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**Am. Sub. H.B. 166: The FY 2020-2021 Biennial State Operating Budget**

**Education Funding & Policy Update**

June 28, 2019

Ohio's biennial budget process is entering the home stretch after the measure cleared the Senate unanimously last Thursday with changes to education funding and policy including but not limited to academic distress commissions, state graduation requirements and report cards. These changes set up a difference between the House and Senate versions that will allow for further consideration of the issues in conference committee. Conference committee kicked off on Tuesday, June 25 with updated fiscal forecasts.

According to OBM Director Kim Murnieks, since her testimony before the Senate Finance Committee in April, April and May revenues have exceeded previous projections. General Revenue Fund (GRF) tax revenues in total exceeded the Financial Report estimate by $414 million in April and by $66 million in May, bringing the year-to-date overage to $617 million, or 3.0 percent. This is already more than double the Blue Book overage of $255 million that was estimated in March relative to the start-of-the-fiscal year Financial Report estimate. All of this points to positive economic momentum and the likelihood that many of the key priorities will be retained in the budget when passed.

To follow is a review of the key education funding and policy issues of interest.

***Education Funding.*** The FY 2020-2021 budget provides stability for the majority of state government while providing increases for targeted priorities. This approach holds true for primary and secondary education as well. While school districts were provided a modest increase of approximately 1% for base cost foundation aid, additional resources were made available for new, target Student Wellness and Success initiatives to the tune of $250 million in FY 2020 and $300 million in FY 2021. The governor also made key investments in early childhood, early intervention and home visits, and invested in effective workforce development and job readiness related programs. Both chambers of the General Assembly have worked to keep the Governor’s key policy proposals largely intact.

The Ohio House built upon this approach by finding a way to both cut taxes and increase spending including an additional investment of $25 million ($275 million) in FY 2020 and $100 million ($400 million) in FY 2021 for student wellness and success.

As was suspected the Republican-controlled Ohio Senate took a more conservative view of the budget and pushed back somewhat on the tax front and on the size, if not the shape, of the House passed budget related to education issues and DeWine’s children’s budget agenda. In the end, the Senate proposed funding levels are consistent with those originally proposed by the administration.

For comparison purposes, the current estimated GRF education funding for FY 2019 is $8.12 Billion. The House passed budget included $8.18 Billion in FY 2020 and $8.14 in FY 2021. The Senate passed budget, meanwhile, includes GRF funding of $8.19 Billion in FY 2020 ($8.1 million more than the House) and $8.08 Billion in FY 2021 ($59.3 million less than the House). Overall funding for the Department of Education, all funds, is similar under both House and Senate budget proposals separated by only .02% in FY 2020 and .01% in FY 2021. All funds estimates for FY 2019 are $11.33 Billion. Under the House passed budget, funding is $11.72 Billion in FY 2020 and $11.88 Billion in FY 2021. The Senate passed budget includes all funds totals of $11.72 Billion in FY 2020 and $11.88 Billion in FY 2021.

These education-only numbers compare to all fund totals for all of state government spending of $66.84 Billion in FY 2019. And, $69.82 Billion in FY 2020 and $71.70 Billion in FY 2021 under the House passed plan, and $69.87 Billion in FY 2020 and $71.97 Billion in FY 2021 under the Senate version.

***ESC provisions***. ESC-related appropriations vary from the direct per pupil subsidy to new targeted opportunities as outlined below:

* The ESC operating subsidy is flat funded at $40 Million/Year or $26/student for High Performing ESC; $24 for other ESCs.
* Flat funding of $3.8 Million Funding for Gifted Education to ESCs
* New funding of $1 Million/Year Drug Abuse Prevention Education
* $2 Million/Year School Climate Grants to district to contract with ESCs
* $1.35 Million/Year for Literacy Improvement to SSTs
* $3.5 Million/Year School Improvement – flat funded.

There are also several temporary law changes related to ESCs including ODE use of ESCs and accountability**:**

* + Requires, rather than permits as under the substitute bill, the Department of Education (ODE) to use a portion of GRF appropriation item 200439, **Accountability/Report Cards**, in each fiscal year to train district and regional specialists and district educators in the use of the value-added progress dimension and in the use of data as it relates to improving student achievement.
  + Requires ODE to provide a portion of the funds allocated from GRF appropriation item 200448, **Educator Preparation**, for implementation of teacher and principal evaluation systems and teacher value-added reports to educational service centers (ESCs) to develop and deliver professional development programs.
  + Specifies that ODE must use a portion of the funds appropriated in GRF appropriation item 200427, **Academic Standards**, in partnership with ESCs, rather than utilize ESCs as in the substitute bill, to develop and deliver professional development programs.
  + Specifies that funds distributed to ESCs from GRF appropriation item 200576, **Literacy Improvemen**t, for support of regional literacy professional development teams and from GRF appropriation item 200550, Foundation Funding, for **school improvement initiatives and technical assistance**, be done so consistent with R.C. 3312.01, which under continuing law establishes the educational regional delivery system and describes the services ESCs must or may provide.
  + Requires ODE to submit an annual report to the General Assembly describing the manner in which the Department partnered with ESCs in the delivery of certain specified services for which state funding was provided to ESCs.

Permanent law changes of interest to ESCs include the following:

* **Industry Sector Partnerships**
  + Requires DSA, in consultation with the Governor's Office of Workforce Transformation, to create and administer a grant program to support regional industry sector partnerships, which can be used to: Hire employees, develop curricula or other educational resources to support the industry sector partnerships, market the industry sector partnership and opportunities the partnership creates for workforce development activities, any other activity the director has approved.
  + Includes educational service centers in the list of entities that may enter into a collaborative relationship to create an “industry sector partnership”.
  + Requires GRF appropriation item 195553, Industry Sector Partnerships, to be used for the Industry Sector Partnerships Program.
* **ESC ability to apply for grants; recognized as school district for that purpose**
  + Permits, as part of a service agreement between an educational service center (ESC) and a school district or community school, an ESC to apply for state or federal grants on behalf of the client district or school and specifies that an ESC is considered a school district for the purposes of eligibility in applying for any state or federal grant.
* **ESC Inclusion in the Ohio Medicaid School Plan**
  + Will also require state plan amendment and CMS approval
  + Seeking ability to also participate in broader Medicaid program to support school-based healthcare and school based mental health services in accordance to Department of Medicaid policies and guidelines.
* **ESC Services exempt from competitive bidding**
  + Permits an educational service center (ESC) to enter into a contract to purchase supplies, materials, equipment, and services on behalf of a school district or political subdivision that has entered into an agreement with the ESC.
  + Exempts a school district or political subdivision that has entered into an agreement with an ESC from competitive bidding requirements for the purchase of supplies, materials, equipment, or services.
  + Prohibits a political subdivision from making purchases under this provision when the political subdivision has received bids for a purchase, unless the same terms, conditions, and prices can be made for the purchase.
  + Conditions the authority to purchase for districts and subdivisions on the ESC being in compliance with service posting requirements, designation as "high performing" under State Board rule, and substantial compliance with audit rules and guidelines.

***Other Education Provisions.*** While the Governor’s proposed budget focused primarily on targeted appropriations for key policy areas, the House and Senate introduced several permanent law changes with significant impact on education policy as outlined below.

* ***Graduation Requirements.*** The senate-passed budget included changes to high school graduation requirements based on a proposal developed by Alliance for High Quality Education, Ohio Excels and the Thomas B. Fordham Institute. The plan was put forward by the groups last month as an alternative to requirements recommended by the State Board of Education.

The proposed graduation requirements, which would start with the class of 2023, would reduce the number of state tests and provide non-test alternatives. More specifically, the proposal requires the following:

* Stipulates that, in order to qualify for a high school diploma, a student must meet curriculum requirements, as under continuing law, and do both of the following: (1) attain a "competency score" on both the algebra I and English language arts II end-of-course exams (or use an alternative demonstration of competency) and (2) attain at least two state diploma seals, at least one of which must be the existing biliteracy seal, the existing OhioMeansJobs readiness seal, or one of the new seals for which the State Board of Education establishes requirements *(see below).*
* Requires the Governor's Executive Workforce Board, in consultation with the Superintendent of Public Instruction and the Chancellor of Higher Education, to determine a "competency score" for the algebra I and English language arts II end-of-course exams.
* Requires school districts to offer remedial support to students who fail one or both of the required competency exams and requires such students to retake the respective exam at least once.
* Permits students who fail the retakes to demonstrate competency by (1) completing course credit through the College Credit Plus program, (2) providing evidence the student has enlisted in a branch of the U.S Armed Forces, (3) completing at least one "foundational" option (including earning proficient scores on state technical assessments, obtaining an industry recognized credential, completing a pre-apprenticeship or apprenticeship, or providing evidence of acceptance into an apprenticeship program after high school) and either another "foundational" option or a "supporting" option (including completing 250 hours of work-based learning experience, obtaining an OhioMeansJobs-readiness seal, or attaining a score on the WorkKeys assessment).
* Requires an individualized education program (IEP) for a special education student to specify the way the student will participate in assessments related to the new graduation requirements.
* Requires the State Board of Education to establish a series of state diploma seals that students may use to meet the new graduation requirements. Specifies that the state diploma seals consist of all of the following: (1) the biliteracy seal established under continuing law, (2) the OhioMeansJobs-readiness seal established under continuing law, (3) an industry recognized credential seal, (4) a college-ready seal, (5) a military enlistment seal, (6) a citizenship seal, (7) a science seal, (8) an honors diploma seal, (9) a technology seal, (10) a community service seal, (11) a fine and performing arts seal, and (12) a student engagement seal. Specifies the requirements in statute for the new seals listed in items (3) to (9) above.
* Specifies that the requirements for the new seals listed in items (10) to (12) above are to be set by the district or school. Requires a district or school to develop guidelines for at least one of the seals listed in items (10) to (12) above.
* Requires each district or school, not later than June 30, 2020, to adopt a policy regarding students who are at risk of not qualifying for a high school diploma. Requires the adopted policy to include (1) criteria for identifying at-risk students; (2) procedures for identifying at-risk students; (3) a process to notify an at-risk student's parent, guardian, or custodian that the student is at risk; (4) additional instructional or support services for at-risk students and (5) the development of a graduation plan, which must be updated in each year of high school, for each student.
* Requires the graduation plans to supplement a school district's policy on career advising.
* Requires the Education Management Information System (EMIS) to include data on the number of students (1) earning each state diploma seal, (2) demonstrating competency for graduation using (a) course credit through the College Credit Plus program, (b) enlisting in a branch of the U.S. Armed Forces, and (c) completing foundational and supporting options, and (3) completing each foundational and supporting option.
* Requires the State Superintendent, in collaboration with the Chancellor and the Governor's Office of Workforce Transformation, to establish a committee consisting of representatives of career-technical educators, community colleges, guidance counselors, Ohio Technical Centers, principals, superintendents, and teachers to develop policy recommendations regarding students who completed 12th grade, but did not qualify for a high school diploma. Requires the committee issue a report of its recommendations by October 1, 2020.
* Requires the recommendations to identify additional assistance and support for these students, the amount of state funding necessary to ensure the adequate operation of the identified assistance and supports, and ways to reduce the stigma from not graduating on time.
* ***Report Card.*** The Senate also addressed the state's report card system by changing how district and school grades in the progress category are calculated. The proposal modifies the grading scale used to determine letter grades assigned for the report card's value-added progress dimension, which computes "gain index" values based on the number of standard errors above or below the mean on a statistical measure of academic growth, as follows:
* (1) A score of one or greater (instead of a score of two or greater under current law) is designated as an "A;"
* (2) A score that is less than one but not greater than negative one (instead of a score that is at least one but less than two) is designated as a "B;"
* (3) A score that is less than or equal to negative one but greater than negative two (instead of a score that is less than one but greater than or equal to negative one) is designated as a "C;"
* (4) A score that is less than or equal to negative two but greater than negative three (instead of a score that is not greater than negative one but greater than or equal to negative two) is designated as a "D;"
* (5) A score that is less than or equal to negative three (instead of a score that is not greater than negative two) is designated as an "F."

Additionally, it specifies that, in assigning letter grades for the overall score on the value-added progress dimension of the report card, the State Board of Education must prohibit assigning an "A" on this measure unless a district or building's assigned grade for the subgroups of the value-added progress dimension is a "C" or higher (instead of a "B" or higher under current law).

* ***Report Card Committee.***The bill also establishes a study committee, which must convene and elect a chairperson not later than 30 days after the bill's immediate effective date, to study the calculation and weighting of performance measures, components, and the overall letter grade on the report card. Among its responsibilities are the following:
* Requires the committee to consider the report card's design principles, primary audience, and the way it addresses student academic achievement.
* Specifies the committee is to consist of the following members: (1) the Superintendent of Public Instruction or designee; (2) the chairpersons of the House and Senate standing committees that consider primary and secondary education; (3) two members of the House of Representatives appointed by the Speaker; (4) two members of the Senate appointed by the President; and (5) three superintendents (representing rural, urban, and suburban districts) appointed by the Buckeye Association of School Administrators.
* Requires the committee to investigate the following: (1) how many years of data should be included in, and how grades are assigned to, the Progress component; (2) how to structure the Prepared for Success component; (3) how the Gap Closing requirement meets federal requirements and applies to all schools; (4) how the Graduation component includes mobile students and students with disabilities; and (5) whether overall grades should be letter grades or another rating system.
* Requires the committee to submit a report to the General Assembly by December 15, 2019, that includes recommendations on at least certain topics concerning the calculation of report cards.
* Requires the committee to consult with experts and convene a group of stakeholders that includes educators, advocates, parents, and the business community.
* ***Academic Distress Commissions.*** The Senate removed House provisions, which essentially mirrored those in HB 154 (currently pending in Senate Education Committee). During Senate deliberations proposals have been released by both the Senate and DeWine Administration. Given the limited time remaining to reach consensus, it is likely this will be dealt with in separate legislation. The Speaker has indicated an interest in setting a moratorium on ADCs.

**Education Issues in the Omnibus Amendment.**  Other issues in the Senate-passed version of the bill include the following:

* Removes language allowing a CTPD to set its own point value for an industry-recognized credential
* Requires that the chancellor and state superintendent work together with stakeholders to permit high school students enrolled in a career tech planning district (CTPD) to receive post-secondary credits comparable to CCP
* Allows applicants for the alternative resident educator license to have either an undergraduate GPA of at least 2.5 or a graduate school GPA of at least 3.0
* Modifies language regarding professional development for computer science instruction for the ’19 and ’20 school years to allow a licensed educator teaching in grades 7-12 to teach a computer science course if they complete an approved program
* Reduces the number of items schools are required to submit annually to ODE on their consolidated school mandate report
* Removes a requirement that a school district or chartered nonpublic school that requires foreign language for high school graduation must count a course in computer coding toward that requirement

The budget is now in conference committee where the differences will be hammered out between the two chambers with the goal of having a balanced budget approved and in place by June 30, 2019, the end of the current state fiscal year. Currently, no consensus has been reached as to what version of the bill (House or Senate) conferees will work from and, despite the House and Senate have session scheduled for both Saturday and Sunday, the Speaker has already begun drafting a continuing resolution to keep state government open should they miss the June 30 deadline.

Ultimately, the bill will likely include the key policy and funding priorities of the DeWine administration with additional policy recommendations added by the House and Senate. Outstanding issues of contention appear to be largely related to Medicaid and related healthcare transparency issues. Work of the Cupp-Patterson Fair School Funding plan will be dealt with in separate legislation.