FY 2022 and FY 2023, respectively.

Optional audits

The bill permits the Auditor of State to audit ODE and school district spending of CARES Act and CAA Act funds. If the Auditor chooses to do so, the bill requires the Auditor to identify common usages and best utilization of the funds. It may be that these funds will be audited in the course of business during the regularly scheduled financial audits of these entities. As a point of reference, the Auditor of State charges hourly rates for such audits of \$79 for state agencies and \$41 for local governments.

Ohio Department of Health

The bill appropriates \$173.0 million in FY 2021 under the Public Health Emergency Response Fund (Fund 3HP0), line item 440673, Public Health Emergency Response, under the Ohio Department of Health (ODH) budget. This line item was established by the Controlling Board on June 1, 2020. The line item is intended to provide critical resources to support a broad range of COVID-19 testing and epidemiologic surveillance-related activities. It is also to be used to implement and oversee expanded testing capacity for COVID-19, including diagnostic tests and antibody testing to determine community spread. Funds are also to be used to ensure that sufficient testing capacity exists to handle potential future cases and to modernize public health surveillance.

Like Fund 3HS0 and Fund 3HQ0, the bill reappropriates the unexpended, unencumbered portions of appropriations from Fund 3HP0 at the end of FY 2021 and FY 2022 for the same purpose for FY 2022 and FY 2023, respectively.

Adjutant General

The bill makes a supplemental appropriation of \$8.0 million in FY 2021 under the Dedicated Purpose Fund (Fund 5CV1), line item 745632, Coronavirus Relief – ADJ, under the Adjutant General (ADJ) budget. Money from the Federal Coronavirus Relief Fund is made available under the federal CARES Act. This line item was established by the Controlling Board on April 13, 2020. The Controlling Board additionally approved increases to the appropriation item in both June and November of FY 2021. The bill would increase the FY 2021 appropriation already existing in Fund 5CV1, bringing the total to \$19.0 million.

Currently, this line item is used to support various response efforts undertaken by the Ohio National Guard related to the COVID-19 pandemic. To date, some of those efforts have included supporting the acquisition, renovation, and supply costs to establish multiple temporary medical facilities across the state to supplement existing hospital capacity, paying the allowance cost for National Guard and State Defense Force members on state active duty, distributing personal protective equipment (PPE), and costs associated with vehicles and motor fuel to support personnel. The Ohio National Guard has also provided clinical support services to assist

with infection prevention and control, onsite specimen collection, test result reporting, aftercare, PPE coordination and fit testing, along with training and staff support. Approximately 900 Ohio National Guard and Ohio Military Reserve members have supported the COVID-19 response efforts to date.