Jennifer Stump *Legislative Service Commission*

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124th General Assembly
(As Introduced)

Rep. Hoops

BILL SUMMARY

- Eliminates the requirement that school districts implement competency-based education programs.
- Directs the State Board of Education to develop statewide academic standards for each of grades kindergarten through twelve in reading, writing, math, science, and social studies.
- Requires the State Board to design a model curriculum aligned with the academic standards which school districts *may* (but are not required to) use for instruction.
- Directs the State Board to develop diagnostic assessments aligned with the academic standards for grades kindergarten through two in reading, writing, and math and for grades three through eight in all five subject areas covered by the standards.
- Requires school districts to administer the diagnostic assessments at least once annually to all students in the appropriate grade levels.
- Requires school districts to provide intervention services to students whose scores on the diagnostic assessments show that they are unlikely to meet the academic standards.
- Permits "high-performing" school districts to use assessments other than the diagnostic assessments.
- Phases in the development of 15 achievement tests (total) in third, fourth, fifth, seventh, eighth, and tenth grades to replace 20 proficiency tests currently administered in fourth, sixth, ninth, and twelfth grades.

- Eliminates the twelfth grade proficiency test and the accompanying $500 scholarship at the end of the 2000-2001 school year.

- Requires the State Board to align the new achievement tests with the academic standards.

- Requires the State Board to prescribe four ranges of scores--advanced, proficient, basic, and below basic--for the third, fourth, fifth, seventh, and eighth grade achievement tests.

- In a manner similar to current law, requires school districts and public community schools to provide intervention services to students scoring below the "proficient" range on a fourth, fifth, seventh, or eighth grade achievement test.

- Permits school districts and public community schools to use a "below basic" score on a fourth, fifth, seventh, or eighth grade achievement test "as a factor in any decision to deny promotion" to the next grade level.

- Requires the State Board to establish four ranges of scores--advanced, proficient, basic, and below basic--on the fourth grade reading proficiency test.

- Changes the fourth grade reading guarantee to provide school districts with three specific options for students who receive a *below basic* score on the fourth grade reading proficiency test: (1) promotion to fifth grade if the principal and reading teacher agree that other evaluations of the student's work indicate the student is academically prepared for fifth grade, (2) promotion to fifth grade with "intensive intervention" in that grade, or (3) retention in fourth grade.

- Replaces the fourth grade reading guarantee with a third grade reading guarantee beginning July 1, 2003.

- Provides school districts with three options for students who receive a *below basic* score on the third grade reading achievement test in the third or fourth grade: (1) promotion to the next grade if the principal and reading teacher agree that other evaluations of the student's work indicate the student is academically prepared for the next grade, (2) promotion to the next grade with "intensive intervention" in that grade, or (3) retention in the current grade.

- Provides that if a school district requires that certain specified students attend after-hours or summer intervention services, those students are truant if they do not attend the services.

- Provides for inserting "questions" to identify gifted students in assessments otherwise designed as diagnostic instruments for students in grades kindergarten through eight.

- Repeals all current performance indicators and requires the Department of Education to establish new indicators.

- Requires the Department to issue report cards for individual school buildings in addition to school districts.

- Requires the State Board to establish a standard unit of improvement for individual school buildings and requires school districts to develop continuous improvement plans for buildings within the district that are not effective.

- Mandates that the State Board recommend an intervention plan to the General Assembly for consistently failing districts and schools.

- Requires the Department to identify research on the effective use of instructional time and to disseminate such studies through the Ohio SchoolNet Commission.

- Mandates that the State Board recommend a plan to the General Assembly for implementation of end-of-course exams as an alternative to passage of the tenth grade achievement tests for high school graduation.

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CONTENT AND OPERATION

Overview

Based upon recommendations of the Governor's Commission for Student Success, the bill creates a system of instruction and assessment around a core set of academic standards and model curricula in reading, writing, math, science, and social studies. Diagnostic assessments and achievement tests are to be aligned with the academic standards so that expectations of what students need to learn, recommended classroom teaching, and student evaluations are consistent. The bill repeals all aspects of the current local competency-based education programs, although some similar elements are proposed under the new system.

As part of the new system, a battery of 15 achievement tests eventually will replace the 20 proficiency tests currently administered. All of the achievement tests, except for the tenth grade tests, have multiple ranges of scores for assessing student performance rather than the one "proficiency" score currently used to indicate passage of the proficiency tests. Students who do not attain a "proficient" score on any of the achievement tests administered through the eighth grade (or who demonstrate difficulty in a subject area on a diagnostic assessment) must receive some remediation to improve their skills. The bill also changes the current fourth grade reading guarantee to a third grade reading guarantee beginning in the 2003-2004 school year and expressly expands the options available to school districts beginning next year for students who perform poorly on the tests.

To judge how well schools are performing under the new educational requirements, the bill extends Ohio's accountability system of academic ratings to individual schools and requires them to be classified according to their performance on specific indicators just as entire districts are under current law.

Elimination of competency-based education programs

(secs. 3301.0715 and 3301.0716)

Current law requires every school district to implement a competency-based education program for composition, math, science, citizenship, and reading for all of grades one through twelve. Among other things, each model competency-based education program must include all of the following:

(1) Student performance objectives;

(2) Curricula and instructional methods designed to ensure students attain the performance objectives;

(3) Periodic assessments (which may involve methods other than written testing) to measure student progress toward achieving the performance objectives;

(4) Intervention services for students in grades one through eleven who are not making adequate progress.

Upon request from the State Board of Education, school districts must furnish the State Board with data on the number and percentage of students, by grade level and school building, who are not making satisfactory progress toward the performance objectives based upon the assessments administered.

To aid school districts in developing their local competency-based education programs, the State Board is required to establish model competency-based education programs for each of grades pre-kindergarten through twelve in

composition, math, science, citizenship, and reading.[1] Each model program consists of performance objectives, a model curriculum for instruction, recommended assessment methods for measuring student performance, and recommended intervention services for helping students who are not attaining the performance objectives.

Under current law, school districts may use the model competency-based education programs developed by the State Board in their entirety or solely as a resource in designing their local programs. However, they are not required to implement any part of the model programs.

The bill repeals immediately all requirements that school districts implement competency-based education programs and that the State Board develop model competency-based education programs.

Alignment of academic standards, curriculum, and diagnostic assessments

Development of statewide academic standards

(sec. 3301.079(A) and (B); Section 7)

The bill directs the State Board of Education to develop statewide academic standards for each of grades kindergarten through twelve in reading, writing, math, science, and social studies. Each set of standards must describe the academic content and skills that students are expected to learn and display at a particular grade level. Once the State Board has developed any set of standards, it must inform each school district of the content of those standards.

Under the bill, the State Board must complete its academic standards for third grade reading and tenth grade reading, writing, and math by July 1, 2001.[2] The bill contains no deadlines for the development of standards for other grade levels or subject areas.

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[1] *The State Board may also establish a model competency-based education program for any other subject area at any grade level, except that any such program in health or physical education must be approved by the General Assembly through adoption of a concurrent resolution after at least one public committee hearing in each chamber.*

[2] *According to the report of the Governor's Commission for Student Success (December 14, 2000), the Joint Council, a group composed of members of the State Board of Education and the Ohio Board of Regents, has already explored the development of academic standards in reading, writing, and math.*

Development of a model curriculum aligned with the academic standards

(sec. 3301.079(C))

Under the bill, within one year after the completion of academic standards for any grade level in any subject area, the State Board must develop a model curriculum for that grade and subject and make it available for use as an instructional tool by school districts. The bill specifies that the model curriculum must be aligned with the academic standards so that use of the model curriculum ensures that students are taught the academic content and skills expected for their grade level. In developing each model curriculum, the State Board must consult with classroom teachers and other educators from Ohio with expertise in the relevant subject area. The State Board must notify school districts of the content of each model curriculum upon its completion.

As under current law (see "***Elimination of competency-based education programs***" above), school districts are not required to utilize any part of a model curriculum developed by the State Board. Districts may, however, incorporate all or any part of a model curriculum into their own curriculum along with other resources, examples, or models. If requested by a school district, the Department of Education must provide technical assistance to the district in implementing a model curriculum.

Development of diagnostic assessments aligned with the academic standards

(secs. 3301.079(D) and (E), 3314.03(A)(11)(d), 3324.02(A) and (D), and 3324.03(A) and (B); new sec. 3301.0715)

Background. Diagnostic assessments are tools designed to provide feedback on a student's academic strengths and weaknesses. As opposed to tests used to indicate how much knowledge a student has relative to how much knowledge they *should* have at a certain point (like the current proficiency tests), diagnostic assessments are used to alter instruction to focus on elements of study that a student has not yet mastered. For instance, a diagnostic assessment in math may indicate that a student performs well with decimals but struggles with fractions. This type of information enables a teacher to concentrate on those areas where a student needs longer or more intense instruction.

Development of diagnostic assessments (sec. 3301.079(D)(1), (D)(3), and (E)(1)). To gauge student progress toward reaching the statewide academic standards and to assist school districts in targeting intervention, the bill requires the State Board to develop a diagnostic assessment for each of grades kindergarten through two in reading, writing, and math and grades three through eight for those

subjects as well as science and social studies. No diagnostic assessments are required for the high school grades. Current law regarding competency-based education programs mandates assessments each year through eleventh grade as well as assessments in science and citizenship for grades one and two (see "***Elimination of competency-based education programs***" above).

Each diagnostic assessment must be developed no later than one year after the completion of the academic standards for the corresponding grade level and subject area. All diagnostic assessments must be aligned with the academic standards and be designed to measure student comprehension and mastery of the content of the standards.[3] The bill directs the State Board to consult with teachers and other educators from Ohio with expertise in the appropriate subject area during the development phase of each diagnostic assessment. When the development of any diagnostic assessment has been completed, the State Board must make it available to all school districts, which generally must begin administering the assessment in the next school year.

Administration of diagnostic assessments (new sec. 3301.0715(A), (B), and (E); sec. 3314.03(A)(11)(d)). With one exception, every school district must administer the diagnostic assessments developed by the State Board at least once annually to all students in the appropriate grade levels to evaluate their progress in attaining the academic standards. The exception is that school districts designated by the State Board as "high-performing" districts are exempt from the requirement to administer the state diagnostic assessments, although they still must measure student progress using any other assessment they prefer. The bill does not prescribe any criteria for the State Board to use in determining what constitutes a "high-performing" school district. Therefore, such districts may not necessarily coincide with those districts declared "effective" school districts because of their ratings on the state performance standards in current law.[4]

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[3] *Although a diagnostic assessment need not be a written test, and is not required to be under the bill, the assessments developed by the State Board may take this form in most cases for the purpose of standardization.*

[4] *Under current law, a school district is classified as "effective" if it meets at least 94% of the state performance standards listed in R.C. 3302.02. The bill eliminates these performance standards and directs the Department of Education to annually establish new performance indicators for the purpose of classifying school districts. An "effective" school district, however, still must meet 94% of the new performance indicators to maintain its classification. (See "**Repeal of current report card performance indicators and creation of new indicators**" below.)*

Community schools, which are exempt from many state laws and rules pertaining to public schools, are also exempt under the bill from administering any diagnostic assessments.

The bill grants districts considerable flexibility in the administration of the diagnostic assessments, leaving it to each district to decide the number and dates of administrations throughout the year. As indicated in the bill, for example, a district may administer a diagnostic assessment in both the fall and spring of a school year to measure the "value added" effect of the instruction, or the amount of individual learning that has taken place over the course of the year. In addition, a district may administer a diagnostic assessment at any time to a student in a grade other than the grade for which the assessment was developed in order to ascertain where the student stands academically.

Scoring of diagnostic assessments (new sec. 3301.0715(C)). School districts are responsible under the bill for the scoring of all diagnostic assessments. The Department of Education, however, must establish rules for districts to follow regarding their proper use and scoring to ensure that the scoring method does not vary across districts. Whereas results from the assessments conducted under the local competency-based education programs are required under current law to be reported to the State Board upon request (see "***Elimination of competency-based education programs***" above), there are no similar reporting requirements in the bill for any scores or other data derived from the diagnostic assessments.

Provision of intervention services (new sec. 3301.0715(D)). Based upon the results of the diagnostic assessments (or other assessments in the case of "high-performing" districts), districts must provide intervention services to students who are not making satisfactory progress toward the attainment of the statewide academic standards for their grade level. This is the same broad requirement for the provision of intervention services to students who are not reaching the performance objectives as under the current competency-based education law (see "***Elimination of competency-based education programs***" above). The bill does not specify the types of intervention services that districts must offer or establish any guidelines for their implementation.

Use of diagnostic assessments for identifying gifted students (secs. 3301.079(D)(1), 3324.02(A) and (D), and 3324.03(A) and (B)). The bill requires all diagnostic assessments to include questions designed to identify students who are academically gifted. School districts may rely on the diagnostic assessments, in accordance with guidelines set by the Department of Education, or may use them in conjunction with other assessment instruments approved by the Department for the identification of such students. (See "***Identifying gifted students***" below.)

Replacing proficiency tests with achievement tests

Background on current proficiency test law

Current law requires each school district and each public community school (popularly called "charter schools") to annually administer five proficiency tests in each of four grades: fourth grade, sixth grade, ninth (or eventually tenth) grade, and twelfth grade. The tenth grade testing is scheduled to begin in the 2002-2003 school year to replace ninth grade testing. The five subject areas tested in each of these grades are reading, writing, math, science, and citizenship.

Chartered *nonpublic* schools also must administer the ninth (and soon-to-be tenth) grade proficiency tests, because passing them is required by law for a student to receive a diploma from a chartered nonpublic school. But chartered nonpublic schools voluntarily may also administer proficiency tests in fourth, sixth, and twelfth grades. Nonpublic schools that are not chartered by the state may not administer tests, and passing the tests is not required for their graduates to receive diplomas.

Development and phase-in of new achievement tests

(secs. 3301.079(D)(2), (D)(3), and (E)(2) and 3301.0710(A)(1))

The bill cancels the twelfth grade proficiency tests and phases in new "achievement tests" to replace proficiency tests in the fourth, sixth, and tenth grades. The bill retains the five areas to be tested, but changes the "citizenship" category to the seemingly broader "social studies," and spreads the fourth and sixth grade tests across more grade levels to avoid all five areas being tested in one year. All five tenth grade tests, however, are to be given in the same timeframe as the current ninth grade tests. The following tables compare the current proficiency test framework with the achievement test design proposed by the bill.

Current Proficiency Tests					Proposed Achievement Tests				
Reading	**Writing**	**Math**	**Science**	**Citizen-ship**	**Reading**	**Writing**	**Math**	**Science**	**Social Studies**
4th	4th	4th	4th	4th	3rd	4th	4th	5th	5th
6th	6th	6th	6th	6th	7th	7th	7th	8th	8th
9th/ 10th†	9th/ 10th†	9th/ 10th†	9th/ 10th†	9th/ 10th†	10th	10th	10th	10th	10th
12th	12th	12th	12th	12th	None	None	None	None	None

† Current law requires passage of the ninth grade proficiency tests to receive a diploma prior to September 15, 2004. Beginning on that date, a student must pass tenth grade proficiency tests to receive a diploma. Tenth grade testing is scheduled to begin during the 2002-2003 school year.

CURRENT	**REPLACED WITH**
4th grade reading proficiency test	3rd grade reading achievement test
4th grade writing proficiency test	4th grade writing achievement test
4th grade math proficiency test	4th grade math achievement test
4th grade science proficiency test	5th grade science achievement test
4th grade citizenship proficiency test	5th grade social studies achievement test
6th grade reading proficiency test	7th grade reading achievement test
6th grade writing proficiency test	7th grade writing achievement test
6th grade math proficiency test	7th grade math achievement test
6th grade science proficiency test	8th grade science achievement test
6th grade citizenship proficiency test	8th grade social studies achievement test
9th/10th grade reading proficiency test	10th grade reading achievement test
9th/10th grade writing proficiency test	10th grade writing achievement test
9th/10th grade math proficiency test	10th grade math achievement test
9th/10th grade science proficiency test	10th grade science achievement test
9th/10th grade citizenship proficiency test	10th grade social studies achievement test

CURRENT	REPLACED WITH
12th grade reading proficiency test	(12th grade tests eliminated)
12th grade writing proficiency test	(12th grade tests eliminated)
12th grade math proficiency test	(12th grade tests eliminated)
12th grade science proficiency test	(12th grade tests eliminated)
12th grade citizenship proficiency test	(12th grade tests eliminated)

Alignment with state standards. The State Board of Education must align each achievement test with the academic standards it develops for the subject area and grade level. It must consult with Ohio classroom teachers and educators with expertise in the subject area when developing any achievement test.

Phase-in of achievement tests. The bill directs that the current proficiency tests continue to be administered while the achievement tests are being developed. The requirement that the new tests be aligned with the academic standards probably will mean that the achievement tests will come to replace the proficiency tests gradually.[5] The bill requires that when an achievement test is completed, the State Board must inform the school districts of that fact and the Department of Education must make the new test available to the districts. The school districts must begin administering each new achievement test in the *second* year after it is developed.

Scoring of achievement tests

(sec. 3301.0710(A)(2) and (B))

Current law requires the State Board of Education to designate a score on each proficiency test that demonstrates "proficiency" in the subject area for that grade level. The bill explicitly directs the State Board to prescribe, for all achievement tests except the tenth grade tests, at least four ranges of scores demonstrating:

(1) An advanced level of skill;

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[5] *Although the bill requires that diagnostic assessments be developed within one year after the State Board develops standards for a subject area and grade level, it does not specify a time frame within which the achievement tests must be developed. But the requirement to align the achievement tests with the academic standards presumably requires that the standards be developed first, and then the tests.*

(2) A proficient level of skill;

(3) A basic level of skill;

(4) A below basic level of skill.

For the tenth grade tests, the bill maintains the current law directing only a "proficient" score.

District responses to lower scores on proficiency or achievement tests

(secs. 3301.0711(D), (E), and (M), 3313.608, and 3314.03(A)(11)(d))

Intervention services (secs. 3301.0711(D) and 3314.03(A)(11)(d)). Current law requires school districts and public community schools to provide "intervention services" in fifth grade to any student who does not attain a score demonstrating proficiency on a fourth grade proficiency test. These services must address the subject area or areas in which the student scored lower than proficient as a fourth grader. The bill adapts this requirement for its phase-in of the third, fourth, and fifth grade achievement tests, requiring intervention services in the next school year for any subject area in which the student scores below the proficient range on those tests. It clarifies that the requirement continues to apply to the old fourth grade proficiency tests that continue to be administered while the achievement tests are being developed. Moreover, it specifies that the intervention services must be "commensurate with the student's test performance."[6]

Retention in grade (secs. 3301.0711(E) and (M), 3313.608, and 3314.03(A)(11)(d)). The bill retains current law that generally prohibits most school districts and community schools from using scores on proficiency tests when deciding whether to deny a student promotion to the next grade level. The exceptions to this policy under *current law* are:

(1) The fourth grade reading guarantee, which requires school districts (but not community schools) to retain a fourth grader who scores below proficient on the fourth grade reading proficiency test (beginning with students entering fourth grade after July 1, 2001), unless the student's reading teacher and principal agree that the student is academically prepared for fifth grade;

(2) An option that allows, but does not require, school districts to retain a fourth or sixth grader who does not attain proficiency scores on three out of five proficiency tests; and

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[6] *Presumably, this means that intervention services would be more extensive for students who score at the below basic level than for students who barely miss the proficient score.*

(3) An option that allows, but does not require, school districts to retain a student who fails to take a proficiency test, if the student has not been exempted because of a disability or other reason stated in the law.

The bill retains this last exception and revises the two others. First, it revises the fourth grade reading guarantee, and the new third grade reading guarantee that will replace it, to make retention one of *several options* a district may take with respect to third or fourth graders scoring at a low level on the reading test (see "***Changes to fourth grade guarantee***" and "***Third grade reading guarantee***" below). Second, it changes the three-out-of-five standard of current law to allow districts the option of using a *below basic* score on any one achievement test "as a factor in any decision to deny . . . promotion" of fourth, fifth, seventh, and eighth graders.

Administration of achievement tests

(secs. 3301.0710(C) and 3301.0711(B))

As with most proficiency tests currently, the new achievement tests generally are to be administered at least once a year, in mid-March (specifically, no earlier than Monday of the week in which March 15 falls). The exceptions, as is also the case with the current proficiency tests, are the third grade reading test and all five of the tenth grade tests.

To provide more opportunities for third grade students to meet the "third grade reading guarantee," the bill directs that the third grade reading achievement test be administered three times: once before December 31, once no earlier than Monday of the week in which March 15 falls, and once during the summer for students receiving summer remediation services. But no student need re-take the test once he or she has attained the "proficient" score (see "***Scoring of achievement tests***" above). This is the same testing frequency and schedule mandated by current law for the fourth grade reading proficiency test beginning in the 2001-2002 school year.[7]

Also similar to the current law, the tenth grade achievement tests must be administered more frequently because passing them is a prerequisite to receiving a diploma. For tenth graders, they must be administered at least once no earlier than Monday of the week in which March 15 falls. For eleventh and twelfth graders, tests they have not yet passed must be administered at least twice a year: once prior to December 31 and once prior to March 31. School districts also must

[7] *Beginning in 2003, the third grade test must also be given twice in the fourth grade and once in the fifth grade to students who have not yet attained the "proficient" score.*

continue (as they must under current law for the proficiency tests) to administer the tenth grade achievement tests to any person who has completed the high school curriculum but has not received a diploma because he or she has not yet passed all of the tenth grade tests.

Testing requirements for high school diploma

(secs. 3313.61, 3313.611, 3313.612, and 3314.03(A)(11)(f); Sections 6, 7, 8, and 9)[8]

Current law. Ohio law currently requires that students pass five ninth grade or tenth grade proficiency tests as a condition of receiving a high school diploma from a school district, public community school, or a chartered nonpublic school, unless excused from a particular test because of a disability. Students who enter tenth grade before July 1, 2002, need to pass ninth grade proficiency tests to receive a diploma, but must pass them before September 15, 2004. Passage of the tenth grade tests is required of students who enter tenth grade after July 1, 2002, as well as of students who entered tenth grade before then but fail to pass all of the ninth grade tests by September 15, 2004. Tenth grade proficiency tests are scheduled to be administered to tenth graders for the first time in March 2003.

The bill. The bill maintains this general framework, with the tenth grade class of 2002-2003 being the first to take the tenth grade tests. But instead of five tenth grade proficiency tests, those students must take three tenth grade achievement tests (reading, writing, and math) and two ninth grade proficiency tests (science and citizenship).[9] The tenth grade science and social studies achievement tests will replace the ninth grade science and citizenship proficiency tests as a diploma requirement beginning in the fifth year after the State Board of Education develops its model tenth grade curricula for these subject areas. This means that the new tenth grade science and social studies tests must be administered to tenth graders beginning in the third year after the model curricula are developed. Older individuals who do not pass the proficiency tests before the fifth year after the model curricula are developed also must pass the tenth grade science and social studies tests to receive a diploma.

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[8] *See also R.C. 3325.08, not in the bill.*

[9] *Section 7 of the bill requires the State Board of Education to develop statewide academic standards for tenth grade reading, writing, and math no later than July 1, 2001.*

The Bill's Testing Requirements for a High School Diploma

High School Class of	Reading	Writing	Math	Science	Citizenship	Social Studies
2001 through 2004	9th grade Proficiency Test‡	9th grade Proficiency Test‡	9th grade Proficiency Test‡	9th grade Proficiency Test‡	9th grade Proficiency Test‡	
2005 through 4th year after model curricula in science and social studies completed	10th grade Achieve-ment Test	10th grade Achieve-ment Test	10th grade Achieve-ment Test	9th grade Proficiency Test	9th grade Proficiency Test	
Beginning in 5th year after model curricula in science and social studies completed	10th grade Achieve-ment Test	10th grade Achieve-ment Test	10th grade Achieve-ment Test	10th grade Achieve-ment Test		10th grade Achieve-ment Test

‡ Same as current law. Students who enter tenth grade prior to July 1, 2002, and pass all ninth grade proficiency tests prior to September 15, 2004 (unless excused because of a disability) may receive a diploma by passing ninth grade proficiency tests. Tenth grade achievement tests are administered beginning with students entering tenth grade in the 2002-2003 school year. Beginning September 15, 2004, passage of tenth grade tests is required for a diploma, regardless of when the student entered tenth grade.

Graduates of community schools and chartered nonpublic schools remain subject to testing (secs. 3313.612 and 3314.03(A)(11)(f)). High school students of public community schools and chartered nonpublic schools remain subject under the bill to the high school testing requirements to receive their diplomas.

Current exemptions retained for achievement tests

School districts currently are required by law to administer proficiency tests to every student in each grade level for which the tests are developed, unless the student is excused for a reason specified in statute. The bill continues this policy

for its achievement tests. As under current law, the consequence for a student missing a test without a statutorily prescribed excuse is that the school district may not count that student in its enrollment the following school year for purposes of calculating state funding. That is, the school district loses state funding for that student the next year. However, the state Superintendent of Public Instruction may waive this requirement on a student-by-student basis, thereby allowing the continued flow of state funds for the student to the district, but "only for good cause and in accordance with rules adopted by the State Board of Education."[10]

There currently are three circumstances specified in statute that excuse a student from a proficiency test, which the bill retains and applies to its achievement tests.

(1) Special education students excused by IEPs (secs. 3301.0711(C)(1) and (L)(3), 3302.03(E), 3313.608(B), 3313.61(A)(2) and (C), 3313.611(B)(3), and 3313.612(A)).[11] A special education student for whom an individualized education program (IEP) has been prepared is not required to take any achievement test from which the IEP excuses him or her. An IEP might excuse a student from one or more (or all) of the tests at any grade level. If a student's IEP excuses him or her from the third grade reading achievement test, the student is not subject to the provisions of the "third grade reading guarantee." If the IEP excuses the student from any of the ninth grade proficiency tests or tenth grade achievement tests, then passage of those particular tests is not required for a diploma. No school district, however, may prevent a student who has been excused from a test by his or her IEP from taking the test if he or she so requests. But voluntarily taking a test from which he or she was excused still does not subject the student to the third grade reading guarantee or make a diploma contingent on taking that test.

(2) Foreign high school students exempted from passing social studies test (secs. 3313.61(H), 3313.611(B)(3), and 3313.612(B)). A high school student who is not a U.S. citizen need not pass the ninth grade citizenship proficiency test or the tenth grade social studies achievement test to receive a diploma, so long as the student (1) is not a permanent resident of the United States and (2) indicates no intention to reside in the United States after completing high school.

(3) English-limited students (secs. 3301.0711(C)(3), 3313.61(K), 3313.611(E), and 3313.612(C)). A student is excused from taking any proficiency or achievement test if (1) the student's primary language is not English and (2) the

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[10] *R.C. 3317.03(E), not in the bill.*

[11] *See also R.C. 3313.532 and 3325.08(A)(2), neither section in the bill.*

student has been enrolled in U.S. schools for less than two full school years. That is, once a student whose language is not English has been enrolled in U.S. schools for two school years, he or she becomes subject to proficiency and achievement testing. Moreover, the English-limited exemption can never be used to excuse a high school student from the requirement to pass proficiency or achievement tests to earn a diploma.

Community schools must continue to administer all achievement tests

(sec. 3314.03(A)(3) and (A)(11)(d))

As under current law for proficiency tests, public community schools must administer all of the bill's achievement tests if they serve a grade level for which a test is developed.

Chartered nonpublic schools may voluntarily administer achievement tests to elementary students

(sec. 3301.0711(K))

Also as under current law for proficiency tests, the bill permits chartered nonpublic schools to voluntarily administer achievement tests to their third, fourth, fifth, seventh, and eighth grade students. The Department of Education must furnish the tests to any chartered nonpublic school electing to do so. (They *must* administer the tenth grade tests because passing those tests is required for a diploma from a chartered nonpublic school.)

Elimination of twelfth grade proficiency test and scholarship

(secs. 3301.0710, 3301.0711, and 3365.15)

Current law requires all twelfth graders who have passed the ninth grade proficiency tests in all five subjects to take twelfth grade level tests in those five subjects. Twelfth graders need not receive a passing score on any or all of the exams in order to graduate. If, however, a twelfth grader passes all five proficiency tests and decides to enroll in a two or four-year college or university in Ohio, the student receives a $500 scholarship from the Board of Regents.

The bill abolishes the twelfth grade proficiency test requirement and the scholarship for all students who enroll in the twelfth grade after July 1, 2001.

Establishment of third grade reading guarantee

(secs. 3301.0710(C)(1), 3301.0711(B)(1) and (D), 3313.608, and 3321.041; Sections 3, 4, 5, and 10)

Background: fourth grade reading guarantee

(sec. 3313.608)

In 1997, the 122nd General Assembly enacted Am. Sub. S.B. 55 concerning the academic accountability of school districts. One of the provisions of that act, commonly known as the "fourth grade guarantee," aims at ensuring that students are reading at a fourth grade level before being promoted to fifth grade. Under that act, beginning July 1, 2001, school districts (but not community schools) are prohibited from promoting to fifth grade any student who does not pass the fourth grade reading proficiency test. There are, however, two exceptions that allow a fourth grader to be promoted without passing that test. First, if the student's principal and reading teacher agree that the student is academically prepared for the fifth grade, the student may be promoted. The definition of "academically prepared" is determined by each district in its promotion and retention policy. Second, a student with a disability may be promoted if the student's individualized education program (IEP) excuses the student from taking the test.

To give students multiple opportunities to pass the fourth grade reading test, it is administered three times a year beginning in the 2001-2002 school year: once before December 31, once no earlier than the Monday of the week containing March 15, and once during the summer before fifth grade. Students who do not pass the test during the school year must be offered intense summer remediation services before taking the test for the third time. Currently, a student's participation in summer remediation is optional.

School districts are also required to assess each student's reading skills at the end of first, second, and third grade to identify students who might have difficulty passing the fourth grade reading test. Those students who are reading below their grade level must be offered intervention services, including intense summer remediation after third grade. The students' classroom teachers must be involved in the assessment and identification of students with weak reading skills. Districts must involve a student's parent, as well as the classroom teacher, in developing an intervention strategy for improving a student's reading ability.

Phasing out of the fourth grade guarantee

(Sections 3, 4, 5, and 10)

Under the bill, the fourth grade reading guarantee will be replaced with a third grade reading guarantee beginning in 2003 when the new third grade reading achievement test is available. The purpose of the new guarantee, as with the current fourth grade one, is to ensure students have developed sufficient reading skills relatively early in their academic careers. The bill provides for a transition from the fourth grade to the third grade guarantee by continuing the administration of the fourth grade proficiency test in the 2001-2002 and 2002-2003 school years. Temporary law also creates one transition year (2003-2004) during which the fourth grade reading proficiency test will be administered to fourth graders and the third grade reading achievement test will be administered to third graders (Section 10). The one-year overlap is necessary to avoid a class of fourth graders who would not take any reading test at all.

The bill modifies the provisions for intervention for students who are not reading at grade level, whether they are subject to the fourth grade guarantee or the new third grade one.

Changes to fourth grade guarantee (sec. 3313.608). As is the case for all the new elementary school achievement tests (including the new third grade reading achievement test), the bill requires the State Board of Education to establish at least four ranges of scores to reflect student reading levels on the fourth grade proficiency test during the phase-in period. The specified ranges (advanced, proficient, basic, and below basic) replace the current requirement for the State Board to simply establish one score that reflects reading proficiency at a fourth grade level. During the phase-in period, in lieu of the current requirement for districts to retain fourth graders who do not attain the *proficient* score on the fourth grade reading proficiency test (unless the principal and reading teacher agree a student is capable of fifth grade work), the bill requires school districts to exercise one of three options with respect to fourth graders who attain a score in the *below basic* range on that test. These options are:

(1) Promotion to fifth grade if the principal and reading teacher agree, based upon other evaluations of the student's reading skill, that the student is academically prepared for fifth grade work;

(2) Promotion to fifth grade, but only with "intensive" intervention services in that grade;

(3) Retention in fourth grade.

During the phase-in period, the intervention requirements of current law continue to apply to students in first, second, and third grade who are reading below grade level.

Third grade reading guarantee

(sec. 3321.041; Section 3)

As is the case under current law (and during the phase-in) for fourth graders, third graders who do not attain a score in the *proficient* range on the new achievement test (this includes scores in either the basic or below basic range) must receive intense remediation services and another opportunity to take the test in the summer following third grade. Third graders who score in the *below basic* range on the summer administration of the test will be subject to one of the same three school district options listed above for fourth graders during the phase-in period. That is, with respect to these third graders, districts must choose one of the following:

(1) Promotion to the fourth grade if the principal and reading teacher agree, based upon other evaluations of the student's reading skill, that the student is academically prepared for fourth grade work;

(2) Promotion to the fourth grade, but only with "intensive" intervention services in that grade;

(3) Retention in third grade.

As is the case under current law for the fourth grade guarantee, school districts must continue to annually assess students subject to the third grade guarantee at the end of first and second grade and provide them with intervention services if they are reading below grade level. Instead of the locally selected assessment instruments allowed currently, however, the bill specifies that when the reading diagnostic assessments for first and second grades become available, all districts, except those declared "high performing," must use the appropriate assessment to identify students in need of intervention (see "***Development of diagnostic assessments aligned with the academic standards***" above).

For students who are promoted to fourth grade without attaining the proficient score on the third grade reading achievement test, the bill provides several opportunities to retake the third grade test in the fourth and fifth grades. The test is administered to fourth graders three times a year according to the time guidelines under current law for the administration of the fourth grade reading proficiency test. Students must continue to retake the test until they receive a score in the proficient range. Students who do not attain a proficient score in the

fourth grade have a final chance to take the third grade reading achievement test during the spring of fifth grade.

For *fourth* graders who attain a score in the *below basic* range on the third grade reading test administered during the summer following fourth grade, school districts must choose from among the same three options for promotion or retention available for third graders who attain a below basic score on the reading test: (1) promotion to fifth grade if the principal and reading teacher agree other evaluations of the student's work demonstrate the student is academically prepared for fifth grade, (2) promotion to fifth grade with "intensive" intervention services, or (3) retention in fourth grade. The bill does not establish any consequences for a fifth grader who attains a below basic score on the third grade reading achievement test.

The bill permits school districts to require student participation in any intervention services required under the third grade guarantee. The bill extends the compulsory attendance law to cover any remediation a district chooses to make mandatory (see "***Students may be compelled to attend after-hours intervention services***" below).

Continuing provisions of current law

The bill retains the provision of current law exempting a special education student from passing any test, including the third grade reading achievement test, if an IEP excuses the student from taking it.

Under the bill, districts must continue to involve classroom teachers and parents in determining any intervention strategies for students.

Students may be compelled to attend after-hours intervention services

(secs. 3321.041 and 3321.38)

Background

Under continuing law, every child between 6 and 18 years old residing in the state is "of compulsory school age" and must attend school unless excused under statutorily specified conditions. A child of compulsory school age who is not excused from attendance must attend school for "the full time the school attended is in session."[12] (See **COMMENT** 1.) Any child who does not attend school as required by law is truant.

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[12] *R.C. 3321.01 and 3321.04, neither section in the bill.*

The law places the bulk of the responsibility on the child's parent to see that the child attends school. Several possible sanctions are provided. A school district may require the parent of a truant child to attend an educational program designed to encourage parental involvement in compelling the child's attendance at school. Failure to attend such a program without good cause is grounds for prosecution and a fine of up to $500 or ordered community service of up to 70 hours.[13] In addition, a child who is habitually or chronically truant may be adjudicated an unruly or delinquent child and the parent may be prosecuted for contributing to the unruliness or delinquency of the child.[14]

The law also stipulates in another provision that school districts may establish policies requiring parents of suspended and expelled students or of truant students to attend parental education programs. Failure to attend these programs is "parental education neglect" and is a fourth degree misdemeanor.[15]

The bill

Under the bill, as under current law, school districts are required to *offer* intervention services to students who fail to attain prescribed scores on certain proficiency tests, diagnostic assessments, and achievement tests (see "***Development of diagnostic assessments aligned with the academic standards***" and "***District responses to lower scores on proficiency or achievement tests***"

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[13] *R.C. 3321.19 (not in the bill), 3321.38, and 3321.99 (not in the bill).*

[14] *See R.C. Chapter 2151., not in the bill. A "chronic truant" is a child of compulsory school age who is absent from school without legitimate excuse for seven or more consecutive days, ten or more days in a month, or 15 or more days in a school year (R.C. 2151.011(B)(9)). A "habitual truant" is a child of compulsory school age who is absent from school without legitimate excuse for five or more consecutive days, seven or more days in a month, or 12 or more days in a school year (R.C. 2151.011(B)(18)). The juvenile justice law provides different levels of sanctions for chronically truant and habitually truant students. Depending upon circumstances, either might be adjudicated an unruly child or a delinquent child. If so adjudicated, the child may be subject to (among other sanctions) protective supervision, loss of driver's license or instruction permit, commitment to a foster home or children's services agency, or commitment to the Department of Youth Services. Contributing to the unruliness or delinquency of a minor is a first degree misdemeanor, which is punishable by up to one year in jail and up to a $1,000 fine (R.C. 2919.24 (not in the bill)).*

[15] *R.C. 2919.22 and 3313.663, neither section in the bill. A fourth degree misdemeanor is punishable by up to 30 days in jail and up to a $250 fine. It is unclear whether there is a relationship between the parental programs specified in these sections and the one established by sec. 3321.19.*

above). The bill, however, further provides that, *if* a school district *requires* as part of its education program that specified students attend intervention services after hours, the student *must* attend those services at those times. A school district is free to not make attendance at after-hours services mandatory. But if the district *does* make such attendance mandatory, those additional times, whether at night, on weekends, or in the summer, are considered part of the student's obligation to attend school under the compulsory attendance law. (See **COMMENT** 2.) Accordingly, the student's parent is also obligated to see that the student attends the after-hours services. Any failure to comply with this provision is grounds for applicable sanctions under the continuing truancy laws.

Identifying gifted students

(secs. 3324.02 and 3324.03)

Background

The education appropriations act of the 123rd General Assembly required each school district to develop a plan for identifying gifted students and to identify all gifted students enrolled by November 15, 2000. As part of its plan, each district had to select assessment and identification instruments from a list identified by the Department of Education as suitable for identifying students who meet the law's criteria for being "gifted." The Department also had to approve rules for the administration of any approved tests or assessment instruments and establish the scores or performance levels indicating "gifted" status for each test or assessment. To the extent possible, the Department was required to approve only tests or assessment instruments that utilized nationally recognized standards for scoring or were nationally normed.

Under the current law, students may be designated as gifted for any of the following reasons: (1) the possession of certain levels of general superior cognitive ability, (2) the demonstration of specific academic ability at a certain level in math, science, language arts, or social sciences, (3) possession of certain levels of creative thinking skills, or (4) demonstration of visual or performing artistic ability.[16]

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[16] *School districts must annually report to the Department of Education the number of students identified as gifted in each category in grades kindergarten through eleven. They also must develop "service plans" for providing services to students identified as gifted. However, the law specifically states that school districts do not have to actually implement any service plan until further action by the General Assembly or the state Superintendent of Public Instruction.*

Use of diagnostic assessments

The bill requires the Department of Education in developing the diagnostic assessments required by the bill (see "***Development of diagnostic assessments aligned with the academic standards***" above) to include "questions" to identify gifted students.[17] School districts would have the option of using these diagnostic assessments to identify gifted students in lieu of one of the other specific instruments approved by the Department under the current gifted identification statutes.

Potential limitations on usage of diagnostic assessments for identifying gifted students. The bill only requires the development of diagnostic assessments for reading, writing, and math in kindergarten through second grade and in all five achievement test areas in third through eighth grade. School districts would presumably continue to use the Department's approved "gifted" instruments for subject areas and grade levels not covered by the diagnostic assessments. Also, "high performing" districts that choose not to use the Department's diagnostic assessments would have to continue to use the Department's approved list of instruments for identifying gifted students.

Students who are gifted in the area of the visual or performing arts or in the area of creative thinking would probably continue to be identified using instruments other than the diagnostic assessments envisioned by the bill in the specific subject areas. However, it is possible that some combination of performances on the various diagnostic assessments would be viewed by the Department as indicative of being gifted due to a "general superior cognitive ability."

Phase-in. The bill contains no specific timeline for the phase-in of diagnostic assessments, except that they must be completed within one year after the completion of the academic standards for the applicable subject area and grade level.[18] Presumably, school districts would continue to use the gifted identification instruments on the Department's list and would have the option to use the diagnostic assessments as they become available.

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[17] *The intent of the bill appears to be to permit diagnostic assessments to consist of instruments other than "tests." Presumably, the intent also is to include some type of methodology for identifying* gifted students *in all diagnostic assessments, whether they involve test questions or some other assessment method, assuming that the current "state of the art" in student testing enables this to be done.*

[18] *The bill does require the third grade reading standards to be completed by July 1, 2001. This would require the third grade diagnostic assessment to be completed by July 1, 2002.*

Special provisions for identifying gifted subgroups

The current law requires school district screening and assessment plans to include "procedures" for identifying gifted "minority and disadvantaged students, students with disabilities, and students for whom English is a second language." The bill does not specifically require "embedded" diagnostic assessment questions to include these procedures. Presumably, if they did not, school districts would need to utilize other Department-approved assessments for identifying these subgroups.

Repeal of current performance indicators and creation of new indicators

(secs. 3302.02 and 3302.03)

Under current law, the Department of Education issues an academic rating for each school district every three years based upon the percentage of specific performance indicators met by the district. The Department also issues *annual* "report cards" for school districts based upon education and fiscal performance data of its choosing. School districts receive a rating of effective, continuous improvement, academic watch, or academic emergency depending upon the percentage of performance indicators met. These performance indicators consist of the district's graduation and attendance rates, and passage rates on the fourth, sixth, ninth (tenth), and twelfth grade proficiency tests. School districts that meet 94% of the indicators are deemed effective, districts that meet between 50% and 94% are declared to be in need of continuous improvement, districts that meet between 33% and 50% are declared to be under an academic watch, and districts that meet less than 33% are declared to be in a state of academic emergency.

The bill repeals the current performance indicators and mandates the Department of Education to create new ones on an annual basis. The Department must notify all school districts of the selected performance indicators at least one year before they are included in the district's rating. Ratings based upon these indicators must be issued annually, and the number of performance indicators that must be met to achieve each rating will vary as the Department adds new indicators. However, the bill maintains the ratings of effective, continuous improvement, academic watch, and academic emergency as well as the *percentages* of performance indicators that must be met to achieve those ratings. In addition, the bill retains the portion of current law that forbids the Department from establishing any indicator that is solely based on the autumn administration of the third or fourth grade reading test for the current fourth grade (and soon-to-be third grade) reading guarantee.

Report cards issued for individual school buildings as well as districts

(sec. 3302.03)

The Department of Education currently has to issue report cards and ratings for school districts only. Under the bill, the Department must issue report cards for individual school buildings in addition to report cards for entire school districts. The Department must also use the rating system of effective, continuous improvement, academic watch, and academic emergency for both individual buildings and districts. For example, a school district itself might be effective, but one building within the district could be rated as a continuous improvement building.

Establishment of standard unit of improvement for school buildings and requirement that school districts create continuous improvement plans for buildings that are not effective

(sec. 3302.04)

Current law requires the State Board of Education to establish a standard unit of improvement for school districts and requires school districts to develop a continuous improvement plan if the district receives any rating other than "effective." The bill changes both of these mandates by requiring the inclusion of individual school buildings. The State Board must create a standard unit of improvement for individual buildings as well as districts. Similarly, school districts must develop continuous improvement plans for any individual school within the district that does not receive an "effective" rating.

Under current law, school districts are subject to intervention only if the district in its entirety is under an academic watch or in a state of academic emergency. The bill would subject districts to intervention in the event that a school building within the district is deemed to be under an academic watch or in a state of academic emergency.

Intervention plan for consistently failing schools

(sec. 3302.04(E))

A new requirement for the State Board of Education is to recommend a plan to the General Assembly for intervening in and assisting failing school districts. The recommended plan must suggest appropriate interventions if the district itself or any school within the district continues to decline despite implementation of a school improvement plan.

Instructional time research

(sec. 3301.801)

The bill requires the Department of Education to identify research-based practices concerned with scheduling and use of instructional time. After identifying such practices, the Department must submit them to the Ohio SchoolNet Commission for inclusion in the Commission's clearinghouse.[19]

Plan for implementation of end-of-course exams

(sec. 3301.0713)

The bill contains a requirement that the State Board of Education recommend a plan to the General Assembly for developing and implementing "end-of-course exams." These exams would be aligned with the State Board's academic standards for specified courses (such as algebra, geometry, or American history) and would serve as an alternative to passing the tenth grade achievement tests to receive a high school diploma.

COMMENT

1. Under state law, the minimum school year essentially consists of 182 days (including four days for teacher preparation and reporting and parent conferences), of which 173 days must be spent in classroom instruction. The minimum school day is five hours for public school students in grades one through six and five and one-half hours for public school students in grades seven through twelve. A school district board may shorten its day by up to two hours in the event of hazardous weather conditions. A school district board also may adopt a staggered attendance schedule under which it must provide instruction to each student for at least 910 hours per school year. Generally, a school week is five days per week.[20]

2. Under continuing law, each school district is required to provide transportation for any student in grades kindergarten through eight residing in the district who lives more than two miles from the school to which the student is assigned. However, a district may make payments to a student's parent in lieu of transportation if it can show that it is impractical for the district to provide

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[19] *Current law requires the Commission to maintain a clearinghouse for teachers to obtain lesson plans, materials, and practical resources.*

[20] *See R.C. 3313.48, 3313.481, 3313.482, and 3317.01 (none in the bill) and Ohio Admin. Code § 3301-35-02.*

transportation. The state provides a subsidy to each school district for transporting students.[21] Since the bill permits school districts to require students in grades kindergarten through eight to attend after-hours intervention services, it also appears that such districts would also be required to provide transportation to and from those services for such students who live more than two miles from school. This is particularly apparent since under the bill the additional time a student is required to attend school is part of a student's obligation under the compulsory attendance law.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-30-01	p. 92

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[21] *R.C. 3327.01, not in the bill. Although not required to do so, a district may provide transportation to students in grades nine through twelve or for lower grade students who live between one and two miles from school and may receive a state subsidy for providing such transportation.*