



**Sub. H.B. 282\***

123rd General Assembly

(As Reported by H. Finance & Appropriations)

(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**

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**BILL 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.
- Augments the phase-in amounts by increasing the formula amount to \$4,052 per pupil in FY 2000 and \$4,276 per pupil in FY 2001.
- 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 \$20,000 in FY 2000 and \$25,000 in FY 2001.
- Requires school districts to spend vocational education weighted funds and special education weighted funds for expenditures approved by the Department of Education.
- Lengthens the equity aid phase-out period.

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\* *This analysis was prepared before the report of the House Finance and Appropriations Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- 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.
- 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 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 per pupil component of the cap to 108%, so that districts are limited in fiscal years 2000 through 2002 to the greater of (1) 110% of their aggregate aid for the preceding fiscal year or (2) 108% of their per pupil state payments from the previous year.
- Eliminates state driver education subsidies for the biennium.
- Repeals the small district aid subsidy, which pays school districts with enrollments of less than 1,000 students in formula ADM \$50 for every student less than 1,000.
- Appropriates funding for grants to school districts to set up alternative education programs and creates the Alternative Education Advisory Council to develop criteria for those grants.

**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 the Lucas County school districts.
- 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, only if the schools begin operation prior to June 30, 2000.
- Permits new start-up community schools to be located in any school district that is in a state of academic emergency.
- Requires the governing authority of each community school to adopt a policy specifying whether admission to the school should be limited to students living in the district where the school is located, or should be open either to students living in adjacent districts or to students from anywhere in the state.
- 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 nonpublic 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.

- 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 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.

**State capital funding for school buildings**

- Makes various administrative changes in 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.

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

- Provides 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.

- Permits school districts to use excess money deposited in their reserve balance ("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.
- 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 deduct excess deposits in future years.
- Eliminates the role of county auditors in enforcing the statutory requirements that school districts certify sufficient resources to support various financial commitments.
- Permits initial pilot project scholarships (vouchers) to be awarded to sixth graders in FY 2000 and to sixth and seventh graders in FY 2001.
- 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 and take on that commission's duties.
- Establishes standards for state-funded summer remediation services offered by school districts.
- 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.
- Permits public institutions and agencies that employ or contract for teachers and administrators to establish local professional development committees.
- Requires that the Legislative Office of Education Oversight conduct a study of teachers' salaries in the state and report the results of the study to the General Assembly and the Governor by December 31, 2000.

- 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.
- Requires the Department of Education to develop and distribute to school districts a packet of high school instructional materials on personal financial responsibility.
- Replaces the current petition of remonstrance procedure with a referendum procedure when an additional school district is to be added to a JVSD.
- Permits the ADM of city and exempted village client school districts for which an educational service center (ESC) does not receive state payments (because the agreement between the districts and the educational service center was executed after the deadline for entering into state-funded agreements) to be counted in the educational service center's ADM for purposes of determining whether the ESC is required to merge with another ESC.
- Abolishes the Ohio SchoolNet Office and transfers all of its functions, assets, and liabilities to the Ohio SchoolNet Commission.
- 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 consist of five members instead of seven and alters the required composition of each commission.
- 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 within 60 days as required in current law.

- Expands the secular items that school districts may buy with state Auxiliary Services funds and lend to chartered nonpublic school students to include electronic textbooks, consumable textbooks, site-licensed software, digital video on demand ("DVD"), wide area internet access technology, school library materials, resources and services of the Ohio SchoolNet Commission, and other instructional materials.
- 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.
- Extends the ability to apply for waivers from education laws and rules for innovative education pilot programs to chartered nonpublic schools.

### **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.
- 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 monitor occupancy rates in state university dormitory systems to determine when low occupancy could result in financial difficulties and to make recommendations regarding financial assistance in such situations.
- 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.
- 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.
- Changes the number of eligible individuals permitted to participate in the Ohio National Guard Tuition Grant Program from 4,000 per academic term to a specified number of participants for each term of the fiscal year.
- Increases the percentage of an institution's tuition-related charges that an eligible applicant is entitled to receive under the Ohio National Guard Tuition Grant Program.
- Modifies one of the exemptions from liability for repayment of instructional grants received under the Ohio National Guard Tuition Grant Program.

- Requires a member of the National Guard to apply for and accept all grants, scholarships, and other financial aid, other than benefits under the Montgomery G.I. Bill Act of 1984, before the member can receive an instructional grant under the Ohio National Guard Tuition Grant Program and requires the Adjutant General to reduce any instructional grants a member receives by the amount of other grants, scholarships, and financial aid, other than benefits received under the Montgomery G.I. Bill Act of 1984, the member receives.
- Requires the Adjutant General to report to the Ohio Board of Regents the number of students in the Grant Program at each institution of higher education and requires the Adjutant General and the Ohio Board of Regents to provide for payment of appropriate grant amounts to institutions of higher education.

**Lottery Commission**

- 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.

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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 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 the current fiscal year, FY 1999, is \$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 ranging from 1.00 (currently assigned to Gallia County) to 1.11 (currently 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>

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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 bill continues phase-in of new system**," below).*

(3) A number called the "**formula ADM**," which roughly reflects the number of students enrolled in the district.

(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 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)

**\$3,027,000**     **District's FY 1999 state payment toward base cost amount**

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 through FY 2001. Beginning in FY 2002, no more equity aid is scheduled to be paid.

**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;

(4) Transportation funding, which reimburses districts a portion of their costs of transporting children to and from public and private schools; and

(5) A driver education subsidy of \$50 per driver education student.

**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 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 guaranteed amount is the *lesser* of (1) the aggregate state funds received in FY 1998 or (2) the amount it would receive if its *per pupil* amount of FY 1998 state funds were multiplied by its current-year formula ADM. The state funds guaranteed include 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 most state funds, including transportation subsidies, to 10% over their previous year's aggregate state payment or 6% over their previous year's per pupil amount of state funds, whichever is greater. This cap applies every year through FY 2002. It no longer applies after June 30, 2002.

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

(sec. 3317.02(B))

The phase-in for the entire six-year period established originally by the new system is illustrated in the following table. The bill essentially continues for FY 2000 and FY 2001 the phase-in of the new base-cost funding system. However, the bill makes modifications by speeding up the phase-in of the base-cost formula and slowing down the phase-out of the equity aid. The changes are shown in the table below in parentheses.

<b>Fiscal Year</b>	<b>Base Cost of Education</b>	<b>Formula Amount</b>	<b>% of Base Cost in Formula Amount</b>	<b>Variance in Cost-of-Doing-Bus. Factors</b>	<b># of School Districts Eligible for Equity Aid</b>	<b>Additional Mills "Equalized" by Equity Aid</b>
<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 (\$4,276)	98.42% (99.58%)	13.8%	117 (162)	10
<b>FY 2002</b>	\$4,414	\$4,414	100%	15.2%	0	0

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
					(117)	(10)
<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 bill adjusts the cost-of-doing-business factors for the 88 counties**

(sec. 3317.02(N))

As mentioned above, the bill continues the six-year phase-in to the full 18% variance between the highest and lowest cost-of-doing-business counties. In addition, the bill 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.

**The bill eliminates the per pupil alternative on the guarantee**

(sec. 3317.0212)

Under current law, each school district (except those with an ADM under 150, which have their own separate guarantee provision) is guaranteed 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. The law currently entitles 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 bill eliminates the per pupil alternative and simply provides that districts will receive at least the aggregate amount of FY 1998 fundamental state

aid each year. However, the bill 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 bill adjusts the cap by increasing the per pupil alternative to 108%**

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

Generally, the new school funding system limits each school district's increase in state funds in FY 1999 through FY 2002 to the greater of 110% of the amount of those funds 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 (R.C. 3317.0215), and certain biennially appropriated subsidies for such things as professional development, EMIS, and (in this bill) OhioReads volunteers are outside the cap.

The bill raises the *per pupil* component of the cap to 108%. Accordingly, in FY 2000, districts would receive the greater of 110% of their FY 1999 state aid or 108% of their FY 1999 per pupil amount of state aid.

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

(substantive changes: secs. 3317.014, 3317.022(E), and 3317.0216)

(technical/conforming changes: secs. 3317.02(F) and (J), 3317.023(A)(4), 3317.0212, 3317.03, 3317.033, 3317.05, and 3317.051)

The new school funding system ended a procedure of funding school districts' vocational education programs separately from the base-cost formula. Instead, it counts vocational education students in formula ADM and funds them through the base-cost formula. It supplies no other additional per pupil funding for

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<sup>3</sup> *In order to compare FY 1999 aid to FY 2000 aid, the bill also makes technical adjustments in the calculation of FY 1999 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).*

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 bill 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 vocational students in 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 bill establishes two weights for vocational education:

- (1) .60 for students enrolled in vocational education job-training and workforce development programs approved by the Department of Education;
- (2) .30 for students enrolled 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 is required to 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.

The bill also establishes a third, unweighted category of vocational education student. Students in this category (on an FTE basis) would be those receiving certain vocational education services specified by the Department of Education as belonging in this unweighted category (presumably, these services do not cost noticeably more to provide than regular basic education). These unweighted category three students do, however, receive the .05 weight for vocational education associated services (see immediately below).

**Vocational education associated services**

(sec. 3317.022(E)(2))

In addition to the weights provided for the two weighted categories of vocational education student, the bill provides a .05 weight for all three categories of vocational education students (on a vocational FTE basis). These funds must be spent on a subset of vocational education expenditures designated by the Department as "vocational education associated services." In FY 2000, each district could receive its state share percentage of \$202.60 (the formula amount of \$4,052 x .05) for each FTE vocational student. However, the Department of Education must reduce associated services funds to any district that does not spend this money for approved associated services. The bill specifically mentions as examples of "associated services" apprenticeship and other vocational coordinators and vocational evaluations.

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

(sec. 3317.022(E))

Equalization is another characteristic of the new system that the bill 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.

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

(sec. 3317.0216)

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

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

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

Like other kinds of categorical funding, the bill's new add-on payments for vocational education costs are counted in the state funding cap in effect through FY 2002. In order to calculate whether a district is over 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 would be added to the rest of the district's FY 1999 state aid for comparison to its FY 2000 aid. The vocational enhancement payments were not included in the "cap" calculation for comparing FY 1999 to FY 1998.

### **Gifted education funding**

(secs. 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 bill 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 (sec. 3317.13, not in the bill) for a teacher with his or her training and experience;

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

Current law provides a gifted unit supplemental allowance of \$3,251 per approved unit to educational service centers. The bill increases this per unit allowance 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.

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

(sec. 3317.022(E)(5))

The bill provides school districts with a new special education subsidy solely for providing speech services. The subsidy establishes a personnel allowance for speech services for every 2,000 students in the district's formula ADM. The personnel allowance is set at \$20,000 in FY 2000 and \$25,000 in FY 2001 and the district would receive its state share percentage (the same percentage used to calculate its special education weighted costs funding) of that personnel allowance for each 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 \$12,000 (60% of the \$20,000 personnel allowance) for a total of \$60,000.

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

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

Under the new school funding system, each school district is required to spend on special education *related services* an amount equal to the amount it spent the preceding year for such services or an amount equal to 1/8 of the district's total state and local special education money (from both base-cost funding and the additional weighted costs funds).<sup>4</sup>

The bill 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 bill's other requirement to spend the state special speech subsidy only on speech services.

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<sup>4</sup> *Related services include such things as speech and language services, behavioral intervention, interpreter services, nursing services, occupational or physical therapy, audiology and school psychological services, and other related services defined in federal law or in the IEP of a handicapped student and such administrative specialists as special education supervisors and coordinators.*

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

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

(sec. 3317.024(G))

Current law provides authorization 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 bill eliminates this subsidy beginning in FY 2001.

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

(sec. 3317.029)

The new school funding system completely revised DPIA (disadvantaged pupil impact aid) and based the distribution of funds on each school district's concentration of children receiving public assistance *relative to* the concentration of such children throughout the state. 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 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 districts' DPIA index increases.

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

**Transportation funding**

(substantive changes: sec. 3317.022(D))

(technical/conforming changes: secs. 3317.02(J) and (K), and 3317.0212; Section 18 of H.B. 650, amended in Section 23)

**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 bill's new transportation formula**

(sec. 3317.022(D)(1) and (2))

The bill retains this 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>5</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 and (2) the percentage of its student body that it transports on school buses, whether the buses are owned by the district board or a contractor.<sup>6</sup> The Department of Education is to update the values for the formula each year based on analysis of transportation data from the previous fiscal year. As under current law, the Department must apply a 2.8% inflation factor to the cost data.

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

**Transportation guarantee for FY 2000**

(sec. 3317.022(D)(4))

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<sup>5</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>6</sup> *The bill presents the following model of the formula based on an analysis of FY 1997 transportation data:  $50.67477 + (140.94357 \times \text{daily bus miles per student}) + (108.36864 \times \text{transported student percentage})$ . Payments for FY 2000 are to be calculated on a similar formula updated to reflect analysis of FY 1999 data.*

Despite the increasing percentage, the bill 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 no less than they received from the old formula in FY 1998. There is no guarantee for FY 2001.

**New rough road subsidy**

(sec. 3317.022(D)(5) and (6))

In addition to its new formula, the bill 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) In addition its "student density" must be 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 of H.B. 650, amended in Section 23)

As under current law, 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.

**Temporary prohibition of driver education subsidy**

(Section 4.10)

The board of education of each school district, including a joint vocational school district or a cooperative education school district, is authorized but not

required to offer driver education to its students. Students may also enroll in a course offered by a commercial driver training school licensed by the Director of Public Safety. The Department of Education currently must pay to a school district \$50 for each student in the district who enrolls in and completes a driver training course, whether offered by the district or a commercial school. The subsidy may also be claimed for any student of a chartered nonpublic school living in the district who completes a driver training course offered by a commercial school. The district is required to pay the \$50 subsidy claimed for a student to the commercial driver training school if the services are provided by such a school.<sup>7</sup>

The bill prohibits the Department from making any driver education subsidy payments in fiscal years 2000 and 2001. It would not restrict the use of any available federal funds that legally may be used for such purpose; however, the bill also does not contain any line item for appropriation of moneys for federal driver education projects.<sup>8</sup>

**Repeal of small district aid**

(repealed sec. 3317.0214)

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

The bill repeals this subsidy.

**Grants for alternative education programs; Alternative Education Advisory Council**

(Section 4.12)

The bill appropriates \$20 million in each fiscal year of the biennium for matching grants from the Department of Education to the urban 21 districts and to rural and suburban school districts to set up alternative education programs. These programs are to address the needs of students who have been expelled or suspended, students at risk of dropping out of school, students that are habitually

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<sup>7</sup> See secs. 3301.17 (not in the bill), 3317.024(I), and 3317.19 (not in the bill).

<sup>8</sup> The budget act for the 1997-1999 biennium contains a line item appropriation for federal driver education projects in the amount of \$84,500 for each fiscal year of the biennium (Section 50 of Am. Sub. H.B. 215 of the 122nd G.A., effective June 30, 1997).

truant or disruptive, and students on probation or parole from a Department of Youth Services facility.

The bill also creates the Alternative Education Advisory Council, which is required to develop criteria for awarding the grants. The Council is made up of one representative from each of the following:

- (1) Department of Education;
- (2) Department of Youth Services;
- (3) Governor's Office, or at the discretion of the Governor, from the Lieutenant Governor's Office;
- (4) Attorney General's Office;
- (5) Department of Mental Health; and
- (6) Department of Alcohol and Drug Addiction Services.

The Council is to sunset on June 30, 2001.

## STATE FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS

### **Background--current JVSD funding**

The new education funding system did not change the method of funding joint vocational school districts (JVSDs).<sup>9</sup> Accordingly, under current law, JVSDs receive state unit funding for approved vocational education units, special education units, and supervisor and coordinator (also known as related services) units.<sup>10</sup> They do not receive gifted education units.

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<sup>9</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>10</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.

JVSDs are not eligible for base-cost funding, but some equalization of voted millage occurs through a formula that partially equalizes vocational units. This formula essentially ensures that every approved vocational unit in a JVSD is worth (in addition to the unit funding received for the unit) \$23,000 in combined state and local funds. The local share is 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 is obtained by subtracting the local share from an amount equal to the number of approved units times \$23,000.

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

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

(substantive changes: sec. 3317.16; Section 17)

(technical/conforming changes: secs. 3317.014, 3317.02, 3317.03, 3317.024, and 3317.161)

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

The bill provides funding for JVSDs in a manner closely paralleling the base-cost funding mechanism for all other school districts. JVSDs would receive base-cost funding utilizing the same per pupil formula amount as is used for other districts. That is, for FY 2000, JVSDs would be guaranteed \$4,052 per student (\$4,276 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 would be the formula amount (adjusted for CODB) multiplied by the greater of that year's formula ADM (which JVSDs would have to 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 would be calculated by multiplying one-half mill (or .0005) times the combined adjusted total taxable values of the various school districts in the JVSD (that is, the adjusted taxable value of each individual school district comprising the JVSD district is summed to form the overall adjusted total taxable value of the JVSD). Subtracting the local share from the base-cost funding total 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 would no longer receive units for vocational education, special education, and supervisor and coordinator (related services) units. Instead, like other districts, JVSDs would receive additional funds for vocational education and special education (including related services) based on the calculation of 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 would be assigned to one of the three existing weight categories.<sup>11</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)

**Related services expenditures.** Like other school districts, JVSDs would have to spend a portion of its special education funds for related services.<sup>12</sup> The required amount they must spend is the lesser of:

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

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<sup>11</sup> *The special education weight categories (unchanged by the bill) 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. The state will also pay 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, although it is not clear that the bill's language qualifies JVSDs for this additional "catastrophic costs" subsidy.*

<sup>12</sup> *"Related services" is defined in current law for other school districts (and for JVSDs in the bill) 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 (sec. 3317.022(B)(3)).*

**JVSD funding for vocational education.** As mentioned above, under the bill, all school districts would begin receiving vocational education funding in a manner similar to the funding for special education and related services. The same two weight classes for vocational education students that are assigned to school district students would also be assigned to JVSD students. (See "**The bill 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 is the case in regular school districts, some JVSD students may be designated by the Department of Education as "category three" vocational education students. These students would not receive a regular additional weight, but would be included in the calculation of vocational education associated services funding for the JVSD. Like school districts, JVSDs 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 in any of the three categories of vocational education student. The bill requires these funds to be spent only for vocational education associated services designated by the Department of Education, including such services as provision of apprenticeship coordinators, furnishing coordinators for other vocational education services, and vocational evaluation.

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

Under the bill, JVSDs would no longer receive a subsidy for drivers' education or academic courses, but would continue to receive the same type of funding for adult technical and vocational education and specialized consultants as under current law.

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

All JVSDs are guaranteed under the bill to receive in FY 2000 and FY 2001 the amount of state funding they received in FY 1999 for unit funding, equalization of vocational units, and academic units.

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

JVSDs would be subject to the same limitation on yearly funding increases as school districts through FY 2002. The cap limits would be the greater of 110% of the preceding year's state aid or 108% of the district's per pupil funding for the preceding year (the same limits as for other school districts).

## 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. But there currently are no conversion schools operating.

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

(substantive provisions: secs. 3314.02 and 3314.15; Sections 21, 22, 29, and 30)

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

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

The bill 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 bill 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 community school had entered into a preliminary agreement, but not a formal contract, with a sponsor before the bill'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*

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 bill continues their authority to sponsor schools in the Lucas County area, but only those schools that will begin operating prior to June 30, 2000, which was the deadline for community schools to commence operations under the pilot project law. Lucas County community schools that open after that date can be sponsored only by the entities available to sponsor schools elsewhere in the state:

- (1) The State Board of Education;
- (2) The board of the school district where the school is located;
- (3) The board of any joint vocational school district with territory in the county in which the majority of the territory of that school district is located; or
- (4) The board of any other city, local, or exempted village school district having territory in the county in which the majority of the territory of that school district is located.

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

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 bill 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 bill, 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*

One of the few differences between the pilot project law and the statewide law was the respective requirements for leaves of absence for school district teachers who wanted to teach 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 teach in a community school located in any of the Lucas County districts. The statewide law requires only school districts where community schools are actually located to grant leaves to teachers and nonteaching

employees to work in those community schools, but the leaves must be for up to three years.

The bill specifies that any teacher or nonteaching employee of a Lucas County area school district who, on the bill's 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 pilot project law.

### **Partial reimbursement of Lucas County school districts**

During the first year of operation of a community school in the Lucas County area, the Department of Education was required to pay each school district, for each student enrolled in the community school who is otherwise entitled to attend school in the district, 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 bill 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 bill's new vocational education formulas.

### **Community schools in academic emergency districts**

(sec. 3314.02)

Under current law, new start-up community schools may be started in any of the eight school districts in Lucas County and within the boundaries of any of the "Big 8" school districts.<sup>13</sup> An existing public school may be converted to a community school in any school district in the state.

The bill permits new start-up schools to be established permanently in any of the eight Lucas County school districts and in any other school district in the state declared by the Department of Education to be in a state of academic emergency.<sup>14</sup> The bill specifies that if a new start-up school is established in an

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<sup>13</sup> *The Big 8 school districts are the Akron, Canton, Cleveland, Columbus, Cincinnati, Dayton, Toledo, and Youngstown city school districts.*

<sup>14</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*

academic emergency school district, the school may continue to exist after the school district is no longer in a state of academic emergency.

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

(secs. 3314.03, 3314.06, and 3314.08)

Under current law, community schools within the Lucas County pilot project may admit students from any of the school districts with territory primarily in Lucas County. However, admission to community schools in all other parts of the state is limited to students living within (or entitled to attend school in) the school district where the community school is established. The bill allows all community schools, at the discretion of their governing authorities, to admit students from outside the district where the school is located.

Under the bill, the contract between the community school and its sponsor must contain a provision requiring the governing authority to make a decision 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 either to students residing in an adjacent district or students from anywhere in the state (these are the same admission classifications that school districts have for interdistrict open enrollment).

Current 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 bill adds that preference must be given to students residing in the district in which the school is located. As under current law, preference *may* also be given to siblings of students who attended the school during the previous year.

**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 bill revises the calculation of community schools' special education and DPIA funds.

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*data, identified 50 school districts, in addition to the Big 8, as potentially being academic emergency school districts.*

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

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

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

The bill 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>15</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 bill 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, the bill 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 pay 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.

**DPIA for community schools**

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

Current law requires the Department of Education to deduct from a school district and pay a community school an amount for every student whose family participates in the Ohio Works First public assistance program. This is intended to allow the DPIA funds that the student would have generated for the district to "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 bill therefore revises

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<sup>15</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.*

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 bill requires that the Department of Education 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 0.35 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 comes from a district receiving this DPIA safety and remediation payment, the bill 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 0.60 (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>16</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 bill requires the Department to deduct an amount from every school district that receives these payments if any of its native, nonhandicapped students attends kindergarten through third grade in a community school. To determine how much to deduct and pay, the Department

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<sup>16</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.

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, all-day kindergarten count 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 comes to 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 bill does not change the currently 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 they offer all-day kindergarten.

All of these current requirements remain intact under the bill. The bill merely replaces the more specific language of current law, 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 bill's general 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>17</sup>

**Conforming changes**

(sec. 3314.08)

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<sup>17</sup> See Section 4.12 of the bill, under the heading "Disadvantaged Pupil Impact Aid."

The bill 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**

(sec. 3314.09)

The bill changes a school district's obligation to provide transportation for students enrolled in community schools. The bill's requirements for transportation of these students are the same as the requirements under current law for the transportation of students to nonpublic schools.

Under the bill, 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 the board 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 bill to a parent, guardian, or other person in charge of the child for transporting that child.

**SchoolNet for community schools**

(secs. 3301.80(D) and 3301.801)

The bill 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**

(sec. 3314.071)

The bill 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**

(sec. 3314.011)

The bill 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.

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

(sec. 3314.05)

Under current law, a community school's contract with its sponsor must specify the facility to be used for the school. The bill 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).

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

(sec. 3304.021)

The bill 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**

(sec. 3314.03(A)(11)(g))

The bill 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>18</sup>

## 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>19</sup> 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, 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>20</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>21</sup>

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<sup>18</sup> Sections 50.39 and 50.52.2 of Am. Sub. H.B. 215 of the 122nd General Assembly.

<sup>19</sup> 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 educational program, and may include space within which a child day-care facility or a community resource center is housed" (sec. 3318.01(B)).

<sup>20</sup> 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 (sec. 3318.06(C)(2)).

<sup>21</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

### Calculation of the wealth of a district

(secs. 3318.01, 3318.011, and 3318.06)

To determine the wealth of a school district, 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, which uses them to determine a district's eligibility for assistance. A district's percentile rank is used to calculate both its priority for funding and its share of the project costs.<sup>22</sup>

In addition to the calculation requirements under current law, the bill requires the Department of Education to annually calculate the *three-year average* adjusted valuation per pupil of each district and rank order the districts into percentiles based on those figures.

Under the bill, 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, as under current law, to determine a district's eligibility for assistance.

The bill 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 currently required.

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*lottery profits be devoted to school building assistance bond service. (Sec. 3770.06, not in the bill.) 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.*

<sup>22</sup> *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. (Sec. 3318.02.)*

### District share

(secs. 3318.01, 3318.032, 3318.05, 3318.06, 3318.08, and 3318.17)

Under current law, unchanged by the bill, a district's share of the basic project cost is the *greater* of two figures, both based on the wealth of the district.<sup>23</sup> The district's share is either:

(1) An amount that increases the "net bonded indebtedness" of the school district to within \$5,000 of its "required level of indebtedness."<sup>24</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:

$$.05 + .0002[(\text{the percentile in which the district is ranked}) - 1].^{25}$$

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<sup>23</sup> The "basic project cost" is determined by rule of the Commission. The Revised Code, however, requires that the Commission 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. (Sec. 3318.01(L).)

<sup>24</sup> The "net bonded indebtedness" of a school district is 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 bill), 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." (Sec. 3318.01(F).)

<sup>25</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

(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:

$$.01(\text{the percentile in which the district is ranked.})^{26}$$

The bill 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 bill 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 (sec. 3318.17).

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

(sec. 3318.083)

Current law, unchanged by the bill, 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>27</sup>

The bill 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

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*required level of indebtedness for a district in the 100th percentile would be 6.98% (or  $.05 + .0002(99) = .0698$ ).*

<sup>26</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  $.01(100) = 1.00$ ).*

<sup>27</sup> *See sec. 3318.08.*

share these increases in the same proportion as their original contributions to the project.

**Commission approval of site for facilities**

(sec. 3318.08(Q))

The bill requires 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 bill also authorizes the Commission to conduct soil tests on a proposed site to determine its suitability.

**Simplified ballot language**

(sec. 3318.06(C) and (D))

Current law provides required ballot language for a school district to use in seeking voter approval of the required bond issue and tax levies. The bill simplifies that language.

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

(secs. 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 (current law unchanged by the bill).<sup>28</sup> As a result of these amendments the program is no

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<sup>28</sup> Am. Sub. H.B. 748 of the 121st G.A., effective August 23, 1996.

longer a true loan program but a cost-sharing program. The law, however, retains references to loans and to a school district's "purchase" of the facilities from the state. The bill 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.

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

(secs. 3318.21 and 3318.26, and repealed secs. 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>29</sup> Under that program the Ohio School Facilities Commission is 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 comes from the School Districts Facilities Fund, which consists of moneys raised by issuance of bonds to be retired with "repayments" by school districts to the Public School Building Fund (GRF fund for the Classroom Facilities Assistance Program), service charges on the loans made under this additional loan program, and any other moneys appropriated or transferred to the fund. In addition, investment income on moneys in the fund are credited to the fund. Apparently, this additional loan program has never been used. The bill repeals the loan program and the several funds associated with it.

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

(sec. 3318.35)

The state provides an additional program to help the state's 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.

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<sup>29</sup> *Am. Sub. H.B. 152 of the 120th G.A., effective July 1, 1993.*

The bill 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 used for the main facilities assistance program."

**Exceptional Facility Need Pilot Program**

(Section 26 of H.B. 850)

Another 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 bill amends that act 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>30</sup>

**Ohio School Facilities Commission Fund**

(sec. 3318.33)

The bill creates a 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. The fund consists of transfers authorized by the General Assembly and any gifts, grants, donations, and pledges that the Commission is permitted to receive.<sup>31</sup> The fund also consists of investment earnings on moneys in the fund.

The bill also authorizes the Director of Budget and Management to transfer to the Ohio School Facilities Commission fund investment earnings on the Public School Building Fund (GRF fund for the Classroom Facilities Assistance Program)

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<sup>30</sup> See sec. 3318.01(K).

<sup>31</sup> See sec. 3318.31(A)(4), not in the bill.

and the School Building Program Assistance Fund (bond fund for the Classroom Facilities Assistance Program).<sup>32</sup>

**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 bill 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 bill, 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 bill (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.

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<sup>32</sup> See secs. 3318.15 and 3318.25.

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

(secs. 3318.021, 3318.31, and 3318.36)

The bill creates a new program to augment the Classroom Facilities Assistance Program. The new program permits 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 each year to 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 state assistance under the Classroom Facilities Assistance Program. Under the new program, the Ohio School Facilities Commission is required to assess the classroom facilities needs of participating districts, which are selected in the order in which they adopt resolutions certifying their intent to participate in the 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 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>33</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

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<sup>33</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.*

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.

## OTHER PROVISIONS RELATED TO PRIMARY AND SECONDARY EDUCATION

### *Gifted education and identification*

(secs. 3324.01, 3324.02, 3324.03, 3324.04, 3324.05, and 3324.06; repealed sec. 3313.22)

Current law, repealed by the bill, requires 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. Current law does not require that school districts provide services to gifted students.

The bill replaces the current law provisions with more elaborate requirements for identification of gifted students. Under the bill, 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.

The bill establishes the criteria for identifying each of these types of gifted students.

These standards are the following:

(1) *Cognitive ability*: The student did either 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 standardized intelligence test;

(b) Accomplished one of the following:

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



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

(iii) 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;

(b) Exhibited sufficient performance, as established by the Department of Education, 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;

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

Each school district board must adopt by January 1, 2000, a plan approved by the Department for identification of gifted students. The plan must include the following: a description of the assessment instruments used to screen and identify gifted students, 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), procedures for notification of parents about the results of any screening or assessment, and 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 of Education specifying the number of students screened, assessed, and identified as gifted in each category. The school district board must develop a statement of its policy for the screening and identification of gifted students and must distribute the policy statement to parents.

The Department of Education 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.

Like current law, the bill 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.

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

(sec. 5705.29)

**Current law**

Beginning in fiscal year 1999, a law enacted by Am. Sub. H.B. 412 of the 122nd General Assembly requires school districts to begin accumulating 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>34</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

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<sup>34</sup> *The Auditor of State's rules exempts 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.)*

fund, even though the law otherwise would only have required the FY 1999 fund balance to be 1% of its FY 1998 revenue for current expenses.<sup>35</sup>

### **The bill**

The bill intends to permit 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 (sec. 5705.29 only; not the subsequently enacted requirement that Workers' Compensation refunds be deposited) for all fiscal years that amounts were required to be credited under that statute.

The bill 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 textbook funds: deducting prior year's excess deposits**

(sec. 3315.17)

The same legislation requiring school districts to establish rainy day funds (H.B. 412 of the 122nd General Assembly) also requires each district to establish a textbook and instructional materials fund. Under the 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>36</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>35</sup> Section 39 of Am. Sub. H.B. 770 of the 122nd General Assembly.

<sup>36</sup> O.A.C. § 117-2-23.

The bill permits 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**

(sec. 5705.412)

The bill 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 current 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.

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

**Expansion of voucher programs to other grades**

(Section 4.31)

Under the Cleveland pilot project scholarship program (also known as the voucher program), new scholarship students are required to be admitted from only kindergarten through third grade. For FY 1998, however, the biennial

appropriations act permitted new scholarships to be awarded to fourth graders as well. In FY 1999, that act also expanded the scope of the program to include new fifth graders. The bill would further expand the program's scope (although not necessarily the total number of new participants) to permit new scholarships to be distributed to sixth grade students in FY 2000 and to sixth and seventh grade students in FY 2001.<sup>37</sup>

### **Office of school options**

(sec. 3314.11)

The bill directs the Department of Education to establish, in place of the current 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 established pursuant to Chapter 3314. of the Revised Code and the Cleveland Pilot Project Scholarship (voucher) program (secs. 3313.974 to 3313.979, not in the bill).

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

(sec. 3313.608(E))

Beginning July 1, 2001, a district may not promote to fifth grade any nonhandicapped student that fails the fourth grade reading proficiency test unless the student's principal and reading teacher agree that the student should be promoted. School districts must offer an intense summer remediation program for students who do not pass the test during its second administration. The bill establishes standards for any state-funded summer remediation services that are provided by school districts to meet this requirement. 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;

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<sup>37</sup> *The number of students eligible to receive vouchers each year is established by the Department of Education based on the amount of money appropriated for the program. According to the Legislative Budget Office, the appropriation in this bill is intended to allow approximately the same number of new students to enroll in each year of the biennium as enrolled in each of the last two years.*

(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.

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

(secs. 3302.01 and 3302.02)

The state performance standards, 94% of which school districts must meet to be designated as "effected," currently include a standard for a "dropout rate" of 3% or less. The dropout rate is defined as 100% minus the graduation rate. 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 bill 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 bill. These students would be removed from the calculation for the year in which they would have graduated and are 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 bill 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 bill) 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.

### **Local professional development committees**

(sec. 3319.22(C)(5))

Current law, unchanged by the bill, 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 bill *permits* any public institutions or agencies (i.e., state or local agencies other than schools) that employ or contract for licensed educators to also establish such committees.

### **Study of teachers' salaries in the state**

(Section 4.33)

Current law, unchanged by the bill, provides a minimum teacher salary schedule, based on years of service and levels of education, for school districts to follow. Under the schedule the base amount is \$17,000 for a beginning teacher with a Bachelor's degree. (Sec. 3317.13, not in the bill.)

The bill requires that the Legislative Office of Education Oversight conduct an assessment of teachers' salaries in the state and report the results to the General Assembly and the Governor by December 31, 1999. The assessment must include at least the following items:

- (1) An evaluation of the effect that the minimum teacher salary schedule has on the salary schedules used by school districts across the state;
- (2) A determination of which school districts use the minimum salary schedule;
- (3) An evaluation of how district salary schedules compare with the minimum salary schedule;
- (4) An evaluation of the effect that teacher salaries have on the ability of school districts to hire and retain teachers, paying particular attention to any difficulties that school districts experience when attempting to hire teachers at the low end of the salary schedule;
- (5) An evaluation of the effect teacher salaries have on the number of college-age students choosing primary and secondary teaching as a career; and

(6) A review of the salary schedules of all school districts in the state and a breakdown within each district and statewide as to the percentage of teachers in each level of compensation.

**LOEO study of educator professional development activities**

(Section 4.34)

The bill 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 the effect of professional development programs on student achievement.

The study must encompass all facets of professional development, including the role of higher education in preparing educators and 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.

**Personal financial responsibility instructional packets**

(sec. 3301.0726)

The bill 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.

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

(sec. 3311.213)

School districts are required to provide vocational education opportunities to their students. A school district may discharge this duty by establishing and maintaining its own vocational education program, by becoming a voluntary member of a joint vocational school district (JVSD), or by contracting with a JVSD or another school district to provide vocational services. (Sec. 3313.90(A), not in the bill.) Under current law, the resolution joining a school district to an existing JVSD is 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 the qualified electors in the newly joined district equal to a *majority* of the electors who voted in the last general election held within that district sign a petition of remonstrance, the resolution is not effective, and the new district will not be joined to the JVSD. (Sec. 3313.213(A).)

The bill replaces the petition of remonstrance procedure with a referendum procedure. Under the bill, 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 to be joined to 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 of voters 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, then the petition must be filed with the board of elections of the county in which a 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 of approval of the resolution 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, 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 bill is silent, however, on how soon a school district may renew its proposal to join the JVSD if the voters reject the resolution.

**Authorization for ESC to count students from certain client districts in the service center's ADM for purposes of determining if the ESC must merge with another ESC**

(Section 45.32 of Am. Sub. H.B. 117 of the 121st G.A., amended in Section 19)

Current law, unchanged by the bill, provides that by June 1, 1999 each educational service center (ESC) with an ADM of *less* than 8,000 students and that serves less than six local or client school districts must merge with another service center. In addition, by June 1, 2000 each ESC with an ADM of less than 8,000 students and that serves *more* than six local or client school districts also must merge with another ESC. Educational service centers serve all local school districts included in their territory and also serve certain city and exempted village school districts (called client districts) that contract for services from the ESC (sec. 3313.483, not in the bill). Each ESC receives from the state a per pupil amount based on the number of students (calculated on an ADM basis) served by the service center from both local school districts and its client districts. However, current law, unchanged by the bill, also provides that these agreements with client districts must be executed by January 1, 1997, in order for a service center to receive any state funding for serving those district students.

The bill permits the counting of students from client districts for which an ESC does not receive state funding, because the agreement with the school district was executed after the deadline, in the service center's ADM, strictly for purposes of determining if the ESC is required to merge with another ESC.

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

**Ohio SchoolNet Office and Ohio SchoolNet Commission**

(sec. 3301.80(A) and (B); Section 32)

Current law establishes the Ohio SchoolNet Office as an independent agency and also establishes the Ohio SchoolNet Commission, which consists of 11 members and is required to monitor and oversee the operations of, and the programs administered by, the Ohio SchoolNet Office. The Commission is authorized to develop and issue policies and directives to be followed by the Ohio SchoolNet Office in implementing the programs under its jurisdiction.

The Ohio SchoolNet Commission is required to appoint a director to supervise the Ohio SchoolNet Office. The director serves at the pleasure of the Commission and is 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.

The bill 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 required to perform the Office's current duties. The bill 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.

**Additional duties of the Ohio SchoolNet Commission**

(sec. 3301.80(D)(5))

The bill 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>38</sup>

**Compensation of Commission members**

(sec. 3301.80(B)(2))

The bill requires the 11 members of the Commission to serve without compensation. However, the voting member of the Commission appointed by the Speaker of the House of Representatives 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.

**Executive director**

(sec. 3301.80(C)(1))

The bill specifies that the Commission must appoint an executive director to supervise the Commission and direct Commission employees in administering its programs. The executive director of the Commission serves very similar functions to those of the director of the Ohio SchoolNet Office under current law. As is the

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<sup>38</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.*

case with the director under current law, the executive director would serve at the pleasure of the Commission.

### **Employees**

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

Current law requires the Ohio SchoolNet Office to employ such persons as the director of the Office deems necessary for the implementation of programs under the Office's jurisdiction. The bill 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. Under the bill, the employees of the Ohio SchoolNet Commission are placed in the unclassified service and serve at the pleasure of the executive director.

Current law provides that for the purposes of exercising collective bargaining rights under the law governing public employees' collective bargaining, the employees of the Ohio SchoolNet Office must be placed in a bargaining unit separate from any other unit containing employees of the state. The bill eliminates this provision and instead exempts the employees of the Commission from the law governing public employees' collective bargaining and specifies that they are not public employees for the purposes of that law.

### **Transition**

(Section 32)

The bill provides for the transition of functions from the Ohio SchoolNet Office to the Ohio SchoolNet Commission. Under the bill, any business commenced, but not completed by the Office or its director on the bill's effective date 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 existing law 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 bill requires the Director of Budget and Management to determine the amount of the unexpended balances in the appropriation accounts that pertain to the Ohio SchoolNet Office

and to recommend to the Controlling Board their transfer to the appropriation accounts that pertain to the Ohio SchoolNet Commission. The director of the Office must provide full and timely information to the Controlling Board to facilitate this transfer.

The bill 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 bill also specifies that no action or proceeding pending on the bill's effective date is affected by the transfer and must be prosecuted or defended in the name of the Ohio SchoolNet 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.

### **Comment**

(secs. 125.05, 3301.801, 3317.51, and 3319.235)

Sub. H.B. 147 of the 122nd General Assembly, the effective date of which is 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. The bill rectifies this oversight by changing all relevant references to references to the Ohio SchoolNet Commission.

### **School district financial planning and supervision commissions**

(secs. 3316.05 and 3316.06)

Current law establishes a financial planning and supervision commission for any school district in which a fiscal emergency has been declared. A commission must consist of seven voting members: four ex officio members and three appointed members. The bill instead requires that a commission established after July 1, 1999, consist of only five members, two ex officio and three appointed, and alters the required membership of a commission.

Included in the membership of a commission under current law are four ex officio members: 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 reside outside the municipal corporation containing the greatest number of district residents or if

there is 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 must serve as a member. Each ex officio member may designate an alternate to attend commission meetings when the member is unable to attend. The bill instead specifies that there must be only two ex officio members, the Director of Budget and Management and the Superintendent of Public Instruction or those members' designees.

Current law stipulates that four members of a commission constitute a quorum and that the affirmative vote of four members is necessary for any action taken by vote of a commission. The bill 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 bill 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 current law, a school district financial planning and supervision commission must adopt a financial recovery plan regarding the school district for which the commission was established within 60 days after its first meeting. The bill instead requires that the financial recovery plan be adopted within 120 days after the first meeting.

**Expanded use of state Auxiliary Services funds for chartered nonpublic school students**

(sec. 3317.06)

Current law requires the Department of Education to annually pay school district funds that the school district must use to purchase various secular items and services for the benefit of students attending chartered nonpublic schools.<sup>39</sup> The bill expands the items that school districts may purchase with state Auxiliary Services funds to lend to such students. It requires districts to purchase and lend secular electronic textbooks, consumable textbooks (presumably workbooks), and text supplements that meet the requirements for approval under current law. The bill specifies that computer software purchased for loan may include site licensing, which would allow multiple users access to the software at one site.

The bill also allows the following items to be purchased for loan as long as they are secular, in general use in the public schools, incapable of diversion to

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<sup>39</sup> *Sec. 3317.024(O), not in the bill.*

religious use, susceptible of loan to individual students, and furnished for the use of individual students: digital video on demand ("DVD"); wide area connectivity and related technology as it relates to internet access; school library materials; and instructional materials which the bill defines as learning materials including educational resources and services developed by the Ohio SchoolNet Commission.

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

(sec. 3313.603(C))

Effective November 21, 1997, every high school may permit 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 the high school curriculum requirements. The bill 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.

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

(sec. 3302.07)

Current law, unchanged by the bill, 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>40</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 bill permits the administrative authority of any chartered nonpublic school to also apply for these exemptions for implementing an innovative education pilot program.

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<sup>40</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.*

## HIGHER EDUCATION

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

(sec. 5747.01)

The bill 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 a certificate of authorization issued by the Board of Regents; and proprietary schools having a certificate of registration 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. They do not include charges for sports, 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)**

(sec. 3333.12; Section 7.07)

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 current law, the maximum grant amount per academic year is \$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 is 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 is 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 current law is \$720 for students attending private nonprofit institutions, \$612 for students attending proprietary institutions, and \$294 for students attending public institutions. The minimum grant amount is 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 is 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 bill changes the grant amounts by increasing the maximum grant amount available. The minimum grants available under the bill are lower than under the current 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 current \$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 current \$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 current \$294 to \$156 in FY 2000 and \$162 in FY 2001.

#### **New income levels**

The bill increases the maximum income levels for grant eligibility. Specifically, the maximum eligible income for financially dependent students increased by \$5,000 in FY 2000 and another \$1,000 in FY 2001. The maximum income for financially independent students increased \$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 bill makes the grants available year-round by deleting the current language that limits 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 bill deletes some specified exemptions that may be taken when computing eligible income and gives the Board of Regents authority to designate exclusions from income. The bill changes the method of verification of family income from the current 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 current law, designate another satisfactory means of verifying income.

### **Student choice grants**

(sec. 3333.27)

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 current law, the grants are 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 bill 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, thereby making Student Choice Grants similar to Ohio Instructional Grants which, under current law, are available for religious studies leading to such degrees.

### **War orphans scholarship**

(sec. 5910.032)

Current law establishes several categories of eligibility for recipients of a war orphans scholarship. Included 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, 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, was a resident of Ohio. The bill 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 any four of the "last" ten years.

### **University dormitory occupancy rates and enrollment audits**

(sec. 3333.04)

The bill requires the Ohio Board of Regents to monitor the occupancy rates of state university dormitory systems to identify circumstances in which a university's financial stability could be threatened by debt service and plant maintenance costs. In conjunction with its biennial appropriation recommendations, the Board is to report its recommendations for financial assistance to state universities whose dormitory occupancy rates are less than 75% of capacity and whose ability to make debt payments and maintain the physical plant could be jeopardized.

The bill also requires the Board to "conduct enrollment audits of state-supported institutions of higher education."

Both of these provisions codify and make permanent provisions enacted by Am. Sub. H.B. 215 of the 122nd General Assembly for the 1997-1999 biennium.

**Initial proprietary school certificates**

(sec. 3332.05)

Current 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. All certificates currently are valid for two years. The bill would require the initial certificate of registration for each location to be valid for only one year. Renewals would continue to be valid for two years.

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

(sec. 9.90)

The governing board of any public institution of higher education is currently 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 bill 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. (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.)

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

(Section 7.13)

Revised Code section 3357.112 (effective September 17, 1996) 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 bill permits any technical college district that had leased housing and dining facilities prior to 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 bill does not otherwise affect current 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 33)

The bill requires that the Board of Regents 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 bill.

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

(sec. 3333.04(W))

The bill requires the Board of Regents to appoint college and university personnel to participate in the development and operation of statewide collaborative efforts. Such collaborative efforts include, but are not limited to, the following state-assisted entities: the Ohio Supercomputer Center (a consortium devoted to enhancing the education of arts and design with the use of computers), the Ohio Academic Resources Network (a statewide electronic network of colleges and universities), OhioLink (an electronic network of college and university libraries), 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.

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

(sec. 3345.22)

The bill 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 bill eliminates the requirement that the president must immediately notify the

Chancellor of the Ohio Board of Regents of the arrest. In addition, the bill specifies that the president of the college or university, not the Chancellor of the Board of Regents as under existing law, must appoint the referee to conduct the hearing at which it is determined whether the arrested person will be immediately suspended.

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

#### **Number of eligible individuals permitted to participate in Ohio National Guard Tuition Grant Program**

**Existing law.** Existing law currently limits the number of participants in the Ohio National Guard Tuition Grant Program to 4,000 per academic term (sec. 5919.34(B)).

**Operation of the bill.** The bill changes the number of eligible individuals permitted to participate in the Grant 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. 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. (Sec. 5919.34(B).)

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

**Existing law.** Allows 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 (sec. 5919.34(D)).

#### **Operation of the bill**

The bill increases from 60% to 100% the percentage of the amounts described above that an instructional grant under the Grant Program may pay (sec. 5919.34(D)).

#### **Modification of exemption from liability for the repayment of instructional grants from the Ohio National Guard Tuition Grant Program**

**Existing law.** Currently, 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. A grant recipient is not liable for repayment if the recipient fails to complete the term of enlistment because of any of the following (sec. 5919.34(F)):

- (1) The recipient's death;
- (2) The recipient's discharge from the National Guard due to disability;
- (3) The recipient's enlistment, for a term not less than the recipient's remaining term in the National Guard, in the active or reserve forces of the United States Armed Forces.

***Operation of the bill.*** The bill modifies the exception described in (3), above, to the liability of a recipient to repay an instructional grant. Under the bill, 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 instructional grants 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 bill, a recipient of an instructional grant is liable for the repayment of the instructional grants the recipient received 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. (Sec. 5919.34(F).)

***Requirement that National Guard member apply for and accept all grants, scholarships, and other financial aid before the member can receive an instructional grant***

The bill requires a member of the National Guard to apply for and accept all available grants, scholarships, and other financial aid, other than benefits available under the Montgomery G.I. Bill Act of 1984, before the member can receive an instructional grant under the Grant Program. The bill requires the Adjutant General to reduce any instructional grants a member receives by the amount of other grants, scholarships, and financial aid, other than benefits received under the Montgomery G.I. Bill Act of 1984, the member receives. (Sec. 5919.34(B).)

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

The bill requires the Adjutant General to report to the Ohio Board of Regents the number of students in the Grant Program at each institution of higher education and requires the Adjutant General and the Ohio Board of Regents to provide for payment of the appropriate number and amount of instructional grants to institutions of higher education (sec. 5919.34(G)).

### **Definition of "academic term"**

The bill defines "academic term" for purposes of the Grant Program as any one of the following (sec. 5919.34(A)(1)):

- (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.

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

(sec. 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. Moneys in the Fund specifically are to be invested pursuant to section 135.143 of the Revised Code, 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 bill 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 bill 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 bill 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.

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
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