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H.B. 170
134th General Assembly

Final Analysis

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Version: As Passed by the General Assembly

Primary Sponsors: Reps. Bird and Richardson

Effective date: June 2, 2021; Section 733.20, authorizing audits, effective September 1, 2021

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SUMMARY

- Makes appropriations to assist schools and other entities in response to the COVID-19 pandemic.
- Requires the Department of Education to obtain Controlling Board approval prior to spending certain funds appropriated to it and certain other funds the Department receives from the federal CARES Act, the federal Consolidated Appropriations Act, 2021, and the federal American Rescue Plan Act of 2021.
- Permits the Auditor of State to audit spending by the Department and each school district of the amounts appropriated for FY 2021 and any other federal funds received by the Department under the federal CARES Act, the federal Consolidated Appropriations Act, 2021, and the federal American Rescue Plan Act of 2021.

DETAILED ANALYSIS

Department of Education appropriations

The act appropriates \$154.9 million of federal funds for Emergency Assistance to Non-Public Schools, and \$632,361,238 for Federal Coronavirus School Relief.¹

Controlling Board approval

The act makes certain spending by the Department subject to Controlling Board approval, as follows:²

¹ Section 213.10.

² Section 213.10(A) and (B).

| Funding source | Department spending subject to Controlling Board approval |
|--|--|
| Funds appropriated by the act for Emergency Assistance for Non-Public Schools | All spending |
| Any other federal funds received by the Department from the Emergency Assistance to Non-Public Schools Program under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act, the federal Consolidated Appropriations Act, 2021, and the federal American Rescue Plan Act of 2021 | All spending |
| Funds appropriated by the act for Federal Coronavirus School Relief from the federal Consolidated Appropriations Act, 2021 and any other federal funds received by the Department from the federal Elementary and Secondary School Emergency Relief Fund under that federal act | Spending for “emergency needs determined by the Department” (see below) |
| Funds appropriated by the act for Federal Coronavirus School Relief from the federal American Rescue Plan Act of 2021 and any other federal funds received by the Department from the federal Elementary and Secondary School Emergency Relief Fund under that act | Spending in accordance with that act for (1) activities to address learning loss by supporting the implementation of evidence-based interventions, (2) implementation of evidence-based summer enrichment programs, and (3) implementation of evidence-based comprehensive afterschool programs ³ |

Spending for “emergency needs determined by the Department” is one of the permissive uses of the federal Elementary and Secondary School Emergency Relief Fund. The federal Consolidated Appropriations Act, 2021 permits a state to reserve up to 10% of its funding from that fund for two purposes: (1) administrative costs, which may not exceed 0.5% of the allocation, and (2) emergency needs determined by the Department to address issues responding to coronavirus, “which may be addressed through the use of grants or contracts.”⁴

Audit of Department and school district spending

The act expressly permits the Auditor of State to audit spending by the Department of Education and each school district of the amounts appropriated by the act for FY 2021 and any

³ Title II, Sec. 2001(f)(1) to (3) of the federal American Rescue Plan Act of 2021, Pub. L. No. 117-2.

⁴ Title III, Sec. 313(e) of the federal Consolidated Appropriations Act, 2021, Pub. L. No. 116-260.

other federal funds received by the Department under the federal CARES Act, the federal Consolidated Appropriations Act, 2021, and the federal American Rescue Plan Act of 2021.⁵

Appropriations to other agencies

The act appropriates \$173 million of federal funds for FY 2021 to the Department of Health for Public Health Emergency Response.⁶

It also appropriates \$7 million of dedicated funds for FY 2021 to the Adjutant General for coronavirus relief.⁷

Reappropriations

The act reappropriates for FY 2022 and FY 2023 the unexpended, unencumbered amounts from the funds appropriated to the Department of Education and the Department of Health at the end of FY 2021 and FY 2022 for the same purposes for FY 2022 and FY 2023, respectively.⁸

HISTORY

| Action | Date |
|---|----------|
| Introduced | 03-02-21 |
| Reported, H. Primary & Secondary Education | 03-17-21 |
| Re-referred, H. Rules & Reference | 03-23-21 |
| Reported, H. Finance | 04-15-21 |
| Passed House (91-0) | 04-15-21 |
| Reported, S. Finance | 05-26-21 |
| Passed Senate (32-0) | 05-26-21 |
| House concurred in Senate amendments (93-0) | 05-26-21 |

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⁵ Section 733.20.

⁶ Section 214.10.

⁷ Section 203.10.

⁸ Section 503.10.