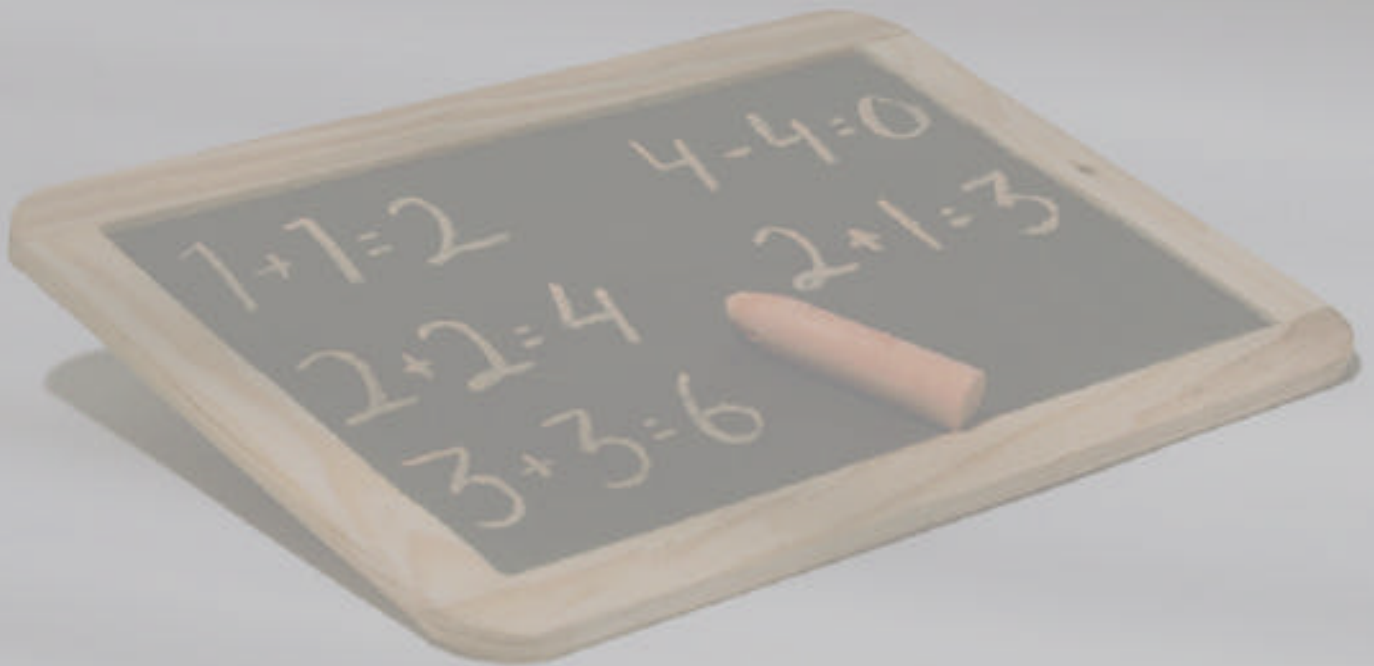


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# 2002

# S.B. 30 Report



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# 2002 S.B. 30 REPORT

## TABLE OF CONTENTS

<b>INTRODUCTION.....</b>	<b>1</b>
<b>SECTION I ACTS WITH POTENTIAL COSTS TO SCHOOL DISTRICTS .....</b>	<b>3</b>
AMENDED SUBSTITUTE SENATE BILL 1 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY.....	3
AMENDED SUBSTITUTE HOUSE BILL 94 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY.....	5
AMENDED SUBSTITUTE SENATE BILL 3 AND AMENDED SUBSTITUTE SENATE BILL 287 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	11
AMENDED SUBSTITUTE SENATE BILL 181 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	12
AMENDED SUBSTITUTE SENATE BILL 345 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	14
<b>SECTION II ACTS WITH LITTLE TO NO COST TO SCHOOL DISTRICTS ....</b>	<b>17</b>
AMENDED SUBSTITUTE SENATE BILL 1 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY .....	17
AMENDED SUBSTITUTE HOUSE BILL 94 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY .....	17
AMENDED SUBSTITUTE SENATE BILL 345 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	20
AMENDED SUBSTITUTE SENATE BILL 272 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	21
SUBSTITUTE HOUSE BILL 589 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	24
AMENDED SUBSTITUTE HOUSE BILL 768 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	25
SUBSTITUTE SENATE BILL 270 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	26
SUBSTITUTE SENATE BILL 333 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	26
HOUSE BILL 289 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY .....	26
AMENDED SUBSTITUTE HOUSE BILL 77 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY.....	27
SUBSTITUTE HOUSE BILL 196 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY.....	27
AMENDED HOUSE BILL 181 OF THE 124 <sup>TH</sup> GENERAL ASSEMBLY.....	31
AMENDED SENATE BILL 269 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY .....	31
SUBSTITUTE SENATE BILL 237 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	31
AMENDED HOUSE BILL 383 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	32
HOUSE BILL 620 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	32
AMENDED SUBSTITUTE SENATE BILL 77 OF THE 123 <sup>RD</sup> GENERAL ASSEMBLY.....	33
<b>SECTION III RULES ADOPTED BY THE STATE BOARD OF EDUCATION ...</b>	<b>34</b>

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## INTRODUCTION

Ohio Revised Code section 103.141 (first enacted by Am. S.B. 30 of the 119<sup>th</sup> General Assembly) requires a report every even-numbered year estimating the cost to school districts of new school laws and rules that became effective during the preceding two calendar years. This S.B. 30 report includes legislation with effective dates in calendar years 2000 and 2001 and rules adopted during that period. The first section covers laws with some potential costs to school districts. The second section briefly discusses laws with very little or no cost to school districts. Finally, the third section covers the rules, some of which have potential costs, but most of which do not.

When possible, the cost estimates were made using existing data collected by the Ohio Department of Education, Legislative Service Commission (LSC), or other organizations. If a law or rule affects a limited number of districts, we contacted each of those districts to attempt to determine an actual cost for all the affected districts. Where a large number of districts are impacted, we attempted to contact those districts most affected or a selection of districts of different sizes and locations to estimate whether the cost of the law or rule might be substantial and, if so, what circumstances most likely affect the magnitude of the cost.

In many cases LSC was unable to determine the actual cost on a statewide basis. For example, in cases where mandates affect basic administrative functions of school districts, such as requirements to adopt policies or budgets, the resulting costs are usually not available from school districts because they are not segregated from districts' general administrative costs. In addition, some mandates are too imprecise to fairly establish what activity, if any, is actually required. The costs of these more ambiguous mandates, such as one requiring school districts to "collect and analyze" data, depend on how each district chooses to interpret and implement the mandate. Finally, some of the laws and rules examined seem to create only minor costs and, therefore, do not seem to warrant the amount of school district personnel time and effort required to complete a thorough accounting.

The laws in the second section of the report and several of the rules are deemed to have no cost. For some of these laws and rules, there is simply no discernable fiscal impact. Others actually have beneficial fiscal effects for districts. Many have potential costs, but only when generated by voluntary district activities. For example, a law may "permit" a district to institute a program or policy that could have a cost. Also, laws affecting programs of the Ohio School Facilities Commission have been put into this category because all of these programs are voluntary. A few laws and rules somewhat limit the spending of state funds received by districts. These are also considered in this report as having no cost. LSC recognizes, however, that if a district needs to redirect the

use of restricted state funds from an activity, they may need to substitute local funds if they wish to continue to pay for that activity.

Ohio Revised Code section 103.141 expressly permits the exclusion of estimates of the cost of certain laws from a report if there is a "good reason" why the cost cannot be estimated by the time the report must be issued. In this case, the cost estimates must be included in the next S.B. 30 report. LSC has determined that the S.B. 1 mandate to provide "intervention" to students failing certain statewide tests cannot be included in the 2002 report because the effect of this mandate depends on new state tests that have not yet been fully implemented. This mandate is described in the first section of this report. The costs of this mandate will be examined in the 2004 report.

## **SECTION I**

### **ACTS WITH POTENTIAL COSTS TO SCHOOL DISTRICTS**

#### **Amended Substitute Senate Bill 1 of the 124th General Assembly Effective September 11, 2001**

##### **Intervention services**

Beginning in 1989, school districts were required to establish "competency-based education programs" in composition, mathematics, and reading for grades 1 through 12. Districts were to provide intervention services to any student not making satisfactory progress in these areas based on a local assessment given by the district at least once per year. The subjects of science and citizenship were added to this requirement in 1993. In 1992, intervention services were also required to be provided to any student failing any part of the fourth grade proficiency test, which includes the five subject areas: reading, writing, mathematics, science, and citizenship. This requirement was expanded by Am. Sub. S.B. 55 of the 122<sup>nd</sup> General Assembly, effective July 1, 1998, which required that:

(1) Intervention services be provided to students identified as reading below grade level at the end of first and second grades;

(2) "Intense remediation services during the summer" be provided to students identified as reading below grade level at the end of third grade and students not passing the fourth grade reading proficiency test by the end of the fourth grade; and

(3) Summer remediation be provided to students who failed three or more of the five proficiency tests in either fourth or sixth grade.

Senate Bill 1 eliminated the competency-based education program requirement, including the requirement to provide intervention services based on local assessments. This intervention requirement was replaced by a requirement that districts provide intervention services to students not making satisfactory progress toward the attainment of the statewide academic standards for their grade level as measured by state developed diagnostic assessments.<sup>1</sup> The act required that the Ohio Department of Education (ODE) develop diagnostic assessments in each of grades kindergarten through two in reading, writing, and mathematics and in each of grades three through eight in reading, writing, mathematics, science, and social studies. These assessments must be developed by July 1, 2007. ODE is planning on developing them gradually, with the first being ready for the 2002-2003 school year.

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<sup>1</sup> School districts rated as "excellent" are permitted to use an alternative assessment.

Senate Bill 1 also required that ODE develop achievement tests to replace the current proficiency tests. These new tests are to be gradually phased in as the proficiency tests are phased out. The proficiency tests are scored on a pass/fail basis. The achievement tests, however, will have four scores: advanced, proficient, basic, and below basic. The only exception to this scoring system will be the tenth grade achievement test, called the Ohio Graduation Test, which will still be scored pass/fail. Presumably, the advanced and proficient scores will be considered passing scores and the basic and below basic scores will be considered failing scores.

The act modified the intervention requirements related to students' scores on the proficiency tests in the following ways:

(1) In addition to providing intervention services to students failing any of the fourth grade proficiency tests, districts must also provide intervention services to any student failing any of the sixth or ninth grade proficiency tests.

(2) As the achievement tests are phased in, the requirement in (1), above, will be replaced with a requirement that intervention services be provided to students not attaining a *basic* score on any achievement test, except the Ohio Graduation Test for which intervention is not mandated.

It is not clear whether the changes to the intervention requirements made in S.B. 1 will lead to more mandated intervention. The answer to this partially depends on whether more students will be identified as needing intervention based on the diagnostic and achievement tests than were identified based on the local competency-based education program assessments and the proficiency tests. LSC is currently conducting a study of the cost of intervention services provided in Ohio public schools. The study is also intended to show changes the school districts made in intervention practices following the S.B. 1 mandates. The results of this study will be reported in the 2004 S.B. 30 report.

### *Curriculum realignment*

Senate Bill 1 required ODE to develop academic standards and model curricula for grades kindergarten through twelve in reading, writing, math, science, and social studies. The standards for reading, writing, and mathematics were adopted in December 2001. The standards for science and social studies are to be adopted in December 2002. Additionally, after December 2002, ODE is required to adopt standards for each of grades three through twelve in computer literacy and for each of grades kindergarten through twelve in fine arts and foreign languages. Senate Bill 1 did not specifically mandate that districts align their curricula to these new standards. However, the diagnostic and achievement tests currently being developed are to be designed to measure students' progress towards meeting these standards. It is likely, therefore, that most districts will choose to align their curriculums.

**The cost**

Curriculum realignment could represent a substantial one-time cost to some districts. These costs include administrative and teaching personnel time that could require additional monetary compensation. The realignment may necessitate the addition of new courses involving the purchase of new textbooks and materials or perhaps the hiring of new teachers. Old courses may need to be cancelled, resulting in the loss of use of previously purchased textbooks and materials. Staff may need additional professional development related to the new curriculum. Some districts may decide to hire outside consultants to assist in the realignment. Although none of these costs are specifically mandated, it is apparent that they may be necessary if a school district desires to maximize the potential for student success on the state achievement tests.

**Amended Substitute House Bill 94 of the 124<sup>th</sup> General Assembly  
Effective June 6, 2001****Minimum teacher salary schedule**

Ohio Revised Code section 3317.13 places a lower limit on the salaries school districts pay teachers. The schedule sets minimum salaries for teachers based upon years of experience (0-11 years) and level of education (less than a bachelor's degree, a bachelor's degree, five years of training above a bachelor's degree, or a master's degree or higher). The state minimum teacher salary schedule was first enacted in 1967. At that time the minimum salary for a beginning teacher with a bachelor's degree was \$5,000. Prior to enactment of H.B. 94, the last increase in the schedule took effect in 1992, when the minimum salary for a beginning teacher with a bachelor's degree was increased from \$16,700 to \$17,000. House Bill 94 raised this minimum salary from \$17,000 to \$20,000. The corresponding minimum salary for a teacher with a master's degree and eleven years experience was set at \$32,460.

**The cost**

LSC received data from the Ohio Education Association on the base salaries in each district as well as the number of teachers and their education and experience levels for each district in fiscal year 2001. Based on this data, it was estimated that the increase in the state minimum teacher salary schedule would cost eight districts a total of \$710,664. House Bill 94 permitted the Ohio Department of Education (ODE) to reimburse any district whose costs of increasing salaries exceeded the increase in their fiscal year 2002 state aid. According to ODE, no districts were eligible to receive reimbursement. The following table lists the estimated costs to each of the eight districts:

School District	County	Base Salary 2000-2001	Estimated Cost of Increasing Base Salary 2001-2002
Southern Local	Columbiana	\$17,429	\$300,099
Southern Local	Meigs	\$18,740	\$137,533
Lakota Local	Sandusky	\$19,493	\$133,324
Eastern Local	Meigs	\$19,500	\$51,317
Frontier Local	Washington	\$19,673	\$40,020
Toronto City	Jefferson	\$19,878	\$16,841
Conotton Valley-Union	Harrison	\$19,771	\$15,848
Bloomfield-Mespo Local	Trumbull	\$19,767	\$15,682
		<b>Total Cost:</b>	<b>\$710,664</b>

### Spending on special education

For purposes of state funding, special education students are put into categories according to their disability. The per student base cost figure is weighted for each special education student depending on the student's category. Beginning in 1998, districts have been required to spend each year on special education related services<sup>2</sup> the lesser of the amount they spent in the previous fiscal year, or one-eighth of their calculated state and local shares of special education base cost funding. However, prior to H.B. 94 there was not a spending requirement for special education *instruction*. House Bill 94 eliminated the former requirement pertaining specifically to special education related services and requires that districts spend at least the amount of state and local funds calculated through the base cost and special education formulas for its special education students, including expenditures for both special education instruction and related services. These expenditures must be approved by ODE and may include:

- (1) Costs of identifying handicapped children;
- (2) Costs of compliance with state rules governing the education of handicapped children and prescribing the continuum of program options for handicapped children;
- (3) The portion of the district's overall administrative and overhead costs that is attributable to the district's special education student population.

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<sup>2</sup> Special education related services include those services other than instruction provided to special education students, such as transportation, occupational and physical therapy, identification and assessment of handicapped conditions, and other services.



House Bill 94 also required that districts annually report data to ODE to allow ODE to monitor compliance with this spending requirement. ODE must report this information to the General Assembly. ODE plans to make its first report in October 2002.

### **The cost**

The weights used for special education funding in H.B. 94 were constructed based on a study by Capital Partners of the actual costs of providing special education services.<sup>3</sup> Presumably, therefore, school districts would need to spend a significant portion of these funds on special education services even without the requirement that they do so. ODE has developed a methodology that will allow for the calculation of the required expenditures using data that have already been collected and reported by school districts. The mandate, therefore, does not create additional data reporting requirements for school districts.

### **Restrictions on the use of parity aid**

House Bill 94 established a new form of state funding to school districts called parity aid. Parity aid helps to decrease the disparities in school district spending that occur above the base cost level. House Bill 94 established the base cost level for fiscal year 2003 at \$4,949 per student. The state pays the difference between the district's average daily membership (ADM) multiplied by the per student base cost level and the revenue the district can generate locally from 23 mills of property tax. Disparities in school district revenues result from the local taxes collected above the 23-mill level. Parity aid helps to decrease these disparities by giving additional state funding to districts whose income-adjusted property wealth is below the 80<sup>th</sup> percentile.<sup>4</sup>

The Ohio Department of Education issues a performance rating for each school district every year based upon the percentage of state performance standards met by the district. All continuous improvement, academic watch, and academic emergency districts must develop a continuous improvement plan (CIP) outlining the strategies and resources the district will use to improve its performance. All districts required to have a CIP are now required to include in it a budget for the district's allotment of parity aid. These districts are restricted to nine uses for parity aid unless they obtain a waiver from the Superintendent of Public Instruction authorizing the use of parity aid for another purpose. The nine purposes for which a waiver is not required are:

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<sup>3</sup> *Special Education Finance in Ohio: Analysis and Recommendations*. November 2000. Prepared by Capital Partners for the Ohio Coalition for the Education of Children with Disabilities.

<sup>4</sup> For details about how parity aid is calculated and distributed, please refer to pages 45 through 50 of the LSC Final Analysis for H.B. 94.

- (1) Upgrading or purchasing additional classroom equipment, materials, textbooks, or technology;
- (2) Lowering student/teacher ratios in additional classrooms;
- (3) Providing more advanced curriculum opportunities;
- (4) Providing additional electives or mandatory courses for graduation;
- (5) Increasing professional development;
- (6) Serving more students in all-day kindergarten;
- (7) Providing preschool to more students;
- (8) Providing additional programming and services for special student populations such as gifted, disadvantaged, or disabled students;
- (9) Establishing new academic intervention programs or increasing the number of students served in existing ones, including programs such as tutoring or summer school.

According to a spokesperson at ODE, approximately 100 school districts, out of a total of 492 receiving parity aid in fiscal year 2002, applied for a waiver to use their parity aid for a purpose other than the nine listed above. ODE worked closely with these districts as they developed their requests. As a result, one school district's request was denied.

**The cost**

There is an administrative cost in the development of the parity aid budget for applicable districts in continuous improvement, academic watch, or academic emergency. This cost, however, is likely minimal, and presumably less than the state funds the district will receive in parity aid as a result of the development of a parity aid budget. Furthermore, these costs will likely diminish each year as school districts become more familiar with the process and begin to incorporate it into their current procedure for developing their CIPs. The restrictions on the use of parity aid could be viewed solely as a limitation on state funds beyond base cost funding, and, therefore, not as a mandated cost to districts. However, if viewed as a mandated cost, only one district was actually required to comply with the provision against its wishes. This district is Ohio Valley Local (Adams County), which received \$347,120 of parity aid in fiscal year 2002.

**Funding formula changes**

House Bill 94 included the following changes to the base cost formula used to provide the majority of state funding to school districts:<sup>5</sup>

- (1) Increased per pupil base cost amounts;
- (2) Reduced the variance in the cost of doing business factor to 7.5 percent;
- (3) Repealed the temporary cap on school district aid increases;
- (4) Eliminated the "income factor" adjustment from the base cost formula;
- (5) Extended the phase out of equity aid;
- (6) Repealed the power equalization subsidy and phased in "parity aid";
- (7) Beginning in FY 2004, expanded the base upon which school districts' Disadvantaged Pupil Impact Aid (DPIA) indices are calculated;
- (8) Changed the weights assigned to special education students;
- (9) Extended "catastrophic costs" to cover most special education students, increased the state's share of this subsidy, increased the payment threshold to \$30,000 in FY 2002, and increased it by an annual inflation factor of 2.8 percent in FY 2003 and following years;
- (10) Beginning in FY 2003, placed an "excess cost" limitation of 3 mills on the local share of special education, vocational education, and transportation;
- (11) Beginning in FY 2003, increased the state's percentage of transportation funding for lower-wealth school districts;
- (12) Added transportation funding to "gap aid."

**The cost**

The changes in the funding formula result in a net increase in state funding provided statewide to school districts. Formula aid increased from fiscal year 2001 to fiscal year 2002 by approximately \$501.6 million. Ninety-eight percent of school districts received more formula aid in fiscal year 2002 than fiscal year 2001. Ten districts received less formula aid. The amount of formula aid received is affected not just by

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<sup>5</sup> For a more detailed description of these changes, please refer to the *LSC Fiscal Analysis* of the FY 2002 – FY 2003 State of Ohio Operating Budgets, pages 73-102.

statutory changes, but also by changes in ADM, local property wealth, and other factors. A few of the statutory changes in the formula, however, when taken alone, tend to decrease the funding received by certain districts. Generally, they affect the distribution of state funds within the system, rather than affecting the total amount of funding. These provisions include the reduction in the variance of the cost of doing business factor (CODBF), the elimination of the "income factor" adjustment, and the change in the special education weights. It is not possible, however, to accurately estimate the cost of each of these changes separately as the funding formula changes are a complete package and each change affects the others and cannot be adequately analyzed in isolation.

The CODBF is designed to help correct for differences in uncontrollable costs faced by districts because of their location. The major expenditure for school districts is salaries. The salary a district must pay is partially determined by factors beyond the control of the district, such as the cost of living in the area and the salaries paid by other potential employers. The CODBF calculation uses average wages in each county as a proxy for these uncontrollable factors. Prior to H.B. 94, the variance in the CODBF was being phased in to 18 percent. House Bill 94 permanently set the variance at 7.5 percent. This change does not affect the total amount of state funding to all districts.<sup>6</sup> However, it results in districts in counties with relatively high average wages (urban and suburban) receiving less state funding than they would have under the 18 percent CODBF phase-in, whereas districts in counties with relatively low average wages (rural) receive more.

The "income factor" adjustment was made to districts whose median income per federal income tax return was below the state median school district's median income per return. This was true for approximately 300 districts. The "income factor" adjustment was made to the property wealth of these districts to make them appear poorer and thereby reduce their local share of base cost funding and increase the state share. The elimination of this adjustment results in these districts receiving less state funding than they would have had the adjustment been made.

Prior to H.B. 94, special education students were separated into three categories based on their disability. Two weights were then applied to the formula amount to provide extra funding for special education. House Bill 94 replaced this system with six special education categories and six weights. Of the thirteen disabilities covered, nine have higher weights and four have lower weights. The disabilities with lower weights are:

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<sup>6</sup> The method used to determine the base cost relies on actual model school district costs. Some of these costs are common to all districts, and some are due to different costs of doing business. A decrease in the variance of the CODBF, therefore, increases the base cost, as more of the cost is assumed to be common to all districts. This increase in the base cost is why the total amount of state funding did not decrease when the CODBF variance was decreased to 7.5 percent.

(1) Severe behavior handicapped, hearing handicapped, and vision impaired for which the weight decreased from 3.01 to 1.7695;

(2) Orthopedically handicapped for which the weight decreased from 3.01 to 2.3646.

Depending on the number of special education students with each disability within a district, the decreased funding from the lower weights may not be completely offset by the increased funding from the higher weights for some districts. However, the actual increase or decrease could change from year to year as the mix of categories of special education students varies.

### **Amended Substitute Senate Bill 3 and Amended Substitute Senate Bill 287 of the 123<sup>rd</sup> General Assembly Effective July 6, 1999 and December 21, 2000**

Property tax rates are determined by locally passed tax levies. State law, however, affects property taxes by determining the assessment rate. The assessment rate is the proportion of the true value of the property that is subject to being taxed. Senate Bill 3 lowered the assessment rates for certain types of electric company property, and S.B. 287 lowered the assessment rates on natural gas property. Senate Bill 3 and S.B. 287 also levied two new taxes, a new kilowatt-hour tax on electric distribution companies and a new thousand cubic foot tax on natural gas companies. A portion of the revenue from these new taxes is deposited into the school district property tax replacement fund to be used for reimbursing schools for their property tax losses due to the acts' lowered assessment rates. Any money in the replacement fund that is not needed for direct reimbursements in any year will be distributed to school districts on a per student basis to be used for capital improvements.

Senate Bill 287 also revised the true value determination of current gas stored underground. This revision will result in the gradual phase-out of the assessment rate on these gas inventories. Although districts are being reimbursed for the tax loss from the initial decline in the assessment rate from 88 percent to 25 percent, they will not be reimbursed for the loss from the decline from 25 percent to 0 percent.

#### **The cost**

The changes in property tax assessment rates instituted by S.B. 3 and S.B. 287 went into effect in tax year 2001.<sup>7</sup> The Department of Taxation determined the tax value loss for all school districts and joint vocational school districts as approximately \$198.0

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<sup>7</sup> For a more detailed explanation of the reimbursement of the property tax losses of S.B. 3 and S.B. 287, see the March 2002 issue of the LSC publication *Budget Footnotes*, pages 142-147.

million for one year. This is a one-time determination; levies passed after the reduction in the assessment rates are not included. These tax changes first impacted local revenue collections in February 2002. Districts received replacement payments totaling \$99.0 million, half of the annual loss, on March 1, 2002. They also received a second payment in August. The payment in August, as will all future payments, incorporated the state education aid offset calculated by the Ohio Department of Education. The state education aid offset reflects the additional state funding districts are receiving due to the lower property valuation caused by the lower assessment rates. Districts are guaranteed to receive assistance from the state in the form of the state education aid offset and direct reimbursements reflecting the annual loss of \$198.0 million for four years, 2002-2006. After 2006, some districts that are still experiencing significant tax revenue losses and all joint vocational school districts will continue to receive direct reimbursements through 2016.

A few districts that host underground storage facilities for natural gas will experience some loss as the assessment rate on inventories is phased out beginning in tax year 2002. This loss will be partially offset by an increase in state education aid. It is estimated that the largest net loss arising from this phase-out to any one district is approximately \$500 per year.<sup>8</sup>

All districts will likely gain revenue for capital improvements because of the provision requiring that any money left over in the school district property replacement fund after all direct reimbursements are made be distributed to all districts on a per student basis. This will likely be the bulk of the money in this fund after 2006.

### **Amended Substitute Senate Bill 181 of the 123<sup>rd</sup> General Assembly Effective September 4, 2000**

Senate Bill 181 affected school districts' truancy policies. Laws requiring school districts to investigate truant behavior and to enforce compliance with school attendance laws have been in force in Ohio since the 1940s. Continuing law requires that an attendance officer examine any case of supposed truancy within the district. If a child is found to be truant, the officer is required to warn the child and the child's parent or guardian, in writing, of the legal consequences of truancy. If the parent or guardian fails to compel the child to attend school, the school district has the option of requiring the parent or guardian to attend an educational program instead of filing a complaint in court. However, prior to S.B. 181, truancy was not defined in terms of the number of unexcused absences to be tolerated.

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<sup>8</sup> See the LSC *Fiscal Note and Local Impact Statement* for S.B. 287 for more detail on this cost.



Senate Bill 181 created two specific categories of truancy, habitual truants and chronic truants. "Habitual truant" is defined in ORC 2151.011. It refers to any child who is absent without excuse for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year. "Chronic truant" is defined in ORC 2152.02. It refers to any child who is absent without excuse for seven or more consecutive school days, ten or more school days in one school month, or fifteen or more school days in a school year.

Senate Bill 181 required districts to adopt a policy to guide school district employees in intervening with a student who is a "habitual truant." The policy must be developed in consultation with the judge of the county juvenile court, the parents or guardians of the children in the district, and appropriate state and local agencies. Ohio Revised Code section 3321.191 mandates that the policy include the option of assigning a habitual truant to an alternative school if such a school exists. Defined in ORC 3313.533, an alternative school has the purpose of serving "students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, or who are exhibiting other academic or behavioral problems." Ohio Revised Code section 3313.534 requires each of the Big Eight school districts to have at least one alternative school. The Big Eight school districts are: Columbus, Cincinnati, Cleveland, Toledo, Akron, Dayton, Youngstown, and Canton. The statute further states that districts may include in their policies any of the following:

- (1) Truancy intervention programs;
- (2) Counseling;
- (3) Parental involvement programs;
- (4) Truancy prevention mediation programs for parents and guardians;
- (5) Loss of driving privileges;
- (6) Legal action.

**The cost**

The more explicit definitions of "habitually truant" and "chronically truant" students in S.B. 181 have increased the number of students identified as truant in some Ohio school districts. LSC discussed the impact of the bill with representatives from the Big Eight school districts. Four of these districts are now identifying more truant students and making more referrals to juvenile court. Two of these four districts increased their personnel by approximately one full-time equivalent employee in order to handle the larger number of truant students. The average annual salary in Ohio for an attendance officer is approximately \$26,000. The other two districts with an increase in truant students were able to absorb the extra work with their current staff. Of the

remaining four districts, two did not experience a change in the number of truants identified, and two districts have seen a decrease in truancy. According to representatives of these districts, the decrease in truancy has resulted from better record keeping and earlier and more effective interventions instituted by the districts.

For any district with "habitually truant" students, there is an administrative cost in formulating and adopting a policy. The details of the policy are mostly left up to the discretion of the individual school board. One exception is that if the school district has an alternative school, the policy must include assigning the habitual truant to the alternative school as an option. The act does not require, however, that the district open more alternative schools or increase the capacity of any existing alternative schools. None of the representatives of the Big Eight districts contacted by LSC, all of which are required to have alternative schools, felt that S.B. 181 had a major impact on their districts' alternative school program.

### **Amended Substitute Senate Bill 345 of the 123<sup>rd</sup> General Assembly Effective April 10, 2001**

#### **Fiscal caution**

In 1996, the General Assembly created the categories of fiscal watch and fiscal emergency to define certain school districts. Senate Bill 345 created a third category of "fiscal caution" and reduced the deficit thresholds districts must meet to be considered in fiscal watch or fiscal emergency. As a result of S.B. 345, the state Superintendent of Public Instruction is required to declare a district in fiscal caution if the district has an operating deficit between 2 percent and 8 percent of the district's general fund revenue for the preceding year and no levy that would eradicate the debt in the next fiscal year has been approved. The state Superintendent may make such a declaration if the district has any practices or budgetary conditions that could contribute to a future declaration of fiscal watch or fiscal emergency. The following districts were in fiscal caution at the end of fiscal year 2002:

- Portsmouth City (Scioto County)
- East Cleveland City (Cuyahoga County)
- Bellevue City (Huron County)
- Mapleton Local (Ashland County)
- Twin Valley Community Local (Preble County)

Each of these districts is required to develop a plan to avoid current or future year deficits. A district can request technical assistance in developing the plan from the Ohio



Department of Education (ODE). The plan is then accepted or rejected by the state Superintendent. Once the plan is accepted, ODE monitors its implementation monthly. A district can continue to request assistance from ODE or the Auditor of State as it implements the plan. Assistance typically involves reviewing forecast projections, managing short-term cash flow needs, and helping to implement improved accounting, reporting, and internal control systems.

Senate Bill 345 changed the conditions that trigger the classification of a district as fiscal watch. As before, the Auditor of State must place a district in fiscal watch if the district's operating deficit exceeds 8 percent of the district's general fund revenue for the preceding year and the district has not passed a levy that will raise enough money to eradicate the deficit. However, the changes made by S.B. 345 also permit the Auditor to declare a fiscal watch if the district's operating deficit is as low as 2 percent, and require the Auditor to do so if a district in fiscal caution does not act reasonably to improve its fiscal condition. The following districts were in fiscal watch at the end of fiscal year 2002:

- Coventry Local (Summit County)
- Buckeye Local (Delaware County)
- Cleveland City (Cuyahoga County)
- Massillon City (Stark County)
- Williamsburg Local (Clermont County)

Senate Bill 345 also changed the conditions for which a district is declared in fiscal emergency. The Auditor must declare a fiscal emergency for a district whose operating deficit exceeds 15 percent of the district's general fund revenue for the preceding year when there are no voter-approved levies that will correct the deficit. In addition, the Auditor must declare a fiscal emergency when a district in fiscal watch is not complying with the approved financial plan the district developed. The Auditor is also permitted to declare a fiscal emergency if the district's deficit is between 10 percent and 15 percent. The following districts were in fiscal emergency at the end of fiscal year 2002:

- Southern Local (Meigs County)
- Lordstown Local (Trumbull County)
- Trimble Local (Athens County)

**The cost**

LSC contacted representatives of the districts in fiscal caution and fiscal watch. These representatives generally felt their districts did incur costs in terms of administrative time and effort in developing plans to avoid deficits, but would have needed to create such a plan without the state's designation in order to remain solvent. By being placed in fiscal caution, watch, or emergency, these districts did gain some planning and management assistance from ODE. Some districts also received performance audits performed by the Auditor of State and paid for by ODE.

## **SECTION II**

### **ACTS WITH LITTLE TO NO COST TO SCHOOL DISTRICTS**

#### **Amended Substitute Senate Bill 1 of the 124<sup>th</sup> General Assembly Effective September 11, 2001**

##### **Test and assessment administration**

As mentioned above, S.B. 1 replaced competency-based local assessments with diagnostic assessments and replaced the state proficiency tests with state achievement tests. Under the competency-based education program, districts were responsible for developing, administering, and grading local assessments. The diagnostic assessments, however, will be developed by the state, but still administered by the district. Districts may be able to save by not having to develop the assessments themselves, but any savings in the administration and grading of the local assessments presumably will be offset by the costs of administering and grading the diagnostic assessments. Regarding proficiency tests, the districts are responsible only for administering the proficiency tests, which are developed and scored by the Ohio Department of Education (ODE). This arrangement will not change when the achievement tests are phased in. Senate Bill 1, however, eliminated the twelfth grade proficiency test, reducing the number of proficiency and achievement tests from 20 to 15. This may result in some savings of staff time in test administration.

#### **Amended Substitute House Bill 94 of the 124<sup>th</sup> General Assembly Effective June 6, 2001**

##### **Restriction on the use of DPIA**

Disadvantaged Pupil Impact Aid (DPIA) provides additional state funding to school districts with relatively large proportions of students from families participating in Ohio's welfare program, Ohio Works First. There are three components to DPIA: class-size reduction, all-day kindergarten, and safety and remediation. The safety and remediation funds can be used by districts for expenses related to safety, such as programs against drugs and violence, or remediation, such as summer school or reading programs. The state mandates that districts provide intervention services to certain students based on their scores on state proficiency tests. Starting in FY 2003, any district that receives safety and remediation moneys under DPIA must use 20 percent of that money to pay for these mandated intervention services. As this provision only applies to state funds, it does not represent a mandated local cost to the district. The cost of intervention services will be addressed in the 2004 S.B. 30 report.

**Sale of real property to community schools**

Ohio Revised Code section 3313.41 requires school districts to dispose of real or personal property whose value exceeds \$10,000 at public auction. However, H.B. 94 required school districts to offer real property to start-up community schools first, before auctioning. This provision presumably will not represent a cost to school districts since the act stipulates that the property is to be sold at market value.

**Graduation requirements**

Prior law increased the number of credit hours students graduating from high school had to complete from 18 to 21 units.<sup>9</sup> House Bill 94 decreased that requirement to 20 units of credit. House Bill 94 also increased the per pupil base cost amount by \$12 in order to fund the increased graduation requirements. This provision fiscally benefits districts.

**Education of homeless children**

House Bill 94 required districts to comply with the federal McKinney-Vento Homeless Assistance Act for the education of homeless children.<sup>10</sup> In particular, when a child becomes homeless the parents of the child may choose to enroll the child in either the school the child was attending prior to becoming homeless or the school serving the area where the child is currently temporarily residing. This is a federal mandate; the state law does not add an additional cost to schools.

**Community school transportation**

Effective in 1997, school districts had to provide transportation to students living in their districts and attending community schools. House Bill 94 permitted districts to establish agreements whereby the community school assumes responsibility for transportation. If such an agreement is reached, the community school will be paid \$450 per pupil from the district's state transportation funding. According to ODE, as of June 5, 2002, there have been no transportation contracts between community schools and public school districts.

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<sup>9</sup> Am. Sub. S.B. 55 of the 122<sup>nd</sup> General Assembly, effective July 1, 1998.

<sup>10</sup> Pub. L. No. 100-77, codified at 42 U.S.C. § 11431 *et seq.*

**Ohio School Facilities Commission**

House Bill 94 contained three provisions affecting the Ohio School Facilities Commission (OSFC).

Ohio Revised Code section 133.06 prohibits school districts from incurring net indebtedness that exceeds 9 percent of their tax valuation. Prior law allowed two exceptions to this rule:

(1) A district declared as a "special needs district" because its students are not adequately served by the existing permanent improvements of the district, and the district cannot obtain sufficient funds within the 9percent limitation to provide the permanent improvements required to meet those needs;

(2) A district needing to issue securities for emergency purposes because school facilities have been wholly or partially destroyed or condemned, require improvements in order to be usable, or require improvements to remove or prevent health or safety hazards.

House Bill 94 added to these exceptions. It permitted school districts to exceed the 9 percent debt limitation if additional debt is necessary to raise the district's share of a building project under the state's Classroom Facilities Assistance Program (CFAP). Participation is voluntary. Districts choosing to do this will have a greater debt burden, but will also be able to benefit from the programs of the OSFC.

The OSFC ranks school districts according to the average of their tax valuation for the last three years. This ranking determines the district's required local share under CFAP, the Accelerated Urban School Building Assistance Program, and the School Building Assistance Expedited Local Partnership Program. In 1999, the assessment rates on electric utility taxable property were lowered. This resulted in a decrease in the tax valuation of affected school districts. For any district whose tax valuation decreased by more than 10 percent due to this change, H.B. 94 required the commission to use the current year valuation instead of the three-year average when determining the district's percentile rank for its local share calculation. This should result in a lower local share for the districts affected.

The OSFC has had a policy requiring a contingency reserve as part of any CFAP project construction budget. House Bill 94 codified this requirement and stipulated that the contingency reserve only be used to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building or other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project. Since the contingency reserve was already required, there should be no additional cost incurred by districts.

**Solvency assistance fund**

Amended Substitute Senate Bill 345 of the 123<sup>rd</sup> G.A., also discussed in this report, limited eligibility for solvency assistance to districts in fiscal emergency due to an operating deficit in excess of 10 percent of the district's general revenue fund for the preceding year. House Bill 94 removed that limitation so that any district in fiscal emergency is eligible. In fiscal year 2002, only one district received an advance from the fund. This district would not have been eligible under the previous limitation.

**Amended Substitute Senate Bill 345 of the 123<sup>rd</sup> General Assembly  
Effective April 10, 2001**

**Solvency assistance fund**

In 1997, the General Assembly created the school district solvency assistance fund in order to make advancements to school districts "to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources." The state must be "reimbursed for any amounts advanced not later than the end of the second fiscal year following the fiscal year in which the advancement was made." The failure of the district to pay on time results in a deduction of state funds to the district.

Senate Bill 345 established two accounts within the school district solvency assistance fund: (1) the school district shared resource account, to be used for solvency assistance interest-free loan payments to districts in fiscal emergency, and (2) the catastrophic expenditures account, to be used for grants to districts faced with a catastrophic event. It also limited eligibility for solvency assistance payments to districts in fiscal emergency due to an operating deficit in excess of 10 percent of the district's general revenue fund for the preceding year. This limitation was removed, however, by H.B. 94, also covered in this report. This provision fiscally benefits school districts.

**Budget reserve, textbook and materials, and capital and maintenance funds**

Substitute House Bill 412 of the 122<sup>nd</sup> General Assembly required that school districts create and maintain a budget reserve fund, a textbooks and materials fund, and a capital and maintenance fund. The budget reserve fund was to be used for unanticipated deficiencies in revenue or other emergencies pursuant to a resolution adopted by two-thirds of the district board of education. Beginning in fiscal year 1999, districts were to deposit into the fund 1 percent of the revenue received for current expenses for the fiscal year if the growth in this revenue from the last fiscal year was at least 3 percent. Senate Bill 345 eliminated the requirement to have a budget reserve fund. Districts are free to use the funds already deposited at the district's own discretion.

House Bill 412 also required districts to annually deposit 4 percent of all revenues received for operating expenses in a fund to be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. As permitted under the law, the Auditor of State reduced the percentage to 3percent. Districts may use the money in this fund for other purposes if:

(1) The district superintendent, a person designated by vote of the business advisory council, and the president of the teacher's union all certify to the board that the district has sufficient textbooks and materials; and

(2) The district board adopts a resolution by unanimous vote of all the members stating that the district has sufficient textbooks and materials.

Senate Bill 345 reduced the amount required to be deposited in the fund to 3 percent of the per student base cost amount<sup>11</sup> multiplied by the average daily membership of the district. Any district for which this new calculation results in a larger deposit may choose to use the former calculation.

Similar to the provision requiring a textbook and materials fund, H.B. 412 required districts to deposit 4 percent of all revenues received by the district that would otherwise have been deposited in the general fund into a capital and maintenance fund, except that money received from a permanent improvement levy was allowed to replace general revenue money in meeting this requirement. Again the Auditor of State reduced the percentage to 3 percent. Senate Bill 345 reduced the amount to be deposited to 3 percent of the per student base cost amount multiplied by the average daily membership of the district, thereby requiring a uniform per student amount to be deposited in each of the textbook and materials and the capital and maintenance funds.

The elimination of the budget reserve fund and the lowering of the required set asides for textbook and materials and for capital and maintenance give districts more local discretion over the use of their funds.

### **Amended Substitute Senate Bill 272 of the 123<sup>rd</sup> General Assembly Effective September 14, 2000**

Senate Bill 272 affected the programs administered by the OSFC. As these programs are voluntary, the requirements for participation do not create mandated costs.

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<sup>11</sup> The per student base cost is \$4,949 in fiscal year 2003.



**Classroom Facilities Assistance Program (CFAP)**

The General Assembly, in 1997, created the Ohio School Facilities Commission (OSFC) in order to administer the state's school facilities building programs. The main program administered by OSFC is the Classroom Facilities Assistance Program (CFAP). Under CFAP, the state pays part of the costs of constructing facilities for school districts. The districts pay a local share that varies depending on their respective income-adjusted property valuations. Previously, this local share was to be raised by passing a bond issue and a tax levy to pay the annual principal and interest on the debt. Senate Bill 272 authorized school districts to use additional sources of money in raising their respective shares of classroom facilities assistance projects in order to reduce the amount of debt they otherwise must issue. These additional sources include a local donation received by the school or a property tax or income tax that can be lawfully used for general classroom facilities acquisition and maintenance. Eight districts have taken advantage of this provision: Washington-Nile Local (Scioto County), Valley Local (Scioto County), Dawson-Bryant Local (Lawrence County), Southern Local (Perry County), Symmes Valley Local (Lawrence County), Western Local (Pike County), Northwest Local (Scioto County), and Lisbon Exempted Village (Columbiana County). Certain school districts participating in a state school facilities assistance program are also permitted to enter into bond-pooling agreements with the treasurer of state in order to pay each district's local share. This flexibility in raising the local share may benefit some districts.

CFAP requires that districts levy a ½-mill property tax for maintenance or earmark its equivalent from the proceeds of an existing ongoing permanent improvement levy. Prior law required that if the district's adjusted valuation per pupil was above the state median, the districts had to pay ½ of the proceeds of this tax to the state. Senate Bill 272 eliminated this payment. Now all districts must deposit the entire proceeds of the ½-mill levy into a fund for maintenance of the facilities built or renovated under CFAP. Senate Bill 272 also made an exception to the ½-mill maintenance levy requirement for districts for which the levy would raise less than 10 percent of the amount the district is required to deposit in its capital and maintenance fund (3 percent of the base cost for the district).<sup>12</sup> These provisions presumably will benefit districts.

Ohio Revised Code section 3318.04 formerly prohibited districts from receiving additional assistance under the classroom facilities assistance program for 10 years after their original project began. Senate Bill 272 lengthened this waiting period to 20 years. The lengthening of the waiting period may present a cost to certain districts, but this will not be realized and cannot be calculated for several years. Senate Bill 272, however, also made two exceptions to the waiting period: (1) districts with "exceptional" enrollment growth "significantly" beyond the design capacity of the district's previous project, and

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<sup>12</sup> See above for a discussion of this fund.



(2) districts served before May 20, 1997, whose percentile ranks have become eligible for state assistance.

Participation in CFAP is contingent on each district's ability to raise its local share. So far, three districts have not met this condition: United Local (Columbiana County), South Point Local (Lawrence County), and Jefferson Local (Madison County). Due to the local share requirement, participation does require local expenditures. Local disbursements in CFAP totaled \$22,942,871 in fiscal year 2001 and \$63,865,262 in fiscal year 2002. State disbursements in CFAP totaled \$570,596,251 in fiscal year 2001 and \$847,411,526 in fiscal year 2002.

### **Expedited Local Partnership Program**

In 1999, the Expedited Local Partnership Program (ELPP) was established. Originally, ELPP allowed districts in the twentieth to fortieth percentiles of income-adjusted property valuation to enter into an agreement with OSFC whereby the district could proceed with new construction or repairs of the district's classroom facilities needs by expending local resources prior to the district's eligibility for CFAP. When the district did become eligible for CFAP, the local resources it had already expended counted towards its local share of the facilities project. Senate Bill 272 amended the law to allow all districts that are not eligible for CFAP for at least two years to participate in ELPP. As of the end of fiscal year 2002, 249 districts have been accepted into ELPP. This program benefits districts that are able to go ahead with facilities projects earlier by ensuring they will not forfeit any state assistance.

### **Exceptional Needs School Facilities Assistance Program**

The capital appropriations act of the 122<sup>nd</sup> General Assembly authorized the exceptional needs school facilities assistance program (ENSFAP) as a pilot project and appropriated \$30 million for it. Districts that are determined to be low wealth and that need immediate assistance in order to protect the health and safety of students but which are not expected to qualify for CFAP in the next three years qualify. Senate Bill 272 codified the program and authorized OSFC to set aside money to fund it. By the end of fiscal year 2002, 21 school districts have participated in ENSFAP. According to OSFC, local disbursements in the program totaled \$1,925,448 in fiscal year 2001 and \$27,262,418 in fiscal year 2002. State disbursements totaled \$54,690,136 in fiscal year 2001 and \$95,251,485 in fiscal year 2002.

### **School Building Emergency Assistance Program**

Senate Bill 272 created the School Building Emergency Assistance Program that provides classroom facilities assistance to school districts that have suffered a natural disaster. No school districts have participated in this program as of the end of fiscal year 2002.

**Accelerated Urban School Building Assistance Program**

Senate Bill 272 created a program to provide accelerated service to the Big Eight school districts under CFAP.<sup>13</sup> It also permitted these districts to segment their projects and to seek voter approval for any necessary bond issues or tax levies for each segment separately. Youngstown and Canton had already been accepted into CFAP, so only the remaining six districts are affected by this provision. As of the writing of this report, all six eligible districts have agreed to a master plan with OSFC and have been conditionally approved to participate. Cleveland has already passed a bond issue. Columbus, Dayton, Toledo, and Cincinnati have bond issues on the ballot in November 2002.

**Substitute House Bill 589 of the 123<sup>rd</sup> General Assembly  
Effective October 17, 2000**

**Payment of taxes on disputed value of personal property**

Public utilities in Ohio are required to report to the Tax Commissioner annually the value of all taxable tangible personal property used in Ohio. The Commissioner then assesses the property and apportions the value among the various taxing districts where the property is located. The utility may file an appeal if it disagrees with the Commissioner's assessment. House Bill 589 amended the law to provide that during the appeal process the utility only needs to pay taxes on the undisputed portion of its taxable personal property. Furthermore, state basic aid payments during this time are based only on the undisputed taxable value. During the years that the case is in court, the district receives less local tax revenue but may receive additional state revenue since only the undisputed taxable value is used for state basic aid purposes. In the event the public utility is not successful in its dispute, the district will receive the property tax payment and interest on the disputed taxable value, but will have to reimburse any overpayment of state basic aid at the standard state interest rate. Under prior law, the district received the protested tax amounts for several years. Therefore, if the utility won its appeal, the school district was forced to refund a large amount of money; an expenditure it had not planned on making. This provision does not affect the total amount of revenue received by the district, but it does affect the timing of receipts.

**Enterprise zone program**

The enterprise zone program permits local governments to grant tax abatements to industrial enterprises in order to entice them to locate or expand their facilities within the locally established enterprise zone. This program is available until June 20, 2004. In 1999, the program was expanded to include peak-load generation facilities. House Bill

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<sup>13</sup> The Big Eight school districts are: Cincinnati, Cleveland, Columbus, Toledo, Akron, Dayton, Youngstown, and Canton.

589 expanded the program to include all electric generation facilities. If an enterprise zone entices an electric generation facility to locate within a school district, it may increase the property tax revenue received by the district.

### **Amended Substitute House Bill 768 of the 123<sup>rd</sup> General Assembly Effective December 14, 2000**

#### **Auxiliary services**

Since 1975, ORC 3317.06 has delineated the uses for which school districts may use funds appropriated for students attending chartered nonpublic schools. These funds are appropriated to General Revenue Fund appropriation item 200-511, Auxiliary Services. In fiscal year 2001, \$117.7 million was disbursed from this line item. In fiscal year 2002, \$122.4 million was disbursed. The funds are distributed to school districts based on the number of chartered nonpublic school students living within the district. The law is clear that none of these funds may be spent on any materials or equipment that contain religious content. House Bill 768 modified this law to allow the purchase or loan of computer hardware that can be used in the nonpublic school building for instructional purposes, instead of being restricted to use in conjunction with the other programs and services provided with these funds. These changes will likely not have a fiscal impact on school districts.

#### **Teacher licensing**

House Bill 768 created a new provision of law requiring the Ohio Department of Education (ODE) to issue licenses for substitute teaching that are valid for one year, five years, and any other length of time up to five years. House Bill 768 also required ODE to issue a three-year, nonrenewable, provisional license in school speech-language pathology to certain individuals who applied before January 1, 2002. This does not have a direct fiscal effect on school districts, although it may make it easier to hire substitute teachers.

#### **Ohio School Facilities Commission**

House Bill 768 revised the conditions under which a school district may apply recently voted bond issues or tax levies toward its local share under the Expedited Local Partnership Program. Local funds spent on facilities projects before acceptance into the program may still count toward the local share requirement if certain conditions are met. This allows districts to start facilities projects earlier without sacrificing state funds.

**Substitute Senate Bill 270 of the 123<sup>rd</sup> General Assembly  
Effective April 9, 2001**

Since 1988, school districts have been required to make an additional contribution to the school employees retirement system (SERS) for any employee whose income was below the "minimum compensation amount" necessary to fund the cost of providing future health care benefits. The minimum compensation amount is determined each year by an actuary hired by SERS. House Bill 270 placed two limits on this additional contribution:

(1) Each individual district's total additional contribution cannot exceed 2 percent of the compensation of all members employed by the district during the prior year.

(2) The total of all additional contributions from all employers cannot exceed 1.5 percent of the compensation of all members employed by employers required to pay the additional contribution.

By limiting the employer minimum compensation contribution, the act may fiscally benefit districts.

**Substitute Senate Bill 333 of the 123<sup>rd</sup> General Assembly  
Effective April 10, 2001**

Ohio Revised Code section 1716.02 requires charitable organizations to file a registration statement with the Attorney General annually in order to solicit contributions in Ohio. Senate Bill 333 clarified that public primary and secondary schools are exempt from this requirement if the solicitation of contributions is confined to alumni, faculty, or the general population of the school district. The act also exempted booster clubs operated to benefit public primary or secondary schools. Presumably, this act could benefit school districts.

**House Bill 289 of the 124<sup>th</sup> General Assembly  
Effective June 29, 2001**

Ohio Revised Code section 3313.48 requires that school districts operate for at least 182 days each school year. Any district failing to operate the required number of days will not receive any state aid the following school year. Ohio Revised Code section 3317.01 allows up to seven "calamity days" for schools to be closed due to specified causes, including "disease epidemics."

House Bill 289 extended this exception beyond the seven-day limit for districts that exceeded the calamity-day limit because of the meningitis outbreak in the spring of 2001. This change allowed affected districts to receive state funding in fiscal year 2002. This act benefited the three districts affected: Marlinton Local (Stark County), United Local (Columbiana County), and West Branch Local (Mahoning County).

### **Amended Substitute House Bill 77 of the 124<sup>th</sup> General Assembly Effective July 12, 2001**

The law created by H.B. 77 allows districts to grant a high school diploma to any World War II veteran who:

- (1) Is a resident of Ohio or was a resident at the time of death;
- (2) Left a public or nonpublic school located in any state prior to graduation in order to serve in the armed forces of the United States;
- (3) Received an honorable discharge from the armed forces of the United States;
- (4) Has not been granted a high school diploma.

School districts that choose to grant high school diplomas to World War II veterans may incur a small administrative expense.

### **Substitute House Bill 196 of the 124<sup>th</sup> General Assembly Effective November 20, 2001**

#### **Alternative schools**

Effective in 1996, school districts could establish alternative schools "to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, or who are exhibiting other academic or behavioral problems" (ORC 3313.533). The school may serve students in any of grades kindergarten through twelve. Since 1998, the Big Eight school districts have been required to establish at least one alternative school. The Big Eight school districts are: Columbus, Cincinnati, Cleveland, Toledo, Akron, Dayton, Youngstown, and Canton.

House Bill 196 specifically allowed districts to contract with a nonprofit or for profit entity to operate an alternative school serving students who are disruptive or low performing in any of grades six through twelve. The act specified standards for such schools as follows:

(1) Teachers employed by these schools must be licensed and subject to background checks in the same manner as teachers employed directly by the school district.

(2) The educational plan must include:

- (a) Provisions for the school to be configured in clusters or small learning communities;
- (b) Provisions for the incorporation of education technology in the classroom;
- (c) Provisions for accelerated learning programs in reading and mathematics.

(3) There must be an established method to determine and monitor each student's reading and mathematics level.

(4) There must be a plan for social services to be provided at the school.

(5) There must be a plan for the student's transition from the alternative school back to a school operated by the school district.

(6) The school must maintain suitable financial records.

The act required districts to publish a request for proposals before selecting an entity to operate an alternative school. The district must evaluate the submitted proposals based on the following criteria:

(1) Demonstrated competence by effective implementation of educational programs in reading and mathematics and at least three years experience successfully serving a student population similar to that of the proposed school;

(2) Demonstrated performance in the areas of cost containment, the provision of educational services of high quality, and any other areas determined by the school board;

(3) Available resources to undertake the operation of the school and to provide qualified personnel to staff the school;

(4) Financial responsibility.

According to the Ohio Department of Education, as of the end of fiscal year 2002, the following nonprofit and for-profit entities were operating alternative schools in Ohio:

<u>District</u>	<u>Non-Profit/For Profit</u>
Middletown City	MALACHI
Shaker Heights City	Shaker Heights Youth Center
Dayton City	Partnership for Youth, Inc.
Maple Heights City	D.A.L.I.S. Cugini, Wells, and Assoc.
Twinsburg City	D.A.L.I.S. Cugini, Wells, and Assoc.
North Olmstead City	Ombudsman Education Center
Madison-Champaign Co. ESC	Ombudsman Education Center
Cuyahoga Co. ESC	Simon Youth Foundation
Mahoning Co. ESC	Simon Youth Foundation
Columbus City	YMCA, PALS Phoenix Program
South-Western City	YMCA, PALS Phoenix Program
Lorain City	Community Youth Academy
Garfield Heights City	Educational Alternatives

School districts are not required to contract for outside operation of alternative schools. School districts choosing to enter into these contracts will incur administrative costs in requesting and evaluating proposals, as well as any costs in contracting for services that exceed the cost the district would have encountered in operating the alternative school itself.

**Teacher licensing**

In order to allow for an alternative pathway into the teaching profession, the alternative educator license was established in 1996. This license may only be used for teaching in a designated subject area in grades seven to twelve. Applicants for the license must have successfully completed:

- (1) A baccalaureate degree;
- (2) Three semester hours of college coursework in the developmental characteristics of adolescent youths;
- (3) Three semester hours of college coursework in teaching methods;
- (4) An examination in the subject area to be taught.



The alternative educator license is valid for two years and is not renewable. As a condition of holding the license the holder must show satisfactory progress in completing (within two years) at least 12 additional semester hours of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology. A holder of an alternative educator license may be granted a provisional educator license upon successfully completing:

- (1) Two years of teaching under the alternative license;
- (2) The twelve additional semester hours of college coursework;
- (3) The assessment of subject matter content and professional knowledge that is required of other applicants for a provisional educator license.

House Bill 196 permitted an alternative educator license in the area of intervention specialist to be valid for teaching in grades kindergarten through twelve, not just seven through twelve. An intervention specialist license is valid for teaching students in the following categories:

- (1) Gifted;
- (2) Mild/moderate educational needs;
- (3) Moderate/intensive educational needs;
- (4) Visually impaired;
- (5) Hearing impaired.

House Bill 196 also created a one-year conditional teaching permit for grades seven through twelve and a one-year conditional teaching permit for intervention specialists in grades kindergarten through twelve to serve as a precursor to the alternative educator license. Finally, the changes made by H.B. 196 permit a licensed educator to teach in a subject area or in a grade level for which the educator is not licensed for up to two years while completing coursework that is required to be licensed in that area or grade level.

These provisions do not have a direct fiscal impact on school districts. There may be an indirect benefit for some districts as these changes may increase the availability of some types of teachers.



**Amended House Bill 181 of the 124<sup>th</sup> General Assembly  
Effective May 29, 2001**

Beginning with the 1998-1999 school year, the Board of Regents awarded a state scholarship of \$500 to each student who passed all five sections of the twelfth grade proficiency test while attending twelfth grade and who enrolled in an Ohio college or university. Am. Sub. S.B. 1 of the 124<sup>th</sup> General Assembly eliminated the twelfth grade proficiency test and thereby eliminated the scholarship as of fiscal year 2002. House Bill 181 appropriated funds to pay the scholarship for qualifying students who took the 12<sup>th</sup> grade proficiency test in fiscal year 2001. As mentioned above, school districts may save a minimal amount from the elimination of the twelfth grade test.

**Amended Senate Bill 269 of the 123<sup>rd</sup> General Assembly  
Effective September 22, 2000**

Generally, districts are required to dispose of real or personal property that is valued at more than \$10,000 at public auction. Formerly, districts could trade an item of personal property for all or part of the purchase price of an item of similar personal property. Senate Bill 269 permitted school districts to also acquire *real* property by exchanging real property currently owned by the district without first holding a public auction to dispose of the property currently owned.

**Substitute Senate Bill 237 of the 123<sup>rd</sup> General Assembly  
Effective June 21, 2000**

Senate Bill 237 permitted certain school districts involved in vocational education to apply for a driver training school license for the purpose of instructing individuals other than high school students in the operation of trucks, commercial cars, and commercial tractors, trailers, and semi-trailers. Vocational schools usually teach adults various job training courses that are compatible with their facilities and staff. These courses are supported by a combination of student fees, local tax levies that include this purpose, and state aid.

The Department of Public Safety certifies school districts as commercial driver training schools. The following schools have entered the commercial driver training certification program as of the end of fiscal year 2002:

- (1) Canton City;
- (2) Tri-County Joint-Vocational School;
- (3) Vantage Joint-Vocational School;
- (4) Upper Valley Joint-Vocational School;

- (5) Apollo Joint-Vocational School;
- (6) Lawrence County Joint-Vocational School;
- (7) Sandusky City.

Districts that choose to become licensed as commercial driver training schools will incur various costs including an initial license fee of \$250 and an annual renewal fee of \$50, and the cost of purchasing any necessary vehicles, equipment, and insurance and hiring qualified instructors. However, these districts may also receive a corresponding increase in revenues due to the fees they can charge to commercial driver training students.

**Amended House Bill 383 of the 123<sup>rd</sup> General Assembly  
Effective February 13, 2001**

Formerly, the law required students entering the first grade to be six years of age by September 30 of the entry year. Any student attaining the age of six by January 1 had to be tested at the request of the child's parent or guardian and allowed to enter first grade only if the child met the requirements of the test. In addition, students entering kindergarten had to be at least five years of age by September 30.

House Bill 383 permitted a district to adopt August 1, instead of September 30, as the date by which students must attain the required age. If a district chooses to adopt the earlier date, it may result in a smaller class size for entering kindergarteners, and thus a lower average daily membership (ADM), resulting in less state base cost funding until that class graduates from high school. The district may also be faced with an increase in the number of parents requesting testing of their child in order to waive the age requirement.

**House Bill 620 of the 123<sup>rd</sup> General Assembly  
Effective March 12, 2001**

For most school disciplinary code violations, a student may be expelled for a maximum of 80 school days. However, beginning in 1995, school districts were required to expel students for one year for bringing a firearm to school, unless the superintendent reduced the expulsion after examining a specific instance in accordance with a policy adopted by the district. Since 1995, the law has been expanded to *permit* districts to adopt a policy of expulsion for up to one year for students bringing a knife to school, for students possessing a firearm or knife that was initially brought to the school by another person, for students bringing a firearm or a knife or possessing a firearm or knife that was brought by another person to an interscholastic competition, an extracurricular event, or any other school program or activity that is not located in a school, or for students committing an act that is a criminal offense if committed by an adult and results in

serious physical harm to persons or property while the students are at school or any school activity. A district may provide educational services to an expelled student in an alternative setting.

House Bill 620 added making a bomb threat at a school or school activity to the list of student actions for which a district may require an expulsion for up to one year.

### **Amended Substitute Senate Bill 77 of the 123<sup>rd</sup> General Assembly Effective June 30, 2000**

Ohio Revised Code section 3319.02(D) requires that school districts adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals, and other administrators. Since 1980, each district superintendent or designee has had to conduct an annual evaluation to be submitted to the employee in writing, and employees have had to receive the written evaluation at least 60 days prior to any action on their contracts by the school board. Senate Bill 77 modified this requirement for contracts executed after June 30, 2000, by adding a "final evaluation" that indicates "the superintendent's intended recommendation to the board regarding a contract of employment for the employee." The employee must receive this "final evaluation" at least five days prior to the board's action on the employee's contract. As under current law, the employee can request a meeting with the board to discuss the board's reasons for considering renewal or nonrenewal of the employee's contract.

This provision is expected to create little to no extra cost for school districts. The superintendent was already required to formulate a recommendation for or against the renewal of the contract. The "final evaluation" simply requires that this recommendation be made known to the employee before the board acts on the employee's contract.

**SECTION III**  
**RULES ADOPTED BY THE STATE BOARD OF EDUCATION**

**Rules 3301-35-01, 3301-35-03, 3301-35-05 through 3301-35-07, and 3301-35-11**  
**Effective December 31, 2000**  
**Rules 3301-35-02 and 3301-35-04**  
**Effective February 17, 2001**

These new rules comprise the *Operating Standards for Ohio's Schools*. They replace the *Minimum Standards for Elementary and Secondary Schools* that had been in place since 1983. Many of the changes merely updated the rules to conform them to statutory changes made since 1983, especially Am. Sub. S.B. 55 and Am. Sub. H.B. 282 of the 123<sup>rd</sup> General Assembly. These changes, therefore, do not represent additional mandates for school districts. According to the Ohio Department of Education (ODE) one major change "involves a movement away from prescriptive inputs and toward a performance and accountability system for students and schools that emphasizes continuous improvement." In essence, much of the prior detail about which classes must be offered in certain grades is removed in favor of a focus on a continuing process of planning, evaluating progress, and working on improving areas of weakness. Districts in continuous improvement, academic watch, and academic emergency are already required by statute to formulate continuous improvement plans. The new rules require that *all* district boards of education, including excellent and effective districts, engage in "strategic planning." This planning must include the development of goals, strategies to attain those goals, and specific measures to track performance of the district. The strategic plan of the district may be incorporated into the district's continuous improvement plan. The new rules also require districts to collect and analyze data about the effectiveness of educational programs.

**The cost**

The cost of complying with these rules depends to a large part on the extent of planning and use of data in each district prior to adoption of the rules. LSC contacted representatives of ten districts of various sizes and locations throughout the state. All of these districts were doing planning and data collection of some kind before the rules were adopted. None were able to give any specific data that would enable any calculation of the costs of these functions before and after the rule changes. In many cases there has been a gradual shift toward more refined district-wide planning as well as toward more explicit use of data. This shift seems to have come about, at least partially, from state requirements related to the Education Management Information System (EMIS), proficiency testing, and the local report cards. Some districts have had to hire additional personnel and obtain additional training to accommodate this shift. For the districts contacted, however, these new rules, in particular, have not resulted in the need for

additional personnel. ODE offers various professional development opportunities related to data collection and analysis that are available to all districts at no cost. ODE also offers more in-depth services and consultations to districts in academic emergency and in academic watch. Some districts may choose to hire consultants at an approximate cost of \$3,000 to \$5,000 for an average-size district to train them in the collection and analysis of educational data. This expense, however, is not specifically mandated by the rules.

**Rule 3301-51-15****Effective February 21, 2000**

School districts have been required by Ohio law to identify students in their districts who are "gifted" since 1987. In 1999, the law was updated to require school districts to develop and implement a policy and plan for gifted student identification approved by ODE. The law also requires districts to develop, but not necessarily implement, service plans for children who are identified as gifted. This rule details what each policy and plan must include to be accepted by ODE.

**The cost**

The identification of gifted students requires administering, purchasing, and scoring assessments. Five million dollars per fiscal year is set aside from General Revenue Fund appropriation line item 200-521, Gifted Pupil Program, to reimburse districts for the cost of this identification. These funds are distributed to districts based on their average daily memberships. ODE estimates that the cost of administering the assessments totals approximately \$3.7 million, and the cost of purchasing and scoring the assessments, including informing parents of the results and providing staff development, totals approximately \$1.1 million. There may also be some indirect or miscellaneous costs, but according to ODE estimates, the statewide costs should not exceed the \$5 million appropriation.

**Rule 3301-80-01****Effective January 1, 2000**

Ohio Revised Code section 3313.60 requires venereal disease education. This new rule specifies that this education must:

- (1) Stress that students should abstain from premarital sex;
- (2) Teach potential physical, psychological, emotional, and social side effects of premarital sex;
- (3) Teach that conceiving children out of wedlock is likely to have harmful consequences for the child, the child's parents, and society;

(4) Stress that sexually transmitted diseases are serious possible hazards of sex;

(5) Advise students of the laws pertaining to financial responsibility of parents to children born in and out of wedlock;

(6) Advise students of the circumstances under which it is criminal to have sexual contact with a person under the age of 16.

**The cost**

Some districts may need to modify their venereal disease education program to include the items specified in this rule. This may represent a minimal cost to some districts.

**Rule 3301-20-02**  
**Effective February 21, 2000**

This rule provides conditions under which people convicted of certain crimes may volunteer in an OhioReads program.

**The cost**

This rule gives some discretion to districts so that they are not forced to allow people with a conviction on their record to participate as OhioReads volunteers. This rule may prevent some people from volunteering, but does not create a mandated cost for districts.

**Rule 3301-52-01**  
**Effective February 21, 2000**

This rule requires OhioReads programs to document annual training of staff, including volunteers, in the legal requirements related to child records and confidentiality.

**The cost**

This rule ensures that the laws pertaining to confidentiality are maintained in OhioReads programs. OhioReads programs will incur some training and documentation costs.

**Rule 3301-24-10**  
**Effective March 15, 2000**

This rule establishes a two-year, nonrenewable alternative educator license for teaching in grades seven through twelve. This license may be issued at the request of a district wanting to hire an individual as a teacher. The rule requires the employing school district to establish a mentoring program for an alternatively licensed teacher.

**The cost**

The mentoring program for persons holding two-year alternative licenses may be costly. Hiring such a person, however, appears to be voluntary on the part of the district, so this does not represent a mandated cost.

**Rule 3301-61-16**  
**Effective February 21, 2000**

A weight is applied to the per pupil base cost amount for students enrolled in vocational education programs in order to account for the higher cost of these programs. A portion of these funds is designated for vocational education "associated services." This rule specifies the approved uses of the state share of vocational education weighted funds. The funds for associated services must be expended on such things as apprenticeship coordination and coordination of vocational programming development. The other weighted funding must be expended on such things as curriculum development, instructional resources and supplies, industry-based program certification, and other costs associated with the delivery of vocational education.

**The cost**

This rule elaborates on the expenditure of state funds for certain vocational education services. The categories seem to be fairly inclusive of potential expenditures related to vocational education.

**Rules 3301-13-03 and 3301-13-09****Effective February 7, 2000****Rules 3301-13-02, 3301-13-04 through 3301-13-06, 3301-13-08, and 3301-13-11**  
**Effective August 10, 2000**

The rules 3301-13-02, 3301-13-04 through 3301-13-06, and 3301-13-08 rework some of the details of proficiency testing, such as the frequency and timing of their administration as well as the procedures for requesting a rescoring or scoring verification. In addition, rules 3301-13-03 and 3301-13-09 establish conditions under which a student with a disability may be exempted from taking a proficiency test and the types of



accommodations that can be made for students with disabilities who are required to take the proficiency test. Any student exempted from taking a proficiency test due to a disability must take an alternative assessment to be in compliance with the federal Individuals with Disabilities Education Act. Finally, rule 3301-13-11 allows a temporary exemption from taking proficiency tests for students who have been enrolled for less than two years (356 school days) in the United States.

**The cost**

The rules reworking the proficiency tests should not create additional costs for school districts. School districts are required by federal law to conduct assessments of their students with disabilities. Creating and administering alternative assessments as well as providing accommodations to students with disabilities who take the proficiency tests has a cost that is dependent on the number of disabled students in the district as well as the severity of each student's disability. As a district's mix of disabled students may vary widely from year to year, a general cost calculation is extremely difficult. These new rules do not create a new mandate for school districts.

**Rule 3301-23-44**  
**Effective January 1, 2003**

This rule changes some of the conditions under which temporary licenses may be issued for a variety of positions, including early childhood educator, school nurse, and school counselor. For example, in addition to the prior requirements, a person must have a baccalaureate degree to receive a temporary license as a school nurse.

**The cost**

Changes in licensing standards do not have a direct fiscal effect on school districts. These standards can, however, affect the supply of school personnel available in Ohio. More stringent standards may, therefore, increase the salaries some districts must pay in order to hire qualified personnel, whereas less stringent standards may decrease salaries.

**Rule 3301-83-19**  
**Effective August 17, 2001**

This rule permits school districts to use school board owned, leased, or contracted vans for nine passengers or fewer and commercial carriers in addition to school buses in order to transport students. It requires maintenance and inspection of vans and training of van drivers.



**The cost**

Prior to this rule the only legal method of transporting students was in school buses. Some school districts were, however, using other modes of transportation. The rule allows districts to continue this practice, but puts in place requirements designed to ensure the safety of the students being transported. ODE estimates the cost of complying with the safety requirements for vans at about \$350 to initially prepare the van plus \$50 per year for an annual safety inspection. The cost of purchasing a van is approximately \$15,000. The driver training costs will be minimal. Drivers are required to view a videotape, study a workbook, and complete a set of questions before receiving certification. Drivers must also obtain an annual physical. This rule is permissive; districts may opt to use only school buses. According to ODE, however, the cost of purchasing and preparing a school bus is \$65,000. The use of vans for transporting a small number of students will be a cost saving choice for many districts.

**Rules 3301-24-02, 3301-24-04, 3301-24-05, 3301-24-08, and 3301-24-09  
Effective January 1, 2003**

These rules make explicit that, starting July 1, 2002,<sup>14</sup> all school districts with entry-year teachers or principals must provide them with a formal structured program of support, including mentoring. Entry-year teachers are teachers who are in their first full-time position teaching under the specific provisional license they currently have. These entry-year programs help to prepare entry-year teachers for the Praxis III exam, which involves observation of the individual actually teaching in the classroom versus an entirely written exam. First time teachers teaching under a temporary license are not considered entry-year teachers. First time teachers with teaching certificates and not provisional licenses are also not considered entry-year teachers. The fall of 2002 will be the last time some first time teachers will have teaching certificates. Starting in the fall of 2003 all first time teachers will be required to obtain a provisional license. ODE estimates that beginning in the fall of 2003 there will be 5,000 to 6,000 entry-year teachers each school year. The rule also makes various other minor changes to teacher licensure requirements.

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<sup>14</sup> Although the rule states that the requirement begins July 1, 2002, the rule itself is not effective until January 1, 2003. Ohio Revised Code section 3319.23 requires that changes to teacher licensure rules not be effective until at least one year from the first day of January next succeeding the publication of the change.

**The cost**

The provision of an entry-year program including mentoring is costly to school districts. Through General Revenue Fund appropriation line item 200-410, Professional Development, ODE is providing each school \$2,000 per entry-year teacher to support the entry-year program. Based on the pilot program, ODE has estimated that \$2,000 is the minimum amount necessary to provide an adequate program. The costs of the program will be primarily in professional development for the entry-year teachers and mentors. Other possible costs include release time for the teachers involved and stipends for the mentors depending on the local district's collective bargaining agreement with its teachers. Schools with the means to do so may choose to spend more than the state allocation on their programs. ODE is encouraging small districts to join a consortium of districts through their respective educational service centers in order to provide a higher quality program at a lower cost. Am. Sub. H.B. 94 of the 124<sup>th</sup> General Assembly set aside up to \$8,296,000 in fiscal year 2002 and up to \$19,387,750 in fiscal year 2003 for the support of entry-year programs for teachers, and up to \$975,000 in each fiscal year for the support of entry-year programs for principals. The other changes in the licensure requirements do not have a direct fiscal effect on school districts.

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