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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 170  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 170's Fiscal Note](#)

**Version:** As Passed by the House

**Primary Sponsors:** Reps. Bird and Richardson

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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 the Department 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."
- Prohibits the Department from spending federal funds the Department receives from the federal "American Rescue Plan Act of 2021" for "emergency needs determined by the Department" in the manner authorized by that act.
- 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 and the federal "Consolidated Appropriations Act, 2021."

### DETAILED ANALYSIS

#### Department of Education appropriations

##### Appropriations

The bill appropriates just over \$19 million of federal funds for FY 2021 to the Department of Education for Governor Emergency Education Relief. These funds must be distributed to county boards of developmental disabilities serving school-age students, educational service centers, and joint vocational school districts according to a distribution mechanism determined by the Department. Funds must be used by recipients consistent with the allowable uses enumerated for the Elementary and Secondary School Emergency Relief Fund under the federal "Coronavirus Aid, Relief, and Economic Security Act" (the federal CARES Act) and the federal "Consolidated Appropriations Act, 2021."

The bill also appropriates \$154.9 million of federal funds for Emergency Assistance to Non-Public Schools, and \$683,156,100 for Federal Coronavirus School Relief.<sup>1</sup>

### **Controlling Board approval**

The bill requires that certain spending by the Department is subject to Controlling Board approval, as follows:<sup>2</sup>

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

<sup>1</sup> Section 213.10.

<sup>2</sup> Section 733.10(A).

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

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 CARES Act and the federal “Consolidated Appropriations Act, 2021” permit 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.”<sup>4</sup>

### **Prohibited Department spending**

The bill prohibits the Department from spending federal funds it receives from the federal Elementary and Secondary School Emergency Relief Fund under the federal “American Rescue Plan Act of 2021” for “emergency needs determined by the Department.”<sup>5</sup> That act permits a state to reserve up to 3% of its funding for the same two purposes that federal funds received from the CARES Act and the “Consolidated Appropriations Act, 2021” may be received as described above.<sup>6</sup>

### **Audit of Department and school district spending**

The bill expressly permits the Auditor of State to audit spending by the Department of Education and each school district of the amounts appropriated by the bill for FY 2021 and any other federal funds received by the Department under the federal CARES Act and the federal “Consolidated Appropriations Act, 2021.” If the Auditor chooses to audit the spending, the Auditor must identify common usages and best utilization of those funds.<sup>7</sup>

### **Appropriations to other agencies**

The bill appropriates \$8 million of dedicated funds for FY 2021 to the Adjutant General for coronavirus relief.<sup>8</sup>

And it appropriates \$173 million of federal funds for FY 2021 to the Department of Health for Public Health Emergency Response.<sup>9</sup>

### **Reappropriations**

The bill reappropriates for FY 2022 and FY 2023 the unexpended, unencumbered amounts from the funds appropriated to the Department of Education and the Department of

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<sup>4</sup> Division B, Title VIII, Sec. 18003(e) of the federal “Coronavirus Aid, Relief, and Economic Security Act,” Pub. L. No. 116-136, and Title III, Sec. 313(e) of the federal “Consolidated Appropriations Act, 2021,” Pub. L. No. 116-260.

<sup>5</sup> Section 733.10(B).

<sup>6</sup> Title II, Sec. 2001(f)(4) of the federal “American Rescue Plan Act of 2021,” Pub. L. No. 117-2.

<sup>7</sup> Section 733.20.

<sup>8</sup> Section 203.10.

<sup>9</sup> Section 214.10.

Health at the end of FY 2021 and FY 2022 for the same purposes for FY 2022 and FY 2023, respectively.<sup>10</sup>

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## 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

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<sup>10</sup> Section 503.10.