

Education Issues Report for September 8, 2020

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Public School Finance for the 2019-20 and 2020-21 Fiscal Years

Federal dollars from the Coronavirus Aid, Relief and Economic Security Act (CARES Act) and better-than-estimated revenue during the second quarter (mostly due to the federal unemployment assistance) made it possible to balance the budget for the state's fiscal 2019-20 year. Still, a several billion dollar deficit for the state's 2020-21 fiscal year, which begins October 1, remains, and the U.S. Congress has not yet passed any additional assistance for the states.

Unlike the federal government, Michigan and its public school districts cannot operate with deficit budgets. Therefore, the legislature and administration agreed earlier this year to close the budget deficit in the 2019-20 fiscal year (ending September 30) using dollars in the School Aid, General and Rainy Day Funds along with special CARES Act dollars.

At the August 24 Consensus Revenue Estimating Conference, officials revised the 2020-21 General Fund revenues up \$257 million and the School Aid Fund up \$321 million from the May estimates. However, for the 2020-21 fiscal year, the two funds combined are \$2.47 billion less than January estimates.

Gongwer News Service reported Bob McCann, executive director of the Tri-County Alliance for Public Education, stating it is now "...critical that the governor and Legislature get to work immediately on a budget...Districts are already 15 percent of the way through their fiscal year and Lansing has yet to even begin the process of passing a budget to answer critical questions surrounding how districts can budget for the school year and all of the new requirements they will have to account for."

CARES Act Rule Injunction

The CARES Act provided important federal dollars to states as COVID-19 decimated our economy. CARES Act programs added \$43.3 billion to the state's economy during the second quarter of 2020. Some of the funding was stipulated to be used to cover education costs within the states. Earlier this summer, the U. S. Department of Education implemented a rule resulting in possibly less funds for public schools by providing more for private institutions.

In July, Attorney General Dana Nessel announced that Michigan is leading a coalition of states against a U. S. Department of Education rule relative to CARES Act funding. In her words, "Ultimately, it's very simple in terms of what it boils down to and that is Betsy DeVos and her long time M.O. - which is to syphon away funds from public schools to private schools, at the expense of public school districts...at a time when we can least afford it."

On August 26, U.S. District Judge James Donato of Northern District of California called the DOE interpretation of the rule, "'interpretive jiggery-pokery' in the extreme." Judge Donato's interpretation of Congress' intent was CARES Act relief funding is to be distributed to private school students "based on the number of children from low-income families who attend private schools." He issued a preliminary injunction preventing DeVos from executing her policy in Michigan as well as seven other plaintiff states, the District of Columbia and four municipal school districts in New York, Wisconsin, Ohio and California.

Using evidence submitted by Michigan attorneys, Judge Donato said the state intended to reserve about \$5.1 million in Elementary and Secondary School Emergency Relief funds for private schools. However, the allotment would almost quadruple to \$21.6 million under the DeVos-backed rule.

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The preliminary injunction remains in place until further order from the court. Judge Donato scheduled a conference on the matter for September 17.

Miscellaneous Education Items

1. Schools across the state have developed **plans for reopening**. Some are planning entirely remote instruction; others are crafting plans for in-person and remote learning situations. Legislators and administration have agreed to amend or waive several strict requirements for the 2020-21 school year. Among them are:

- At least 75% attendance on any day of pupil instruction
- Pupil count formula
- Days and hours requirements
- In-person instruction for grades K-5

2. Many, many House and Senate bills and resolutions remain that were proposed when the current session began in 2019. The COVID-19 pandemic has taken up much of the legislature's time. However, The **Lame Duck** Cometh! It will be important to watch what happens as the session comes to a close – especially if there is a change in the majorities of the House and Senate after the election. Of particular concern, in light of the U. S. Department of Education ruling regarding CARES Act dollars to private schools, is SJR F of 2019. This Senate resolution proposes to remove the prohibition on aid or support to nonpublic schools from the Michigan Constitution.

3. The Office of Auditor General (OAG) released an audit in mid-August detailing the monitoring and evaluation of **virtual learning** in public schools. Of the 26 school districts sampled, 20 were found to have at least five teachers instructing grade levels or subjects they were not certified to teach. Certainly distance learning, remote learning, virtual learning, whatever it is called, will need to be closely monitored in this year of the COVID-19 pandemic.