

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB2269

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Greenhalgh

3. Committee: Education

4. Title: Certain federal pandemic relief funds for public education; certain conditions; emergency.

5. Summary: Requires any local school division that, as of March 1, 2023, has available and unspent federal (i) ESSER formula funds exceeding \$5,000 or (ii) state set-aside ESSER or GEER funds awarded to the local school division by the Virginia Department of Education (the Department) to return such funds to the Department no later than March 15, 2023, unless precluded by federal law or regulation. The bill requires the Department to subsequently expend any such returned funds for student instruction and remediation. The bill also requires each local school division to obtain the approval of the local school board for its federal ESSER III spending plan, update such spending plan at least once every six months, and publish such spending plan in an accessible format on a publicly available website. The bill contains an emergency clause.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Preliminary, see Item 8.

8. Fiscal Implications: There is no state fiscal impact from this bill. There could potentially be a temporary state savings if pandemic relief funds could be used to fund a project that is expected to use the general fund.

Federal guidance indicates that state legislatures cannot shorten the period of availability for ESSER formula funds provided to school divisions as local educational agencies (LEAs). This bill is contrary to federal guidance regarding pandemic relief funds distributed to LEAs. It is also unclear whether formula funds returned by LEAs to the state can be used by the state. For other larger federal programs, such as Title I, formula funds returned to the state must be reallocated to LEAs.

Any funds that were awarded to LEAs from the ESSER state set aside were awarded with the understanding that LEAs had until the federal deadline to spend funds on the intended purpose (September 2023 for ESSER II funds and September 2024 for ESSER III funds). Any programs that have planned expenses between March 2023 and September 2023 or 2024

would have to be cancelled or the local school division would have to find another fund source to fund these programs. Any actual impact to local school divisions is indeterminate.

9. Specific Agency or Political Subdivisions Affected: Department of Education, local school divisions

10. Technical Amendment Necessary: No

11. Other Comments: No