



Date: June 22, 2023

To: The Honorable Jason Stephens, Speaker of the Ohio House of Representatives
The Honorable Matt Huffman, President of the Ohio Senate
The Honorable Jay Edwards, Chairman of the Ohio House Finance Committee
The Honorable Matt Dolan, Chairman of the Ohio Senate Finance Committee
The Honorable Jeff LaRe, Vice Chair of House Finance Committee
The Honorable Jerry Cirino, Vice Chair of the Senate Finance Committee
The Honorable Bride Rose Sweeney, Ranking Member of the Ohio House Finance Committee
The Honorable Vernon Sykes, Ranking Member of the Ohio Senate Finance Committee

From: Jennifer Hogue, Ohio School Boards Association- 614-804-2181
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Re: Amended Substitute House Bill 33

We are writing to express the thoughts and views of the members of our three organizations on several issues before the Amended Substitute House Bill (Am. Sub. HB) 33 Conference Committee. We urge you to consider these positions as you work through matters of difference between the two chambers.

School funding- capacity calculation (EDUCD38)

We greatly appreciate the House and Senate continuing the phase-in of the Fair School Funding Plan and using the updated FY22 base cost inputs. Our members have continued to support the Fair School Funding Plan because it is a fair, predictable, equitable, and adequate approach to school funding for Ohio's children. Part of that predictability comes from the capacity calculation that determines the state and local share. The capacity calculation identifies a local community's ability to participate in funding based 60% on its property value and 40% on the income of its residents. The 40% income component consists of 20% of the district's federal adjusted gross income (FAGI) per pupil (the "mean" FAGI) and 20% adjusted FAGI per pupil (the "median" FAGI). The Senate-passed plan eliminated the median FAGI per pupil component from the capacity calculation. This change has two effects:

1. Districts immediately look wealthier because the median is no longer protects against extreme outliers that do not represent the average income wealth of a community. By eliminating the 20% median FAGI, these extreme outliers are included, reducing the state share and increasing the local share.
2. Anomalies, such as a one-time sale of a business in a community, can greatly skew the average income from one year to the next. Again, by eliminating the 20% median FAGI component, these one-time anomalies are included, resulting in more volatility in the state share calculation.

We ask that you use the capacity calculation from the House version, based 60% on the property valuation per pupil, 20% FAGI per pupil, and 20% adjusted FAGI per pupil.

Economically disadvantaged student cost study (EDUCD54)

After the last biennial budget, Ohio undertook several studies to look at the unique educational needs of certain categories of students including students with disabilities, gifted students and English learners. However, Ohio has yet to conduct a study on the needs of economically disadvantaged students, which

account for nearly 50% of Ohio's students. ***We ask that you include the requirement for an independent comprehensive analysis of the true costs of providing supplemental services to economically disadvantaged students in Ohio along with the funding to conduct the study.***

Educational Service Center (ESC) funding

Educational Service Centers (ESCs) serve as a vital link and partner in the educational process. ESCs provide a wide variety of direct and support services, including curriculum development, staff development, technology assistance and special education services to the public school districts they serve. Reduced funding for ESCs means increased costs for local districts. This funding is critically important. The use of FY 22 inputs will ensure that ESCs can continue providing high quality services to districts as the priorities outlined in this budget are implemented. ***We request that the inputs for ESC funding be updated to use FY22 levels. This will mirror the funding update for traditional public school districts and other educational entities.***

School funding – minimum state share percentage (EDUCD38)

The Senate-passed plan increases the minimum state share percentage from 5% to 10%. This change is necessary because no public school student should receive less funding from the state than a private school student. Under the proposals in both chambers, private school students receive approximately \$1,375 per pupil for auxiliary services and administrative cost reimbursement. Increasing the state share percentage from 5% to 10% results in public school students receiving approximately \$820, which does not completely close the funding gap, but brings public school students in these districts closer to receiving the minimum amount provided to private school students. ***Please keep the Senate's minimum state share percentage of 10% to help close the funding gap between public and private school students.***

Accelerated Appalachian School Building Assistance Program (AAP) (FCCCD11)

The House-passed plan included the Accelerated Appalachian School Building Assistance Program (AAP), which allows school districts in the Appalachian region who have not participated in an Ohio Facilities Construction Commission (OFCC) construction program to apply for special assistance under the Classroom Facilities Assistance Program (CFAP).

This program is needed to ensure Appalachian students have access to equitable school facilities by setting them on an accelerated track to being taught in new school buildings – replacing buildings that, in some cases, are more than a hundred years old. ***Please include the Accelerated Appalachian School Building Assistance Program (AAP) in the committee report to ensure Appalachian students have access to equitable school facilities.***

Voucher expansion

Ohio should first invest in the approximately 80% of students who have chosen Ohio's public schools. These students continue to wait for the state to fully fund their success through the Fair School Funding Formula. In addition, the expansion of vouchers should come with additional academic and financial accountability to protect students and taxpayers.

We request that you protect students, families, and Ohio taxpayers by requiring any private school receiving voucher funds to have the same assessments, report cards, financial reporting, and audits as public schools. Requiring the same measures and reporting will provide parents with transparent and consistent information across school settings while ensuring that taxpayer funds are being used in appropriate ways to provide a quality education.

Withholding funds for transportation noncompliance (EDUCD114)

Pupil transportation presents a significant challenge for many districts. As a result of the current environment, some districts have been forced to make choices that have resulted in the district being found to be out of compliance by ODE resulting in the withholding of funds. ***Please remove the changes made by the Senate and use the House version which calculates the penalty based only on the daily amount for students who did not receive transportation.***

Student transportation-impracticality to transport (EDUCD155)

The Senate version would require that determinations of impracticality be reevaluated at least every other year and be reconsidered each year if a parent/ guardian has a change of circumstance and requests transportation. The change of circumstance provision is not clearly defined. Current law allows a parent/guardian who appealing a decision of impracticality to the State Board of Education to continue receiving transportation until a final determination is made. Allowing a parent/guardian to have an impracticality determination reevaluated annually would create a loophole in this process. ***Please remove the Senate changes in this section when preparing the conference committee report.***

Third Grade Reading Guarantee (EDUCD86)

The flexibility around the retention provisions of the Third Grade Reading Guarantee provided to districts and parents during the last three school years allowed educators, school leaders, and parents to make promotion decisions that were best for students on a case-by-case basis. This flexibility was a positive change for many young students and gave those closest to the child the ability to make decisions based on what is best for that student. ***Please eliminate the mandatory retention provisions of the Third Grade Reading Guarantee restoring the right of parents to make decisions about their children.***

Changes to the State Board of Education

The Senate-passed version includes provisions from Senate Bill 1 that will undermine the role and authority of the elected members of the State Board of Education. By stripping it of all but its regulatory role, the board would no longer be acting in any significant way on behalf of the citizens they represent. At the core of OSBA's existence is the belief that education in Ohio will be at its best when the interests of the people are served through publicly elected boards and the State Board of Education is no different.

The current state board policymaking process acts in the open with many observers and interested parties weighing in on the decisions before the board. In addition to our association, over the years, we have seen parents, school leaders, educators and the public take advantage of the public nature of these deliberations. Decisions about important topics such as setting the state's learning standards, graduation requirements for students and school district report cards would be removed from State Board's responsibilities, thus diminishing the voice of Ohio citizens who voted to elect their State Board member. ***OSBA requests that the provisions of SB 1 be removed from the bill to allow for the continuation of open, transparent policymaking that exists today.***

Fraud reporting (AUDCD10)

The Senate version includes provisions from Senate Bill 91 to modify the Ohio Auditor of State fraud reporting requirements. We strongly support the intent of this legislation – to identify and report fraud and theft immediately so that actions can be taken to recover public dollars and penalize individuals who engage in these crimes. In fact, we believe that the reporting requirement should apply to any entity receiving public funds.

However, as drafted, it is unclear whether the misuse or misappropriation of public money must be an intentional act. Considering the crimes of fraud and theft are defined by statute and require intent, it could be assumed that intent is read into the remaining phrase; however, this should be made explicit. If this is not clarified, it is highly likely that the Auditor's system will be flooded with overreporting of mistakes made during daily operations (which are later corrected and addressed during the audit process) and increase the time it will take the Auditor of State's office to investigate the reported mistakes and decipher if it is fraudulent. ***We request that the provisions of SB 91 be removed from the bill to allow for the legislative process to continue, with an amendment to clarify that intent is required (i.e., "fraud, theft in office, or the intentional misuse or misappropriation of public money").***

Use and reporting of gifted student funding (EDUCD87)

We ask that the committee use the House's deadline of 180 days after the end of the fiscal year as the date by which ODE will reduce a district's funding for noncompliance. The restricted use

requirements placed on gifted funds have proved challenging for some districts with limited means to implement these new requirements. The 180 days will allow ample time for district personnel to spend these funds and for treasurers/ CFOs to close out their books and ensure that expenditures have been recorded properly.

Substitute Teachers (EDUCD153)

The Senate included provisions to make permanent the flexibilities that have been provided districts for the last few years when it comes to hiring substitute teachers. ***We request that you include these provisions in the conference committee report.***

Reimbursements to make reduced-price school meals free (EDUCD105)

The Senate version removed the allocation for school meals that would have provided free meals for reduced price eligible students. Students learn best when they have full bellies and are ready to learn. Given the current economic conditions, more families are struggling to meet their basic needs and providing meals to this group of students will help make sure they are prepared to learn each day. ***We ask that you use the House provisions that provide reimbursement to school breakfast and lunch free for students eligible for reduced price meals.***

Cash Payments for school-affiliated events (EDUCD139)

The Senate added a provision that would require schools to *accept cash* at athletic and school events with a *limited exemption* for an event at a public facility that is leased by a professional sports team or a privately owned facility. In accordance with the Auditor of State guidelines and best practices for managing risk and preventing fraud, schools have transitioned to a cashless system for school events. ***We request that you remove this provision from the conference committee report.***

Intradistrict open enrollment (EDUCD141)

The Senate added a provision that requires each school district that uses an enrollment lottery to conduct the lottery on the second Monday in June. Many districts conduct these lotteries in the spring so that parents have the information they need about where their child will be attending school. ***We ask that the committee restore local control by removing this provision that mandates the timeline for conducting the lottery and instead allow districts to select the timeline that works best for their families.***

Auxiliary services personnel (EDUCD162)

The Senate version includes a provision that prohibits school districts from denying a private school's request for personnel to provide auxiliary service if the individual is licensed by a state board of agency. There is currently a shortage of related services personnel across the state. This mandate could result in a larger number of students losing services in one setting so that a smaller number of students (possibly a single student) could receive service in a private school. ***We request that this provision be removed in the conference committee report to allow decisions to be made on a case-by-case basis.***

Transportation of grades K-8 private and community school students (EDUCD101)

The House version included a provision that would require a board of education to provide each pupil in grades K-8 substantially the same level of transportation service, route, and schedule convenience, and pick-up and drop-off times relative to the pupil's school's start and end times, regardless of whether the pupil attends a school operated by the board of education or a nonpublic or community school. This provision would eliminate the ability of a school district to use a central point for transporting nonpublic students and instead would require a nonpublic student to be transported directly from their home to their school of attendance. A school district that is already facing a bus driver shortage and a bus shortage may have to use a single bus to transport only a few students to comply with this provision. ***We request that you keep this provision out of the conference committee report.***

Daily pre-trip school bus inspections (EDUCD159)

The Senate added provisions to the bill directing the revision of rules around daily bus inspections. The current rules are based on federal regulations for a CDL. The changes outlined in the Senate version go

against those federal regulations and would require the Ohio BMV to create a new license. ***We request that the conference committee remove these provisions from the bill.***

Levies for school facilities projects (FCCCD15)

The House included a provision that would extend, from 13 months to 16 months, the time during which the voters of a school district must approve a bond levy to raise its required local share in an OFCC school facilities project after the commission grants conditional approval of the project. ***We ask that you include this provision in the conference committee report. It is necessary to extend this timeline due to the removal of the opportunity for an August election.***

School facilities maintenance, repair or replacement assistance (FCCCD13)

The House included a provision that would require Ohio Facilities Construction Commission each year to allocate at least 10% of its Exceptional Needs Program funds for the maintenance, repair or replacement of facilities in a district that previously completed a project, and the half mill maintenance funding has lapsed. ***Please include this provision in the conference committee report. These dollars are important to help maintain these facilities and ensure that the past state and local investments are protected.***

Replacement property tax levies (TAXCD53)

The House version eliminated the ability of local governments to levy replacement property tax levies beginning in 2025. ***We request that you remove this provision from the conference committee report to ensure that local governments, including school districts, keep the ability to use this as a tool for collecting local resources.***

Disposal of School District Property (EDUCD171)

The Senate included changes regarding the disposal of property. Those changes include expanding the definition of unused school building to incorporate the demolition of gross floor area in excess of 60% of the building, prohibiting a district from demolishing any of its unused school facilities prior to offering the property, subjecting a district to the involuntary disposition law prior to demolishing a building if they are clearing the site to build a replacement facility as part of its facilities construction project with the OFCC.

Districts maintain and use school buildings in accordance with their facilities plan, which reflect the district's short-term and long-term goals. Forcing the sale of school district property will greatly impact students and district facilities plans. ***We request that these provisions be removed from the conference committee report to allow for the analysis of the implications these changes will have on public school students.***

Academic Intervention Services (EDUCD172)

The Senate included language that requires each school district to provide academic intervention services to students who demonstrate a limited level of skill on a state assessment in math, science, or English language arts. It would require the department to track and monitor whether students receiving those services are making academic progress toward no longer needing such services. Finally, it requires the department to present an annual report about the schools that are providing academic intervention services provided to students. ***We request that these provisions be removed from the conference committee report and allow local districts to continue to develop and implement plans to address individual student needs.***

Thank you for taking the time to review our requests. We would be happy to make ourselves available for questions at any time.