



**Am. Sub. H.B. 282**

123rd General Assembly

(As Passed by the General Assembly)

(excluding appropriations, fund transfers, and similar provisions)

**Reps. Thomas, Jones, Core, Metzger, Perz, Amstutz, Corbin, Goodman, Hoops, Krebs, O'Brien, Vesper, Womer Benjamin, Barrett, Boyd, R. Miller, Opfer, Roberts, Coughlin, Harris, Evans**

**Sens. Ray, Carnes, Prentiss, Kearns, Gardner, Johnson, Hottinger, White, Drake, Watts, Spada, Cupp, Mumper**

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**ACT SUMMARY**

**State funding for school district operating costs**

- Continues with some modifications the phase-in of the new education funding system established by Am. Sub. H.B. 650 and Am. Sub. H.B. 770 of the 122nd General Assembly.
- Ends the phase-in of the base-cost formula amount one year early by implementing in FY 2001 the full \$4,294 per pupil amount prescribed for that year by the new funding system. Also, augments the phase-in amount prescribed under the new system for FY 2000 by increasing the formula amount for that year to \$4,052.
- Establishes new, equalized, state funding for the extra costs associated with vocational education in school districts.
- Establishes a new, equalized state payment for speech services, which pays the state share percentage of a "personnel allowance" for every 2,000 students in formula ADM. The personnel allowance is \$25,000 in FY 2000 and \$30,000 in FY 2001.

- Excludes certain legal costs from the "catastrophic" costs associated with serving a child with a Category 3 disability for which a school district may seek additional reimbursement from the state.
- Requires school districts to spend vocational education weighted funds and special education weighted funds for expenditures approved by the Department of Education and generally to continue to offer the same number of vocational education programs.
- Requires the Department of Education to recommend to the General Assembly, by January 30, 2000, the best method for ensuring that school districts spend their state special education and vocational education funds for the needs of special education and vocational students.
- Lengthens the equity aid phase-out period.
- Maintains unit funding for gifted education, but increases the supplemental allowance for the units an average of \$1,000 per year.
- Increases, in each year of the biennium, the statewide average teacher's salary used in the calculation of the third grade guarantee portion of DPIA.
- Specifies conditions under which school districts may spend a portion of its all-day kindergarten or third grade guarantee (classroom reduction) DPIA funds to modify or purchase additional classroom space.
- Would have required districts in a condition of "academic emergency" to spend third grade guarantee DPIA funds specifically to reduce class size in grades kindergarten through second, with a goal of attaining a 1:15 ratio of licensed teachers to students in those grades. (Vetoed.)
- Specifies that districts required to spend certain percentages of DPIA funds for safety and remediation and the third grade guarantee during the transition years under the cap must divide those funds between the two categories in the same proportion as they would receive the funds if there were no cap.
- Replaces the transportation funding formula and guarantees school districts will receive in FY 2000 at least the amount of state transportation funding they received in FY 1999.

- Revises the basic aid guarantee by (1) eliminating the alternative per pupil base amount, which results in districts being guaranteed their aggregate FY 1998 payment and (2) adding a one-year "enhanced" guarantee that districts' FY 2000 state aid plus transportation will equal at least their FY 1999 state aid plus transportation.
- Raises the aggregate and per pupil components of the funding cap in each year of the biennium so that districts are limited in FY 2000 to the greater of (1) 111.5% of their aggregate aid for the preceding fiscal year or (2) 109.5% of their per pupil state payments from the previous year. In FYs 2001 and 2002, the cap is the greater of (1) 112% of the previous year's aggregate aid or (2) 110% of the previous year's per pupil aid.
- Permanently eliminates state driver education subsidies.
- Repeals the small district aid subsidy, which paid lower-wealth school districts with enrollments of less than 1,000 students \$50 for every student less than 1,000.
- Beginning in FY 2001, increases from 1/5th to 4/15ths the amount of a district's taxable property valuation that will be adjusted downward to reflect resident incomes if the median income of district residents is equal to or lower than the statewide district median income.
- Provides a new, equalized state grant for GRADS ("Graduation, Reality, and Dual-role Skills) programs. The grant funds the state share of a personnel allowance (\$45,000 in FY 2000 and \$46,260 in FY 2001) for each approved FTE GRADS teacher.

### **Educational service centers**

- Increases the state per pupil payment to educational service centers (ESCs) other than multicounty centers from \$34 to \$36 in FY 2000 and \$37 in FY 2001 for each student served in a local or client district. Freezes the amount per student for multicounty centers at the statutorily established amount for FY 2000 (\$40.52 per student).
- Eliminates the requirement that any ESC with an ADM of less than 8,000 students serving six or more school districts merge with another service center.

- Specifies that the ADM of city and exempted village client school districts for which an ESC does not receive state payments (because the agreement between the districts and the ESC was executed after the deadline for entering into state-funded agreements) is to be counted in the ESC's ADM for purposes of determining whether it is required to merge with another ESC.
- Extends from June 1, 2000, to July 1, 2001, the deadline for a merger with another ESC of a service center that was itself created by a merger of two service centers each containing only one local school district.
- Expands the joint purchasing authority of ESCs to include purchase of utility services, including natural gas and electricity.
- Specifies that ESC joint purchase agreements may include installment purchase and lease-purchase contracts.

**State funding for joint vocational school districts**

- Restructures the state funding for joint vocational school districts (JVSDs) to closely parallel state funding for city, local, and exempted village school districts.

**Community schools**

- Eliminates the Lucas County community school pilot project and allows start-up community schools to be located permanently in any of the eight Lucas County school districts.
- Permanently permits the Lucas County Educational Service Center to sponsor new start-up community schools, and the board of the University of Toledo to designate a sponsoring authority for new start-up schools.
- Permits new start-up community schools to be located in any school district that is in a state of academic emergency or is one of the "urban 21" school districts.
- Caps the total number of contracts that the State Board of Education may have as a sponsor for start-up community schools outside Lucas County at 75 during FY 2000 and 125 during FY 2001.

- States the General Assembly's intent to consider whether to cap the number of start-up schools after FY 2001 following its examination of studies performed by the Legislative Office of Education Oversight.
- Permits a community school to be located in multiple facilities under one contract with its sponsor if space limitations prohibit serving in a single facility all the grade levels specified in the contract, but prohibits offering the same grade level classrooms in more than one facility.
- Requires the governing authority of each community school to adopt a policy specifying whether admission to the school is limited to students living in the district where the school is located, or is open to students living in adjacent districts or to students from anywhere in the state.
- Allows high school students enrolled in community schools to participate in the Post-Secondary Enrollment Options programs, and directs that payments for college courses taken for both high school and college credit be deducted from the community schools' state aid, as is currently done for school districts.
- Extends to community schools the authority recently granted to school districts to deny high school credit for college courses taken during an expulsion.
- Revises the method for calculating special education and DPIA payments to community schools.
- Changes student transportation requirements so that a school district must transport its students who are enrolled in community schools on the same basis that the district must transport its students who are enrolled in its own schools.
- Specifies that community schools are entitled to participate in SchoolNet Plus and other programs administered by the Ohio SchoolNet Commission.
- Specifies that no officer or director of a community school or member of its governing authority incurs any personal liability by virtue of entering into any contract on behalf of the community school.

- Requires every community school to designate a fiscal officer, and authorizes the Auditor of State to require by rule that each fiscal officer execute a bond conditioned for the faithful performance of all official duties.
- Requires the Department of Education, when it receives an application proposing a community school, to notify the president of the board of education of the school district where the school is to be located.
- Requires each community school to include in its contract with its sponsor a requirement that the school will provide data that is needed by the Legislative Office of Education Oversight for research and studies that the General Assembly has directed the Office to conduct concerning community schools.
- Requires the Department of Education to issue annual report cards for each community school, beginning after the school has been open for instruction for two full school years. The report cards must be based on models developed by a committee appointed by the state Superintendent of Public Instruction and the Legislative Office of Education Oversight.

**State capital funding for school buildings**

- Makes various administrative changes in the Classroom Facilities Assistance Program.
- Permits any school district that has in place a property tax levy of at least two mills for on-going permanent improvements to earmark proceeds of that levy for maintenance of classroom facilities or for payments to the state in lieu of the additional half-mill property tax levy otherwise required for those purposes under the Classroom Facilities Assistance Program.
- Authorizes the School Facilities Commission to fund a facility for the Canton City School District that will be used for both high school and post-secondary instruction as part of a partnership with a state technical college.
- Creates the School Building Assistance Expedited Local Partnership Program to allow school districts that are not yet eligible for assistance under the Classroom Facilities Assistance Program to spend local resources on needed classroom facilities and later deduct that expenditure

from the school district share under the Classroom Facilities Assistance Program when the school district becomes eligible for such assistance.

- Authorizes the School Facilities Commission to make a short-term loan to a school district engaged in a dispute over faulty design or construction of facilities, for the emergency repair of those facilities.

**Other provisions related to primary and secondary education**

- Repeals the original law establishing the Pilot Project Scholarship Program (currently operating only in Cleveland) in response to the decision of the Ohio Supreme Court in *Simmons-Harris v. Goff*, and reenacts language that is generally identical to the former law, except that it omits a provision allowing participating private schools to give preference in admissions to members of organizations financially supporting the schools.
- Establishes new requirements for the identification of gifted students, including specific standards for identifying students who have superior cognitive ability, superior ability in a specific academic area, superior creative thinking ability, and superior visual or performing arts ability.
- Requires each school district board to develop a plan for the service of gifted students identified in the district and to submit that plan by December 15, 2000, to the Department of Education for review and analysis as to the plan's adequacy and funding requirements.
- Requires school districts and county MR/DD boards to report the number of handicapped preschool children in classes eligible to be approved for state funded units on the first day of December instead of reporting the average number of students for the first full week of October.
- Permits school districts to apply for a one-time, one-year waiver of the requirement to make deposits in their reserve balance ("rainy day") accounts if the district would have to significantly reduce or eliminate "important educational services."
- Permits school districts to use excess money deposited in their rainy day accounts to offset the amounts they are required to deposit in future years.

- Specifies that the maximum amount that school districts must deposit in their reserve balance accounts in any year is 1% of the prior fiscal year's operating revenue.
- Permanently requires school districts to deposit any Workers' Compensation refunds or reimbursements into the school district rainy day account unless it already contains the required amount.
- For six months, permits school districts to make certain withdrawals from their rainy day accounts without approval of the Superintendent of Public Instruction and without meeting certain minimum deficit amounts.
- Requires the Auditor of State and the Superintendent of Public Instruction to promulgate a new rule for withdrawal of funds from school district rainy day accounts.
- Permits a school district that deposits more than the required amount in its textbook and instructional materials fund to deduct the excess amount from its deposits in future years, and requires the Auditor of State to adopt rules directing school districts how to do this.
- Eliminates the role of county auditors in enforcing the statutory requirements that school districts certify sufficient resources to support various financial commitments.
- Directs the Department of Education to establish the Office of School Options to provide advice and services for the Community Schools program and the Pilot Project Scholarship Program and to replace the Community School Commission.
- Requires the superintendent of each school district admitting open enrollment students to notify the students' "home" school districts of the number of their native students enrolled in the open enrollment district.
- Establishes standards for state-funded summer remediation services offered by school districts.
- Requires that before a high school student enrolls in a college course through the Post-Secondary Enrollment Options program, the student have a grade point average of at least 3.0 out of 4.0, or its equivalent, in any

high school courses the student has taken in the same subject area as that college course.

- Permits a district board of education to choose not to promote to the next grade level any student who does not take any required proficiency test and who fails to make up a missed test.
- Exempts English-limited students from the proficiency test requirements for two years.
- Specifies that in calculating school district passage rates for proficiency tests, the Department of Education must exclude English-limited students and students receiving special education services who are exempted from taking the proficiency test.
- Requires the Department to exclude from its calculation of the passage rates on the twelfth grade proficiency tests any students prohibited from taking the twelfth grade tests because they have not passed all five of the ninth grade tests.
- Changes one of the performance standards required for designation as an "effective school district" from a 3% dropout rate to a 90% graduation rate and changes the calculation of the graduation rate.
- Requires the Department to conduct site evaluations of school districts declared to be in a state of academic emergency and certain districts under an academic watch, and prescribes matters that site evaluations must examine.
- Expresses the intent of the General Assembly that the Superintendent of Public Instruction use the Superintendent's preexisting authority to provide for school district participation in the National Assessment of Progress in fiscal years 2000 and 2001.
- Permits agencies that employ licensed educators to establish local professional development committees, and requires the Department of Education under certain circumstances to retroactively approve professional development plans and coursework approved by the committees of educational service centers and county MR/DD boards since July 1, 1998.

- Requires the Legislative Office of Education Oversight to conduct a statewide assessment of professional development for educators in the state, to be completed by November 15, 2000.
- Provides for school districts and community schools to report to the Education Management Information System individual student data linked to an anonymous data verification code for each student.
- Provides that unlawful release of personally identifiable student information from the Education Management Information System is a fourth-degree misdemeanor.
- Requires preschool data to be collected and included in the EMIS.
- Requires the Department of Education to develop and distribute to school districts a packet of high school instructional materials on personal financial responsibility.
- Requires the OhioReads Council to establish "standards," instead of "guidelines," for the awarding of OhioReads grants, and to establish them by rule.
- Permits an entity other than a grant recipient, if approved by the OhioReads Council, to request and be reimbursed for criminal records checks of individuals who will work directly with children under an OhioReads grant.
- Replaces the current petition of remonstrance procedure with a referendum procedure when an additional school district is to be added to a JVSD.
- Eliminates the limit on the number of meetings for which a member of a joint vocational school district board of education may be paid.
- Specifies that territory may be transferred from a city, exempted village, or local school district to an adjoining local school district directly rather than through an educational service center.
- Abolishes the Ohio SchoolNet Office and transfers all of its functions, assets, and liabilities to the Ohio SchoolNet Commission.

- Removes employees of the Ohio SchoolNet Commission from the public employee collective bargaining law.
- Requires the Ohio SchoolNet Commission to take into consideration the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for any of its programs.
- Requires that a school district financial planning and supervision commission established after July 1, 1999, consist of five members instead of seven by reducing the number of ex officio members from four to two.
- Requires the Auditor of State to act as the financial supervisor for a school district with a financial planning and supervision commission or to provide for financial supervision through contract.
- Requires that a school district financial planning and supervision commission adopt a financial recovery plan for the district within 120 days of its first meeting instead of 60 days.
- Extends to chartered nonpublic schools the option public schools have to permit students below the ninth grade to take advanced work for high school credit.
- Permits chartered nonpublic schools to acquire surplus and excess supplies and equipment owned by state agencies.
- Extends to chartered nonpublic schools the ability to apply for waivers from education laws and rules for innovative education pilot programs.
- Stipulates that no Head Start program may receive state funds after June 30, 2001, unless 50% of its teachers are working toward an associate degree; that after June 30, 2003, no Head Start program may receive state funds unless all of its teachers are working toward an associate degree; and that beginning in FY 2008, no Head Start program may receive state money unless every teacher has actually attained such a degree.
- Directs the Department of Education to establish criteria under which a Head Start agency could receive funding for serving children whose family incomes are between 100% and 125% of the federal poverty level.

### **Higher education**

- Creates an income tax deduction for qualified tuition and fees for post-secondary education beginning in 2001.
- Increases the Ohio Instructional Grants (OIG grants) by approximately 5% in both FY 2000 and FY 2001 and makes those grants available for students enrolled on a year-round basis.
- Removes the prohibition against awarding Student Choice Grants to a student enrolled in specific religious studies, provided the course of study leads to an accredited bachelor of arts or bachelor of science degree.
- Establishes the Student Workforce Development Grant Program to provide grants, similar to Student Choice Grants, to students enrolled in degree programs in proprietary schools, which programs have job placement rates of at least 75%.
- Extends eligibility for a war orphans scholarship to the child of a nonresident prisoner of war or person who was missing in action if the child has resided in Ohio for the year immediately preceding the year in which the application for the scholarship is made and for any four of the last ten years.
- Requires the Ohio Board of Regents to conduct "enrollment audits" of state-supported higher education institutions.
- Establishes one year (instead of two years) as the length of time for which an initial certificate of registration is valid for a new proprietary school.
- Authorizes the Student Tuition Recovery Fund Authority to reduce required contributions to the fund or to expend excess money to disseminate consumer information and storing and maintaining student records from schools that have closed.
- Permits the governing board of any public institution of higher education to procure health care benefits for its employees by means of contracts issued by health insuring corporations, if the governing board enters into contracts with *at least two* health insuring corporations.
- Permits a state technical college that leased dining and housing facilities prior to September 17, 1996 to amend the lease to refinance the debt on those facilities.

- Requires the Board of Regents to determine the cost of upgrading facilities at public universities that likely would be used if the City of Cincinnati were awarded the summer Olympic games.
- Requires the Board of Regents to appoint college and university personnel to participate in the development and operation of statewide collaborative efforts.
- Eliminates the requirement that the president of a college or university notify the Chancellor of the Board of Regents when a student, faculty or staff member, or other employee is arrested for an offense of violence at a college or university where an emergency has been declared and requires the college or university president, not the chancellor, to appoint the referee hearing cases regarding immediate suspension.
- Permits Central State University to operate in lieu of the provisions of law pertaining to college and university fiscal watch if certain specified standards are met.
- Changes the name of the Ohio National Guard Tuition Grant Program to the Ohio National Guard Scholarship Program and provides that scholarships rather than instructional grants are to be awarded under the program.
- Changes the number of eligible individuals permitted to participate in the Ohio National Guard Scholarship Program from 4,000 per academic term to a specified number of participants for each term of the fiscal year and allows the Adjutant General to request Controlling Board approval of additional participants under certain conditions.
- Increases the percentage of an institution's tuition-related charges that an eligible applicant is entitled to receive under the Ohio National Guard Scholarship Program.

### Lottery Commission

- Requires that one of the members of the State Lottery Commission represent an organization that deals with problem gambling and that helps people who are recovering from gambling addictions.

- Removes specified investment restrictions on moneys in the Deferred Prizes Trust Fund of the Ohio Lottery by providing that these moneys may be invested in obligations having maturities of 30 years or less and may be invested in certain debt interests without limitations based on the state's total average portfolio.

**Council for economic development**

- Would have created the Ohio Higher Education, Business, and Economic Development Council. (Vetoed.)

**Trust business**

- Would have excepted certain fiduciary activities of Ohio nonprofit corporations from the definition of "trust business." (Vetoed.)

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## CONTENT AND OPERATION

### STATE FUNDING FOR SCHOOL DISTRICT OPERATING COSTS

#### *Introduction--key education funding concepts*

State per pupil payments to school districts for operating expenses have always varied according to (1) the wealth of the district and (2) the special circumstances experienced by some districts. Under both the school funding system in place prior to the 1998 enactment of Am. Sub. H.B. 650 and Am. Sub. H.B. 770 and the new system established by those two acts (hereafter referred to as "the new system"), state operating funding for school districts is divided primarily into two types: base-cost funding and categorical funding.

#### *Base-cost funding*

Base-cost funding can be viewed as the minimum amount of money required per pupil for those expenses experienced by all school districts in the state on a somewhat even basis. The primary costs would be for such things as teachers of basic curriculum courses; textbooks; janitorial and clerical services; administrative functions; and student support employees such as school librarians and guidance counselors.

#### *Equalization*

In the new funding system, as well as in portions of the old system, state funds are used in some manner to "equalize" school district revenues. Equalization means using state money to ensure that all districts, regardless of their property wealth, will have an equal amount of combined state and local revenues to spend for something. In an equalized system, poor districts receive more state money than wealthy districts in order to guarantee the established minimum amount for all districts.

#### *Base-cost funding--state and local shares*

The new system (as was the case under the old one) essentially equalizes 23 mills of property tax for base-cost funding. It does this by providing sufficient state money to each school district to ensure that, if all districts in the state levied exactly 23 effective mills, they all would have the same per pupil amount of base cost money to spend (adjusted partially to reflect the cost of doing business in the

district's county).<sup>1</sup> To accomplish this equalization, the base-cost formula uses five variables to compute the amount of state funding each district receives for its base cost:

(1) The stipulated amount of funding that is guaranteed per pupil in combined state and local funds (formally called the "**formula amount**"). The formula amount for FY 1999 was \$3,851 per pupil.

(2) An adjustment to the formula amount known as the "**cost-of-doing-business factor**." This variable is a cost factor intended to reflect differences in the cost of doing business across Ohio's 88 counties. Each county is assigned a factor by statute, which in FY 1999 ranged from 1.00 (assigned to Gallia County) to 1.11 (assigned to Hamilton County). The formula amount is multiplied by the cost-of-doing-business factor for the appropriate county to obtain the specific guaranteed per pupil formula amount for each school district. For example, the FY 1999 formula amount for school districts in Hamilton County was actually \$4,275 (an increase of 11% over the phase-in formula amount of \$3,851).<sup>2</sup>

(3) A number called the "**formula ADM**," which roughly reflects the full-time-equivalent number of district students.

(4) The **total taxable dollar value of real and personal property** subject to taxation in the district, adjusted in some cases to reflect lower levels of income wealth and to phase-in increases in valuation resulting from a county auditor's triennial reappraisal or update.

(5) The **local tax rate**, expressed in number of mills, assumed to produce the local share of the guaranteed per pupil funding. The tax rate assumed is currently 23 mills, although the law only requires districts to actually levy 20 mills to participate in the school funding system.

Each district's state base-cost funding is computed first by calculating the amount of combined state and local funds guaranteed to the district. This is done by adjusting the formula amount for the appropriate cost-of-doing-business factor and multiplying the adjusted amount by the district's formula ADM. Next, the assumed "local share" (commonly called the "charge off") is calculated by

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<sup>1</sup> One mill produces \$1 of tax revenue for every \$1,000 of taxable property valuation.

<sup>2</sup> An increase in the variance in the cost-of-doing-business factors from 11% to 18% is being phased in. For FY 2000, the variance will increase to 12.4% and in FY 2001 it will be 13.8%. The phase-in will be complete in FY 2004. See the table under "**The act continues phase-in of new system**," below).

multiplying the district's adjusted total taxable value by the 23 mills attributed as the local tax rate. This local share is then subtracted from the guaranteed amount to produce the district's state base-cost funding.

**Sample FY 1999 calculation.** If Hypothetical Local School District were located in a county with a cost-of-doing-business factor of 1.025 (meaning its cost of doing business is assumed to be 2.5% higher than in Gallia County, the lowest cost county), its formula ADM were 1,000 students, and it had an adjusted valuation of \$40 million, its FY 1998 state base-cost funding amount would be \$3,027,000, calculated as follows:

\$3,851	FY 1999 phase-in formula amount
x <u>1.025</u>	District's cost-of-doing-business factor
\$3,947	District's adjusted FY 1999 formula amount
x <u>1,000</u>	District's formula ADM (approximate enrollment)
\$3,947,000	District's FY 1999 base cost amount
- <u>\$920,000</u>	District's charge off (assumed local share based on 23 mills (2.3%) charged against the district's \$40 million in adjusted property valuation)
<b>\$3,027,000</b>	<b>District's FY 1999 state payment toward base cost amount</b>
77%	District's state share percentage (percent of total base cost paid by state: \$3,027,000 ÷ \$3,947,000)

**How the base-cost formula amount was established**

The primary difference between the old system and the new system in calculating base-cost funding is that the per pupil guaranteed state and local amount under the old system was stated in statute without any specific method of selecting the amount. The new system bases the per pupil amount on a study of the actual average base costs of school districts found to meet all but one of the new state effectiveness standards (after removing the highest and lowest wealth districts from the computation). Using this calculation, the new system established a formula amount of \$4,063 for FY 1999, which was adjusted for inflation at 2.8% each year and then phased-in over a four-year period. For FY 1999, the phase-in formula amount was \$3,851.

### **Equity aid phase-out**

The old system paid a second tier of state aid to school districts whose property wealth fell beneath an established threshold. This "equity aid" was paid beginning in FY 1993 as an add-on to the state base cost (then called "basic aid") funding. The new system phases out equity aid by reducing the number of districts receiving the subsidy and decreasing the number of extra mills equalized under it for each fiscal year. As originally scheduled by H.B. 650 and H.B. 770, no more equity aid was to be paid after FY 2001.

### **Categorical funding**

Categorical, or "add-on," funding is a type of funding the state provides school districts in addition to base-cost funding. It can be viewed as money a school district requires because of the special circumstances of some of its students or the special circumstances of the district itself (such as its location in a high-cost area of the state). Some categorical funding, namely the cost-of-doing-business factor and the adjustments to local property value, is actually built into the base-cost formula. But most categorical funding is paid separately from the base cost, including:

- (1) Special education additional weighted funding, which pays districts a portion of the additional costs associated with educating children with disabilities;
- (2) Gifted education funding, which provides funds to districts for special programs for gifted children;
- (3) Disadvantaged Pupil Impact Aid, or "DPIA," which provides additional state money to districts where the proportion of low-income students receiving public assistance through the Ohio Works First program is a certain percentage of the statewide proportion; and
- (4) Transportation funding, which reimburses districts a portion of their costs of transporting children to and from public and private schools.

### **Categorical funding--state and local shares of special education costs**

The old school funding system did not equalize categorical funding. The new system introduced equalization for special education funding (but no other types of categorical funding) by requiring a state and local share for the additional costs. This is determined for each district from the percentage of the base cost amount supplied by each. For instance, if the state pays 55% of a district's base cost amount and the district supplies the other 45%, the state and local shares of the additional special education funding likewise are 55% and 45%, respectively.

The state pays the district 55% of the additional categorical funding for special education.

**State gap revenue covers local share when local revenue insufficient**

For a number of reasons, some school districts will not have sufficient local revenue to cover their local share of base-cost funding or their local share of the calculated additional special education amount. The new system requires the state to make up the difference between their calculated local shares of base costs and special education and their actual local property and income tax revenue.

**State funding guarantee**

The new education funding system guarantees every school district with a formula ADM over 150 that it will receive a minimum amount of state aid based on its state funds for FY 1998, the last year of the old system. The state funds guaranteed include the sum of base-cost funding, special education funding, vocational education funding, gifted education funding, DPIA funds, equity aid, state subsidies for teachers with high training and experience, and state "extended service" subsidies for teachers working summer school.

**Temporary state funding cap**

Most school districts, though, have experienced increases in their state funding from FY 1998. As part of the phase-in to the new system, the law temporarily limits school districts' increases in state funding, including transportation subsidies. In FY 1999, the law limited school districts' state aid increases to 10% over their previous year's aggregate state payment or 6% over their previous year's per pupil amount of state funds, whichever was greater. This cap applies every year through FY 2002. It no longer applies after June 30, 2002.

**The act continues the phase-in of new system with modifications**

(R.C. 3317.02(B) and 3317.0213)

The phase-in for the entire six-year period established originally by the new system is illustrated in the following table. The act essentially continues for FY 2000 and FY 2001 the phase-in of the new base-cost funding system. However, it makes modifications by speeding up the phase-in of the base-cost formula and slowing down the phase-out of equity aid. Under the act, the formula amount will equal the predicted base-cost of educating a student one year earlier than originally provided in H.B. 650, reaching \$4,294 in FY 2001.

The equity phase-out is extended for one additional year. No additional equity aid will be paid after FY 2002.

The changes to H.B. 650's original phase-in schedule are shown in the table below in parentheses.

Fiscal Year	Base Cost of Education	Formula Amount	% of Base Cost in Formula Amount	Variance in Cost-of-Doing-Bus. Factors	# of School Districts Eligible for Equity Aid	Additional Mills "Equalized" by Equity Aid
<b>FY 1998</b>	-----	\$3,663	-----	9.6%	292	13
<b>FY 1999</b>	\$4,063	\$3,851	94.78%	11.0%	228	12
<b>FY 2000</b>	\$4,177	\$4,038 (\$4,052)	96.67% (97.00%)	12.4%	162 (195)	11
<b>FY 2001</b>	\$4,294	\$4,226 (\$4,294)	98.42% (100%)	13.8%	117 (162)	10
<b>FY 2002</b>	\$4,414	\$4,414	100%	15.2%	0 (117)	0 (9)
<b>FY 2003</b>	\$4,538	\$4,538	100%	16.6%	0	0
<b>FY 2004</b>	\$4,665	\$4,665	100%	18.0%	0	0

**The act adjusts the cost-of-doing-business factors for the 88 counties**

(R.C. 3317.02(N))

As mentioned above, the act continues the six-year phase-in to the full 18% variance between the highest and lowest cost-of-doing-business counties. In addition, it reassigns the cost-of-doing-business factors among the 88 counties to reflect the Department of Education's latest examination of the relative costs among the counties. The new factors still have Gallia County as the base cost county at 1.00 and Hamilton County as the highest cost county relative to Gallia County. However, although the total variance between Gallia and Hamilton County increases to 12.4% in FY 2000 (and 13.8% in FY 2001), in most counties, the rate of cost increase is lower than in Hamilton County.

**Income adjusted valuation**

(R.C. 3317.02(W))

The new funding system adjusts a portion of some school districts' taxable valuation (on which the districts' local share of base-cost funding is determined) to reflect the relative income wealth of the district's residents. This adjustment is only made for school districts where the median income of the district's residents is less than the average of all the school district median incomes in the state. In the case of each district below that median, 1/5th of the district's taxable valuation is adjusted downward (by a variable amount that reflects the district's relative wealth compared to the other districts). This downward adjustment reduces the size of the local share, thereby increasing the district's state share of base-cost funding.

Beginning in FY 2001, the act increases from 1/5th to 4/15ths, the portion of taxable valuation that will be adjusted downward to reflect relative income of district residents in the case of districts with below-average income wealth.

**The act eliminates the per pupil alternative on the guarantee and establishes an "enhanced" guarantee for FY 2000**

(R.C. 3317.0212)

Under H.B. 650 guaranteed, each school district (except those with an ADM under 150, which have their own separate guarantee provision) a certain amount of state funding based on the amount it received in FY 1998 as "fundamental state aid." Fundamental state aid primarily includes base-cost funding, equity aid, special education weighted costs, DPIA, vocational and gifted unit funding and other categorical aid, but does *not* include transportation. H.B. 650 entitled each district to receive the *lesser* of the following two amounts:

- (1) The aggregate amount of its FY 1998 fundamental state aid; or
- (2) The amount it would receive if its *per pupil* amount of FY 1998 fundamental state aid were multiplied by its current-year formula ADM.

The act eliminates the per pupil alternative and simply provides that districts will always annually receive at least their aggregate amount of FY 1998 fundamental state aid.

However, the act also establishes a one-year "enhanced" guarantee for FY 2000--the fundamental state aid for that year plus any transportation aid received

for that year is guaranteed to equal at least the district's FY 1999 fundamental state aid, plus its transportation aid for that year.<sup>3</sup>

**The act raises the cap by increasing both the aggregate limit and the per pupil alternative**

(Section 18(C) to (E) of H.B. 650, amended in Section 23)

Originally, the new school funding system limited each school district's increase in state funds in FY 1999 through FY 2002 to the *greater* of 110% of the amount paid to the district in the previous fiscal year, or 106% of its per pupil funding in the previous year. For purposes of the cap calculation (unlike the guarantee), the transportation subsidy is included in the district's funding each year. Money received under the guarantee is also included in the cap.

Gap revenue (R.C. 3317.0216), the additional equalization of two mills ("power equalization") (R.C. 3317.0215), and certain biennially appropriated subsidies for such things as professional development, EMIS, and (in this act) OhioReads volunteers are outside the cap.

The act raises the cap limits in each year as follows:

(1) In fiscal year 2000, each district is limited to the greater of 111.5% of its fiscal year 1999 aggregate state aid or 109.5% of its fiscal year 1999 *per pupil* state aid.

(2) In fiscal years 2001 and 2002, each district is limited to the greater of 112% of its previous fiscal year's aggregate state aid or 110% of its previous fiscal year's *per pupil* state aid.

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<sup>3</sup> *In order to compare FY 1999 aid to FY 2000 aid, the act also makes technical adjustments in the calculation of FY 1999 "enhanced" fundamental aid, primarily to attribute the district's share of a special "Vocational education enhancement" line item in H.B. 770 to its fundamental state aid. (Money received from this line item was outside the guarantee in FY 1999, but serves as a comparison for the vocational education weighted cost funding included in FY 2000 fundamental aid.)*

**The act adds vocational education weighted costs as categorical funding**

(substantive changes: R.C. 3317.014, 3317.022(E), 3317.023(L), and 3317.0216)

(technical/conforming changes: R.C. 3317.02(F) and (J), 3317.023(A) and (K), 3317.0212, 3317.03, 3317.033, 3317.05, and 3317.051)

In FY 1999, the new school funding system ended a procedure of funding school districts' vocational education programs separately from the base-cost formula. Instead, it counted vocational education students in formula ADM and funded them through the base-cost formula. It supplied no other additional per pupil funding for vocational education, although the General Assembly appropriated about \$24.2 million in FY 1999 as "vocational education enhancements," which was paid to districts to help with such costs as repairing and replacing equipment for their vocational education programs.

The act keeps vocational education students in the base-cost formula ADM, but establishes a new add-on formula for paying a per pupil amount for vocational education on top of the amount generated by the base-cost formula. Following the new system's example of weighted funding for special education costs for disabled students, districts will receive additional funds for vocational education based on the calculation of additional weights for students utilizing these categories of services.

Weights are an expression of additional costs attributable to the special circumstances of the students in the weight class. The weight is expressed as a percentage of the formula amount. For example, a weight of .25 indicates that an additional 25% of the formula amount (or, about \$1,000 more dollars for FY 2000) is necessary to provide additional services to a student in that category.

The act establishes two weights for vocational education:

(1) .60 for students enrolled on an FTE basis in vocational education job-training and workforce development programs approved by the Department of Education; and

(2) .30 for students enrolled on an FTE basis in other types of vocational education classes.

The total calculated amount is the sum of the weights for all the students in the two weight classifications multiplied by the formula amount (*not* adjusted for the cost-of-doing-business factor). The formula is:

state share percentage x (formula amount x total vocational education weight)

The Department of Education must generate a list of approved vocational education expenditures, and school districts must spend all of their state vocational education weighted costs funds on these expenditures.

**Vocational education funding--state and local shares**

(R.C. 3317.022(E))

Equalization is another characteristic of the new system that the act applies to its vocational education formula. The amount actually paid to each district will be its state share percentage of the total amount calculated with the weights. This is the same procedure currently followed for special education funding.

The state share is the percentage of the district's *total base-cost funding* (formula amount x cost-of-doing-business factor x formula ADM) that is paid by the state. If, for example, about 50% of a district's base-cost funding is paid by the state, the state will similarly pay 50% of the district's vocational education costs.

**Vocational education associated services**

(R.C. 3317.022(E)(2) and 3317.023(L))

In addition to the weights for the two categories of vocational education student, the act provides an additional equalized .05 weight for both categories of vocational education students (on a vocational full-time-equivalent, or FTE, basis). In FY 2000, the amount calculated for a regular or joint vocational school district will be its state share percentage of \$202.60 (the formula amount of \$4,052 x .05) for each FTE vocational student. But this calculated amount is not necessarily paid to the school district where the student is counted for funding purposes. Instead, the Department must pay the amount to the "lead district" of the vocational education planning district (VEPD) of which the district is a member.<sup>4</sup>

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<sup>4</sup> Every district is assigned to a VEPD by the Department of Education. A VEPD is a school district or group of school districts that is designated by the Department as being responsible for the planning and provision of vocational education services to students within the district or group of districts. The group of districts that make up a joint vocational school district is always a VEPD. A group of districts that have formed a vocational compact might also be a VEPD. Some large school districts that provide services only to their own students might also be VEPDs. Within each VEPD, the Department designates one district as the "lead district." This district provides the primary leadership within a VEPD composed of a group of districts. The lead district would be the joint vocational school district itself in a VEPD that was coterminate with a joint vocational school district. In a compact, it would usually be the district acting as the funding agent.

For example, if the six school district members of a joint vocational school district each had 100 FTE students enrolled in a joint vocational school and 20 additional FTE students enrolled in vocational education classes at the member school districts, the Department would calculate an associated services weight of \$202.60 times the 600 students enrolled in the joint vocational school. The JVSD would receive its own state share percentage of this amount. As a lead district, it would also be paid \$202.60 times the state share percentage for each of the six member districts (which would vary for each member district depending on that district's wealth) times that member's 20 students.

Associated services funds must be spent by the lead district on a subset of vocational education expenditures designated by the Department as "vocational education associated services." The act specifically mentions, as examples of associated services, apprenticeship and other vocational coordinators and vocational evaluations. The Department must reduce associated services funding to any lead district that does not spend this money for approved services.

**State gap revenue to cover local share when district revenues insufficient**

(R.C. 3317.0216)

As the new funding system already does for the local shares of base-cost funding and special education funding, the act guarantees state funds to cover any shortfall between the calculated local share of vocational education weighted and associated services costs and the actual available school district tax revenues.

**Vocational education add-on payments counted in state funding cap**

(Section 18(A)(3), (A)(4), and (C) of H.B. 650, amended in Section 23)

Like other kinds of categorical funding, the act's new add-on payments for vocational education weighted costs and associated services are counted in the state funding cap in effect through FY 2002. In order to calculate the cap for FY 2000, any amounts of the \$24.2 million "vocational enhancement" money attributable to a district's students and received in FY 1999 are added to the rest of the district's FY 1999 state aid for comparison to its FY 2000 aid. These vocational enhancement payments were not included in the "cap" calculation for comparing FY 1999 to FY 1998.

**Transfers of vocational education weight funds to compact districts**

(R.C. 3317.023(K))

Under preexisting law, if a school district is educating a student entitled to attend school in another district pursuant to most types of shared education contracts, compacts, or cooperative education agreements, the Department of Education deducts funds from the home district and transfers the payment to the educating district. The amount deducted and transferred equals, on an FTE basis, the entire formula amount (adjusted by the cost-of-doing-business factor for the county where the home school district is located) plus the state share of any special education weights applicable for that student.

The act permits either of the two weights for vocational education applicable to a student also to be deducted from the home district and sent to the educating district in the case of these compacts or cooperative agreements.

**Grants for GRADS programs**

(R.C. 3317.024(R), 3317.0212(A)(3)(b), and 3317.16(H); Section 17(A)(2); Section 18(A)(3) of H.B. 650, amended in Section 23)

The act provides a new equalized grant to regular and joint vocational school districts that operate GRADS ("Graduation, Reality, and Dual-role Skills") programs for pregnant and parenting students. The amount of the grant is the district's state share percentage times a personnel allowance of \$45,000 in FY 2000 (which increases by 2.8% to \$46,260 in FY 2001) for each full-time-equivalent GRADS teacher approved by the Department of Education.

GRADS grants are subject to the cap and the guarantee for both regular school districts and joint vocational school districts.

**Requirement to continue vocational education programs**

(R.C. 3317.022(E) and 3317.16(I))

The act requires each regular and joint vocational school district to offer in FY 2000 and FY 2001 the same "number of vocational education programs" that it offered in FY 1999. But the Department of Education may expressly allow a district to offer fewer programs in one or both years.

### Gifted education funding

(R.C. 3317.024(P), 3317.05(F), and 3317.162)

The new funding system temporarily retained for FY 1999, the system of providing state funding for gifted education through "units." The act continues gifted unit funding for FYs 2000 and 2001.

A "unit" is a group of students receiving gifted education programs. In FY 1999, districts and educational service centers received for each approved unit the sum of:

(1) The annual salary the gifted teacher would receive if he or she were paid under the state's minimum teacher salary schedule for a teacher with his or her training and experience;<sup>5</sup>

(2) An amount (for fringe benefits) equal to 15% of the salary allowance;

(3) A basic unit allowance of \$2,678; and

(4) A supplemental unit allowance, the amount of which partially depended on the district's state share percentage of base-cost funding in the case of school districts. In FY 1999, each school district received a supplemental gifted unit allowance of \$1,625.50 plus the district's state share percentage of \$3,550.

The act maintains unit funding at the same amount as in FY 1999, except it increases the supplemental allowance. For FY 2000 districts will receive a per unit supplemental allowance of \$2,125.50 (which increases to \$2,625.50 for FY 2001) plus the district's state share percentage of \$4,550 (\$5,550 in FY 2001). The change provides an average increase of \$1,000 per unit per year for districts.

The act also increases the supplemental unit allowance paid per unit awarded to educational service centers from \$3,251 to \$4,251 in FY 2000 and \$5,251 in FY 2001.

Except for the supplemental unit allowance, state unit funds are not equalized to reflect district wealth. And not all school districts and service centers eligible for gifted units have them approved.

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<sup>5</sup> R.C. 3317.13, not in the act.

**The act adds a special education subsidy for speech services only**

(R.C. 3317.022(C)(5), 3317.0212(A)(3)(a), and 3317.16(D)(2) and (H); Section 17(A)(2); Section 18(A)(3) of H.B. 650, amended in Section 23)

The act provides regular and joint vocational school districts with a new special education subsidy that may be used solely for providing speech services. The subsidy is based on a personnel allowance for every 2,000 students in the district's formula ADM. The personnel allowance is \$25,000 in FY 2000 and \$30,000 in FY 2001, and each district receives its state share percentage (the same percentage used to calculate its special education weighted costs funding) of that personnel allowance for every 2,000 students. For example, in FY 2000, if a school district has 10,000 students in its formula ADM and a 60% state share percentage, it would receive a subsidy equal to five (10,000 divided by 2,000) times \$15,000 (60% of the \$25,000 personnel allowance) for a total of \$75,000.

The subsidy is subject to the cap and guarantee for both regular school districts and joint vocational school districts.

**Requirement to spend special education and related services additional weighted costs funds on approved expenditures**

(R.C. 3317.01 and 3317.022(C)(6))

Under the new school funding system, each school district is required to spend on special education *related services* the lesser of (1) the amount it spent the preceding year for such services or (2) an amount equal to 1/8th of its total state and local special education money (from both base-cost funding and the additional weighted costs funds).<sup>6</sup>

The act further specifies that the state portion of a district's additional weighted costs funds must be spent only on purposes designated by the Department of Education as approved for special education expenditures. This provision does not affect the act's other requirement to spend the state special speech subsidy only on speech services.

The Department must annually provide each school district and MR/DD board, by August 31, a preliminary estimate of the amount of special education

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<sup>6</sup> *Related services include such things as speech and language services, behavioral intervention, interpreter services, nursing services, occupational or physical therapy, audiology, school psychological services, other related services defined in federal law or in the IEP of a handicapped student, and administrative specialists such as special education supervisors and coordinators.*

weighted cost funding (as well as, in the case of school districts, an estimated amount of the new speech services subsidy) the district or MR/DD board will receive. The estimate must be updated each year by December 1. The reports will presumably assist school districts in determining the amount of money they will have to spend on approved special education expenditures.

**Recommendations on school district use of state special and vocational education funds**

(Section 35)

The act requires the Department of Education to "recommend to the General Assembly the best method of ensuring that state special education and vocational education funds are expended by school districts for the needs of special education and vocational students." The Department must do so by January 30, 2000.

**Legal costs not counted in reimbursable "catastrophic costs"**

(R.C. 3317.022(C)(4) and 3317.16(E))

Category 3 special education students include students with autism, students with both visual and hearing handicaps, and students with traumatic brain injury. The special education weight assigned to these students is 3.01, the same as that assigned to special education students under Category 2. But school districts may apply to the state for additional state aid if their costs in serving any Category 3 student exceeds \$25,000 in one year. The state will pay the district's state share percentage of the costs above the \$25,000 threshold.

The act specifies that the additional costs for which districts receive reimbursement can include only the costs of educational expenses and related services provided to the student in accordance with the student's individualized education program (IEP). Reimbursable costs cannot include any legal fees, court costs, or other costs associated with any cause of action relating to the student.

**Elimination of subsidy for extended service in FY 2001**

(R.C. 3317.024(G))

Preexisting law authorizes the Department of Education to subsidize school districts for their costs of employing teachers and other nonadministrative licensed personnel beyond the traditional school year (*i.e.*, during the summer months). The act eliminates this subsidy beginning in FY 2001.

## Changes to DPIA expenditure requirements

(R.C. 3317.029(G), (K), and (L); Section 18(F) and (G) of H.B. 650, amended by Section 23)

### Background

An additional nonequalized state subsidy is paid to school districts with threshold percentages of resident children from families receiving public assistance (Ohio Works First). The amount paid for this Disadvantaged Pupil Impact Aid (DPIA) depends largely on the district's DPIA index, which is its percentage of Ohio Works First children compared to the statewide percentage of Ohio Works First children. Three separate calculations determine the total amount of a district's DPIA funds:

(1) Any district with a DPIA index greater than or equal to .35 (meaning its proportion of children receiving public assistance is at least 35% of the statewide proportion) receives money for safety and remediation. Districts with DPIA indices between .35 and 1.00 receive \$230 per pupil. The per pupil amount increases proportionately for districts whose indices are greater than 1.00 as the DPIA index increases.

(2) Districts with a DPIA index greater than .60 receive additional money for increasing the amount of instructional attention per pupil in grades K to 3, the amount of which also increases with the DPIA index. This payment is called the "third grade guarantee," but is more popularly known as the "class-size reduction" payment.

(3) Districts that have either a DPIA index equal to or greater than 1.00 (having at least the statewide average percentage of public assistance children) or a three-year average formula ADM exceeding 17,500, and that offer all-day kindergarten receive state funding for the additional half day.<sup>7</sup>

Preexisting law contains two provisions limiting the purposes for which school districts with DPIA indices of at least 1.00 may spend the three types of DPIA funds: one establishing guidelines for spending the funds once the cap limiting state funding increases is no longer in effect (FY 2003 and thereafter) and a transition provision placing limits on the use of DPIA funds through FY 2002, while the state aid caps are in effect.

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<sup>7</sup> However, all districts (regardless of their DPIA indices) are eligible for at least the amount of DPIA funding they received during FY 1998, the last year of the old school funding system.

### **General limits on using DPIA funds beginning in FY 2003**

**Preexisting law.** Once the caps are no longer in effect, districts with DPIA indices of 1.00 or more must utilize any of their three types of DPIA funds first to provide all-day kindergarten to the percentage of kindergarten children they have certified they will serve.<sup>8</sup> Next, these districts *may* (but are not required to) use the amounts calculated for safety and remediation for those purposes. All remaining DPIA funds *must* be used for the third grade guarantee (consisting of a variety of methods for increasing the amount of instructional attention per pupil).<sup>9</sup>

**Changes in the act.** The act permits any school district receiving all-day kindergarten money to spend a portion of it to modify or purchase classroom space to provide all-day kindergarten if (1) the district demonstrates to the Department of Education that it has a shortage of space for kindergarten classes and (2) it still serves the percentage of kindergarten students it certified to the Department that it would serve in order to receive its all-day kindergarten funding. Similarly, the act permits a district to use a portion of its third grade guarantee funds to modify or purchase classroom space if space is needed to reduce class size in grades kindergarten through two. The district must demonstrate this need to the Department.

The Governor vetoed an additional requirement that any district declared to be in a state of academic emergency spend **all** of its third grade guarantee funds specifically to reduce the number of students in kindergarten through second grade classrooms, "with a goal of attaining a class size of fifteen students per licensed teacher" in each of those classrooms.<sup>10</sup>

### **Transition period requirements on DPIA expenditures (prior to FY 2003)**

**Preexisting law.** Districts generally are allowed to phase-in the DPIA spending requirements. However, all districts must spend whatever is necessary to

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<sup>8</sup> *All-day kindergarten funds are paid based on the percentage of students the district certifies to the Department it will serve.*

<sup>9</sup> *The options for increasing the instructional attention per pupil include reducing the ratio of students to instructional personnel (by reducing class size per teacher, employing aides or paraprofessionals, or using team-teaching); extending the school day; or extending the school year.*

<sup>10</sup> *Academic emergency districts are those that have failed to meet at least 33% of the state's performance standards established in Am. Sub. S.B. 55 of the 122nd General Assembly and the Department of Education's rules.*

provide all-day kindergarten to the percentage of students they certify they will serve. In addition, they must spend 50% of their nonexempt DPIA funds in FY 2000 and 75% of their nonexempt DPIA funds in FY 2001 for safety and remediation and the third grade guarantee.<sup>11</sup> Beginning in FY 2002, districts must spend 100% of the nonexempt funds for the purposes specified in the law.

**Changes in the act.** The act specifies that in each year of the phase-in, the percentage of nonexempt funds required to be spent for the enumerated purposes must be divided between the purposes of safety and remediation and the third grade guarantee in the same proportion as they would receive the funds if there were no cap. For example, if a district's calculated safety and remediation funds are 60% of its DPIA funds (for everything other than all-day kindergarten) and the district's calculated third grade guarantee funds are 40% of its DPIA funds (for everything other than all-day kindergarten), it must spend 60% of its nonexempt funds for safety and remediation and 40% for increased instructional attention.

The act also permits a school district during the transition period to serve a lesser percentage of all-day kindergarten students than it certified to the Department initially, if it needs to spend some of its DPIA funds to provide additional classroom space for the all-day kindergarten classes. The Department must approve a district's expenditure for modification and purchase of space, but may not approve this unless it determines the district cannot reasonably provide all-day kindergarten to its initially certified percentage of students without additional space.

The Governor vetoed a transition provision that, like the vetoed post-transition provision, would have required districts in a state of academic emergency to spend all third grade guarantee funds specifically for the purpose of reducing the ratio of students to licensed teachers in kindergarten through second grade classrooms.

**DPIA funding for "third grade guarantee"--average teacher salary**

(R.C. 3317.029(A)(7))

Under the new system, if a district's DPIA index is greater than 0.60 (meaning its proportion of children receiving public assistance is greater than 60% of the statewide proportion), it may receive a payment based on the amount of

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<sup>11</sup> For districts not subject to the cap, all DPIA funds are nonexempt funds. For any district subject to the cap, a portion of the calculated DPIA funds are determined under a formula to be affected by the cap and are declared exempt. The remainder of its DPIA funds are considered "nonexempt."

money it would take to hire additional teachers to reduce class sizes in kindergarten through third grade. The amount varies on a sliding scale, increasing as the districts' DPIA indices increase.

One of the components of the formula for calculating this "third grade guarantee" is the statutorily designated statewide average teacher salary. For FY 1999, this amount was established at \$39,092. The act increases it to \$40,187 for FY 2000 and \$41,312 for FY 2001, thereby increasing the third grade guarantee funds for all eligible districts in each year of the biennium.

**Continued eligibility for DPIA all-day kindergarten payments**

(Section 4.12)

The act's uncodified appropriation language specifies that in FYs 2000 and 2001, any school district that received DPIA payments for all-day kindergarten in the preceding year remains eligible for even if its DPIA index falls below 1.00. The permanent codified law (R.C. 3317.029(D), which the act does not change) otherwise restricts all-day kindergarten payments to districts whose DPIA indices are 1.00 or greater or whose three-year average formula ADMs exceed 17,500. The uncodified exception, therefore, will prevent an interruption in state all-day kindergarten funding during the biennium should a district that is already receiving the money have its index fall a few percentage points below 1.00.

The DPIA payment for all-day kindergarten is one-half of the per pupil base-cost formula amount. It is paid for each child in the percentage certified to the Department as enrolled in all-day kindergarten.

**Transportation funding**

(substantive changes: R.C. 3317.022(D))

(technical/conforming changes: R.C. 3317.02(J) and (K) and 3317.0212(A)(2))

**Background: phase-in of current transportation funding formula**

In FY 1998, under the old school funding system, state payments to school districts for transportation averaged 38% of their total transportation costs. The new system not only established a new transportation funding formula, but commenced a phase-in that, by FY 2003, will result in the state paying districts 60% of the amount calculated by the new formula. These payments are not equalized for district wealth.

### **The new transportation formula**

(R.C. 3317.022(D)(1) to (3))

The act retains the schedule for phasing in the percentage of the formula calculation the state will pay, and continues the policy of not equalizing transportation payments. But it substitutes a completely new formula that is based on the statistical method of multivariate regression analysis.<sup>12</sup>

Under this new formula, each district will have its payment for transportation of students on school buses based on (1) the number of daily bus miles traveled per day per student in the previous fiscal year and (2) the percentage of its student body that it transported on school buses in the previous fiscal year, whether the buses were owned by the district board or a contractor.<sup>13</sup> The Department of Education is to update the values for the formula and calculate the payments each year based on analysis of transportation data from the previous fiscal year. As under preexisting law, the Department must apply a 2.8% inflation factor to the cost data. The deadline for the Department to report its annual update to the Office of Budget and Management is moved from September 30 to February 15.

As scheduled under prior law, the Department is to pay each district 52.5% of the formula calculation in FY 2000 (up from 50% in FY 1999) and 55% of the calculation in FY 2001.

### **Transportation guarantee for FY 2000**

(R.C. 3317.022(D)(4))

Despite the increasing percentage, the act guarantees that each district will receive in FY 2000 at least the amount it received for transportation in FY 1999. This appears to be, in effect, a one-year continuation of the FY 1999 transportation guarantee, which entitled districts to receive under the current formula in FY 1999

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<sup>12</sup> *Regression analysis is a statistical tool that can explain how much of the variance in one variable (in this case, transportation costs from district to district) can be explained by variance in other variables (here, number of bus miles per student per day and the percentage of students transported on buses).*

<sup>13</sup> *The act presents the following model of the formula based on an analysis of FY 1998 transportation data:  $51.79027 + (139.62626 \times \text{daily bus miles per student}) + (116.25573 \times \text{transported student percentage})$ . Payments for FY 2000 are to be calculated on a similar formula updated to reflect analysis of FY 1999 data.*

no less than they received from the old formula in FY 1998. There is no guarantee for FY 2001.

**New rough road subsidy**

(R.C. 3317.022(D)(5) and (6))

In addition to its new formula, the act establishes a new subsidy targeted at districts where there are relatively high proportions of rough road surfaces. Specifically, a district is eligible for the additional funds if *both* of the following apply:

(1) Its county "rough road percentage," is higher than the state average "rough road percentage." The rough road percentage is the proportion of the mileage of state, county, municipal, and township roads in the district's county that is rated by the Ohio Department of Transportation as Type A, B, C, E2, or F.

(2) Its "student density" is lower than the statewide student density. Student density is the number of students divided by the number of square miles in the district.

The highest possible subsidy is 75¢ per bus mile traveled in a year on rough roads. But the actual amount paid will vary per eligible district, depending on its rough road percentage and student density. The subsidy decreases for districts with lower rough road percentages and higher student densities.

**State funding cap**

(Section 18(A)(3) of H.B. 650, amended in Section 23)

As under the prior law for FY 1999, state money paid under the new transportation formula and the new rough road subsidy are counted in the temporary state funding cap in effect through FY 2002.

**Elimination of driver education subsidy**

(R.C. 3301.17, 3301.171, 3317.01, 3317.024(I), 3317.11(A), and 3317.19)

The act permanently eliminates the \$50 per pupil driver education subsidy that the Department of Education was required to pay to school districts and educational service centers that provide driver education directly to students and to commercial driver training schools. It retains the \$50 cap on the amount that

school districts may charge students for driver education, but H.B. 160, which the General Assembly passed on June 23, 1999, would lift this cap.<sup>14</sup>

**Repeal of small district aid**

(repealed R.C. 3317.0214)

Under prior law, any district with fewer than 1,000 students in formula ADM and an average taxable value of \$85,000 per pupil or less was entitled to a payment of \$50 times the number of students fewer than 1,000.

The act repeals this subsidy.

STATE FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS

**Background--prior JVSD funding**

The new education funding system did not change the method of funding joint vocational school districts (JVSDs).<sup>15</sup> Accordingly, in FY 1999, JVSDs received state unit funding for approved vocational education units, special education units, and supervisor and coordinator (also known as related services) units.<sup>16</sup> They did not receive gifted education units.

JVSDs were not eligible for base-cost funding, but some equalization of voted millage occurred through a formula that partially equalized vocational units. This formula essentially ensured that every approved vocational unit in a JVSD

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<sup>14</sup> R.C. 3301.171. *The Legislative Service Commission had not received formal notification of the Governor's decision on H.B. 160 at the time this analysis was prepared. If the Governor signs H.B. 160, school districts could charge students up to the actual cost per pupil of providing driver education.*

<sup>15</sup> *A joint vocational school district is a school district formed by a group of city, local, or exempted village school districts to offer vocational education to students of all the participating districts. JVSD school boards are generally composed of members of the school boards of the constituent districts.*

<sup>16</sup> *Essentially, for each approved unit, a JVSD received the minimum teacher's salary (based on years of experience and level of education) for the teacher of the unit plus 15% of that salary allotment for benefits. In addition, for each unit, the JVSD received a basic unit allowance of: \$9,510 (for vocational education units); \$8,023 (for special education units); and \$2,132 (for supervisor and coordinator or related services units) plus a supplemental unit allowance of \$7,227 for each vocational unit, \$7,799 for each special education unit, and \$2,966 for each supervisor or coordinator (related services) unit.*

was worth (in addition to the unit funding received for the unit) \$23,000 in combined state and local funds. The local share was one mill times the total taxable valuation of all the property in the JVSD's territory (unadjusted for reappraisals or for the income of the residents of the JVSD's territory). The state share was obtained by subtracting the local share from an amount equal to the number of approved units times \$23,000.

JVSDs also received categorical aid for driver education, adult education, and an allotment for academic courses other than vocational education courses.

**The act's new system for state funding for JVSDs**

(substantive changes: R.C. 3317.024(R) and 3317.16; Section 17)

(technical/conforming changes: R.C. 3317.014, 3317.02, 3317.03, and 3317.161)

**Base-cost funding--calculation of state share for JVSDs**

The act provides funding for JVSDs in a manner closely paralleling the base-cost funding mechanism for all other school districts. JVSDs will receive base-cost funding utilizing the same per pupil formula amount that is used for other districts. That is, for FY 2000, JVSDs are guaranteed \$4,052 per student (\$4,294 for FY 2001) multiplied by the cost-of-doing-business (CODB) factor for the county where the JVSD's largest school is located. The total guaranteed base-cost funding is the formula amount (adjusted for CODB) multiplied by the greater of that year's formula ADM (which JVSDs must report in generally the same manner as school districts currently report it) or the three-year average of its formula ADM.

A local share of each district's base-cost funding will be calculated by multiplying one-half mill (or .0005) times the combined adjusted total taxable values of the various school districts in the JVSD. Subtracting the local share from the total base-cost funding produces the state base-cost funding for the JVSD for that fiscal year. The base-cost formula for JVSDs reads:

(formula amount x cost-of-doing-business factor x the greater of formula ADM or three-year average formula ADM) minus (.0005 x adjusted total taxable value)

**Categorical funding**

As is the case for other school districts, JVSDs will no longer receive units for vocational education, special education, and related services. Instead, like other districts, JVSDs will receive additional funds for vocational education and special education (including related services) based on additional weights for

students utilizing these categories of services. They remain ineligible for gifted education units.

**JVSD special education funding.** Like other school districts, JVSD students receiving special education will be assigned to one of the three existing weight categories.<sup>17</sup> As with all other school districts, the total calculated amount is the sum of the weights for all the students in the weight classifications multiplied by the formula amount (*not* adjusted for the cost-of-doing-business factor). Also like other school districts, the state pays its percentage, with the rest comprising the local share. The formula is:

state share percentage x (formula amount x total special education weight)

The act does not apply to JVSDs its general requirement for regular schools that state special education payments be spent only on purposes designated by the Department of Education.

**Catastrophic costs subsidy.** The act qualifies JVSDs for the "catastrophic cost subsidy." Like regular school districts, they may receive a state payment to school districts equal to the state share percentage of any amounts over \$25,000 spent for a student who is autistic, both visually and hearing impaired, or suffers from traumatic brain injury. As it does for regular school districts, the act prohibits any JVSD from including in the calculation of the subsidy any legal fees, court costs, or other costs associated with any cause of action relating to the student.

**Related services expenditures.** Like other school districts, JVSDs have to spend a portion of their special education funds for related services.<sup>18</sup> The required amount they must spend is the lesser of:

- (1) The amount they spent on related services the prior year; or

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<sup>17</sup> *The special education weights (unchanged by the act) are: (a) .22 for students identified as specific learning disabled, other health handicapped, or developmentally handicapped, and (b) 3.01 for students identified with any other handicap, including hearing handicapped, orthopedically handicapped, vision impaired, multihandicapped, and severe behavior handicapped.*

<sup>18</sup> *"Related services" is defined in preexisting law to include the supervisors and coordinators that were included under the prior law's related services units as well as such other special student services as speech and hearing services, occupational and physical therapy, interpreter services, nursing services, behavioral intervention, audiological, and psychological services (R.C. 3317.022(B)(3)).*

(2) 1/8th of the total state and local funds attributed by the system to base cost and weighted funding for the district's special education students.

**JVSD funding for vocational education.** The same two weight classes for vocational education students that the act assigns to regular school district students will also be assigned to JVSD students. (See "**The act adds vocational education costs as categorical funding,**" above.) The additional weighted cost funding for JVSDs is computed as follows:

$$\frac{\text{state share percentage} \times \text{formula amount} \times \text{total}}{\text{vocational education weight}}$$

As will regular school districts, JVSDs will also receive a separate weight for associated services. A JVSD receives a weight of .05 times the district's state share of the formula amount for each vocational (FTE) student. These funds may be spent only for vocational education associated services designated by the Department of Education, including such services as apprenticeship coordinators, coordinators for other vocational education services, and vocational evaluation.

#### **Other JVSD funding changes**

JVSDs will no longer receive a subsidy for driver education or academic courses, but will continue to receive the same type of funding for adult technical and vocational education and specialized consultants as under prior law.

#### **JVSD state funding guarantee**

All JVSDs are guaranteed to receive every year at least the amount of state funding they received in FY 1999 for unit funding, equalization of vocational units, and academic units.<sup>19</sup>

#### **JVSDs subject to a state funding cap**

JVSDs are subject to the same limitation on yearly funding increases as school districts through FY 2002. In FY 2000, the cap limits are the greater of 111.5% of the preceding year's state aid or 109.5% of the district's per pupil funding for the preceding year. In FY 2001 and FY 2002, the cap limits are the greater of 112% of the preceding year's aggregate state aid or 110% of the preceding year's per pupil state aid.

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<sup>19</sup> For FY 2000 only, however, the act earmarks \$400,000 to guarantee that JVSDs whose adjusted recognized values per pupil are \$3 million or less will receive an increase in state funding of 2.8% or \$150,000, whichever is less. This additional money is not guaranteed after FY 2000. (Section 4.16.)

## STATE FUNDING FOR EDUCATIONAL SERVICE CENTERS

### **Freezing amount of per pupil payments to multicounty service centers**

(R.C. 3317.11(C))

Educational service centers formed by one or more mergers that combine the territory of at least three former service centers or county school districts are called "multicounty" service centers.<sup>20</sup> These multicounty centers receive a state payment for each student included in the formula ADMs of the local districts comprising the center and of the city and exempted village districts that sign agreements to be "client districts" of the center. The per student state payment under prior law was established at 1% of the base-cost formula amount for the fiscal year. For example, in FY 1999, the payment for these districts was \$38.51. Given the formula increases in the act, the prior law would have required a multicounty payment of \$40.52 per pupil in FY 2000 and \$42.94 in FY 2001.

The act instead establishes a permanent annual payment of \$40.52 per pupil for these service centers beginning in FY 2000, instead of continuing to tie the amount of the payment to the formula amount.

### **Per pupil payments to other educational service centers**

(R.C. 3317.11(B))

Prior law paid each educational service center that was not a multicounty center a per pupil amount of \$34 for each student in the formula ADMs of the local districts composing the center and of the center's client districts. The act increases that payment to \$36 per pupil in FY 2000 and to \$37 per pupil in FY 2001.

### **Mandated service center consolidations**

(Section 45.32 of H.B. 117, amended in Section 19)

#### **Preexisting merger schedule**

The General Assembly has established a schedule mandating the merger of smaller educational service centers. Under preexisting law:

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<sup>20</sup> *The General Assembly required the consolidation of county school districts and changed the name of these entities to educational service centers as part of Am. Sub. H.B. 117, the biennial appropriation act of the 121st General Assembly.*

(1) Educational service centers that served only one school district had to consolidate with another service center by July 1, 1997.

(2) Service centers with an ADM (average daily membership) of less than 8,000 also had to merge, but the deadline is tied to the number of school districts each serves. Such service centers that serve fewer than six districts had to merge with another service center by July 1, 1999. Such service centers serving six or more districts had to merge by July 1, 2000.

An educational service center's ADM is the combined formula ADMs of the school districts it serves. These include all of the local school districts that constitute its territory, plus any city and exempted village school districts that contract for its services. The latter school districts are called "client districts."

**Count all client districts for merger purposes**

The act makes explicit that, for purposes of determining whether a service center must merge (*i.e.*, whether its ADM is less than or greater than 8,000), it may count the formula ADMs of *all* of its client districts, including those whose contracts were executed after January 1, 1997. That is the cut-off date established by Section 4.22 of the act for calculating the service center's state per pupil subsidy. The formula ADMs of client districts who contract after that date are omitted from the payment calculation.

The act therefore clarifies that the ADM used to determine whether a service center must merge is not necessarily the same as, and may be larger than, the ADM used to calculate its state funding.

**ESCs serving six or more districts never have to merge**

The act also permanently eliminates the requirement that any service center that has an ADM of less than 8,000 students and that serves six or more local or client districts merge with another service center.

**Second mergers**

If a service center was created on or before July 1, 1997, through the required merger of two centers that each had served only one local school district, and the new ESC still serves fewer than 8,000 students and six school districts, it must merge again. The act delays the deadline for the second merger from June 1, 2000, until July 1, 2001.

### **Joint purchasing by educational service centers**

(R.C. 3313.376)

Preexisting law permits the governing boards of two or more educational service centers to enter into agreements to jointly purchase certain commodities for the local school districts or client districts they serve, if through such joint purchases the service centers obtain quantity discounts. The commodities that may be purchased under such an agreement previously included only textbooks, computer equipment including computer software, and school buses.

The act expands this authority for joint purchasing to include purchases of utility services, including natural gas and electricity. It also specifies that the permitted joint purchase agreements for textbooks, buses, computers, software, *and* utilities may include installment purchase and lease-purchase contracts.

## COMMUNITY SCHOOLS

### **Background**

Community schools, more popularly known as "charter schools," are public schools established to operate independently of any school district. There are two possible kinds of community schools: "start-up" schools, which are new schools, and "conversion" schools, which are existing public schools that school districts have consented to converting to community schools.

### **The act eliminates the pilot project and allows community schools in Lucas County permanently**

(substantive provisions: R.C. 3314.02 and 3314.15; Sections 21, 22, 31, and 32)

(technical/conforming changes: R.C. 3314.11, 3314.12, 3314.13, 3317.03, and 4117.101)

State law previously provided separate mechanisms for establishing community schools in Lucas County, where a pilot project was operating, and the rest of the state. The Lucas County schools had authority to operate only until June 30, 2003. No more than 20 start-up schools could be in existence at any one time in the Lucas County area, and no community schools, whether start-up or conversion, could begin operation after June 30, 2000.

The act eliminates the pilot project, placing the existing Lucas County community schools under R.C. Chapter 3314., the law that governs community schools everywhere else in the state. That law is almost identical to the uncodified law under which the pilot project schools were established. But there are a few,

relatively minor differences, and the act specifies that the Lucas County community schools may continue to operate under their original contracts until those contracts expire. The schools, however, are subject to any provisions of the statewide community schools law that do not conflict with their contracts. When their contracts are renewed, they must conform with the statewide law.

If a proposed pilot project school had entered into a preliminary agreement, but not a formal contract, with a sponsor before the act's effective date, that agreement remains valid as long as the school's governing authority and sponsor continue the agreement. If they agree to proceed into a contract, however, it must comply with the statewide law.

### **Sponsors**

(R.C. 3314.02(C)(1))

The law establishing the Lucas County pilot project permitted the governing board of the Lucas County Educational Service Center and an authority designated by the Board of Trustees of the University of Toledo (or the Board of Trustees itself) to sponsor community schools. The act permanently continues their authority to sponsor schools in the Lucas County area.

### **School in bordering county may continue operating**

(R.C. 3314.15(C))

Under certain circumstances, the pilot project law allowed a community school to locate its facility in a county contiguous to Lucas County, but its students had to be those otherwise attending Lucas County district schools. The act specifies that such a community school may continue operating as long as it has a valid contract with a sponsor. But under other changes made by the act, the school may admit students from districts other than those in Lucas County (see "**Community schools' admission of students from outside district,**" below).

### **Leaves of absence**

(Section 32(B))

One of the few differences between the pilot project law and the statewide law was their requirements for leaves of absence for school district employees who wanted to work in community schools. The pilot project law required all Lucas County school districts, and the Lucas County Educational Service Center, to grant leaves of up to two years to their teachers and nonteaching employees who wanted to work in a community school located in any of the eight Lucas County districts.

The statewide law requires school districts and educational service centers to grant leaves for up to three years, instead of two, but it otherwise is much narrower. It requires school districts to grant these leaves only if they actually *sponsor* a community school, and they need grant the leaves only to work in community schools located in that district. Educational service centers must grant leaves to their employees to work in community schools located anywhere within their territory.<sup>21</sup> So subjecting the eight Lucas County school districts to the statewide law loosens the requirements on them to grant leaves, while the requirements on the Lucas County Educational Service Center remain about the same.

However, the act specifies that any teacher or nonteaching employee of a Lucas County area school district who, on its effective date, is taking a leave of absence from the district to work at a pilot project community school located in another school district may continue the leave under the terms of that policy and the former pilot project law. Upon termination of the leave, the district must return the teacher or nonteaching employee to the same or a comparable position, salary, and level of seniority, as required by the former pilot project law.

**Partial reimbursement of Lucas County school districts**

(Section 32(C))

During the first year a community school operated in the Lucas County area, the Department of Education was required to pay an amount to each school district for each student enrolled in the community school who was otherwise entitled to attend school in the district. That amount was 50% of the district's "per pupil state funds," defined as the district's base cost and special education funding, plus any funds from the state basic aid guarantee.

The act continues this practice for the Lucas County districts, but only for the 1999-2001 biennium. It adds to the "per pupil state funds" the amounts computed for the district under the new vocational education formulas.

**Start-up community schools in academic emergency and "Urban 21" districts**

(R.C. 3314.02(A)(3) and (6) and (C)(1) and (3))

Under prior law, new start-up community schools could be started in any of the eight school districts in Lucas County and within the boundaries of any of the

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<sup>21</sup> R.C. 3314.10(B), not in the act.

"Big 8" school districts other than Toledo.<sup>22</sup> An existing public school may be converted to a community school in any school district in the state.

The act permits new start-up schools to be established permanently in any of the eight Lucas County school districts and in any school district in the state declared by the Department of Education to be in a state of academic emergency.<sup>23</sup> It specifies that if a new start-up school is established in an academic emergency district, the school may continue to exist after the school district is no longer in a state of academic emergency.

The act also permits new start-up schools to be established in the 13 school districts that, along with the Big 8 districts, constitute the state's urban 21 districts. These are districts that under former law met specific criteria for size and poverty levels (either 5,500 ADM and at least a 15.5% welfare recipient rate or 12,000 ADM and at least a 5% welfare recipient rate).<sup>24</sup>

### **Temporary caps on state-sponsored community schools outside Lucas County**

(R.C. 3314.013)

The act limits the total number of contracts that the State Board of Education may have in effect as a sponsor for "start-up" community schools located outside the former Lucas County pilot project area to 75 in FY 2000 and 125 in FY 2001. (Start-up schools are community schools that are not created through the conversion of existing school district schools.) It further states the General Assembly's intention "to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of results of studies by the Legislative Office of Education Oversight." None of these limitations apply to conversion schools, or to start-up schools sponsored by school district boards.

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<sup>22</sup> *The Big 8 school districts are the Akron, Canton, Cleveland, Columbus, Cincinnati, Dayton, Toledo, and Youngstown city school districts.*

<sup>23</sup> *No school districts have officially been designated as academic emergency districts at this time. The Department is to begin determining the status of districts in FY 2000 and every three years afterward. A preliminary rating by the Department, based on FY 1997 data, identified 50 school districts, in addition to the Big 8, as potentially being academic emergency school districts.*

<sup>24</sup> *The 13 additional districts are (1) Lima, (2) Hamilton, (3) Middletown, (4) Springfield, (5) Cleveland Heights, (6) East Cleveland, (7) Elyria, (8) Lorain, (9) Mansfield, (10) Warren, (11) Euclid, (12) Parma, and (13) Southwestern.*

To facilitate tracking the number of start-up community schools, the act requires the state Superintendent of Public Instruction to indicate, to any person who requests the information, (1) the number of preliminary agreements for state-sponsored start-up schools that are currently outstanding and (2) the number of contracts for these schools that are currently in effect. The Superintendent must provide the information within 24 hours of the request for it.

**Community school may have more than one facility**

(R.C. 3314.03(A)(9) and 3314.05)

Under preexisting law, a community school's contract with its sponsor must specify the facility to be used for the school. The act permits a community school to be located in multiple facilities under one contract with its sponsor, but only if limitations on available space prohibit serving in a single facility all the grade levels specified in the contract. A school cannot offer the same grade level classrooms in more than one facility (for example, all the first grade classrooms must be in the same building).

**Community schools' admission of students from outside district**

(R.C. 3314.03(A)(19), 3314.06, and 3314.08)

Under prior law, community schools within the Lucas County pilot project could admit students from any of the school districts with territory primarily in Lucas County. Admission to community schools in all other parts of the state was limited to students living within (or entitled to attend school in) the school district where the community school was located.

The act allows all community schools, at the discretion of their governing authorities, to admit students from outside the district where the school is located. The contract between the community school and its sponsor must contain a provision requiring the school's governing authority to decide either to admit only students within the district where the school is located, or to admit students from outside that district. If the decision is to admit students from outside the district, admission may be restricted to students residing in an adjacent district or open to students from anywhere in the state (these are the same admission classifications that school districts have for interdistrict open enrollment).

Preexisting law requires community schools that receive more applications than they can admit due to space limitations to admit students by lot, except preference must be given to students attending the school the previous year. The act adds that preference also must be given to students residing in the district in

which the school is located. As under preexisting law, preference *may* also be given to siblings of students who attended the school during the previous year.

**Community school high school students may participate in Post-Secondary Enrollment Options**

(R.C. 3314.03(A)(11)(d), 3314.08(L) and (M), 3317.03(A)(2)(a), (A)(2)(c), and (B)(3), 3365.01, 3365.02, 3365.03, 3365.041, 3365.05, 3365.07, and 3365.09)

The act extends to students enrolled in "secondary grades" (presumably 9 through 12) in community schools the ability to participate in the Post-Secondary Enrollment Options program. This program enables high school students to enroll in college courses for college credit only or for both high school and college credit. Students who elect to receive both high school and college credit have their college tuition paid by the state, under a formula prescribed in statute.

Under the act, community school students who elect both high school and college credit will have their college tuition paid by the state. The payment will be deducted from the state's payments to the community school in the same manner that payments are deducted under preexisting law from school districts' state aid for their high school students who participate in the program. The community school will continue to receive payments for these students from the state, which in turn would be deducted from the student's home school district.

**Authority to deny high school credit for college courses taken during expulsion**

(R.C. 3313.613)

The act extends to community schools the authority the General Assembly recently granted school districts to deny high school credit for college courses taken during the period of an expulsion. This authority was granted to school districts by Am. Sub. S.B. 1 of the 123rd General Assembly, effective August 6, 1999.

**Community school funding**

Community schools are primarily funded from money that is deducted from the state aid paid to the school districts where their students otherwise would be attending school. The funding transferred by the state consists of base-cost funding, special education funding, and a share of the district's per pupil DPIA funds. The act revises the calculation of community schools' special education and DPIA funds.

**Special education--using the existing weights with a guarantee**

(R.C. 3314.08(A)(4) and (5), (C)(2), (D)(2) and (3), and (E))

Under prior law, when a community school provided a disabled student with special education and related services under an individualized education plan (IEP), the Department paid the school, and deducted from the student's "home" school district, the average cost of providing those services to similarly disabled children among the school districts within the county.

The act replaces this method with the system of calculating the weighted special education costs currently in use for school districts. As with school districts, community schools will receive the base cost of educating the student, adjusted by the cost-of-doing-business factor of the student's "home" district, plus the applicable weight of the base cost for the category of the student's disability.<sup>25</sup> Community schools, which are not authorized to levy taxes, will receive the full amount of this calculation, not just a state share.

But the act guarantees community schools that they will receive at least the aggregate amount they received to provide special education in FY 1999 (excluding federal funds and state DPIA funds). In addition, it grants community schools access to state "catastrophic costs" funds available to school districts if their costs in providing special education to a student in Category 3 exceeds \$25,000 in any year. (Category 3 includes students with autism, both visual and hearing handicaps, or traumatic brain injuries.) The state will reimburse community schools 100% (not just a state share) of the costs they incurred above \$25,000. This amount is not deducted from a school district's aid. Like school districts, community schools may not include in the calculation of catastrophic costs any legal fees, court costs, or other costs associated with any cause of action relating to the student.

**DPIA for community schools**

(R.C. 3314.08(A)(7), (C)(3) and (4), (D)(4) and (5), and 3314.13)

Prior law required the Department of Education to deduct from a school district and pay a community school an amount for every student whose family participated in the Ohio Works First public assistance program. This was intended to allow the DPIA funds that the student would have generated for the district to

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<sup>25</sup> *The per pupil base cost paid to a community school may be the same as the statutory amount for school districts or a lesser amount negotiated in the school's contract with its sponsor.*

"follow" the student to the community school. But school districts are no longer paid DPIA based solely on the number of children receiving public assistance, after H.B. 650 completely revised the DPIA program. The act therefore revises the method for calculating the amount of DPIA that follows a child to a community school.

**Students from districts on the DPIA guarantee.** When H.B. 650 revised DPIA, it included a guarantee that no district would ever receive less in DPIA funds than it received in FY 1998. If a community school student comes from a district on the DPIA guarantee, the act requires the Department of Education to deduct from that district and pay the community school an amount equal to the district's DPIA guarantee funds divided by the number of children ages five through 17 who live in the district and participate in Ohio Works First, as most recently certified by the Department of Human Services.

**DPIA safety and remediation.** A school district with a DPIA index of .35 or greater (meaning its proportion of children receiving public assistance is 35% or more of the statewide proportion) may receive a payment for safety and security and for providing remediation services to students at risk of failing the state proficiency tests. The payment is at least \$230 for every child in the district's five-year average number of children receiving public assistance.

If a community school student receives public assistance and comes from a district receiving this DPIA safety and remediation payment, the act requires that the Department of Education deduct from that district and pay the community school the \$230 or more that the district receives for every child in its five-year public assistance average.

**DPIA class size reduction payment.** A district whose DPIA index is greater than .60 (meaning its proportion of children receiving public assistance is greater than 60% of the statewide proportion) receives another DPIA payment based on the amount of money it would take to hire additional teachers to reduce class sizes in kindergarten through third grade. The amount provided varies on a sliding scale, increasing as the DPIA index increases.<sup>26</sup>

Calculating how this portion of DPIA should follow students to community schools is more complicated because the districts' payments are based on the total number of nonhandicapped students in grades K to 3, and not merely on the number who receive public assistance. The act requires the Department to deduct

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<sup>26</sup> *Although this payment is calculated based on an assumed cost of hiring additional teachers, it may be used in a number of ways, besides reducing class size, to increase instructional attention given children in kindergarten through third grade.*

an amount from every school district that receives these payments if any of its native, nonhandicapped students attend kindergarten through third grade in a community school. To determine how much to deduct and pay, the Department first must calculate how much the district received per pupil, which is the amount of the payment divided by the number of nonhandicapped students in kindergarten through third grade (with students in all-day kindergarten counting as one and all other kindergartners counting as one-half). That per pupil amount is then multiplied by the number of the district's nonhandicapped students who attend the community school in kindergarten through third grade (again, each all-day kindergartner counts as one and other kindergartners count as one-half).

**All-day kindergarten payments.** If a district's DPIA index is 1.00 or greater (meaning its proportion of children receiving public assistance equals or exceeds the statewide proportion) *or* its three-year average formula ADM exceeds 17,500, it may receive a per pupil payment for each student enrolled in all-day, everyday kindergarten. The per pupil amount is one-half of the base-cost formula amount for the fiscal year, supplementing the one-half in state and local funds already guaranteed for kindergartners by the base-cost formula.

The act does not change the previously prescribed method for transferring DPIA all-day kindergarten payments to community schools. For every community school student who is enrolled in all-day kindergarten and is from a district eligible for all-day kindergarten payments, the Department must pay the community school one-half of the formula amount. Generally, this amount is to be deducted from the student's "home" school district. But if that district, although eligible for an all-day kindergarten payment, does not receive one because it does not offer all-day kindergarten, the Department pays the community school out of state funds generally appropriated for DPIA. The law allows no payment to community schools for all-day kindergartners whose home districts are not eligible for extra state money even if the community schools offer all-day kindergarten.

All of these requirements remain intact under the act. It merely replaces the more specific language, that payments are for community school kindergartners from a district whose DPIA index is 1.00 or more, with a more general statement that they are for kindergartners from districts eligible for all-day kindergarten payments. This conforms with the act's uncodified DPIA policy that a district receiving all-day kindergarten in a prior year remains eligible even if its index falls below 1.00 in FY 2000 or FY 2001.<sup>27</sup>

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<sup>27</sup> See Section 4.12 of the act.

### **Conforming changes**

(R.C. 3314.08)

The act makes technical changes in the section providing funding for community schools to clarify that the school district where the student is entitled to attend school under current school district tuition law is the district from which the community school's funding will be deducted, regardless of whether the school is located in that district.

### **Transportation to community schools**

(R.C. 3314.09)

The act changes a school district's obligation to provide transportation for students enrolled in community schools. Its new requirements for transportation of these students are the same as the requirements under preexisting law for the transportation of students to the district's own schools.

Each school board must transport students who reside in its district to community schools located in its district or in another district on the same basis that it provides transportation to its students who are enrolled in the regular public schools (that is, at the same grade level and living the same distance from school). Transportation is not required if, in the judgment of the district board, confirmed by the State Board of Education, the transportation is unnecessary or unreasonable. A district is not required to transport nonhandicapped students to and from a community school located in another school district if the transportation would require more than 30 minutes of travel time. Instead of providing transportation, a district may pay an amount as specified in the act to a parent, guardian, or other person in charge of the child for transporting that child.

### **SchoolNet for community schools**

(R.C. 3301.80(D) and 3301.801)

The act specifies that community schools are entitled to participate in SchoolNet Plus and other programs administered by the Ohio SchoolNet Commission.

**No personal liability for officers, directors, and board members**

(R.C. 3314.071)

The act adds a provision specifying that no officer or director of a community school or member of its governing authority incurs any personal liability by virtue of entering into any contract on behalf of the community school.

**Designation and bonding of community school fiscal officer**

(R.C. 3314.011)

The act requires every community school to designate a fiscal officer. In addition, it authorizes the Auditor of State to require by rule that each fiscal officer, before entering his or her duties, execute a bond payable to the state conditioned for the faithful performance of all official duties. The bond, if required by the Auditor's rule, must be in an amount and with surety approved by the community school's governing authority. It must be deposited with the governing authority, and the governing authority must file a certified copy with the county auditor.

**Notice to school district about community school applications submitted to the state**

(R.C. 3304.021(A))

The act requires the Department of Education, when it receives an application proposing a community school, to notify the president of the board of education of the school district where the school is proposed to be located. If any member of that board of education requests a copy of the application, the Department must furnish one.

**Community schools must agree to collect LOEO data**

(R.C. 3314.03(A)(11)(g))

The act requires each community school to include in its contract with its sponsor a requirement that the school will provide data that is needed by the Legislative Office of Education Oversight for research and studies that the General Assembly has directed the Office to conduct concerning community schools. In 1997, the General Assembly directed LOEO to conduct "an evaluation of the assets and liabilities to the state's system of educational options that result from the establishment of community schools," and an overall evaluation of community

schools. The first is to be completed by December 31, 2002. The second is to be completed by June 1, 2003, with a preliminary report due by June 30, 2001.<sup>28</sup>

### **Community school report cards**

(R.C. 3314.012)

The act requires the Department of Education to issue an annual report card for each community school, beginning after the school has operated for two full school years. The report card is to be based on the school's academic and financial performance.

A committee appointed by the state Superintendent of Public Instruction and the Director of the Legislative Office of Education Oversight must design model report cards for community schools. These models must be appropriate for the various types of community schools, sufficient to reflect the variety of grade levels served and the missions of the schools. The state Superintendent's appointments to the committee must be made by September 27, 1999, and consist of representatives of the Department, including employees who work with the Education Management Information System (EMIS) and employees of the Office of School Options. Initial report card models must be developed by March 31, 2000.

The Department must use the models developed by the committee. When it receives a copy of the community school's contract with its sponsor, it must notify the school of the specific model report card that will be used for the school.

Report cards must be distributed to the parents of the community school's students, to the board of education of the school district in which the school is located, and to any person who requests one from the Department.

## STATE CAPITAL FUNDING FOR SCHOOL BUILDINGS

### **Background**

Under the Classroom Facilities Assistance Program, the state pays part of the costs of constructing classroom facilities for certain school districts.<sup>29</sup>

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<sup>28</sup> Sections 50.39 and 50.52.2 of Am. Sub. H.B. 215 of the 122nd General Assembly.

<sup>29</sup> Under continuing law unchanged by the act, the term "classroom facilities" is defined as "rooms in which pupils regularly assemble in public school buildings to receive instruction and education and such facilities and building improvements for the operation and use of such rooms as may be needed in order to provide a complete

Administered by the Ohio Classroom Facilities Commission, the program is a graduated cost sharing program where the state and school district shares are based on the relative wealth of the district. Under this program, the poorest districts are served first and receive a greater amount of state assistance than the wealthier districts will receive when it is their turn to be served. A qualifying school district is responsible for paying its portion of the project with its own bond issue and an accompanying property tax levy to pay the annual service charges on those bonds. In addition, under preexisting law amended by the act, a school district must levy a separate half-mill property tax for up to 23 years to pay for maintenance on the facilities constructed.<sup>30</sup> If the voters of the district do not approve the bond issue and tax levies, the district cannot participate in the program. Release of the state's share of the project cost is subject to Controlling Board approval. The state's share of these cost-sharing projects is funded either with cash or with bonds issued by the state treasurer. The annual debt service on the state-issued bonds has been largely paid with lottery profits.<sup>31</sup>

### **Calculation of the wealth of a district**

(R.C. 3318.01, 3318.011, and 3318.06)

Under continuing law the Department of Education is required to annually calculate the adjusted valuation per pupil of each district, rank order each district from lowest to highest, and divide the districts into percentiles. The Department is required to report these calculations to the Ohio School Facilities Commission.

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*educational program, and may include space within which a child day-care facility or a community resource center is housed" (R.C. 3318.01(B)).*

<sup>30</sup> *Continuing law also provides that if in any year a school district has an adjusted valuation per pupil above the statewide median, the proceeds from the district's half-mill tax must be divided evenly between maintenance of the facilities and payments to the state (R.C. 3318.06(C)(2)).*

<sup>31</sup> *The Ohio Constitution earmarks all the lottery profits for the support of elementary, secondary, vocational, and special education subject to appropriations of the General Assembly. The statute implementing this provision provides that the first \$10 million of lottery profits be devoted to school building assistance bond service. (R.C. 3770.06.) The General Assembly annually has also appropriated additional funds both from lottery profits and the GRF to pay the annual service on state-issued bonds for classroom assistance.*

Under prior law a district's percentile rank was used to calculate both its priority for funding and its share of the project costs.<sup>32</sup>

In addition to these calculation requirements, the act requires the Department of Education to annually calculate the *three-year average* adjusted valuation per pupil of each district, rank order the districts into percentiles based on those figures, and report these calculations to the Commission. Under the act, the Commission is required to use the *three-year average* adjusted valuation per pupil figures and resulting percentile ranks rather than the one-year adjusted valuation per pupil figures and resulting percentile ranks to determine a district's eligibility for assistance.

The act also reiterates the requirement for the Department to make the required calculations under the Classroom Facilities Assistance Law, rather than only in the equity funding law, as previously required.

### **District share**

(R.C. 3318.01, 3318.032, 3318.05, 3318.06, 3318.08, and 3318.17)

Under preexisting law, unchanged by the act, a district's share of the basic project cost is the *greater* of two figures, both based on the wealth of the district.<sup>33</sup> The district's share is either:

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<sup>32</sup> *Under continuing law, the Commission is required to periodically assess the facilities needs of all school districts in the state. Generally, starting with the first five percentiles, the Commission is required to conduct on-site inspections of those districts identified as having facilities needs and to fund at least 80% of the needs within that group before moving to the next group of five percentiles. The law, however, does permit the Commission to extend the on-site inspections to succeeding percentiles through the 25th percentile before funding 80% of the needs of each group if there are funds appropriated but not reserved and encumbered for projects and the Commission finds that the available funds would be more thoroughly utilized if extended to the next highest percentile. (R.C. 3318.02, not in the act.)*

<sup>33</sup> *Under continuing law, the "basic project cost" is determined by rule of the Commission. The Revised Code, however, requires that the Commission rules take into consideration the square footage and cost per square foot necessary for the grade levels to be housed in the classroom facilities, the variation across the state in construction and related costs, the cost of the installation of site utilities and site preparation, the cost of insuring the project until it is completed, and the professional planning, administration, and design fees that a district may have to pay to undertake a classroom facilities project. (R.C. 3318.01(L).)*

(1) An amount that increases the "net bonded indebtedness" of the school district to within \$5,000 of its "required level of indebtedness."<sup>34</sup> The required level of indebtedness for districts in the first percentile is 5% of valuation. For districts in a subsequent percentile, the required level of indebtedness is calculated under the following formula:

$$.05 + .0002[(\text{the percentile in which the district is ranked}) - 1].^{35}$$

(2) An amount equal to the district's "required percentage of the basic project cost." The required percentage of the basic project cost is calculated under the following formula:

$$.01(\text{the percentile in which the district is ranked}).^{36}$$

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<sup>34</sup> *Continuing law unchanged by the act defines the "net bonded indebtedness" of a school district as the difference between:*

*(1) The sum of the par value of all outstanding and unpaid bonds and notes of the district, any amounts the district is obligated to pay under a lease-purchase agreement under Revised Code section 3313.375 (not in the act), and the par value of bonds authorized by district voters but not yet issued and which may be used for the classroom facilities project; and*

*(2) The amount held in the sinking fund and other indebtedness retirement funds of the district.*

*However, (1) notes issued for the purchase of school buses, (2) notes issued in anticipation of the collection of current revenues, (3) bonds issued to pay final judgments, and (4) indebtedness arising from the acquisition of a site for classroom facilities project are not included in the calculation of "net bonded indebtedness." (R.C. 3318.01(F).)*

<sup>35</sup> *For instance, the required level of indebtedness for a district in the 11th percentile would be 5.2% (or  $.05 + .0002(10) = .052$ ); the required level of indebtedness for a district in the 50th percentile would be 5.98% (or  $.05 + .0002(49) = .0598$ ); and the required level of indebtedness for a district in the 100th percentile would be 6.98% (or  $.05 + .0002(99) = .0698$ ).*

<sup>36</sup> *For instance, the required percentage of the project costs for a district in the 11th percentile would be 11% (or  $.01(11) = .11$ ); the required percentage of the project costs for a district in the 50th percentile would be 50% (or  $.01(50) = .50$ ); and the required percentage of the project costs for a district in the 100th percentile would be 100% (or  $.01(100) = 1.00$ ).*

The act specifies that the district's share of the project cost (based on either the district's existing net bonded indebtedness or its required percentage as described above) will be frozen for one year from the date that the Controlling Board approves the project. Thus, if there is any change in the district's wealth pending voter approval of the district bond issue and tax levies within that year's time, these changes will not affect the district's share.

The act also specifies that the half-mill tax levy required for a school district's participation in the program is "an additional levy" and is to be so noted in the ballot language for the levy (R.C. 3318.17).

**Proportionate state and district shares of cost increases**

(R.C. 3318.083)

Preexisting law, unchanged by the act, requires that the state's and the district's shares of the basic project cost be deposited into a project construction fund, which may accrue interest during the course of construction. Any interest earned may be used to pay increases in the cost of the project that occur after the project commences. Any amount remaining in the fund at the completion of the project must be returned to the state and district in the same proportion as their contributions to the project.<sup>37</sup>

The act provides that if the Commission approves an increase in the basic project cost above the amount originally budgeted plus any interest earned and available in the project construction fund, the state and the school district must share these increases in the same proportion as their original contributions to the project.

**Commission approval of site for facilities**

(R.C. 3318.08(Q))

The act adds a new requirement that the agreement between the Commission and the school district include a stipulation that the district may not proceed with a project if the Commission determines that the site proposed for the project is not suitable. The act also authorizes the Commission to conduct soil tests on a proposed site to determine its suitability.

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<sup>37</sup> See R.C. 3318.08.

### Simplified ballot language

(R.C. 3318.06(C) and (D))

The act simplifies the previously existing statutory ballot language for the required bond issue and tax levies.

### Elimination of references to former loan program or "purchase" of facilities from the state

(R.C. 3318.05, 3318.06, 3318.08, 3318.081, 3318.082, 3318.13, 3318.14, 3318.15, 3318.16, 3318.18, 3318.21, 3318.25, 3318.26, 3318.27, and 3318.29)

As it was originally enacted, the Classroom Facilities Assistance Program was a loan program, where the state loaned the equivalent of the state's share of the project cost to an eligible school district and retained partial ownership of the property until the district's loan was retired (but not to exceed 23 years). Under that program, the school district was required to use the proceeds of the additional (up to) 23-year half-mill property tax to pay off the loan in order to complete the purchase of the facilities from the state. If the loan was still outstanding at the end of the 23-year period, the state was to forgive the rest of the loan and transfer complete ownership of the facilities to the district. In 1996, the General Assembly amended the program to require that the additional half-mill tax be applied to maintenance of the facilities unless the tax is to be divided between maintenance and paying the state. This division of the proceeds occurs in any year that the district's adjusted valuation per pupil is above the statewide median (preexisting law unchanged by the act).<sup>38</sup> As a result of those amendments, the program is no longer a true loan program but is instead a cost-sharing program. Prior law, however, retained references to loans and to a school district's "purchase" of the facilities from the state. The act eliminates these references throughout the law, but it also incorporates language that provides that the state continues to hold an interest in the facilities constructed under the program until the obligations issued by *the state* to fund its share of any project are no longer outstanding.

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<sup>38</sup> *Am. Sub. H.B. 748 of the 121st G.A., effective August 23, 1996. See also note 30 above.*

### **Repeal of ancillary loan program**

(R.C. 3318.21 and 3318.26, and repealed R.C. 3318.23, 3318.24, and 3318.27)

In 1993, the General Assembly created a separate program to assist school districts in the acquisition of permanent improvements.<sup>39</sup> Under that program the Ohio School Facilities Commission was authorized to make loans for additional needed facilities to school districts that can secure the loans with their own general obligation bonds. The state's funding of those loans came from the School Districts Facilities Fund, which consisted of moneys raised by issuance of bonds to be retired with "repayments" by school districts to the continuing Public School Building Fund (GRF fund for the Classroom Facilities Assistance Program), service charges on the loans made under the additional loan program, and any other moneys appropriated for that purpose. Apparently, this additional loan program was never used. The act repeals the loan program and the School Districts Facilities Fund associated with it.

### **Emergency School Building Repair Program**

(R.C. 3318.35)

Under continuing law, the state provides an additional program to help the 292 poorest school districts make emergency repairs to existing facilities. Under this Emergency School Building Repair Program, the state provides money to these low wealth districts to repair existing school buildings for basic maintenance purposes. The permissible repairs under the program include: heating systems, floors, roofs, and exterior doors; air ducts and other air ventilation devices; emergency exit or egress passageway lighting; fire alarm systems; handicapped access needs; sewage systems; water supplies; asbestos removal; and any other repairs to a school building that meet the requirements of the life safety code, as interpreted by the School Facilities Commission.

The act clarifies that eligibility for funding under this program is based on a district's "current, one-year adjusted valuation per pupil," rather than the three-year average [the act prescribes] for the main facilities assistance program.

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<sup>39</sup> *Am. Sub. H.B. 152 of the 120th G.A., effective July 1, 1993.*

### **Exceptional Facility Need Pilot Program**

(Section 26 of H.B. 850, amended in Sections 27 and 28)

Another continuing special needs program was authorized in the capital appropriations act passed by the 122nd General Assembly. In that act, the General Assembly appropriated \$30 million for a pilot project to fund new facilities in districts that have "exceptional need for immediate assistance" and are not expected to be served by the Classroom Facilities Assistance Program before June 30, 2002.

The act amends that law to clarify that a school district's share of a project funded under this pilot program is the "required percentage of the basic project costs" as defined for purposes of the Classroom Facilities Assistance Program (that is, 1% times the district's percentile rank).<sup>40</sup>

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

(R.C. 3318.33)

The act creates a new fund in the state treasury named the Ohio School Facilities Commission Fund and authorizes the Commission to use that fund to pay its own personnel and other administrative expenses, to pay the cost of conducting evaluations of classroom facilities, to pay the cost of preparing building design specifications, to pay the cost of providing project management services, and for other purposes that the Commission determines are necessary to carry out its duties. This fund consists of transfers authorized by the General Assembly and any gifts, grants, donations, and pledges that the Commission is permitted to receive as well as any investment earnings on moneys in the fund.<sup>41</sup>

The act also authorizes the Director of Budget and Management to transfer to the Ohio School Facilities Commission Fund any investment earnings on the Public School Building Fund (GRF fund for the Classroom Facilities Assistance Program) and the School Building Program Assistance Fund (bond fund for the Classroom Facilities Assistance Program).<sup>42</sup>

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<sup>40</sup> See R.C. 3318.01(K).

<sup>41</sup> See R.C. 3318.31(A)(4).

<sup>42</sup> See R.C. 3318.15 and 3318.25.

**Use of existing permanent improvement levy in lieu of levying additional tax**

(R.C. 3318.05, 3318.06, and 3318.08)

Under preexisting law, unchanged by the act, a school district may levy a property tax outside the ten-mill limitation for a single purpose. Among other purposes these taxes may be for on-going permanent improvements and may last for up to five years or a "continuing" period of time. (R.C. 5705.21(B), not in the act.) Continuing law defines permanent improvement as "any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests [in land] and reconstructions, enlargements, and extensions . . . having an estimated life or usefulness of five years or more" (R.C. 5705.01(E), not in the act). Facility maintenance or repairs that have a useful life of five years or more likely would meet this definition. While a continuing permanent improvement levy might be limited to specific facilities or projects, it might also be broad enough in scope to apply to the general acquisition of facilities for the district and/or to the general maintenance of facilities.

The act permits a school district board that has in place a continuing levy for on-going permanent improvements of at least two mills where the proceeds may be used for maintenance to earmark from the proceeds of that levy an amount the equivalent of the half-mill, up-to-23-year additional levy required for participation in the Classroom Facilities Assistance Program. The earmarked proceeds may be used as a substitute for the additional levy.

**Authorization to the School Facilities Commission to provide funds to the Canton City School District for construction of a facility to be used for both high school and post-secondary instruction**

(Section 32)

The act authorizes the Ohio School Facilities Commission to provide to the Canton City School District up to \$35 million in Classroom Facilities Assistance Program funding, which is part of the amount the district is now eligible to receive under the Program, for the construction of a special facility. This authorization is contingent upon the following conditions:

(1) The district has entered into a cooperative agreement with a state-assisted technical college;

(2) The district has received an irrevocable commitment of additional funding from *nonpublic* sources; and

(3) The facility is intended to serve both secondary and post-secondary instructional purposes.

If these conditions are met, the Commission may enter into a separate agreement for the facility and in that agreement may waive or alter certain requirements of the Classroom Facilities Assistance Program. Under the act, there is no oversight by the Commission of the construction of the facility, the facility need not comply with Commission-adopted specifications for the construction of high schools, the Commission may reduce the basic project cost for the facility below that normally calculated for similar facilities under the Classroom Facilities Assistance Program, and the state will not share in any increase in the basic project cost above the \$35 million authorized in the act (see above under "**Proportionate state and district shares of cost increases**").

The facility constructed under this special authorization is in lieu of a high school that would otherwise be constructed under the Classroom Facilities Assistance Program. All other funds that the school district receives for other facilities under the Program must be subject to *all* the provisions of the Program.

#### **School Building Assistance Expedited Local Partnership Program**

(R.C. 3318.021, 3318.31, and 3318.36)

The act creates a new program to augment the Classroom Facilities Assistance Program. The new program permits the Commission each year to enter into agreements with up to five school districts in the 20th to 40th percentiles that are not yet eligible for state assistance under the Classroom Facilities Assistance Program. Under an agreement, these districts may apply the expenditure of local resources for the construction of classroom facilities toward the school district's portion required when the district is eligible for such state assistance. Under the new program, the Ohio School Facilities Commission is required to assess the classroom facilities needs of participating districts, selected in the order in which they adopt resolutions certifying their intent to participate in the new program. The districts then may expend any local resources, including the proceeds of bonds, on any discrete part of the district's needs that is either new construction, additions, or major repair. If the district later becomes eligible under the Classroom Facilities Assistance Program, the Commission then must reassess the needs of the district and recalculate the district's total basic project cost, adding in the amount spent by the school district under the Expedited Local Partnership Program. The school district may then deduct the amount expended under the Expedited Local Partnership Program from its local share required under the Classroom Facilities Assistance Program.

For example, assume that the basic project cost of the school district's original needs as determined by the Commission under this program is \$100 million and the school district's portion of that amount is \$25 million (or 25% of the total).<sup>43</sup> Also assume that the school district spends \$25 million for approved construction or repair projects under the Expedited Local Partnership Program agreement. Then, assume that the actual needs of the school district as reassessed by the Commission at the time the school district becomes eligible for state assistance is \$125 million, to which the \$25 million the school district spent on approved projects under the agreement is added. This creates a basic project cost of \$150 million. The school district's portion of the new basic project cost (based on its original 25% share) is \$37.5 million. The \$25 million already spent by the school district is subtracted from that amount, which means the school district would need to issue new bonds for \$12.5 million to receive state assistance under the Classroom Facilities Assistance Program.

**Short-term loans to school districts engaged in disputes over faulty design or construction of facilities**

(Section 10.01)

The act authorizes the School Facilities Commission to make loans for up to three years to any school district engaged in a dispute with a contractor or other responsible party over faulty design or construction of school facilities. The funds loaned are to be used for emergency repairs to affected facilities. Interest that the district receives from settlement of the dispute that exceeds the interest paid by the district on the loan under this provision must be paid to the Commission. In addition, any moneys loaned under this provision may not be used to pay legal fees. Any debt incurred as a result of these emergency loans is not included in the calculation of the district's net indebtedness under the public securities law.

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<sup>43</sup> A school district's eligibility for state assistance is based on its percentile ranking, which is determined by the Commission at the time the school district enters into the Expedited Local Partnership Program agreement with the Commission. That percentile ranking might likely change after the parties execute the agreement due to changes in the relative wealth of the school district, but the program's provisions freeze the school district's percentile ranking for purposes of determining eligibility for state assistance at the time the Expedited Local Partnership Program agreement is executed.

OTHER PROVISIONS RELATED TO PRIMARY AND  
SECONDARY EDUCATION

**Repeal and modified reestablishment of pilot project scholarship program**

(R.C. 3313.974 to 3313.979; Sections 2 and 4.12)

On May 27, 1999, the Ohio Supreme Court invalidated the Pilot Project Scholarship and Tutorial Assistance Program (commonly called the "voucher" program), which currently operates only in the Cleveland City School District.<sup>44</sup> The court held that the 1995 law establishing the program was invalid because its enactment violated the "one-subject" rule of Article II, Section 15(D) of the Ohio Constitution, which limits bills to one subject. The law was included in Am. Sub. H.B. 117 of the 121st General Assembly, which was the general operating appropriations act for the 1995-1997 fiscal biennium. The court commented that "creation of a substantive program in a general appropriations bill violates the one-subject rule" and severed the scholarship program from the rest of the appropriations act. But the court stayed its ruling until June 30, 1999.

The act repeals the 1995 law and reenacts similar provisions, with one modification. It omits a requirement that the court found to violate the Establishment Clause of the First Amendment of the U.S. Constitution, which requires separation of church and state. The omitted provision had allowed private schools participating in the program to give some priority in its admission policies to students whose parents are affiliated with an organization that provides financial support to the school. The court reasoned that this "provides an incentive for parents . . . to 'modify their religious beliefs or practices' in order to enhance their opportunity to receive a . . . scholarship."

**The reestablished program is a continuation of the original**

(Section 41)

The act explicitly states that its repeal and reinstatement of the program statutes is a continuation of the existing program. Students who received scholarships in the 1998-1999 school year may continue to receive scholarships until they complete eighth grade, as long as they comply with the program's requirements and the General Assembly appropriates the funds for them.

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<sup>44</sup> *Simmons-Harris v. Goff*, \_\_\_ Ohio St.3d\_\_.

**Expansion of grade levels in which new students may enter the program**

(Section 4.35)

In FY 1999, the scholarship program served students in grades K to 5. In FY 2000, when a new kindergarten class replaces the one that advances to first grade, it will serve students in K to 6. Likewise in FY 2001, a new kindergarten class will result in the program serving students in K to 7. The program's expansion therefore results from new kindergartners being added as the existing participants are promoted.

The codified law (both the former version and the re-enactment) has always stipulated that new students may join the program only in grades K to 3; students in higher grades who withdraw could not be replaced. For FY 1998, however, the biennial appropriations act permitted new students to join the program in fourth grade, as well. And for FY 1999, it also permitted new students to receive first-time scholarships in fourth and fifth grade. This allowed new students to join the program during these years in all of the grades it covered, not just K to 3.

For FY 2000 and FY 2001, the new act continues this trend by allowing first-time scholarships to be awarded to students in all of the covered grades. For FY 2000, first-time scholarships may therefore be awarded to students in grades K to 6, and in FY 2001 to new students in grades K to 7. But this will not necessarily increase the number of new program participants. That is determined by the Department of Education each year based on the amount of money appropriated for the program. According to the Legislative Budget Office, the appropriation in this act is intended to allow approximately the same number of new students to join the program in each year of the biennium, primarily in kindergarten, as joined in each of the last two years.

**Study**

(Section 4.34)

The act carries over to the next biennium previously enacted uncodified law that requires the state Superintendent of Public Instruction to contract with an independent research entity to conduct an evaluation of the pilot program, which must be completed by September 1, 1999.

### **Gifted education and identification**

(R.C. 3324.01 to 3324.07; repealed R.C. 3313.22; Sections 33 and 34)

Prior law, repealed by the act, required school districts to formulate a written policy detailing procedures for the identification of gifted children (as defined by rule of the State Board of Education) and to report annually the number of students identified as gifted and the number of students receiving services. The prior law did not require that school districts provide services to gifted students.

The act replaces these provisions with more elaborate requirements for identification of gifted students and a requirement to *plan* for serving gifted students.

Under the act, school districts must identify, by November 15, 2000, all gifted students enrolled as of January 1, 2000, in grades kindergarten through eleven. Students must be identified as "gifted" who exhibit either superior cognitive ability; specific academic ability in one or more of the fields of math, science, language arts, or social sciences; creative thinking ability; or visual or performing arts ability.

#### **Criteria for identifying gifted students**

The act establishes the criteria for identifying each of these types of gifted students. These standards are the following:

(1) **Cognitive ability**: The student did any of the following in the preceding 24 months:

(a) Scored two standard deviations above the mean, minus the standard error of measurement, on an approved individual standardized intelligence test;

(b) Scored at least two standard deviations above the mean, minus the standard error of measurement, on an approved standardized group intelligence test;

(c) Performed at or above the 95th percentile on an approved individual or group, basic or composite battery of a nationally normed achievement test; or

(d) Attained an approved score on one or more above-grade level standardized nationally normed approved tests.

(2) **Specific academic ability**: Within the preceding 24 months the student performed at or above the 95th percentile at the national level on an approved individual or group standardized achievement test of a specific academic ability.

(3) **Creative thinking ability**: Within the preceding 24 months the student scored one standard deviation above the mean, minus the standard error of measurement, on an approved individual or group intelligence test and did either of the following:

(a) Attained a sufficient score, established by the Department of Education, on an approved individual or group test of creative ability; or

(b) Exhibited sufficient performance, as established by the Department, on an approved checklist of creative behaviors.

(4) **Visual or performing arts abilities**: The student has done *both* of the following:

(a) Demonstrated superior ability through an audition or exhibition in a visual or performing arts area; and

(b) Exhibited sufficient performance, as established by the Department, on an approved checklist of behaviors related to a specific area.

#### **School district plans**

Each school district board must adopt by January 1, 2000, a plan, which then must be approved by the Department, for identification of gifted students. The plan must include the following: (1) a description of the assessment instruments to screen and identify gifted students, (2) acceptable scheduling procedures for administering screening and assessment instruments (which must provide for testing any student who request it or whose parent, teacher, or classmate requests it), (3) procedures for notifying parents about the results of any screening or assessment, and (4) a provision for a parent to appeal any decision regarding assessment. The Department has 60 days to approve any acceptable plan. Each school district board must submit an annual report to the Department specifying the number of students screened, assessed, and identified as gifted in each category. The district board must develop a statement of its policy for screening and identifying gifted students and distribute the policy statement to parents.

#### **The Department's responsibilities**

The Department must approve a list of assessment and identification instruments, rules for the administration of any tests or assessment instruments, and established scores or performance levels required for the tests. The Department is required whenever possible to approve only assessment instruments that utilize nationally recognized standards for scoring or are nationally normed.

The Department must audit each district's identification numbers at least once every three years. If a district is found in noncompliance, the Department must provide technical assistance to the district. State aid received by the district may be reduced if further noncompliance is found.

### **Rules**

(Section 33)

The act contains a provision allowing the State Board of Education to adopt temporary rules for the administration of tests and for the approval of assessment instruments and for establishing the scores or performance levels students must attain for identification as "gifted." In order to have rules in place by September 1, 1999, the Department is exempt from all provisions requiring notification, public hearings, and filing of rules with the Joint Committee on Agency Rule Review, although it must prepare the rules in "a form anticipating eventual codification into the Administrative Code." These temporary rules take effect immediately upon adoption, but they expire January 15, 2000, by which date the Department must adopt replacement rules under the Administrative Procedure Act (Revised Code Chapter 119., not in the act).

### **Gifted education service plans**

As under the previous law, the act does not require school districts to provide gifted education services. However, school district policies must ensure an equal opportunity for all students identified as gifted to receive any services that the school district does provide and must provide an opportunity for parents to appeal any decisions about services.

The act also establishes a new requirement that each school district board develop a plan for the service of gifted students identified in the district. By December 15, 2000, each board must submit its plan to the Department of Education, which must review and analyze each plan for adequacy and to make funding estimates.

The act does not require school boards to implement the gifted-student service plans until further action by the General Assembly or the state Superintendent of Public Instruction, but expressly permits them to do so. But it reiterates that they must continue to do whatever is required by law or rule of the Department in order to receive gifted education funds.

The plan developed by each school district may include such options as:

- (1) A differentiated curriculum;

- (2) Cluster grouping;
- (3) Mentorships;
- (4) Accelerated course work;
- (5) Post-secondary enrollment option;
- (6) Advanced placement;
- (7) Honors classes;
- (8) Magnet schools;
- (9) Self-contained classrooms;
- (10) Independent study; and
- (11) Other options identified in rules adopted by the Department of Education.

**ADM reporting for handicapped preschool funding**

(R.C. 3301.011, 3317.03(B)(2), 5126.12, and 5126.16)

Under prior law, school districts and county boards of mental retardation and developmental disabilities (MR/DD) had to report the average daily membership (ADM) of preschool handicapped students that, during the first full week of October, were in classes eligible for approval as state funded units. The count of students was updated if the average daily membership increased for the first full week of February.<sup>45</sup> This is the same method used for counting all kindergarten through twelfth grade students for funding purposes.

Under the act, handicapped preschool children must be counted on the first day of December instead of during the first full week of October.<sup>46</sup> The count must be updated on the first day of April.

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<sup>45</sup> *Law unchanged by the act permits awarding additional units if the updated count indicates more students are being served and there is additional unallocated funding available for units.*

<sup>46</sup> *According to the Department of Education, federal law requires an accounting of these students on the December date.*

**School district rainy day funds: deducting prior year's excess deposits**

(R.C. 5705.29(G)(2))

**Background**

Beginning in fiscal year 1999, a law enacted by Am. Sub. H.B. 412 of the 122nd General Assembly requires school districts to accumulate a reserve balance, or "rainy day" account, that eventually equals 5% of the district's previous year's revenues for current expenses. Each year in which a district's revenue for current expenses grows by 3% or more over the previous year, the district must credit an amount equal to at least 1% of the previous year's revenue to the reserve balance account, unless exempted by rules adopted by the Auditor of State.<sup>47</sup> This must continue each year until the account reaches the required 5% amount.

Another law subsequently enacted by the 122nd General Assembly required any school district that received a Workers' Compensation refund in calendar year 1998 to use that money first to establish the *full 5%* reserve balance, if it had not already done so. This meant that if a district's Workers' Compensation refund was equal to or less than the 5% balance, it all had to be credited to the budget reserve account, even though the law otherwise would only have required the FY 1999 account balance to be 1% of its FY 1998 revenue for current expenses.<sup>48</sup>

**The act**

The act modifies the above requirement to enable school districts to use excess deposits they place in their reserve balance account (that is, deposits above the required incremental 1%) to offset amounts they must deposit in ensuing years. It directs that the annual deposit be an amount that, when added to the account balance, is not less than the sum of:

- (1) 1% of the revenues received for current expenses for the prior fiscal year; plus
- (2) The sum of the amounts credited to the account under the statute mandating the reserve balance account (R.C. 5705.29 only; not the subsequent

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<sup>47</sup> *The Auditor of State's rules exempt a school district from having to make a deposit into its reserve balance account in any year in which its average daily membership (approximate enrollment) grows at a greater percentage than did its operating revenue for the preceding year. (Ohio Administrative Code § 117-2-24.)*

<sup>48</sup> *Section 39 of Am. Sub. H.B. 770 of the 122nd General Assembly.*

requirement that Workers' Compensation refunds be deposited) for all fiscal years that amounts were required to be credited under that statute.

The act also specifies that in no year must a district deposit more than 1% of its prior year's operating revenues. This means that if a district withdraws money from the account in an emergency, it is not obligated to deposit more than that 1% annually in the years in which it is replenishing the account.

**School district rainy day accounts: one-time waivers**

(R.C. 5705.29(G)(6))

The act permits school districts to apply to the state Superintendent of Public Instruction for a one-time waiver of the requirement to deposit money in a rainy day account. The state Superintendent may grant a waiver for all or part of the deposit requirement for the year of the application or the next fiscal year, but only if the Superintendent and the Auditor of State both agree that meeting the requirement in the year of the waiver would cause the school district to significantly reduce or eliminate "important educational services." The waiver is valid for only one fiscal year and a school district may receive only one waiver ever under this provision.

**School district rainy day accounts: deposit of Workers' Compensation refunds**

(R.C. 5705.29(I))

The act also permanently requires school districts to deposit any refunds or reimbursements from the Bureau of Workers' Compensation into the rainy day account unless the account already contains the 5% required amount.

**School district rainy day accounts: withdrawal of funds**

(Section 42)

Under authority granted in Sub. H.B. 412, which enacted the requirements for school district budget reserve accounts, the Auditor of State and Superintendent of Public Instruction jointly promulgated rule O.A.C. 3301-92-03. This rule specifies nine circumstances under which school districts may spend money from these accounts. One circumstance is the loss of an existing operating levy at an election. The other eight circumstances all require a specified percent of district revenues that must be affected by the circumstance (for example, an expenditure of at least 5% of the district's revenues for a catastrophic capital loss, a loss of an amount of state aid equal to 5% or more of the district's total operating revenues in the preceding year, or a loss of 5% or more of total tangible personal

property assessed valuation in one fiscal year). The rule also requires the Superintendent of Public Instruction to certify that the deficit has been caused by one of the nine allowable circumstances.

The act allows school districts for six months to spend money from their budget reserve accounts without obtaining the certification of the Superintendent of Public Instruction. In addition, the (generally 5%) thresholds do not need to be met in the case of any of the nine allowable circumstances. That is, if a district loses *any* amount of tangible property assessed valuation, it may spend whatever amount it lost from the account.

As is the case under continuing law, the district would need a two-thirds vote of all its board members to make any expenditure under the act's six-month provision and would have to get the approval of the Superintendent of Public Instruction for a schedule of payments to replenish the reserve account.

The act requires that within six months, the Auditor of State and the Superintendent of Public Instruction must refile a rule pertaining to expenditures from the reserve accounts. The Auditor and Superintendent must receive input from "affected entities" (presumably school districts) and consider the "information and experience" developed since the initial adoption of the rule. They are to particularly examine the role of the State Superintendent with respect to withdrawal of funds and the appropriateness of any threshold amounts required for withdrawal.

**School district textbook funds: deducting prior year's excess deposits**

(R.C. 3315.17)

The same legislation requiring school districts to establish rainy day accounts (H.B. 412 of the 122nd General Assembly) also required each district to establish a textbook and instructional materials fund. Under this law and the implementing rules adopted by the Auditor of State, each district must deposit into the fund 2% of its operating revenue in FY 1999, 3% of operating revenues in FY 2000, and 4% of operating revenues in every following fiscal year.<sup>49</sup> Once in the fund, the money may be used only for textbooks, instructional software, and other instructional materials, unless the district board, superintendent, business advisory council, and teachers union unanimously agree that the district has sufficient textbooks and materials to "ensure a thorough and efficient education."

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<sup>49</sup> O.A.C. § 117-2-23.

The act modifies this law by permitting a district that deposits more than the minimum amount required for any fiscal year to deduct the excess amount of money from the amount it is required to deposit in succeeding fiscal years. It requires the Auditor of State to adopt rules specifying the manner in which boards may do so.

**Elimination of county auditor's role in school district certificate of resources**

(R.C. 5705.412)

The act eliminates the role of county auditors in enforcing the statutory requirements that school districts certify that they have sufficient resources to support various financial commitments.

Under continuing law, a school district cannot adopt any appropriation measure, make any contract, give any order involving the expenditure of money, or make a mid-year increase in a wage or salary schedule (unless necessary to comply with the state minimum teacher salary schedule), unless a certificate is attached stating that the school district has sufficient funds for a certain period of time to cover the commitment. The certificate must be signed by the district treasurer and board president. Any contract, order, or schedule that must have a certificate attached is void if it lacks one, and any district official who knowingly violates this requirement is liable to the school district for the full amount paid from the district's funds on the void contract, order, or schedule.

Prior law assigned county auditors an enforcement role, which the act eliminates. Under that prior law, a copy of each certificate had to be forwarded to the county auditor, who could not distribute property taxes or state funds to a district that had not done so. A county auditor had to immediately notify the state Superintendent of Public Instruction if he or she determined that (1) a certificate had not been forwarded as required, (2) contained false statements, or (3) had not been signed and attached as required. In addition, when the county auditor had reason to believe that a certificate contained false information or had not been signed and attached as required, he or she also had to immediately notify the Auditor of State and the county prosecuting attorney, city director of law, or other chief law officer of the district.

**Office of school options**

(R.C. 3314.11)

The act directs the Department of Education to establish, in place of the Community School Commission, the State Office of School Options. In addition to taking on the responsibilities of the Community School Commission, the Office

is to provide advice and services for the Community Schools program and the Cleveland Pilot Project Scholarship (voucher) program.

**Reporting open enrollment numbers to "home" school districts**

(R.C. 3313.981)

The act requires the superintendent of each school district that admits open enrollment students to notify the students' "home" school districts of the number of their native students enrolled in the open enrollment district. The notification must be made prior to the first full school week of October.

Under the continuing provisions of open enrollment law, a student who enrolls in another school district is to be counted in the formula ADM of his or her "home" school district. Then the state deducts the per pupil base-cost amount (adjusted for the home district's cost of doing business) from the home district's state aid and transfers it to the district where the student is enrolled. Counting the student in the home district's formula ADM ensures that most districts who lose a student through open enrollment will be credited with that student's base cost amount before it is deducted from their state aid.<sup>50</sup>

The act's notification requirement, therefore, seems intended to ensure that home districts will have the data to accurately report their formula ADMs. This probably will be most helpful in cases of students who attended private schools before switching to another district under open enrollment, because the home district may have no other way of knowing about the switch.

**Standards for state-funded summer remediation services**

(R.C. 3313.608(E); Section 4.12)

Under continuing provisions originally enacted by Am. Sub. S.B. 55 of the 122nd General Assembly, school districts are required to provide summer remediation to students who are in danger of not being promoted to the fifth grade because they have failed the fourth grade reading proficiency test. School districts are also required to provide remediation services to students who fail three or more of the five proficiency tests required for grades four and six and to students in grades one, two, or three who are reading below grade level. (R.C. 3313.608(B), (C), and (D).) The act appropriates \$15 million to pay the costs of summer

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<sup>50</sup> *But districts that are paid under the state aid guarantee or have their state aid temporarily capped usually receive little or no additional state credit from counting open enrollment students in formula ADM.*

remediation services (Section 4.12). It also codifies standards for any such state-funded summer remediation services (R.C. 3313.608(E)). These standards are:

- (1) Remediation methods are to be based on reliable educational research;
- (2) School districts must conduct testing before and after students participate in the program;
- (3) Parents of participating students are to be involved in programming decisions; and
- (4) Services are to be conducted at a school building or community center and not on an at-home basis.

**Minimum high school grade point average for Post-Secondary Enrollment Options**

(R.C. 3365.02(F))

The act established a new requirement that permits a high school student to enroll in a specific college course through the Post-Secondary Enrollment Options program only if he or she has a grade point average of 3.0 out of 4.0, or its equivalent, in any high school courses he or she has already completed in the same subject area as that college course. Prior law established no minimum grade point to participate, although a college presumably could have established one as a condition of admitting a high school student.

The Post-Secondary Enrollment Options program was established in 1989. It enables high school students to enroll in college courses for college credit only or for both high school and college credit. Students who choose to receive only college credit must pay the college's tuition and fees themselves. But for those who elect to receive high school credit as well, money for the colleges' tuition and fees is deducted from their school districts' state aid (or, in the case of nonpublic schools, from an amount set aside from state Auxiliary Services funds). As noted above under the heading "**Community schools**," the act also permits community school students to participate in this program under the same conditions as school district and nonpublic school students.

**Proficiency tests**

**Background**

Under continuing law, each school district must administer proficiency tests to all students in grades four, six, nine, and twelve unless the student is subject to a specific exception. A special education student's Individualized Education

Program may excuse that student. A district board may, for medical reasons or other good cause, excuse a student from taking a test on the date scheduled, but the student must make up the test within 15 days. A student who is enrolled but does not take one or more required tests may not be counted in the district's average daily membership for state funding purposes the next year (R.C. 3317.03).

In general, a student may not be denied promotion to another grade solely because of the student's failure to attain a specified score on a proficiency test (R.C. 3301.0711(E)). Exceptions to this provision include retention due to failure to obtain a proficient score on the fourth grade reading test (R.C. 3313.608) and a school district's option to retain a student who has failed three or more of the five tests given in grade four or six (R.C. 3301.0711(M)).

**Retention of students failing to take proficiency tests**

(R.C. 3301.0711(E))

The act permits, but does not require, a district board of education to choose not to promote to the next grade level any student who does not take a required proficiency test or who fails to make up the test within 15 days of its administration as required.

**"English-limited" exemption**

(R.C. 3301.0711(C)(3), 3313.61(K), 3313.611(E), and 3313.612(C))

The act stipulates that no "English-limited student," meaning a student whose primary language is not English and who has been enrolled in U.S. schools for less than two full school years, may be required to take a proficiency test. However, no district board or governing authority of a chartered nonpublic school may prohibit an English-limited student from taking a test. (R.C. 3313.0711(C)(3).)

But the act does not exempt an English-limited student from the requirement to pass all parts of the ninth grade (soon to be tenth grade) proficiency test in order to be awarded a diploma.

**Calculation of passage rates**

(R.C. 3302.03(E))

The act requires the Department of Education, when it calculates a school district's proficiency test passage rates, to exclude from the calculations all special education students who are exempted by an Individualized Education Program and

students who are English-limited. These exempted students must not be included in calculating passage rates even if any of these students take the test voluntarily.

Under continuing law, students who do not pass all five ninth grade proficiency tests do not take the twelfth grade tests. Under the act, these students must be excluded from the calculation of each school district's passage rate for the twelfth grade proficiency tests.

**Establishing district graduation rate as a performance standard**

(R.C. 3302.01 and 3302.02)

The state performance standards, 94% of which school districts must meet to be designated as "effective," under prior law included a standard for a "dropout rate" of 3% or less. The dropout rate was defined as 100% minus the graduation rate. Under law unchanged by the act, the "graduation rate" is calculated as the ratio of the students entering ninth grade to the number of those students receiving a diploma four years later. Students who transfer into the district are added to the calculation and students who transfer out of the district for reasons other than dropping out are subtracted from the calculation.

The act changes the standard from a 3% dropout rate to a 90% graduation rate and formally defines "dropout" as a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the State Board or outside the state (in addition, students who leave the country are not counted as dropouts). The method for dealing with students who do not graduate within four years but do continue their high school education is more clearly stated in the act. These students will be removed from the calculation for the year in which they would have graduated and added to the calculation for the following year's graduating class as if they had entered ninth grade four years before the intended graduation date of that class. The act also specifies that in each subsequent year that such students do not graduate but continue their high school education uninterrupted in the same school district, the students must be reassigned to the district's graduation rate for that year by assuming that the students entered ninth grade four years before the date of the intended graduation. Also, if a student who was a previous dropout (as newly defined in the act) returns to the same school district in a later year, the student must be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class the student joins.

### **Academic emergency districts--site evaluations**

(R.C. 3302.04)

Under preexisting law, beginning in FY 2000, the Department of Education must declare school districts in a state of academic emergency if they do not meet more than 1/3rd of the state's performance standards. The act requires the Department to conduct a site evaluation of any school district declared to be in a state of academic emergency within 120 days of the declaration. In addition, if a school district is either in a state of academic emergency or academic watch (meets more than 1/3rd of the standards but not more than 1/2 of them), the Department must conduct a site evaluation if the district either fails to demonstrate satisfactory improvement or fails to submit required information to the Department. This site evaluation must be completed before the Department approves the district's three-year continuous improvement plan required by preexisting law.

All site evaluations must at least:

- (1) Determine whether teachers are assigned to subject areas for which they are licensed or certified;
- (2) Determine pupil-teacher ratios;
- (3) Examine compliance with minimum instruction time requirements for each school day and year; and
- (4) Determine whether the district has materials and equipment necessary to implement the district's curriculum.

### **School district participation in National Assessment of Education Progress**

(Section 4.30)

Law unchanged by the act provides that, in order to facilitate research on improving educational effectiveness, the Department of Education may require school districts to administer standardized tests, such as the National Assessment of Education Progress (NAEP) (R.C. 3301.27, not in the act). The act states that it is the intent of the General Assembly that the Superintendent of Public Instruction provide for school district participation in NAEP in fiscal years 2000 and 2001.

### Local professional development committees

(R.C. 3319.22(D))

Law unchanged by the act requires school districts and chartered nonpublic schools to establish local professional development committees to approve coursework plans of teachers and administrators for their continuing education obligations for license renewal. The committees must have a majority of teachers as members unless reviewing the plan of an administrator, in which case the majority of members participating must be administrators.

The act *permits* other public agencies (*i.e.*, state or local governmental agencies other than schools), and also private colleges and universities, that employ licensed educators to establish local professional development committees, as follows:

(1) The following may establish their own committees, regardless of whether their employees who are licensed educators actually work as classroom teachers:

- (a) The state Department of Education;
- (b) Educational service centers;
- (c) County MR/DD boards;
- (d) Regional professional development centers;
- (e) Special education regional resource centers;
- (f) Public or private college and university departments of education;
- (g) Head Start programs;
- (h) The Ohio SchoolNet Commission; and
- (i) The Ohio Education Computer Network.

They may establish committees on their own or in collaboration with a school district or another entity having authority to establish one. All committees established by county MR/DD boards must be structured in a manner comparable to the law for school districts. The committee structure for the other agencies depends on whether the licensed educators are actually working as classroom teachers. If they are, the committees must be structured in a manner comparable to

school districts' committees. If they are not, the committees must be structured in accordance with guidelines that the State Board of Education must issue.

(2) Any other *public* agency not specifically listed above may establish a local professional development committee, but only if it (a) provides educational services and employs or contracts for services of licensed classroom teachers and (b) receives the approval of the Department of Education. The committees must be structured in accordance with guidelines that the State Board must issue.

**Retroactive approval of ESC and county MR/DD board employees' plans**

(Section 40)

An uncodified provision of the act requires the Department to retroactively accept professional development plans and coursework that were approved by an educational service center's or county MR/DD board's local professional development committee since July 1, 1998, as long as the committee, the plan, and the coursework met the requirements of the act's new provisions and the professional development rules adopted by the State Board.

**LOEO study of educator professional development activities**

(Section 4.33)

The act requires the Legislative Office of Education Oversight to conduct a statewide assessment of professional development for educators. The assessment must include, but not be limited to:

- (1) An examination of how professional development funds are spent;
- (2) A study of the types of professional development programs funded with state money;
- (3) A study of the role of local professional development committees, established under the educator licensing law, in determining the expenditure of professional development money; and
- (4) A study of whether school districts are using professional development strategies most likely to improve student achievement.

The study must encompass all facets of professional development, including the role of higher education in assisting with in-service training for veteran educators. It must be completed and presented to the General Assembly and the Governor not later than November 15, 2000.

## *Education Management Information System*

(R.C. 3301.0714(D)(2) and (O))

In 1989, the General Assembly required the Department of Education to establish the Education Management Information System (EMIS). This system is an electronic data gathering network that permits the Department to track school funding and school academic performance on statewide, district, and school building levels. School districts are required to provide in an electronic format enumerated data elements to the system, using either software provided by the Department or other EMIS-compatible software.

The act makes several changes in the EMIS law to permit the Department to track the academic performance of a particular student over time but without revealing to the Department the personal identity of that student. Specifically, the act permits data about individual students to be collected and reported by school districts and community schools to EMIS through the use of data verification codes (numbers that cannot be personally linked to students but that enable each student to be anonymously tracked from year to year). The Department is required to adopt guidelines for school districts and community schools to assign a data verification code to each student upon initial enrollment in an Ohio school and to all currently enrolled students on the effective date of the guidelines. The code will follow the student from district to district if the student transfers.

The act also requires school districts to include in the EMIS whether students who initially enroll in the district previously participated in any preschool program. The preschool data must include the number of years the student was in a preschool program and whether the program was a public or private preschool program or a Head Start program.

To protect the identity of any student about whom information is entered in the system, the act specifies that at no time is anyone other than a school district or community school employee to have access to any information that would enable an enrolled student to be personally linked to any data verification code used in EMIS. In addition, the act provides a penalty for anyone who releases or maintains any information about students in violation of the EMIS privacy provisions. Violations of such provisions are fourth degree misdemeanors, carrying a potential jail term of up to 30 days and a fine of up to \$250.

### **Personal financial responsibility instructional packets**

(R.C. 3301.0726)

The act requires the Department of Education to develop a packet of high school instructional materials on the subject of personal financial responsibility and to distribute that packet to all school districts. The packet must include instructional materials on the avoidance of credit card abuse. Each school district board may incorporate into its curriculum all or part of the materials included in the packet.

### **OhioReads program**

(R.C. 109.57, 3301.86, 3301.87, 3301.88, and 3301.91)

#### **Background**

Effective March 30, 1999, Sub. H.B. 1 of the 123rd General Assembly established the OhioReads Classroom Reading Grants Program and the OhioReads Community Reading Grants Program. Under the programs, the OhioReads Council is required to provide grants to establish special reading improvement programs in classrooms and at community centers. Part of the program will involve engaging volunteers to assist students.

#### **Adoption of "standards"**

Sub. H.B. 1 required the OhioReads Council to establish "guidelines" for the granting of awards under the programs. This act specifically requires the Council to establish "standards" for this purpose, rather than "guidelines," and further requires that those standards be established by "rules" adopted under the procedures of Chapter 119. of the Revised Code (the Ohio Administrative Procedure Act). Those procedures require the Council to hold a public hearing on the adoption of the rules and to file the rules with the Joint Committee on Agency Rule Review and with the Legislative Service Commission.

#### **Criminal records checks**

Under Sub. H.B. 1, a grant recipient is permitted but *not required* to request from the Bureau of Criminal Identification and Investigation (BCII) criminal records checks for individuals who will provide services directly to children. The OhioReads Council may reimburse grant recipients for the cost of records checks requested from BCII. The act permits "an entity approved by the OhioReads Council" to also request these records checks and to receive reimbursement for the costs of having them conducted.

**Referendum procedure in case of school district joining a joint vocational school district**

(R.C. 3311.213)

School districts are required to provide vocational education opportunities to their students. They may discharge this duty by establishing and maintaining their own vocational education programs, by becoming voluntary members of joint vocational school districts (JVSDs), or by contracting with JVSDs or other school districts to provide vocational services. (R.C. 3313.90(A), not in the act.) Under prior law, the resolution joining a school district to an existing JVSD was subject to reversal through a petition of "remonstrance" (which is a formal protest against a policy decision of a body of government). If within 60 days of the approval of the resolution a number of qualified voters in the newly joined district equal to a *majority* of those who voted in the last general election within that district signed a petition of remonstrance, the resolution was not effective, and the new district was not joined to the JVSD.

The act replaces the petition of remonstrance procedure with a referendum procedure. Under the act, a resolution to join a school district to a JVSD is not effective until the 61st day after the JVSD board has approved the resolution. During that 60-day period, the voters of the school district proposing to join the JVSD may petition for a referendum vote on the resolution. The question of approval of the resolution must be submitted to the voters if 20% of the number voting in the most recent general election for Governor sign a valid petition. The petition must be filed with the board of elections of the county in which the school district is located. If the school district is located in more than one county, the petition must be filed with the board of elections of the county in which the majority of the territory of the school district is located. The effect of the resolution is stayed pending certification of the petition and further stayed until the election if the petition is certified.

The question must be submitted at the next general or primary election held at least 75 days after, but no later than six months after, the board of elections certifies the petition. If there is no such general or primary election scheduled, the question must be submitted to the voters at a special election to be held at least 75 days after the board certifies the validity of the petition. If the voters do not approve the resolution, the school district may not join the JVSD. If the voters do approve the resolution, the resolution takes immediate effect. The act is silent, however, on how soon a school district may renew its proposal to join the JVSD if the voters reject the resolution.

### **Payment of JVSD board members**

(R.C. 3311.19(F))

Members of a joint vocational school district (JVSD) board of education may be paid up to \$80 per member per meeting plus mileage. But prior law limited the number of meetings for which a member could be paid to no more than 12 meetings per year. The act eliminates this limit on the number of meetings for which a member may be paid.

### **Transfer of territory from one school district to another**

(R.C. 3311.24)

Continuing law provides procedures for the transfer of territory from a city or exempted village school district to an adjoining city or exempted village school district or to an adjoining educational service center (ESC). Under prior law, in the case of a transfer to an ESC, that ESC presumably determined which local school district within its territory should receive the transferred territory. The act amends these procedures to permit local school districts to transfer territory and to receive transferred territory directly, rather than through an ESC.

The procedures for transfer, unchanged by the act, provide that a school district board may propose a transfer by filing the proposal with the State Board of Education along with a map showing the boundaries of the territory to be transferred. The State Board must approve or disapprove the proposed transfer and notify the district board that proposes the transfer.<sup>51</sup> That board then has, in the case of an approved transfer, 30 days to notify the district board to which the territory is to be transferred. The transfer is not effective unless and until the receiving district board accepts the transfer.

The act retains preexisting law allowing a transfer of territory also to be proposed by a petition of 75% of the qualified voters residing in the portion of a district proposed for transfer.

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<sup>51</sup> *Before the State Board may approve a transfer, the district board requesting it must demonstrate that it attempted to negotiate a settlement with the other districts involved.*

**Abolition of Ohio SchoolNet Office and transfer of its functions to Ohio SchoolNet Commission**

**Ohio SchoolNet Office and Ohio SchoolNet Commission**

(R.C. 3301.80(A) and (B); Section 39)

Prior law established the Ohio SchoolNet Office as an independent agency and also established the Ohio SchoolNet Commission, which was required to monitor and oversee the Office. The Commission was also authorized to develop and issue policies and directives to be followed by the Ohio SchoolNet Office in implementing the programs under its jurisdiction. It was required to appoint a director to supervise the Office. The director served at the pleasure of the Commission and was required to direct the Office in the administration of all programs for the provision of financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology.

Effective September 28, 1999, the act abolishes the Ohio SchoolNet Office and transfers all of its functions, assets, and liabilities to the Ohio SchoolNet Commission, which becomes successor to, assumes the obligations of, and otherwise constitutes the continuation of the Ohio SchoolNet Office. The Commission is to perform the Office's duties. The act specifies that the Commission is an independent agency and a body corporate and politic, an agency of the state performing essential governmental functions of the state. As under prior law, the Commission would consist of 11 members, seven of whom are voting members including two nonmembers of the General Assembly appointed by the Speaker of the House of Representatives and the President of the Senate, respectively.

**Additional duties of the Ohio SchoolNet Commission**

(R.C. 3301.80(D)(5))

The act adds as a duty of the Commission to "take into consideration the efficiency and cost savings of statewide procurement prior to allocating and releasing funds for any programs under its administration."<sup>52</sup>

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<sup>52</sup> *These programs include SchoolNet Plus (workstations for classrooms in grades kindergarten through five), a clearinghouse of lesson plans for use by classroom teachers, interactive distance learning programs, and other school technology initiatives.*

### **Compensation of Commission members**

(R.C. 3301.80(B)(2))

The act requires the 11 members of the Commission to serve without compensation. However, the voting member appointed by the Speaker of the House and the voting member appointed by the President of the Senate are required to be reimbursed, pursuant to Office of Budget and Management guidelines, for necessary expenses incurred in the performance of official duties. These are the two members who are not government officials serving on the Commission in an *ex officio* capacity.

### **Executive director**

(R.C. 3301.80(C)(1))

The act specifies that the Commission must appoint an executive director to supervise the Commission and direct employees in administering its programs. The executive director serves very similar functions to those of the director of the Ohio SchoolNet Office under former law. As was the case with the director under former law, the executive director serves at the pleasure of the Commission.

### **Employees**

(R.C. 3301.80(C)(2) and (3), (D), and (E))

Prior law required the Ohio SchoolNet Office to employ such persons as the director of the Office deemed necessary. The act instead requires the executive director of the Commission to employ and fix the compensation for such employees as necessary to facilitate the activities and purposes of the Commission. It places the employees of the Commission in the unclassified service and states that they serve at the pleasure of the executive director.

Former law provided that for the purposes of exercising collective bargaining rights, the employees of the Ohio SchoolNet Office had to be placed in a bargaining unit separate from any other unit containing state employees. The act eliminates this provision and, furthermore, entirely exempts the employees of the Commission from the law governing public employees' collective bargaining by specifying that they are not public employees for the purposes of that law.

### **Transition**

(Section 39)

The act provides for the transfer of functions from the Ohio SchoolNet Office to the Ohio SchoolNet Commission. Under the act, any business commenced, but not completed by the Office or its director on September 28, 1999, must be completed by the Commission or its executive director in the same manner, and with the same effect, as if completed by the Office or its director. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer and must be administered by the Commission. All of the Ohio SchoolNet Office's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Ohio SchoolNet Commission until modified or rescinded by the Ohio SchoolNet Commission.

Subject to preexisting law (unchanged by the act) governing lay-offs, all of the employees of the Ohio SchoolNet Office are transferred to the Ohio SchoolNet Commission and retain their positions and all of the benefits accruing to them. The act requires the Director of Budget and Management to determine the amount of the unexpended balances in the appropriation accounts of the Ohio SchoolNet Office and to recommend to the Controlling Board their transfer to the appropriation accounts of the Commission. The director of the Office must provide full and timely information to the Controlling Board to facilitate this transfer.

The act specifies that whenever the Ohio SchoolNet Office or its director is referred to in any law, contract, or other document, the reference must be deemed to refer to the Ohio SchoolNet Commission or its executive director, whichever is appropriate. The act also specifies that no action or proceeding pending on September 28, 1999, is affected by the transfer and must be prosecuted or defended in the name of the Commission or its executive director. In all such actions and proceedings, the Commission or its executive director upon application to the court must be substituted as a party.

### **Technical changes**

(R.C. 125.05, 3301.801, 3317.51, and 3319.235)

Sub. H.B. 147 of the 122nd General Assembly, effective was March 30, 1999, renamed the Information, Learning, and Technology Authority as the Ohio SchoolNet Commission and renamed the Office of Information, Learning, and Technology Services as the Ohio SchoolNet Office. However, that act failed to change some of the references to the former Authority and former Office. This act

rectifies this oversight by changing all relevant references to references to the Ohio SchoolNet Commission.

**School district financial planning and supervision commissions**

(R.C. 3316.05 and 3316.06)

Continuing law, amended by the act, establishes a financial planning and supervision commission for any school district in which a fiscal emergency has been declared by the Auditor of State. The law previously required a commission to consist of seven voting members: four ex officio members and three appointed members. The act instead requires that a commission established after July 1, 1999, consist of only five members by reducing the number of ex officio members from four to two.

The four ex officio members under former law were: the Director of Budget and Management, the Superintendent of Public Instruction, the superintendent of the school district, and the mayor of the municipal corporation with the largest number of residents living within the school district, except that if more than 50% of the residents of the district resided outside the municipal corporation containing the greatest number of district residents or if there were no municipal corporation located in the school district, the county auditor of the county with the largest number of residents living within the school district served as a member. The act instead specifies that the only two ex officio members are the Director of Budget and Management and the Superintendent of Public Instruction. As under prior law, designees may attend meetings when the ex officio members are unable to attend.

Prior law stipulated that four members of a commission constituted a quorum and that the affirmative vote of four members was necessary for any action taken by vote of a commission. The act specifies that three members are necessary for a quorum and that the affirmative vote of three members is necessary for any voted action of a commission.

The act also specifies that the Auditor of State must act as the financial supervisor for the school district (under contract with a commission) unless the Auditor of State provides for the financial supervision through a contract.

Under former law, a school district financial planning and supervision commission had to adopt a financial recovery plan regarding the school district for which the commission was established within 60 days after its first meeting. The act instead requires that the financial recovery plan be adopted within 120 days after the first meeting.

**High school credit for advanced work prior to the ninth grade; extension to chartered nonpublic schools**

(R.C. 3313.603(C))

Law effective November 21, 1997 permits every high school to allow students below the ninth grade to take advanced work for credit. Any such advanced work must be counted toward the state high school graduation requirements if the work was both taught by a person who possesses an Ohio high school educator's license and the school district board has designated that work as meeting its high school curriculum requirements. The act adds the governing authority of a chartered nonpublic school as an entity that may designate advanced work as meeting high school curriculum requirements, thus extending the opportunity to earn advanced credit toward graduation to pre-high school students at chartered nonpublic schools.

**Acquisition of state-owned surplus and excess supplies and equipment by chartered nonpublic schools**

(R.C. 125.13)

Law amended by the act requires the Director of Administrative Services to take possession of and to dispose of certain surplus and excess supplies and equipment owned by state agencies. Formerly, the Director could dispose of such goods by sale, lease, donation, or transfer in the following order of priority:

- (1) To state agencies;
- (2) To state-supported or state-assisted institutions of higher education;
- (3) To tax-supported agencies, municipal corporations, or other political subdivisions of the state; and
- (4) To the general public by auction, sealed bid, or negotiation.

The act permits chartered nonpublic elementary and secondary schools to acquire surplus and excess supplies and equipment from the Director ahead of the general public.

**Waivers for chartered nonpublic schools for innovative education pilot programs**

(R.C. 3302.07)

Continuing law, unchanged by the act, permits the board of education of any school district or the governing board of any educational service center to apply to the State Board of Education for exemptions from many state education laws and rules if the board is implementing an innovative education pilot program that requires such exemptions.<sup>53</sup> These exemptions, if granted, run for the period of the special pilot program. The State Board may not waive compliance with teacher and employee retirement pension laws, certain teacher employment laws, and the law regarding the education of disabled students.

The act permits the administrative authority of any chartered nonpublic school to also apply for these exemptions for implementing an innovative education pilot program.

**Head Start teacher education requirements**

(R.C. 3301.311)

Under Ohio law, a Head Start teacher must meet the general requirements for a preschool staff member. Under those requirements, a staff member generally must be at least 18 years of age and have a high school diploma or a certificate of high school equivalence issued by the State Board of Education. Federal Head Start law requires at least two adults in each classroom, one of whom must hold a Child Development Accreditation certificate. This certificate requires high school graduation plus the completion of a special course. However, federal law also requires that not later than September 30, 2003, 50% or more of all Head Start teachers *nationwide* in *center-based* programs must have at least an associate degree in early childhood education or an associate degree in a field related to early childhood education.

The act requires that after June 30, 2001, no Head Start program shall receive any funds from the state unless 50% of the staff members employed as teachers are working toward an associate degree of a type approved by the Department of Education. After June 30, 2003, programs receiving state funding may employ only teachers working toward such a degree. Beginning in fiscal year

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<sup>53</sup> *If the school district or educational service center employs teachers under a collective bargaining agreement under R.C. Chapter 4117., the application for exemptions must contain a statement of consent from the teachers' employee representative.*

2008, no Head Start program can receive any state funds unless *every* teacher has *attained* such a degree.

**Head Start eligibility**

(Section 4.02)

Under continuing law, the family earnings of an "eligible" Head Start child cannot exceed 100% of the federal poverty level. The act directs the Department of Education, in consultation with Head Start grantees or representatives, to establish criteria under which individual Head Start grantees may apply to the Department for a waiver to include as "eligible children" those children from families earning up to 125% of the federal poverty level when the children otherwise qualify as "eligible children."

HIGHER EDUCATION

**Income tax deduction for qualified tuition and fees**

(R.C. 5747.01)

The act creates an income tax deduction for qualified tuition and fees paid by a taxpayer for the taxpayer or the taxpayer's spouse or dependents to an eligible institution of post-secondary education. Eligible institutions include Ohio state colleges and universities; private, nonprofit schools having certificates of authorization issued by the Board of Regents; and proprietary schools having certificate of registrations from the Board of Proprietary School Registration. The student must be enrolled in a degree- or diploma-granting program and be an Ohio resident.

Qualified tuition and fees include only charges imposed as a condition of enrollment or attendance. They do not include charges for sports (other than those that are part of the student's academic program), insurance, room and board, or books; nor do they include expenses paid or reimbursed through scholarships or other educational benefit programs.

To claim the deduction, the taxpayer must have a federal adjusted gross income not exceeding \$100,000, if a joint filer, or \$50,000, if a single filer. The deduction may be claimed for each student only for the academic equivalent of the first two years of post-secondary education and is limited to \$2,500 per student per year and \$5,000 per student's lifetime. If the student attends part-time, the deduction may be claimed for up to five years, but the \$5,000 lifetime cap still applies. The deduction may be claimed only to the extent that qualified expenses are not otherwise deducted or excluded for any taxable year from the taxpayer's

adjusted gross income. A taxpayer must add back to Ohio adjusted gross income any reimbursement received of amounts deducted in any prior taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

The deduction may be claimed for taxable years beginning in 2001.

**Ohio Instructional Grants (OIG grants)**

(R.C. 3333.12; Section 7.07)

Under continuing law, the Ohio Instructional Grant program provides grants to full-time students in two- or four-year degree programs attending Ohio "state-assisted" (public) or private nonprofit colleges or universities and schools with certificates of registration from the State Board of Proprietary School Registration ("proprietary schools"). No grant may be paid to a person serving a term of imprisonment. Grant amounts are generally based on whether an applicant is financially dependent or independent; the combined family income (if dependent) or the student and spouse income (if independent); the number of dependents; and whether the applicant attends a public, private nonprofit, or proprietary school. The amount of the grant cannot exceed the total instructional and general fees charged by the student's school.

Six separate tables in each fiscal year set forth the grant amounts, one for each category of students as follows: (1) financially dependent students enrolled in private nonprofit institutions, (2) financially independent students enrolled in private nonprofit institutions, (3) financially dependent students enrolled in proprietary schools, (4) financially independent students enrolled in proprietary schools, (5) financially dependent students enrolled in public institutions, (6) financially independent students enrolled in public institutions. Each table has headings for income ranges and the number of dependents in the family, with a grant amount for each income range and family size.

Under prior law, the maximum grant amount per academic year was \$4,428 for students attending private nonprofit institutions, \$3,750 for students attending proprietary institutions, and \$1,782 for students attending public institutions. The maximum amount was available to financially dependent students with an income and family size that range from a family income under \$11,001 with one dependent to a family income between \$14,001 to \$15,000 with five or more dependents. For financially independent students, the maximum amount was available to students ranging from those with annual family incomes of \$3,601 or less and no dependents to those with an annual income between \$5,701 to \$6,200 with five or more dependents. The minimum grant amount per academic year under prior law was \$720 for students attending private nonprofit institutions, \$612 for students attending proprietary institutions, and \$294 for students

attending public institutions. The minimum grant amount was available to financially dependent students with an income between \$29,001 to \$31,000 with one dependent. The minimum grant amount for financially independent students was available to a range of students, from those with an income between \$12,201 and \$13,700 and no dependents to those with an income between \$24,201 and \$28,900 and five or more dependents.

### **New grant amounts for FY 2000 and FY 2001**

The act changes the grant amounts by increasing the maximum grant amount available. Also, the minimum grants available under the act are lower than under the prior schedule but are available to students with higher incomes and smaller family sizes. The changes are as follows:

(1) For students attending private nonprofit institutions, the maximum grant amount is increased from \$4,428 to \$4,644 in FY 2000 and to \$4,872 in FY 2001, representing an increase of 4.9% for FY 2000. The minimum amounts are decreased from the prior \$720 to \$378 in FY 2000 and then increased to \$396 in FY 2001.

(2) For students attending proprietary institutions, the maximum grant amount is increased from \$3,750 to \$3,936 in FY 2000 and to \$4,128 in FY 2001, representing an increase of about 5% for FY 2000. The minimum grant amount is reduced from the prior \$612 to \$324 in FY 2000 and then increased to \$336 in FY 2001.

(3) For students attending public institutions, the maximum grant amount is increased from \$1,782 to \$1,866 in FY 2000 and to \$1,956 in FY 2001, representing an increase of 4.7% in FY 2000. The minimum amounts are changed from the prior \$294 to \$156 in FY 2000 and \$162 in FY 2001.

### **New income levels**

The act increases the maximum income levels for grant eligibility. Specifically, the maximum eligible income for financially dependent students is increased by \$5,000 in FY 2000 and another \$1,000 in FY 2001. The maximum income for financially independent students is increased by \$5,000 in FY 2000 and by an additional \$600 for FY 2001. The income ranges for a maximum grant are raised by \$1,000 in each fiscal year for financially dependent students and by \$300 in each fiscal year for financially independent students.

### *Year-round grants and other program changes*

The act makes the grants available year-round by deleting the prior language that limited grants to two semesters, three quarters, or the equivalent of an academic year. The maximum grant for a fourth quarter is established as one-third of the maximum amount prescribed for an academic year and the maximum amount for a third semester is one-half of the maximum amount for an academic year.

The act deletes some specified exemptions that may be considered when computing eligible income and gives the Board of Regents authority to designate exclusions from income. The act changes the method of verification of family income from the prior requirement of a copy of the federal income tax form to a method under which the university verifies the income using the federal financial aid eligibility verification process. The board may, as under prior law, designate another satisfactory means of verifying income.

Under continuing law, the grants are available to students enrolled in a course of study in theology, religion, or other field of preparation for a religious profession. However, prior law limited eligibility to students engaged in religious study leading to an accredited bachelor of arts, bachelor of science, or associate of arts degree. The act provides that grants may also be awarded to students enrolled in religious study that leads to an "associate of science" degree in addition to the degrees listed under continuing law.

### *Student Choice Grants*

(R.C. 3333.27)

Under continuing law Student Choice Grants are available to students who are enrolled full-time in bachelors degree programs at nonprofit Ohio institutions of higher education and who maintain academic records that meet the standards set by the Board of Regents. Under prior law, the grants were not available to students pursuing a course of study leading to a degree in theology, religion, or other field of preparation for a religious profession. The act eliminates the prohibition against grants for religious studies, *provided* the course of study leads to an accredited bachelor of arts or bachelor of science degree.<sup>54</sup>

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<sup>54</sup> *Student Choice Grants under the act have eligibility requirements with respect to religious degrees similar to OIG grants, except that Student Choice Grants, unlike OIG grants, could not be used to pursue a two-year associate degree in religion.*

### **Student Workforce Development Grant Program**

(R.C. 3333.04(S) and 3333.29)

The act establishes the Student Workforce Development Grant Program to provide grants to Ohio students enrolled in two- or four-year degree programs at private career schools registered by the State Board of Proprietary School Registration. Administered by the Board of Regents, the program will provide grants of approximately \$200 to be paid directly to the school where the student is enrolled. The Board of Regents must determine the actual amount of the grants based on the amount of funds available.

Grants are available beginning July 1, 2000 to full-time students who have not been enrolled in a private career school prior to that date. A student may receive assistance under the program for no more than five academic years and may receive grants after the initial year only if the student is making academic progress toward an authorized baccalaureate degree or associate degree. The State Board of Proprietary School Registration is required to establish standards for student progress. Assistance under the program may be combined with assistance under other state programs, but the combined assistance from the state cannot exceed the total of the student's instructional and general fees. Under this program grants may not be paid to any school if the job placement rate for that school in the student's program for the previous academic year, as reported by the State Board of Proprietary School Registration, was less than 75%.

### **War orphans scholarship**

(R.C. 5910.032)

Continuing law establishes several categories of eligibility for recipients of a war orphans scholarship. Included among these categories is the child of a parent who was declared to be a prisoner of war or missing in action as a result of armed conflict occurring on or after January 1, 1960, if the parent was a resident of Ohio at the time of entry into the armed services or at the time the parent was declared to be a prisoner of war or missing in action. The act extends eligibility to the child of such a prisoner of war or person who was missing in action, but who was not a resident of Ohio, if the child has resided in Ohio for the year immediately preceding the year in which the application for the scholarship was made and has resided in Ohio for any four of the "last" ten years.

### **Initial proprietary school certificates**

(R.C. 3332.05)

Continuing law requires a proprietary school to have a certificate of authorization issued by the State Board of Proprietary School Registration for each "location" at which the school offers programs. Under prior law, all certificates were valid for two years. The act requires that the initial certificate of registration for each location be valid for only one year. Renewals continue to be valid for two years.

### **Student Tuition Recovery Authority**

(R.C. 3332.084 and 3332.085)

Continuing law establishes the Student Tuition Recovery Fund into which proprietary schools must deposit annual contributions. The fund is to be used to reimburse students who lose tuition money when a proprietary school suddenly closes. The fund is administered by an authority comprised of the Executive Director of the State Board of Proprietary School Registration, the Executive Director of the Ohio Council of Private Schools, the Treasurer of State, and the chairpersons of the House and Senate education committees. If the assets in the fund exceed potential liabilities by approximately \$1 million, the Authority may reduce the amount of contributions required from proprietary schools.

The act provides a second option for the Authority when assets exceed liabilities by \$1 million. Under the act, in lieu of reducing fund contributions, the Authority may expend money in excess of \$1 million in the fund to disseminate information to consumers about proprietary schools and for storing and maintaining student records from schools that have closed.

### **Health care benefits for employees of public institutions of higher education**

(R.C. 9.90)

Under continuing law, the governing board of any public institution of higher education is authorized to procure life or health insurance, for any of its employees as it may determine, from one or more insurers licensed to do business in Ohio.

The act permits the governing board, in addition to or as an alternative to this authority, to procure coverage for health care services for any of its employees

by means of contracts issued by *at least two* "health insuring corporations" holding a certificate of authority under Chapter 1751. of the Revised Code.<sup>55</sup>

**Authorization for state technical colleges to refinance debt for housing and dining facilities**

(Section 7.13)

Continuing law (R.C. 3357.112, not in the act) permits any state technical college district to acquire, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, and operate, and lease to or from others, "auxiliary facilities or education facilities" and to pay for such facilities with available receipts of the technical college district. However, the law specifically exempts housing and dining facilities from this authorization. The act permits any technical college district that had leased housing and dining facilities prior to September 17, 1996 (the effective date of section 3357.122) to enter into an amendment to that lease and to acquire those facilities by purchase, lease-purchase, lease with option to purchase, or otherwise. The act does not otherwise affect continuing law on financing facilities of technical colleges.

**Report by the Board of Regents of the cost of upgrading public university facilities for the Olympic games**

(Section 37)

The act requires the Board of Regents to determine the cost of upgrading facilities at the state's public universities that likely would be used if Cincinnati is awarded the summer Olympic games. The Board must report its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and "to each member of the legislative authority of the City of Cincinnati" not later than four years after the effective date of the act.

**Appointment of college and university personnel to participate in statewide collaborative efforts**

(R.C. 3333.04(V))

The act requires the Board of Regents to appoint college and university personnel to participate in the development and operation of statewide

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<sup>55</sup> Due to the enactment of Am. Sub. S.B. 67 of the 122nd General Assembly, managed care organizations, including health maintenance organizations, are now regulated as "health insuring corporations" under Chapter 1751.

collaborative efforts. Such collaborative efforts include, but are not limited to, the following state-assisted entities: the Ohio Supercomputer Center, the Ohio Academic Resources Network, OhioLink, and the Ohio Learning Network. For each "consortium," the Board must designate a college or university to serve as the consortium's fiscal agent, financial officer, and employer. Each consortium must follow the rules of the college or university that serves as its fiscal agent.

### **Enrollment audits**

(R.C. 3333.04(U))

The act permanently requires the Board of Regents to "conduct enrollment audits of state-supported institutions of higher education."

### **Procedures for immediate suspension when college or university is under emergency**

(R.C. 3345.22)

The act changes the procedure that a college or university must follow when a student, faculty or staff member, or employee of a college or university is arrested when the person is arrested for an offense, including an offense of violence committed on or affecting persons or property on or in the immediate vicinity of a college or university at which an emergency has been declared. The act eliminates the prior requirement that the president must immediately notify the Chancellor of the Ohio Board of Regents of the arrest. In addition, the act specifies that the president of the college or university, not the Chancellor of the Board of Regents as under prior law, must appoint a referee to conduct a hearing, at which it is to be determined whether the arrested person will be immediately suspended from the college or university.

### **Central State University procedures in lieu of fiscal watch procedures**

(Section 7.12)

Continuing law requires the Board of Regents to declare any state-assisted college or university to be under "fiscal watch" if the Board determines on the basis of standards adopted by rule by the Auditor of State that such declaration is warranted. Under some conditions, the Governor may transfer the powers and duties of the board of trustees of an institution declared to be under fiscal watch to a temporary conservator and governance authority. This law further provides that the authority and duties of and the compensation for the president or chief executive officer of any institution are suspended upon the appointment of a conservator. (R.C. 3345.71 to 3345.75, not in the act.)

The act makes a special provision for Central State University to continue to operate if it meets the following standards, in lieu of being subject to the provisions of the fiscal watch law:

(1) Maintenance of a balanced budget and filing of quarterly reports on an annualized budget with the Board of Regents;

(2) Timely and accurate assessment, by fund type, of the current and projected cash flow of university funds;

(3) Timely reconciliation, by fund, of all university cash and general ledger accounts;

(4) Submission to the Auditor of State of financial statements consistent with audit requirements prescribed by the Auditor within four months after the end of the fiscal year; and

(5) Completion of an audit within six months after the end of the fiscal year.

**Changes to the Ohio National Guard Tuition Grant Program**

(R.C. 5919.34)

**Name of the program**

Prior law named the program the Ohio National Guard Tuition Grant Program. The act changes the name of the program to the Ohio National Guard Scholarship Program.

**Number of eligible individuals permitted to participate in Ohio National Guard Scholarship Program**

Prior law limited the number of participants in the Ohio National Guard Tuition Grant Program to 4,000 per academic term.

The act changes the number of eligible individuals permitted to participate in the Scholarship Program to a specified number of participants for each term of the fiscal year. In fiscal year 2000, the limit is 2,500 for each of the fall and winter terms, 1,675 for the spring term, and 600 for the summer term. Except as provided in the following paragraph, for all fiscal years thereafter, the limit is 3,500 for each of the fall and winter terms, 2,345 for the spring term, and 800 for the summer term.

The act allows the Adjutant General, if sufficient funds are available, to request the Controlling Board to approve additional participants for any academic term in fiscal year 2001. The Adjutant General may make the request at any time after the application deadline for the academic term. The Adjutant General may request the Controlling Board to approve the following number of additional participants for a term: (1) for the fall or winter term, up to the equivalent of 500 additional full-time participants, (2) for the spring term, up to the equivalent of 375 additional full-time participants, and (3) for the summer term, up to the equivalent of 125 additional full-time participants.

**Increase in the percentage of an institution's tuition that an eligible applicant is entitled to receive under the Scholarship Program**

Prior law allowed 60% of one of the following amounts to be paid on behalf of an eligible applicant for the applicant's instructional grant: for a state-assisted institution, that institution's tuition charges; for a nonprofit private institution, the average tuition charges of all state universities; or for an institution that holds a certificate of registration from the State Board of Proprietary School Registration, the lesser of the institution's total instructional and general charges or the average tuition charges at all state universities.

The act increases to 100% the percentage of the amounts described above that a scholarship under the Scholarship Program may pay.

**Modification of exemption from liability for the repayment of instructional grants from the Ohio National Guard Scholarship Program**

Under continuing law, a grant recipient who does not complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time an instructional grant was paid on behalf of the recipient is liable to the state for repayment of a percentage of all instructional grants the recipient received, plus an annual interest rate of 10% calculated from the dates the grants were paid. The Attorney General may file a civil action on behalf of the Adjutant General to recover the amount of the grants and interest and the expenses of prosecuting the action plus court costs and reasonable attorney's fees. However, continuing law also provides that a grant recipient is not liable for repayment if the recipient fails to complete the term of enlistment because of any of the following either the recipient's death or the recipient's discharge from the National Guard due to disability. A grant recipient is also not liable for repayment if the recipient enlists in the reserve or active United States Armed Forces for a term not less than the recipient's remaining term in the National Guard.

The act modifies this third exception to liability of a recipient to repay a scholarship. Under the act, a recipient who does not complete the recipient's

current term in the National Guard is not liable for repayment of a percentage of the scholarships received by the recipient if the recipient *enlists in the "active component" of the United States Armed Forces or the "active reserve component" of the United States Armed Forces* for a term not less than the recipient's remaining term in the National Guard. Therefore, under the act, a recipient of a scholarship is liable for the repayment of the scholarship if the recipient fails to complete the current term of enlistment in the National Guard and enlists in the *inactive* reserve component of the United States Armed Forces. (R.C. 5919.34(F).)

### **Report to the Ohio Board of Regents**

The act requires the Adjutant General to report to the Ohio Board of Regents the number of students in the Scholarship Program at each institution of higher education and requires the Ohio Board of Regents to provide for payment of the appropriate number and amount of scholarships to each institution of higher education.

### **Definitions of academic terms**

The act defines "academic term" for purposes of the Scholarship Program as any one of the following:

- (1) Fall term, which consists of fall semester or fall quarter, as appropriate;
- (2) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;
- (3) Spring term, which consists of spring quarter;
- (4) Summer term, which consists of summer semester or summer quarter, as appropriate.

### **Miscellaneous provisions**

The act provides that an eligible applicant's scholarship may not be reduced by the amount of that applicant's benefits under "The Montgomery G.I. Bill Act of 1984."

The act allows the Chancellor of the Ohio Board of Regents and the Adjutant General to adopt rules under Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio National Guard Scholarship Program and the procedure by which the Board of Regents and the Adjutant General may modify the amount of scholarships a recipient may receive based on the amount of other state financial aid a recipient receives.

The act also prohibits the Controlling Board from transferring to another purpose all or part of an appropriation made for the Scholarship Program.

## OTHER MISCELLANEOUS PROVISIONS

### **Change to make-up of lottery commission membership**

(R.C. 3770.01; Section 38)

The Ohio Lottery, the profits from which are constitutionally earmarked for support of primary, secondary, vocational, and special education, is under the oversight of the nine-member State Lottery Commission. Under continuing law, the Commission is appointed by the Governor with the advice and consent of the Senate. Members of the Commission serve staggered three-year terms and must be U.S. citizens and residents of the state. No more than five members may be of the same political party. Members must have prior experience or education in business administration, management, sales, marketing, or advertising and must represent the various geographic regions of the state. In addition, no member may have any monetary interest in any contract or license awarded by the Commission.

The act requires that one of the nine members be a representative of an organization that deals with problem gambling and that helps people who are recovering from gambling addictions. This member need not have prior experience or education in business administration, management, sales, marketing, or advertising.

### **Investment of the Deferred Prizes Trust Fund of the State Lottery**

(R.C. 3770.06)

The Deferred Prizes Trust Fund is a fund in the state treasury from which payments are made to cover annuity prizes awarded as part of the Ohio Lottery. Under prior law, moneys in the Fund specifically were to be invested pursuant to section 135.143 of the Revised Code (not in the act), which is a provision in the Uniform Depository Act authorizing investment of interim moneys of the state in a variety of classifications of obligations. Section 135.143 of the Revised Code limits the periods of maturity on investments because interim moneys are public moneys not needed for immediate use but will be needed during the two-year period of designation of state public depositories. Section 135.143 of the Revised Code also limits the amounts that the state may invest in investment-grade debt interests issued by corporations or specified foreign countries.

The act removes the requirement that the moneys in the Deferred Prizes Trust Fund are to be invested pursuant to section 135.143 of the Revised Code.



Instead, the act expressly authorizes the investment of these moneys in "obligations of the type permitted for the investment of state funds" but whose maturities are 30 years or less. The act also provides that the investment of moneys in the Fund is not subject to two specific limitations currently applicable to investment-grade debt interests: (1) the limitation of 5% of the amount of the state's total average portfolio that may be invested in debt interests, and (2) the limitation of 1/2 of 1% of the amount of the state's total average portfolio that may be invested in the debt interests of a single issuer.

**Creation of the Ohio Higher Education, Business, and Economic Development Council**

(R.C. 3333.50)

The Governor vetoed a provision that would have created the Ohio Higher Education, Business, and Economic Development Council consisting of 16 members. Members of the Council would have been the Chancellor of the Board of Regents, the Director of Development, the Governor's science and technology advisor, the chairpersons of the Inter-University Council of Ohio and the Association of Independent Colleges and Universities, the Secretary of the Ohio Association of Community Colleges, one member of the Senate from each major party appointed by the President of the Senate, one member of the House of Representatives from each major party appointed by the Speaker, and six representatives of private business appointed jointly by the Chancellor of the Board of Regents and the Director of Development. The Council members representing private business would have served three-year terms.

Council members were not to be compensated, but they were to receive their actual and necessary expenses incurred in the performance of their duties. The Board of Regents and the Department of Development were to provide staff support for the Council and to share its expenses equally. The Council was to meet at least four times annually. Its powers and duties were to include: (1) providing a forum in which leaders of business, higher education, and government may formulate both short-term and long-term strategies to advance technological development in Ohio, (2) stimulating collaboration among business, higher education, and government in order to encourage research in science and technology, the development of new work skills, the introduction of new products, the strengthening of existing businesses, and the creation of new businesses, (3) encouraging the development of regional economic clusters and providing a forum for the formulation of statewide policies to enhance the creation and growth of such clusters, (4) encouraging state policies and investments that foster the development of knowledge and the use of new technologies required for Ohio to be a leading economic state in the 21st century, (5) focusing research and

workforce training on areas of critical need to the state, (6) encouraging investments in Ohio higher education to ensure state-of-the-art technology, job training, research, and equipment on Ohio campuses, (7) promoting programs to attract to and retain in Ohio colleges and universities world-class faculty in areas of critical need to the state, (8) making higher education in Ohio more affordable and accessible, (9) ensuring that Ohio colleges and universities achieve the highest standards of efficiency and increase productivity in teaching, research, and administration while maintaining quality programs, (10) identifying critical state needs to be addressed by programs designed to attract, develop, and retain companies of strategic importance to the state's economy or programs to fund graduate education or attract eminent scholars to or retain them at Ohio colleges and universities, and making recommendations to the agencies or offices that administer such programs, and (11) making rules that the Council considered advisable for the conduct of its own business.

The Council was to report annually to the Governor with its recommendations relating to Ohio's educational and technological development. The Council was not subject to the sunset provisions of the Revised Code.

**Fiduciary activities excepted from the definition of "trust business"**

(R.C. 1111.01)

Under continuing law, only specified entities are permitted to engage in "trust business" in Ohio. "Trust business" is defined as "accepting and executing trusts of property, serving as a trustee, executor, administrator, guardian, receiver, or conservator, and providing fiduciary services as a business." The law also expressly excepts certain fiduciary activities from the definition of "trust business."

The Governor vetoed a provision of the act that would have added another exception to this law: a nonprofit corporation formed under Ohio law serving as trustee of a trust the beneficiary of which is an entity described in section 170(c)(1) of the Internal Revenue Code (*i.e.*, "a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia"), if the nonprofit corporation does not receive any compensation for serving as trustee of the trust.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-30-99	pp. 375-376
Reported, H. Finance & Appropriations	05-04-99	p. 511
Passed House (87-11)	05-05-99	pp. 519-553
Reported, S. Finance	06-08-99	p. 536
Passed Senate (31-2)	06-09-99	pp. 551-562
House refused to concur in Senate amendments (1-98)	06-10-99	pp. 810-812
Senate agreed to conference committee report (28-5)	06-24-99	pp. 673-691
House agreed to conference committee report (86-12)	06-24-99	pp. 930-949

99-HB282.123/rss