Statehouse Update

July 17, 2020

Monday, July 13, 2020

Relief Funds For Schools, Health Care Providers Clear Controlling Board

Controlling Board members on Monday approved hundreds of millions of dollars in aid for education institutions and health care providers.

The education dollars were announced last week by Gov. Mike DeWine, although a move to divide the money up across a few different requests drew some questions from board members.

The new requests, which split up the $200 million for higher education institutions and $100 million for primary and secondary schools, were not the only items on the board's agenda allocating federal aid dollars.

Members gave their OK to late agenda additions including $91.1 million for skilled nursing facilities, $25 million for infection control, $78.5 million for long-term care facilities, $62 million for rural hospitals and $22.5 million for behavioral health providers.

The Ohio Health Care Association thanked members for supporting the funding in a memo.

"As you know, skilled nursing facilities have been working in cooperation with the State on testing of staff and some patients, often at their own expense," the group wrote. "Increased testing helps save lives, allowing us to respond more quickly to COVID-positive cases and exercise greater control over potential spread within our facilities and our communities."

All of that money comes from federal CARES Act dollars allocated to the state, said Steven Alexander, legislative liaison and policy analyst for the Department of Medicaid.

"They weren't ready by the time that the agenda was published but given that these are dollars to help providers who were adversely impacted by the pandemic and are in need of some help, that's why we sought to get them added to the agenda now," he said.

The education-related dollars were originally included on the agenda as two specific requests — $100 million for K-12 and $200 million for higher ed.

Those grew to four separate items for the $100 million under the Department of Education: $34.5 million for rural and small town school districts, $28.8 million for suburban school districts, $24.6 million for urban school districts and $12 million for county boards of developmental disabilities, joint vocational school districts and others.

"The late adds… are requested to add in a little more detail for members about the use of funds and the recipients of those dollars," said Aaron Rausch, director of the Office of Budget and School Funding at the Department of Education.

The $200 million from the Department of Higher Education was split into $92.3 million for the public institutions with the highest percentage of residential students, $53.9 million for other public institutions and $53.8 million for independent institutions.

Sen. Vernon Sykes (D-Akron) asked why the request was broken up.

"I believe in conversations with members and staff they felt it would be a little bit more transparent if we have these three separate line items to break down for you and the staff," said Nick Derksen, director of legislative affairs at ODHE.
Frederick Church, vice chancellor of finance at ODHE, said the three items are for the same purposes.

"They were grouped in a way that we felt made sense and we thought after the discussions with legislators and staff would provide some more clarity with where the dollars were going," he said. "The line items are not geared toward separate costs."

Sen. Jay Hottinger (R-Newark) praised the broad support for the requests among higher ed groups.

"I'm very impressed by the fact that the university community and the various segments of that have really come out in unanimous support of this package, given the fact that we're looking at the distribution of $200 million," he said.

Other coronavirus aid dollars were allocated, including money for the Department of Health for nursing home testing and for expanding the epidemiological workforce.

Sen. Bob Peterson (R-Sabina) and Sen. Hottinger both objected to a request by the Department of Natural Resources to buy 31 acres in Henry County for $190,000 for the Maumee State Forest. The money, to be bought through the H2Ohio program, will be used for a wetland as part of efforts to reduce fertilizer runoff into the Maumee River.

ODNR Chief Financial Officer Ryan Frazee told Sen. Peterson there are 26 similar projects but that this is the only one that is a land purchase rather than a lease.

"With this project, it's really the strategic location adjacent to the Maumee State Forest," he said. "If it's acquired, the Division of Forestry would be able to help with the strategic goals of H2Ohio."

Sen. Peterson said he believes land should be held privately and not taken off the tax rolls, and pointed to the acquisition of tens of thousands of acres of land in eastern Ohio for the Jesse Owens State Park and Wildlife Area.

"I believe there should be a balance to that," he said.

Rep. Shane Wilkin (R-Hillsboro) also held a handful of items requesting waivers of competitive selection. Among those were four from the attorney general's office, including $23 million for outside counsel for state entities for Fiscal Year 2021.

That item is down almost $1.5 million from the previous year, Shawn Busken, director of outside counsel for the AG's office, said. Despite that effort, not all legal needs can be properly put out for bid.

"We simply cannot competitively bid something that needs to be done the day of or the next day or in three days," he said. "We also, in the interest of efficiency and getting the state the best deal, we use counsel that already understand the client needs and what the client wants."

Asked by Rep. Jack Cera (D-Bellaire) if the office has ever estimated what is the bare minimum it could reduce outside counsel costs to, Mr. Busken said it's difficult to predict because legal needs are unexpected.

"The more our office is funded, the more we can handle in-house. The less our office is funded, the more we have to send out," he said. "Sometimes we just need different expertise, though."

In all, the board approved 87 requests. One from the Department of Rehabilitation and Correction for the North Central Correctional Complex Camp Activation Project was withdrawn.

Other items approved by the board included:

- $23.1 million – Attorney General – to contract with outside legal counsel for the needs of various state entities.
- $1.1 million – Ohio State University – for an emergency generator project.
- $2.6 million – Adjutant General's Department – to replace an HVAC system in North Canton.
- $1.9 million – Court of Claims – to pay settlement agreements to Robert Dale Aldridge and Mary Jenny Reach for damages resulting from their wrongful imprisonment.
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- $6.9 million – Development Services Agency – to contract with Marcus Thomas LLC in Cleveland for media buying and placement services for TourismOhio.
- $2 million – Department of Mental Health and Addiction Services – to contract with Singleton & Partners for media buying services for the Take Charge Ohio campaign.
- $5.25 million – OhioMHAS – to contract with the Ohio State University College of Medicine for medical services for veterans.
- $2.6 million – Department of Rehabilitation and Correction – for the first phase of a statewide fiber infrastructure project.
- $2.25 million – Department of Transportation – to contract for assistance with updating the state's freight plan and future freight transportation needs.

State Spending Ends Year Below Estimates Despite Growing Medicaid Rolls

The state finished Fiscal Year 2020 spending $865 million less than anticipated, driven largely but not entirely by $775 million in budget cuts in the wake of the coronavirus pandemic.

For the month of June, spending from the General Revenue Fund was below estimate by $768.1 million, or 29.3%, as cuts in education and other programs and a shift in Medicaid spending from state to federal dollars showed up in the ledger, according to the Office of Budget and Management's Monthly Financial Report.

Medicaid caseloads continued to rise in June, increasing by more than 60,000 for the month after rising by almost 20,000 in March, more than 70,000 in April and more than 45,000 in May, according to the Legislative Service Commission's Budget Footnotes.

"Caseload increases have reversed the trend of the initial nine months of the fiscal year, which had all seen caseloads below the budget estimate," LSC wrote. "For FY 2020, average caseloads are now above estimate, by 0.6% (15,440 cases). According to the Ohio Department of Medicaid (ODM), nearly all of the caseload variance over the previous three months has been due to the suspension of routine redeterminations of eligibility and an increase in the number of new applications and approvals, due to the economic impacts of the COVID-19 pandemic."

Medicaid spending from the GRF was below estimate by $431.5 million for June, shifting the yearly variance from $382.4 million, or 2.7%, above estimates to $49.1 million, or 0.3%, below for the year in total, LSC said.

OBM said the June variance in Medicaid GRF spending was due to the receipt of additional federal reimbursement due to the increase in the federal share of certain Medicaid spending, known as the Federal Medical Assistance Percentage, or FMAP. Lawmakers shifted more than $500 million in state dollars away from the Medicaid program because of that change in recent legislation (HB 11).

"The COVID-19 crisis did cause increases in enrollment for the period of March-June, however, the federal government's decision to provide enhanced FMAP mitigated some of the additional costs to the GRF as the Medicaid program's non-GRF funding sources were able to leverage significant additional federal dollars," OBM said.

Across all funds, Medicaid spending in June was below estimate by $29.1 million, or 1.2%, in June and $240.5 million, or 0.8%, in FY 2020.

Despite the underspending, Medicaid costs overall – both state and federal – were affected by rising caseloads due to the pandemic and job losses.

"Despite the general all-funds underspending, it should be noted that the managed care program was above estimate for the fiscal year by $234.3 million," OBM said. "This overage was largely attributable to COVID related enrollment increases during the months of March through June. Additionally, previously reported quality assurance corrective payments contributed to the above-estimate spending for this category."

Other significant June variances came in K-12 and higher education.
Spending by the Department of Education for June was below estimate by $144.4 million, or 26.9%, due largely to budget control measures that reduced the payments to school districts, OBM said.

The Department of Higher Education saw spending come in below estimate by $43.3 million in June, down 23.1% from the estimate, due also mostly to budget control measures, OBM said.

LSC also noted that the economy has started to ramp up slowly.

"Economic activity began to recover in May and June, after plunging in late March and in April," the report said. "The pace of activity remains far short of prepandemic levels and may now be threatened by a resurgence of COVID-19 infections and renewed shutdowns to limit its spread. Total employment rose in the latest two months, partly reversing the decline in the previous two months."

**Tuesday, July 14, 2020**

**Governor Inks Measure Providing More Than $550M For Capital Projects**

Several hundred million new capital dollars will flow toward school and public facilities projects under a capital spending bill signed Tuesday by Gov. Mike DeWine.

The governor's signing of the bill (SB 4) comes after months of debate over the appropriation of bonding authority for capital projects in the wake of the coronavirus pandemic.

It isn't a full capital budget in the traditional sense, but lawmakers have touted it as a way to get money flowing for new projects.

The measure earned final legislative approval near the end of June, when the Senate gave its assent to House amendments by a vote of 21-10.

The measure began early in 2019 as a priority measure of the upper chamber to boost capital funding for school facilities, but when that language ended up in the biennial operating budget (HB 166), the House let it sit for a while before picking it up again in June.

On the House floor, it picked up a major amendment that includes $300 million for school facilities and $255 million for new public works projects. The latter component includes $37.5 million for the Clean Ohio Program and $42.5 million for the state's public works loan program.

The capital dollars come after state lawmakers approved a $1.28 billion reappropriations measure (HB 481) for previously approved capital projects, but they have yet to put forward a new capital budget. That may depend on the state's fiscal situation moving forward after the crisis generated by the novel coronavirus and ensuing business closures, which significantly hampered tax revenue in the spring.

When the measure made it back to the Senate for concurrence, however, it was a handful of other amendments unrelated to capital dollars that led to dissent from Republican members. Those amendments included issues regarding the prevailing wage and local governments borrowing from tax increment financing funds.

**Developer Says It Will Move Forward After Partner Pulls Out Of Cracker Project**

PTT Global says a proposed Belmont County cracker plant is still in the works despite its partner, Daelim, pulling out of the project Tuesday.

The joint announcement by PTT and Daelim strikes another blow of uncertainty to the project that was first announced in 2015 but has yet to result in a final investment decision.

The partners in June had announced their intent to reach a final decision within six to nine months, citing the COVID-19 pandemic's impact on oil prices as a delaying factor.

Now with Daelim's exit, PTT America President Toasaporn Boonyapipat said the search for a new partner begins.
"The Ohio petrochemical facility continues to be a top priority for PTTGC America," he said. "We are in the process of seeking a new partner whilst working toward a final investment decision."

"We look forward to making an announcement by the end of this year or early next year on this transformative project for the Ohio Valley Region," he continued. "We wish Daelim well and appreciate its contributions to our effort."

State officials have continued to lobby for the project’s realization, with JobsOhio putting up tens of thousands of dollars in grants toward that end.

"We appreciate Daelim's contributions toward the effort to bring a petrochemical facility to Belmont County and its commitment to work with PTTGCA as it transitions to a new equity partner," said JobsOhio spokesman Matt Englehart.

"JobsOhio continues working closely with PTTGCA to bring the project to a successful final investment decision," he continued. "PTTGCA has expressed its belief in the long-term strategic importance of this transformational project, which would bring billions in investment while creating thousands of construction jobs and hundreds of permanent jobs."

PTT announced the project in 2015 at a Statehouse news conference alongside state officials. Daelim came aboard a short time later, promising to double the initial $5 billion planned investment.

In a joint statement, the companies described Daelim's decision as "difficult but necessary" given the global landscape.

"PTTGCA sincerely appreciates DCA's contributions to the project over the past two years, and the parties intend to continue working together, both on successfully transitioning DCA's stake in the project, as well as on other business opportunities."

The partners had previously been aiming for a mid-year investment decision before the U.S. economy and that of other countries was thrown into turmoil by the novel coronavirus pandemic and measures to slow its spread.

**Wednesday, July 15, 2020**

**DeWine Urges Mask Wearing Amid 'Most Critical Point' In Virus Fight**

Gov. Mike DeWine declined to issue any new health orders in a widely televised address Wednesday, instead calling on Ohioans to wear masks and take other preventive measures amid soaring coronavirus cases.

The governor called the state's current situation "the most critical point in our battle against the coronavirus."

"If all of us do not take immediate action to slow this virus down, the tragedy that we see playing out on our television screens every day in Florida, Texas, Arizona and California may well be our reality in just a matter of weeks," he said.

The governor early in the address revealed he would not issue any new health orders, calling that "a discussion for another time."

"As your governor, I will take whatever action is necessary to protect the people of this state, but the truth is what your local health department or the Ohio Department of Health or what I order is not nearly as important as what we all do in these crucial days ahead," he said.

Along with donning facial coverings in public, Gov. DeWine urged Ohioans to continue avoiding large gatherings and distancing from people outside of their households.

The governor's address, planned as a "conversation with the citizens of Ohio," came as the state and many others are coping with an accelerated spread of the coronavirus – a surge that followed reopenings of businesses and recreation spots that had been shuttered earlier this year amid concerns about the pandemic.

The Department of Health on Wednesday afternoon reported an additional 1,316 cases in the previous 24 hours, bringing the state's total to 69,311. The daily figure was above the 21-day average of 1,074.
The state reported only 6 deaths on Wednesday, below the recent average of 15. Overall, 3,075 Ohioans are reported to have died from COVID-19.

In addition to the cases, above-average increases were seen in hospitalizations and intensive care unit admissions. The daily increase in hospitalizations was 160, above the three-week average of 84, and the daily increase in ICU admissions of 36 doubled the average of 18.

"Ohio is sliding, we're sliding down a very dangerous path," Gov. DeWine said. "We must act, and we must act now."

Ohio Democratic Party Chair David Pepper, who has previously praised the governor's coronavirus response, said in a statement: "As cases and deaths rise, he announced nothing that will change that direction."

"Other states, led by leaders of both parties, are moving forward with statewide mask mandates and other more decisive steps. Kentucky and West Virginia did so last week, and they have fewer cases than Ohio," he added.

House Minority Leader Emilia Sykes (D-Akron) said the governor missed an opportunity to take a bolder stand.

"As Ohioans tuned in tonight seeking assurance during these chaotic and frightening times, many of us hoped to see the Governor take decisive action to slow the spread of COVID-19," she said in a statement. "Instead, what we witnessed was a governor who refuses to lead in times of crisis for fear of standing up to the political pressure within his own party. His cowardice keeps him from doing the right thing, and keeps Ohioans suffering far longer than is necessary."

The governor's approach to hold off for now on edicts and instead urge more voluntary restraint comes as more and more businesses take their own steps on restrictions.

On Wednesday, supermarket chain Kroger joined Walmart in announcing that masks would soon be required for all customers. Some bars and restaurants in the state are also voluntarily stopping in-person dining.

Two major Ohio business groups meanwhile signaled their support for Mr. DeWine's message in social media posts.

Shortly after the governor's speech, the Ohio Chamber of Commerce took to Twitter to cheerlead the mask urging: "Wash your hands, wear a mask, and practice social distancing, 3 simple things slow the spread of COVID-19. Together we can keep our economy moving. #MasksOnOhio #InThisTogetherOhio @GovMikeDeWine #AllforOhio."

The Ohio Business Roundtable tweeted: "This evening, @GovMikeDeWine asked his fellow Ohioans to put #MasksOnOhio. Wearing a mask when you're in public will slow the spread, protect your loved ones and coworkers, and help our economy to reopen safely. #InThisTogetherOhio."

**Thursday, July 16, 2020**

**Mask Mandates To Take Effect In More Than One-Fifth Of Counties**

Residents will be required to wear facial coverings in public in 19 of the state's 88 counties effective 6 p.m. Friday based on the latest data from the state's coronavirus warning system.

Gov. Mike DeWine said Thursday's Ohio Public Health Advisory System data revealed mixed results throughout the state, with multiple counties edging away from the cusp of the highest warning level but several promoted to the second-highest level.

Athens County was the lone county flagged as approaching a Level 4, or purple, emergency after growth in cases the governor called "really shocking."

"The situation there is rapidly accelerated with isolated outbreaks that have resulted from a concerning community spread," he said. "Athens County has more COVID-19 cases in the last two weeks than they've had over the entire time of the pandemic."

Butler, Cuyahoga and Hamilton counties remained at Level 3, or red, emergency but are no longer approaching Level 4 based on the latest data.
The other counties at Level 3, which triggers the implementation of a mask mandate are: Allen, Clermont, Delaware, Fairfield, Franklin, Licking, Lorain, Lucas, Montgomery, Pickaway, Richland, Scioto, Summit, Union, and Wood.

One county, Trumbull, dropped from Level 3 to Level 2.

While the governor in a televised address Wednesday asked Ohioans to don masks but declined to issue a statewide mandate, under the order spurred by the latest data about 60% of the state's population will be required to wear a facial covering in public.

Gov. DeWine again signaled that further restrictions on activity are possible if the situation in the state continues to deteriorate.

"As the governor of the state of Ohio, I will do what I have to do to protect the people of Ohio," he said.

The Department of Health on Thursday afternoon reported the state had reached 70,601 cumulative cases and 3,103 deaths, including probable cases.

The number of cases reported in the last 24 hours was 1,290, above the 21-day average of 1,093. Twenty-eight deaths were reported over that time period, above the 21-day average of 16.

New hospitalizations (115) and ICU admissions (21) also outpaced the average for the period.

Mayors Push For More Federal Support, Freedom To Weather COVID-19

Congress needs to pony up more emergency support funding – with fewer restrictions – for Ohio's cities, mayors and advocates said Thursday.

In dual virtual press conferences hosted separately by Policy Matters Ohio and Innovation Ohio, the advocates highlighted ongoing challenges faced by cities of all sizes as they grapple with the economic impact of COVID-19.

Elected leaders pointed to a new report from Policy Matters that surveyed 16 Ohio counties to document the need for further federal funding to cover basic public services and jobs.

"Please trust the local officials. Allow them to use these monies as they see fit," Ohio Municipal League President Sharon Cassler urged of Congress. "Future funding with less restrictions is very critical to local government."

Innovation Ohio's event, meanwhile, highlighted the plight of major cities – with leaders from Columbus, Cleveland, Cincinnati, and other municipalities urging Sen. Rob Portman (R-Terrace Park) to support the U.S. House-passed HEROES Act.

They also urged state lawmakers to move forward with authorizing remaining CARES Act funding for municipalities. The General Assembly has authorized $350 million so far.

"Ohio cities are hurting worse than cities in any other community in this country," said Toledo Mayor Wade Kapszukiewicz, citing the state's reliance on income taxes to fund cities.

"There's still $850 million sitting down in Columbus that's supposed to come down to communities like ours," he said of federal funding funneled through the state. "We have to emphasize even that won't be enough."

The first round of funding was sent to cities this month. But officials said those dollars can only be used for new COVID-19-related expenses thanks to federal restrictions. Any unallocated dollars must be returned to the state for reallocation by Oct. 15.

Athens Mayor Steve Patterson called the support "welcomed," but said: "The strings attached to the CARES Act are literally tying the hands of city officials in terms of what we can do with it," he said.
"We're where the rubber hits the road," he added. "We understand where that money is most needed as opposed to being told where it is to be used."

Officials in larger cities said the challenges of the health and economic crises come as communities continue to engage in the ongoing debate and demonstrations over racial injustice.

During the Innovation Ohio news conference, the officials encouraged Sen. Portman to spend time in their cities to see the struggles of their residents firsthand.

"We are coming to the point of exhaustion because we desperately need federal dollars to keep us afloat," Cleveland Councilman Blaine Griffin said. "We've done our part…. Now we need the federal government to step up."

"This is not partisan," Cincinnati Councilman P.G. Sittenfeld added. "This is just about trying to do some of the very basics to help people get by."

Officials with Chillicothe and Columbus also joined the call to action.

Friday, July 17, 2020
DeWine Rejects Caps On Health Order Penalties With Expected Veto
Gov. Mike DeWine on Friday vetoed a measure that would have limited penalties for violating health orders during a pandemic.

The bill (SB 55) began as a measure to increase criminal penalties for people who sell drugs near recovery centers but was amended in the House to include a provision prohibiting criminal penalties for violating health department orders related to a pandemic. The final language capped fines at $100 for local orders and $150 for state orders.

It was one of two vehicles House Republicans used in May for language aimed at curbing health department authority. The other, which would limit the duration of health orders without the approval of the Joint Committee on Agency Rule Review (SB 1), was sent to conference committee by the Senate and has stalled.

The veto is the first of a standalone measure for Gov. DeWine but was not unexpected; The governor has several times promised to veto any legislation he believes could hinder the executive branch from responding to the COVID-19 crisis.

In his veto message, he said he did not object to the original measure, calling it "an idea I support, and look forward to the day I sign that provision into law."

The amendment regarding health orders, however, would "make it difficult for local health officials to protect the public's safety and fight the spread of COVID-19," he said.

"In the midst of this pandemic, now is not the time to change tactics and impede local health officials' ability to protect all Ohioans," he said. "Our collective goals are always to ensure the safety of the public, guard against the health care system from being overwhelmed, and allowing all Ohio workers and businesses to do what they do best, which is grow our economy. A robust public health system protects us from E-coli and Legionella outbreaks, threats of bioterrorism, or once-in-a-century pandemics."

Lawmakers would need three-fifths majorities in both chambers – starting in the Senate – to override the veto. The House met that threshold, passing the bill 70-23. The Senate fell three votes short during its 17-10 concurrence vote in June, although several members were absent for that vote.

John Fortney, a spokesman for Senate President Larry Obhof (R-Medina), said no decision has been made on the chamber's next steps.

"Our members are reviewing it and will have internal discussions about the path forward, which may also lead to additional conversations with the administration," he said in an email.

Senate Minority Leader Kenny Yuko (D-Richmond Hts.) welcomed the governor's move in a statement on Twitter.
"Public health orders save lives, and a pandemic is not the time to limit health officials' ability to enforce life-saving measures," he wrote. "I'm grateful S.B. 55 wasn't signed into law so we can continue to navigate Covid-19 with the safety of all Ohioans in mind."

Anticipating the governor's veto when he put his signature on the measure on July 6, Speaker Larry Householder (R-Glenford) said he believed the veto would be a bad idea, saying a health order is not a law and Ohioans shouldn't be jailed for violations.

"Americans would rather die on their feet than live on their knees," he wrote on Facebook. "Thank you to the Ohio Senate for joining the House in standing up for all Ohioans' INDEPENDENCE and FREEDOM to make their own choices. Governor says he will veto, a very bad move for anyone who believes that The People control THEIR government ... not the other way around."

Meanwhile, Mr. DeWine on Friday also followed through with plans to expand a mask-wearing-mandate by officially releasing a signed executive order extending the requirement to several more counties where cases have soared and reached "Level 3" on the state's tracking system. He announced the additional counties on Thursday.

**Plans For September House Session Still Up In The Air**
House Speaker Larry Householder is playing the fall schedule by ear.

The chamber might convene in September, or might not, the Glenford Republican told reporters this week.

While the House doesn't have a session on the schedule until Sept. 15, it could meet earlier "if there's some type of emergency," he said.

Let's see what September looks like in regards to the pandemic," he said. "Let's see what September looks like in regards to what might be on the calendar. Right now, we're scheduled for September."

The Senate has sent the lower chamber a few items that might possibly be on the calendar for a September session. Top among those could be a concurrence vote on a measure (HB 606) to provide widespread legal immunity during the COVID-19 pandemic.

Business groups have urged the chamber to take quick action on that measure, and key House Republicans, including the measure's sponsor, have said they support quick action to send it to the governor.

The upper chamber also recently passed legislation overhauling drug sentencing (SB 3) that awaits committee action in the House.

Another possible reason for returning early could come if the Senate votes to override Gov. DeWine's Friday veto of a measure that would limit penalties for violations of health orders.

The Senate is set to be in session next week, with a date set for Tuesday, and again in August, according to John Fortney, a spokesman for Senate President Larry Obhof (R-Medina).

Speaker Householder also hinted Thursday that the House could reconvene to take action on any further health orders if the DeWine Administration issues any. So far, the administration has demurred on requiring further lockdowns or mandating the wearing of masks statewide.

"I haven't heard of any other restrictions or any other proposals from the governor, so we don't have any plan on how we would react because we don't know what the proposal might be," Speaker Householder said.

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