

HOUSE BILL NO. 5114

June 23, 2021, Introduced by Rep. Yaroch and referred to the Committee on Appropriations.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending the title and sections 113, 121, 122, 123, 131, 141,
261e, 281a, 299, 304, 321, 391, 422, 451, and 451a (MCL 18.1113,
18.1121, 18.1122, 18.1123, 18.1131, 18.1141, 18.1261e, 18.1281a,
18.1299, 18.1304, 18.1321, 18.1391, 18.1422, 18.1451, and
18.1451a), the title as amended by 1994 PA 301, sections 113, 123,
and 299 as amended by 2018 PA 389, sections 131 and 451 as amended
and sections 281a and 451a as added by 1999 PA 8, section 261e as

added by 2020 PA 181, and section 391 as amended by 1988 PA 504.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to prescribe the powers and duties of the department of **technology and** management and ~~budget~~; **the department of budget; to create and operate certain departments; to clarify the duties of each department;** to define the authority and functions of its director and its organizational entities; to authorize ~~the~~ **each** department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts.

Sec. 113. (1) "Capital outlay" means a project or facility financed either in whole or in part with state funds, including lease purchase agreements, to demolish, construct, renovate, or equip a building or facility for which total project costs exceed

\$1,000,000.00. These projects may be on state owned property, property owned by an institution of higher education, property owned by community colleges, or property under the control of the state building authority.

(2) "Community college" means a community college or a junior college.

(3) "Department" means the department of technology ~~and~~ management. ~~and budget.~~

(4) "Department of budget" means the department of budget created in section 321.

(5) ~~(4)~~ "Directives" means intergovernmental, interagency, or interdepartment administrative or procedural guidelines or instructions which do not affect the rights of, or procedures and practices available to, the public.

(6) ~~(5)~~ "Director" means the director of the department of technology ~~and~~ management. ~~and budget.~~

(7) ~~(6)~~ "Energy conservation measure" means improvement of a building structurally or the installation of equipment or materials in a building for the purpose of reducing energy consumption or cost, increasing energy efficiency, or allowing the use of a renewable resource for fuel.

Sec. 121. The department of **technology and** management ~~and budget~~ is hereby created.

Sec. 122. The head of the department of **technology and** management ~~and budget~~ is the director of the department of **technology and** management. ~~and budget.~~

Sec. 123. (1) The director of the department of technology ~~and~~ management ~~and budget~~ shall be appointed by the governor by and with the advice and consent of the senate. The director shall

1 serve at the pleasure of the governor.

2 (2) The governor shall designate an individual within the
3 department, including, but not limited to, the director of the
4 department, to serve as the chief information officer for this
5 state. The director may serve concurrently as the state chief
6 information officer.

7 Sec. 131. (1) The director may issue, alter, or rescind
8 administrative and procedural directives as determined to be
9 necessary for the effective administration of this act. The
10 directives are exempt from the definition of a rule pursuant to
11 section 7 of the administrative procedures act of 1969, 1969 PA
12 306, MCL 24.207. The directives shall be placed in the appropriate
13 manual and distributed to each principal department, autonomous
14 entity within state government, the senate and house appropriations
15 committees, and the fiscal agencies. The directives shall take
16 effect upon written approval of the director unless a later date is
17 specified. Before a directive may become effective, the department
18 shall give the affected principal departments reasonable time, as
19 determined by the department, ~~of management and budget,~~ to respond.

20 (2) The department may promulgate rules as necessary to
21 implement this act. The rules shall be promulgated pursuant to the
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
23 24.328.

24 Sec. 141. The department shall do all of the following:

25 (a) Survey and examine the administrative organization and
26 operations of state agencies to secure greater administrative and
27 program efficiency and economy, to minimize the duplication of
28 activities among state agencies and between state agencies and
29 businesses, and to effect a better organization and consolidation

of functions among state agencies. The findings of the surveys shall be incorporated and separately identified in the executive budget that is transmitted to the legislature. Through the executive budget process, the director may require state agencies to assist the department in making its surveys.

(b) Provide for expert and uniform conduct in state operations applicable to all state agencies.

(c) Provide centralized management of auxiliary services when advantageous to state government, after consultation with any affected state agency.

(d) Establish a comprehensive system of internal controls in the management of the state's financial affairs and record the transactions both in accordance with generally accepted accounting principles and as required by law.

~~(e) Plan, prepare, and execute a comprehensive state budget pursuant to the state constitution of 1963.~~

Sec. 261e. Not later than October 1, 2021, the department ~~of technology, management, and budget~~ shall do all of the following for each information technology project exceeding \$250,000.00:

(a) Establish and document a process for accounting for and monitoring of project cost that aligns with industry best practices and includes all of the following:

(i) Identification and monitoring of cost overruns.

(ii) Change orders and accounting for projects that exceed 1 fiscal year.

(b) Communicate process and defined roles to involved parties.

(c) Ensure information technology project spending within the information technology fund is accurately tracked and accounted for, including costs for contractors, state employees, hardware,

1 software, and maintenance.

2 (d) Require each state agency to provide and report any
3 additional technology project spending outside of the information
4 technology fund is accurately tracked and accounted for, including
5 costs for contractors, state employees, hardware, software, and
6 maintenance.

7 (e) Require each state agency to report on system-related
8 contracts or projects with specific appropriations to ensure funds
9 are only spent on the development and maintenance of that system.

10 Sec. 281a. (1) The department ~~of management and budget~~ and
11 each principal executive department and agency shall provide to the
12 senate and house of representatives standing committees on
13 appropriations and the senate and house fiscal agencies a monthly
14 report on all personal service contracts in an amount greater than
15 \$10,000.00 awarded without competitive bidding, pricing, or rate
16 setting. The report shall include all of the following:

17 (a) The total dollar amount of the contract.

18 (b) The effective beginning and ending dates of the contract.

19 (c) The name of the vendor.

20 (d) The type of service to be provided.

21 (2) For new personal service contracts of \$100,000.00 or more,
22 the department ~~of management and budget~~ shall provide a monthly
23 report to the senate and house of representatives standing
24 committees on appropriations and the senate and house fiscal
25 agencies including all of the following:

26 (a) The total dollar amount of the contract.

27 (b) The effective beginning and ending dates of the contract.

28 (c) The name of the vendor.

29 (d) The type of service to be provided.

1 (3) Each principal executive department and agency shall
2 provide a monthly summary listing to the senate and house of
3 representatives standing committees on appropriations and the
4 senate and house fiscal agencies of information that identifies any
5 authorizations for personal service contracts that are provided to
6 the department of civil ~~service-rights~~ pursuant to delegated
7 authority granted to each principal executive department and agency
8 related to personal services contracts.

9 (4) The civil ~~service-rights~~ department shall also include a
10 report of all mixed contracts that the civil service commission did
11 not review for approval under the authority of civil service ~~rule~~
12 ~~4-6.3, standard (e).~~ **rule 5.**

13 Sec. 299. (1) The ~~office of the state budget director~~
14 **department of budget** shall do all of the following:

15 (a) Establish, maintain, and coordinate the state higher
16 education database commonly known as the higher education
17 institutional data inventory or "HEIDI".

18 (b) Collect data concerning public universities and public
19 university programs in this state, including data required by law,
20 and include it in the database.

21 (c) Establish procedures to ensure the validity and
22 reliability of the data and the collection process.

23 (d) Develop model data collection policies, including, but not
24 limited to, policies that ensure the privacy of individual student
25 data. Privacy policies shall ensure that student social security
26 numbers are not released to the public for any purpose.

27 (e) Provide data in a useful manner to allow state
28 policymakers and public university officials to make informed
29 policy decisions.

1 (f) Assist public universities in complying with audits under
2 this section or federal law.

3 (g) Perform other functions assigned by the state budget
4 director or required by law.

5 (2) There is created within the ~~office of the state department~~
6 ~~of budget director in the department~~ the higher education
7 institutional data inventory advisory committee. The committee
8 shall provide advice to the state budget director regarding the
9 management of the state higher education database, including, but
10 not limited to:

11 (a) Determining what data is necessary to collect and
12 maintain.

13 (b) Defining the roles of all stakeholders in the data
14 collection system.

15 (c) Recommending timelines for the implementation and ongoing
16 collection of data.

17 (d) Establishing and maintaining data definitions, data
18 transmission protocols, and system specifications and procedures
19 for the efficient and accurate transmission and collection of data.

20 (e) Establishing and maintaining a process for ensuring the
21 accuracy of the data.

22 (f) Establishing and maintaining policies related to data
23 collection, including, but not limited to, privacy policies related
24 to individual student data.

25 (g) Ensuring the data is made available to state policymakers
26 and citizens of this state in the most useful format possible.

27 (h) Addressing other matters as determined by the state budget
28 director or as required by law.

29 (3) The higher education institutional data inventory advisory

committee created in subsection (2) shall consist of the following members:

(a) One representative from the house fiscal agency, appointed by the director of the house fiscal agency.

(b) One representative from the senate fiscal agency, appointed by the director of the senate fiscal agency.

(c) One representative from the ~~office of the state~~ **department of budget director**, appointed by the state budget director.

(d) Three representatives of the presidents council of state universities, appointed by the presidents council. The presidents council shall appoint 1 representative each from a master's university, a doctoral university, and a research university.

(4) The auditor general shall review higher education institutional data inventory enrollment data submitted by all public universities and shall perform audits of selected data submitted by public universities at least once every 4 years. The review and audits shall be based upon the definitions, requirements, and uniform reporting categories established by the state budget director in consultation with the higher education institutional data inventory advisory committee. The auditor general shall submit a report of findings to the house and senate appropriations committees and the state budget director by July 1 of each year in which an audit is performed.

Sec. 304. (1) "State budget" means a financial program to deliver state government services.

(2) "State budget director" means the director of the department of budget.

(3) ~~(2)~~ "State operating fund" means a state fund entity established by law to provide direct financial support for services

1 delivered to the public pursuant to the state budget.

2 **(4)** ~~(3)~~ "State spending paid to units of local government"
3 means the sum of total state spending from state sources paid to a
4 unit of local government. State spending paid to a unit of local
5 government does not include a payment made pursuant to a contract
6 or agreement entered into or made for the provision of a service
7 for the state or to state property, and loans made by the state to
8 a unit of local government.

9 Sec. 321. **(1)** ~~The office of state~~ **department of** budget
10 ~~director is hereby created. The head of the department of budget is~~
11 **the state budget director.** The state budget director shall be
12 appointed by the governor, be exempt from the classified state
13 civil service, and shall serve at the pleasure of the governor. ~~The~~
14 ~~state budget director may concurrently serve as the director of the~~
15 ~~department.~~

16 **(2) The department of budget shall plan, prepare, and execute**
17 **a comprehensive state budget pursuant to the state constitution of**
18 **1963.**

19 Sec. 391. (1) When it appears to the governor, based upon
20 written information received by the governor from the **state** budget
21 director and the department of treasury, that actual revenues for a
22 fiscal period will fall below the revenue estimates on which
23 appropriations for that period were based, the estimates being as
24 determined by the legislature in accordance with section 31 of
25 article IV of the state constitution of 1963, the governor shall
26 order the director to review all appropriations made by the
27 legislature, except those made for the legislative and judicial
28 branches of government or from funds constitutionally dedicated to
29 specific purposes.

1 (2) Based upon needs, the **state budget** director shall
2 recommend to the governor a reduction of expenditures authorized by
3 the appropriations, either direct or open-ended, for that fiscal
4 year. The governor shall review the recommendations of the director
5 and shall prepare an order containing reductions in expenditures
6 authorized so that actual revenues for the fiscal period will be
7 sufficient to equal the expenditures. The governor shall give not
8 less than 5 days' written notice to the members of the
9 appropriations committees specifying a time and place for a joint
10 meeting of the governor and the appropriations committees, at which
11 the governor shall present to the appropriations committees the
12 governor's recommendations and copies of the governor's proposed
13 order.

14 (3) Not later than 10 days after the submission of the order
15 to the appropriations committees, each appropriation committee by
16 vote of a majority of its members elected and serving shall approve
17 or disapprove the order. Expenditures authorized by appropriations
18 shall not be reduced unless approved by both appropriations
19 committees. Upon approval by both appropriations committees, the
20 director shall implement the order.

21 (4) If either appropriation committee disapproves the order,
22 the order is without force and effect. Not later than 30 days after
23 a proposed order is disapproved, the governor may give reasonable
24 written notice of the time and place of a further joint meeting of
25 the appropriations committees, at which time the governor shall
26 submit another order reducing expenditures authorized by
27 appropriations. Within 10 days after the receipt of that order by
28 the appropriations committees, each appropriations committee, by a
29 majority of its members elected and serving, shall approve or

disapprove the order. Upon approval by both appropriations committees, the **state budget** director shall implement the order.

(5) After the approval by both appropriations committees pursuant to subsection (3) or (4), a copy of the order of the governor and resolutions of both appropriations committees approving it shall be filed with the secretary of state and the order shall become effective.

Sec. 422. The chief executive officer of a principal department may make advances to participants in state programs which require the expenditure of money before reimbursement by the state or receipt of federal money. An advance shall not be made unless the advance is approved by the **state budget** director. ~~of the department of management and budget.~~ The **state budget** director after consultation with the state treasurer shall issue directives implementing this section which shall provide for repayment, dollar limitations, and renewal authority.

Sec. 451. (1) At the close of the fiscal year, the unencumbered balance of each appropriation shall lapse to the state fund from which it was appropriated. A document which is not ascertainable before the cutoff date set by the **state budget** director may be charged against a current year's appropriation if the chief accounting officer determines that the state agency was not willful in its failure to ascertain or record the document and if the amount of the payment would not have exceeded the unencumbered balance of the applicable appropriation in the prior fiscal year.

(2) An encumbrance entered into within 15 days before the end of the fiscal year and outstanding at the close of the fiscal year is not a charge against that fiscal year but is charged to the next

1 succeeding fiscal year.

2 Sec. 451a. (1) Except as provided in section 248, a work
3 project appropriation continues to be available until completion of
4 the work or 48 months after the last day of the fiscal year in
5 which the appropriation was originally made, whichever comes first,
6 then the remaining balance lapses to the state fund from which it
7 was appropriated. For work projects established before ~~the~~
8 ~~effective date of the amendatory act that added this section, March~~
9 **22, 1999**, the 48-month time period described in this subsection
10 begins on ~~the last day of the fiscal year in the year the~~
11 ~~amendatory act that added this section takes effect. September 30,~~
12 **1999**. To be designated as a work project, a work project shall meet
13 all of the following criteria:

14 (a) The work project shall be for a specific purpose.

15 (b) The work project shall contain a specific plan to
16 accomplish its objective.

17 (c) The work project shall have an estimated completion cost.

18 (d) The work project shall have an estimated completion date.

19 (2) The **state budget** director has the authority to issue
20 directives to lapse existing work project accounts at any time. The
21 **state budget** director shall notify each member of the senate and
22 house appropriations committees and the fiscal agencies of work
23 projects that the **state budget** director has ordered to lapse. These
24 directives may be disapproved by either the senate or house
25 appropriations committee within 30 days after the date of
26 notification and, if disapproved within that time, shall not be
27 effective.

28 (3) Not later than 45 days after the conclusion of the fiscal
29 year, the **state budget** director shall notify the senate and house

1 appropriations committees and the fiscal agencies of appropriations
2 proposed to be designated as work projects in accordance with the
3 definition contained in this act. These designations may be
4 disapproved by either appropriations committee within 30 days after
5 the date of notification and, if disapproved within that time,
6 shall not be effective. The notification shall include an estimate
7 of the dollar amount of the funds to be designated as work projects
8 and a description of all work projects designated in an
9 appropriations act.

10 (4) Not later than 120 days after the conclusion of the fiscal
11 year, the **state budget** director shall prepare and deliver to the
12 senate and house appropriations committees and the fiscal agencies
13 a report that summarizes current work project accounts. This report
14 shall contain a listing of all work project accounts, the balance
15 in each account, the amount of funds that lapsed from any
16 previously designated work projects, and the funds that received
17 these lapses.

18 Enacting section 1. This amendatory act takes effect October
19 1, 2021.