

**MINUTES OF THE COMMITTEE
ON
APPROPRIATIONS**

Wednesday, September 18, 2013

9:30 a.m.

Room 352, State Capitol

The House Committee on Appropriations was called to order by the Chairman, Representative Joe Haveman.

Members present: Representatives Haveman, Pscholka, Kowall, Lori, Rogers, Walsh, Bumstead, Forlini, MacGregor, MacMaster, Jenkins, Muxlow, Poleski, Potvin, McCready, Howrylak, VerHeulen, Tlaib, Brown, Durhal, McCann, Dillon, Roberts, Faris, Zemke, Singh and Olumba.

Members absent/excused: Representatives Stamas and Kandrevas.

Representative Pscholka moved to approve the minutes of September 11, 2013.

There being no objection, the motion prevailed by unanimous consent.

The Chair laid before the committee HB 4229

HB 4229 (Haveman) Appropriations; zero budget; multisection school aid; provide for fiscal year 2013-2014.

Representative McCready moved to adopt the substitute H-1 Draft (3) to HB 4229.

The motion prevailed by a vote of 22-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Haveman, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini, Tlaib, McCann, Dillon, Zemke, Faris and Brown.

Nays: None.

Pass: None.

Bethany Wicksall, House Fiscal Agency, explained the bill to the committee.

Representative Dillon moved to adopt the following amendments to substitute H-1 Draft (3) to HB 4229:

1. Amend page 23, following line 12, by inserting:
"Sec. 11. (1) For the fiscal year ending September 30, 2013, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,928,614,200.00 from the state school aid fund and the sum of \$282,400,000.00 from the

general fund. For the fiscal year ending September 30, 2014, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of ~~\$11,211,382,300.00~~ **\$11,311,382,300.00** from the state school aid fund, the sum of \$156,000,000.00 from the MPSERS retirement obligation reform reserve fund created under section 147b, and the sum of ~~\$234,900,000.00~~ **\$287,900,000.00** from the general fund. In addition, all other available federal funds, except those otherwise appropriated under section 11p, are appropriated for the fiscal year ending September 30, 2013 and for the fiscal year ending September 30, 2014.

(2) The appropriations under this section shall be allocated as provided in this article. Money appropriated under this section from the general fund shall be expended to fund the purposes of this article before the expenditure of money appropriated under this section from the state school aid fund.

(3) Any general fund allocations under this article that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a."

2. Amend page 36, following line 16, by inserting:

"(15) FOR 2013-2014, THE AMOUNT OF A DISTRICT'S FOUNDATION ALLOWANCE IS THE AMOUNT OF THAT DISTRICT'S FOUNDATION ALLOWANCE, AS OTHERWISE CALCULATED UNDER THIS SECTION, PLUS \$100.00." and renumbering the remaining subsection.

3. Amend page 44, following line 18, by inserting:

"Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$3,215,000,000.00 for 2012-2013 and there is allocated an amount not to exceed ~~\$3,373,700,000.00~~ **\$3,526,700,000.00** for 2013-2014 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 296, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 51a(2), 51a(3), and 51a(11), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under subsection (1), each district shall do all of the following:

(a) Comply with section 1280b of the revised school code, MCL 380.1280b.

(b) Comply with sections 1278a and 1278b of the revised school code, MCL 380.1278a and 380.1278b.

(c) Furnish data and other information required by state and federal law to the center and the department in the form and manner specified by the center or the department, as applicable.

(d) Comply with section 1230g of the revised school code, MCL 380.1230g.

(e) Comply with section 21f.

(4) Districts are encouraged to use funds allocated under this section for the purchase and support of payroll, human resources, and other business function software that is compatible with that of the intermediate district in which the district is located and with other districts located within that intermediate district.

(5) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state related to commercial or industrial property tax appeals, including, but not limited to, appeals of classification, that impact revenues dedicated to the state school aid fund.

(6) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(7) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by an entity receiving funds under this article that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under

this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(8) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (7) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(9) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds \$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(10) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(11) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state, then, for the purpose of addressing potential liability under such a lawsuit, the state budget director may place funds allocated under this section in escrow or allocate money from the funds otherwise allocated under this section, up to a maximum of 50% of the amount allocated in subsection (1). If funds are placed in escrow under this subsection, those funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v."

The motion did not prevail by a vote of 8-17-1.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Tlaib, McCann, Durhal, Dillon, Zemke, Faris, Brown and Singh.

Nays: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh and Forlini.

Pass: Representative Olumba.

Representative McCann moved to adopt the following amendments to substitute H-1 Draft (3) to HB 4229:

1. Amend page 23, following line 12, by inserting:

"Sec. 11. (1) For the fiscal year ending September 30, 2013, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of \$10,928,614,200.00 from the state school aid fund and the sum of \$282,400,000.00 from the general fund. For the fiscal year ending September 30, 2014, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of ~~\$11,211,382,300.00~~ **\$11,216,382,300.00** from the state school aid fund, the sum of

\$156,000,000.00 from the MPSERS retirement obligation reform reserve fund created under section 147b, and the sum of \$234,900,000.00 from the general fund. In addition, all other available federal funds, except those otherwise appropriated under section 11p, are appropriated for the fiscal year ending September 30, 2013 and for the fiscal year ending September 30, 2014.

(2) The appropriations under this section shall be allocated as provided in this article. Money appropriated under this section from the general fund shall be expended to fund the purposes of this article before the expenditure of money appropriated under this section from the state school aid fund.

(3) Any general fund allocations under this article that are not expended by the end of the state fiscal year are transferred to the school aid stabilization fund created under section 11a."

2. Amend page 35, line 13, by striking out all of subdivision (b) and relettering the remaining subdivisions.

3. Amend page 44, following line 18, by inserting:

"Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed \$3,215,000,000.00 for 2012-2013 and there is allocated an amount not to exceed ~~\$3,373,700,000.00~~ **\$3,378,700,000.00** for 2013-2014 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3) and section 296, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 51a(2), 51a(3), and 51a(11), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under subsection (1), each district shall do all of the following:

(a) Comply with section 1280b of the revised school code, MCL 380.1280b.

(b) Comply with sections 1278a and 1278b of the revised school code, MCL 380.1278a and 380.1278b.

(c) Furnish data and other information required by state and federal law to the center and the department in the form and manner specified by the center or the department, as applicable.

(d) Comply with section 1230g of the revised school code, MCL 380.1230g.

(e) Comply with section 21f.

(4) Districts are encouraged to use funds allocated under this section for the purchase and support of payroll, human resources, and other business function software that is compatible with that of the intermediate district in which the district is located and with other districts located within that intermediate district.

(5) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state related to commercial or industrial property tax appeals, including, but not limited to, appeals of classification, that impact revenues dedicated to the state school aid fund.

(6) From the allocation in subsection (1), the department shall pay up to \$1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(7) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, 51c, and 152a. If a claim is made by an entity receiving funds under this article that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(8) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds

under subsection (7) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(9) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds \$10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(10) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(11) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state, then, for the purpose of addressing potential liability under such a lawsuit, the state budget director may place funds allocated under this section in escrow or allocate money from the funds otherwise allocated under this section, up to a maximum of 50% of the amount allocated in subsection (1). If funds are placed in escrow under this subsection, those funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, 42 USC 1396 to 1396v."

The motion did not prevail by a vote of 9-18-0.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Tlaib, McCann, Durhal, Dillon, Zemke, Faris, Roberts, Brown and Singh.

Nays: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini and Olumba.

Pass: None.

The Chair laid before the committee House Concurrent Resolution 9:

HCR 9 (Lori) A concurrent resolution relative to secondary road patrol funds for counties providing road patrol services to cities and villages.

Representative Lori moved to report House Concurrent Resolution 9 with recommendation.

The motion prevailed by a vote of 19-0-8.

FAVORABLE ROLL CALL:

Yeas: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini, Olumba and Singh.

Nays: None.

Pass: Representatives Tlaib, McCann, Durhal, Dillon, Zemke, Faris, Roberts and Brown.

The Chair returned to the substitute H-1 Draft (3) to HB 4229.

Representative VerHeulen moved to report HB 4112 (H-1) Draft 3 as a substitute (H-1) with recommendation.

The motion prevailed by a vote of 24-0-3.

FAVORABLE ROLL CALL:

Yeas: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini Olumba, Dillon, Zemke, Faris, Roberts, Brown and Singh.

Nays: None.

Pass: Representatives Tlaib, McCann and Durhal.

Representative Tlaib moved to reconsider the vote by which House Concurrent Resolution 9 was passed earlier in committee.

The motion prevailed by a vote of 26-0-1.

FAVORABLE ROLL CALL:

Yeas: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini, Olumba, Tlaib, McCann, Durhal, Dillon, Zemke, Faris, Roberts and Brown.

Nays: None.

Pass: Representative Singh.

Representative Tlaib moved to report House Concurrent Resolution 9 with recommendation.

The motion prevailed by a vote of 27-0-0.

FAVORABLE ROLL CALL:

Yeas: Representatives Haveman, Pscholka, McCready, Kowall, VerHeulen, Lori, Rogers, Muxlow, Bumstead, MacGregor, MacMaster, Potvin, Poleski, Howrylak, Jenkins, Walsh, Forlini, Olumba, Tlaib, McCann, Durhal, Dillon, Zemke, Faris, Roberts, Brown and Singh.

Nays: None.

Pass: None.

Representative Pscholka moved to excuse all absent members.

There being no objection, the motion prevailed by unanimous consent.

There being no further business before the committee and seeing no objection, the Chair adjourned the meeting, the time being 9:58 a.m.

Representative Joe Haveman, Chairman _____

Ben Williams Jr., Committee Clerk, (517) 373-1988

28 minutes.