

# AN ACT

To amend sections 3313.94, 3316.03, 3316.07, 3319.17, 5705.29, 5705.38, 5705.391, and 5705.412; to enact sections 3301.85, 3313.484, 3315.17, 3315.18, 3316.042, 3316.20, and 3319.225; and to repeal section 133.301 of the Revised Code and Section 50.51 of Am. Sub. H.B. 215 of the 122nd General Assembly relative to school district fiscal accountability.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 3313.94, 3316.03, 3316.07, 3319.17, 5705.29, 5705.38, 5705.391, and 5705.412 be amended and sections 3301.85, 3313.484, 3315.17, 3315.18, 3316.042, 3316.20, and 3319.225 of the Revised Code be enacted to read as follows:

Sec. 3301.85. (A)(1) There is hereby created the governing council of the office of education accountability and productivity consisting of eight voting members. Of the eight members, four shall be members of the general assembly appointed as follows: one shall be appointed by the speaker of the house of representatives; one shall be appointed by the minority leader of the house of representatives; one shall be appointed by the president of the senate; and one shall be appointed by the minority leader of the senate. The state superintendent of public instruction or a designee of the superintendent, the director of budget and management or a designee of the director, the chairperson of the house education committee, and the chairperson of the senate education committee shall serve as ex officio members. The director of budget and management shall be chairperson of the council unless the council elects a different member to be chairperson.

Sections 101.82 to 101.84 Of the Revised Code shall not apply to the governing council.

(2) The governing council shall monitor and oversee the operations and duties of the office of education accountability and productivity established under division (B) of this section. In addition, the governing council may develop and issue policies to guide the office of education accountability and productivity in implementing its duties.

(B) The office of education accountability and productivity is hereby established to provide oversight over collection and analysis of school district education performance and fiscal data. The office shall be under the supervision of a director who shall be appointed and may be removed by the director of budget and management. The director of the office of education accountability and productivity shall direct the office in the administration of all its duties. The duties of the office of education accountability and productivity shall include all of the following:

(1) Issue annual report cards for each school district and for the state as a whole based on education and fiscal performance data;

(2) Develop procedures, including procedures to ensure compliance, to guarantee that the data and information reported by each school district pursuant to section 5705.391 and division (F) of section 3301.0714 of the Revised Code and for all other purposes of state law are accurate and reliable;

(3) Assist the department of education in developing and specifying standards for the utilization of hardware and software for the operation of the education management information system pursuant to section 3301.0714 of the Revised Code to ensure that the reported data can be analyzed with maximum utility and flexibility;

(4) Utilize data to establish benchmarks for current state and school district academic and operational performance levels, compare these levels to those in other states, and measure improvement in the state's overall public education system and its status versus other states over time;

(5) Monitor the implementation of significant education legislation and report on the state's progress toward achieving the goals of the legislation;

(6) Objectively analyze, organize, and at least annually report to the general assembly, governor, state board of education, and state superintendent of public instruction regarding the academic and fiscal performance data of each school district.

(C) The office may contract with any person or governmental entity to selectively examine educational programs, delivery mechanisms, and school district operations to facilitate improved performance, accountability, and

productivity. The office may evaluate or contract for a study of other significant components of the public education system and may make recommendations based on the evaluations or studies.

Sec. 3313.484. No loan shall be approved under sections 3313.483 to 3313.4811 Of the Revised Code after March 1, 1998.

Sec. 3313.94. The board of education of each school district shall issue an annual report of school progress for each school under its control and for the district according to guidelines established by the state board of education. The reports shall contain a ten-year projection of its enrollment, by year and by grade level; financial reporting pursuant to the requirements of division (B) of section 3301.07 Of the Revised Code; the names, addresses, and home telephone numbers of the members of the state board of education, the Ohio house of representatives, and the Ohio senate elected from districts within which the school district has territory; and information about the achievements, problems, plans, and improvements in the school district. The guidelines shall be developed in consultation with representatives of the education profession, local boards of education, and other residents of the state and shall require some information common to all schools and school districts, permit reporting of information particular to each school and district, and permit schools and school districts to take maximum advantage of reports already required by their board of education and other governmental units. The reports shall be provided upon request to members of the local community of each school and district and shall be made in formats useful for parents and residents of the district. The board of education of each school district shall make the local community aware of the availability of the report. However, nothing in this section shall be construed to require any school board to expend funds on advertisements about the reports or on mass mailings as a means of distributing the reports to the local community.

Sec. 3315.17. (A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a textbook and instructional materials fund and shall deposit into that fund four per cent, or another percentage if established in rules adopted under division (B) of this section, of all revenues received by the district for operating expenses. Money in the fund shall be used solely for textbooks, instructional software, and instructional materials, supplies, and equipment. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. of the Revised

Code defining what constitutes textbooks, instructional software, and instructional materials, supplies, and equipment for which money in a school district's textbook and instructional materials fund may be used. The jointly adopted rules also may designate a percentage, other than four per cent, of district operating revenues that must be deposited into the fund. The auditor of state shall adopt rules under section 117.20 of the Revised Code authorizing up to a three-year phase-in period for district boards to meet the percentage requirements of division (A) of this section.

(C) Notwithstanding division (A) of this section, a district board of education in any fiscal year may appropriate money in the district textbook and instructional materials fund for purposes other than those permitted by that division if both of the following occur during that fiscal year:

(1) All of the following certify to the district board in writing that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district:

(a) The district superintendent;

(b) In districts required to have a business advisory council, a person designated by vote of the business advisory council;

(c) If the district teachers are represented by an exclusive bargaining representative for purposes of Chapter 4117. of the Revised Code, the president of that organization or the president's designee.

(2) The district board adopts, by unanimous vote of all members of the board, a resolution stating that the district has sufficient textbooks, instructional software, and instructional materials, supplies, and equipment to ensure a thorough and efficient education within the district.

(D) Notwithstanding any provision to the contrary in Chapter 4117. Of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after the effective date of this section.

Sec. 3315.18. (A) The board of education of each city, exempted village, local, and joint vocational school district shall establish a capital and maintenance fund and shall deposit into that fund four per cent, or another percentage if established in rules adopted under division (B) of this section, of all revenues received by the district that would otherwise have been deposited in the general fund, except that money received from a permanent improvement levy authorized by section 5705.21 Of the Revised Code may replace general revenue moneys in meeting the requirements of this section. Money in the fund shall be used solely for acquisition, replacement, enhancement, maintenance, or repair of permanent improvements, as that

term is defined in section 5705.01 Of the Revised Code. Any money in the fund that is not used in any fiscal year shall carry forward to the next fiscal year.

(B) The state superintendent of public instruction and the auditor of state jointly shall adopt rules in accordance with Chapter 119. Of the Revised Code defining what constitutes expenditures permitted by division (A) of this section and may designate a percentage, other than four per cent, of district operating revenues that must be deposited into the fund. The auditor of state shall adopt rules under section 117.20 of the Revised Code authorizing up to a three-year phase-in period for district boards to meet the percentage requirements of division (A) of this section.

(C) Notwithstanding any provision to the contrary in Chapter 4117. Of the Revised Code, the requirements of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after the effective date of this section.

Sec. 3316.03. (A) The auditor of state shall declare a school district to be in a state of fiscal watch if the auditor of state determines that ~~either~~ division (A)(1) ~~or~~ (2), ~~or~~ (3) of this section applies to the school district:

(1) All of the following conditions are satisfied with respect to the school district:

(a) An operating deficit has been certified for the current fiscal year by the auditor of state under section 3313.483 of the Revised Code, and the certified operating deficit exceeds eight per cent of the school district's general fund revenue for the preceding fiscal year;

(b) The unencumbered cash balance in the school district's general fund at the close of the preceding fiscal year, less any advances of property taxes, was less than eight per cent of the expenditures made from the general fund for the preceding fiscal year;

(c) A majority of the voting electors have not voted in favor of levying a tax under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code that the auditor of state expects will raise enough additional revenue in the next succeeding fiscal year that divisions (A)(1)(a) and (b) of this section will not apply to the district in such next succeeding fiscal year.

(2) The school district has outstanding securities issued under division (A)(4) of section 3316.06 of the Revised Code and its financial planning and supervision commission has been terminated under section 3316.16 of the Revised Code.

(3) The school district has received an advancement under section 3316.20 Of the Revised Code.

(B) The auditor of state, after consulting with the superintendent of

public instruction, shall issue an order declaring a school district to be in a state of fiscal emergency if the ~~school district board fails, pursuant to section 3316.04 of the Revised Code, to submit a plan acceptable to the state superintendent of public instruction within one hundred twenty days of the auditor's declaration pursuant to division (A) of this section; if a declaration of fiscal emergency is required by division (D) of section 3316.04 of the Revised Code; or if the auditor of state determines that all of the following conditions are satisfied with respect~~ division (B)(1), (2), (3), or (4) of this section applies to the school district:

(1) All of the following conditions are satisfied with respect to the school district:

(a) The board of education of the school district is not able to demonstrate, to the auditor of state's satisfaction, the district's ability to repay outstanding loans received pursuant to section 3313.483 of the Revised Code or to repay securities issued pursuant to section 133.301 of the Revised Code in accordance with applicable repayment schedules unless the board requests additional loans under ~~section 3313.483 and~~ section 133.301 of the Revised Code in an aggregate principal amount exceeding fifty per cent of the sum of the following:

~~(a)~~(i) The aggregate original principal amount of loans received in the preceding fiscal year under section 3313.483 of the Revised Code;

~~(b)~~(ii) The aggregate amount borrowed by the district under section 133.301 of the Revised Code, excluding any additional amount borrowed as authorized under division (C) of that section.

~~(2)~~(b) An operating deficit has been certified for the current fiscal year by the auditor of state under section 3313.483 of the Revised Code, and the certified operating deficit exceeds fifteen per cent of the school district's general fund revenue for the preceding fiscal year. In determining the amount of an operating deficit under division (B)~~(2)~~(1)(b) of this section, the auditor of state shall credit toward the amount of that deficit only the amount that may be borrowed from the spending reserve balance as determined under section 133.301 and division (G) of section 5705.29 of the Revised Code;

~~(3)~~(c) A majority of the voting electors have not voted in favor of levying a tax under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code that the auditor of state expects will raise enough additional revenue in the next succeeding fiscal year that divisions (A)(1)(a) and (b) of this section will not apply to the district in such next succeeding fiscal year.

~~(4)~~(d) The school district is one that, at the time of the auditor of state's determination under this section, had an average daily membership of more

than ten thousand students as most recently reported to the department of education pursuant to division (A) of section 3317.03 of the Revised Code.

(2) The school district board fails, pursuant to section 3316.04 of the Revised Code, to submit a plan acceptable to the state superintendent of public instruction within one hundred twenty days of the auditor's declaration under division (A) of this section;

(3) A declaration of fiscal emergency is required by division (D) of section 3316.04 of the Revised Code;

(4) The school district has received more than one advancement under section 3316.20 of the Revised Code within a two-year period, or has received only one such advancement but also has an operating deficit as described in division (B)(1)(b) of this section.

(C) In making the determinations under this section, the auditor of state may use financial reports required under section 117.43 of the Revised Code; tax budgets, certificates of estimated resources and amendments thereof, annual appropriating measures and spending plans, and any other documents or information prepared pursuant to Chapter 5705. of the Revised Code; and any other documents, records, or information available to the auditor of state that indicate the conditions described in divisions (A) and (B) of this section.

(D) The auditor of state shall certify the action taken under division (A) or (B) of this section to the board of education of the school district, the director of budget and management, the mayor or county auditor who could be required to act pursuant to division (B)(1) of section 3316.05 of the Revised Code, and to the superintendent of public instruction.

(E) A determination by the auditor of state under this section that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the auditor of state under this section that a fiscal emergency exists is final, except that the board of education of the school district affected by such a determination may appeal the determination of the existence of a fiscal emergency condition to the court of appeals having territorial jurisdiction over the school district. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. Notice of such appeal must be filed with the auditor of state and such court within thirty days after certification by the auditor of state to the board of education of the school district provided for in division (D) of this section. In such appeal, determinations of the auditor of state shall be presumed to be valid and the board of education shall have the burden of proving, by clear and convincing evidence, that each of the

determinations made by the auditor of state as to the existence of a fiscal emergency condition under this section was in error. If the board of education fails, upon presentation of its case, to prove by clear and convincing evidence that each such determination by the auditor of state was in error, the court shall dismiss the appeal. The board of education and the auditor of state may introduce any evidence relevant to the existence or nonexistence of such fiscal emergency conditions. The pendency of any such appeal shall not affect or impede the operations of this chapter; no restraining order, temporary injunction, or other similar restraint upon actions consistent with this chapter shall be imposed by the court or any court pending determination of such appeal; and all things may be done under this chapter that may be done regardless of the pendency of any such appeal. Any action taken or contract executed pursuant to this chapter during the pendency of such appeal is valid and enforceable among all parties, notwithstanding the decision in such appeal. If the court of appeals reverses the determination of the existence of a fiscal emergency condition by the auditor of state, the determination no longer has any effect, and any procedures undertaken as a result of the determination shall be terminated.

Sec. 3316.042. The auditor of state may conduct a performance audit of a school district in a state of fiscal watch, or in a state of fiscal emergency, in which the auditor of state reviews any programs or areas of operation in which the auditor of state believes that greater operational efficiencies or enhanced program results can be achieved. A performance audit under this section shall not include review or evaluation of school district academic performance.

Sec. 3316.07. (A) A school district financial planning and supervision commission has the following powers, duties, and functions:

(1) To review or to assume responsibility for the development of all tax budgets, tax levy and bond and note resolutions, appropriation measures, and certificates of estimated resources of the school district in order to ensure that such are consistent with the financial recovery plan and a balanced appropriation budget for the current fiscal year, and to request and review any supporting information upon which the financial recovery plan and balanced appropriation budget may be developed and based, and to determine whether revenue estimates and estimates of expenditures and appropriations will result in a balanced budget;

(2) To inspect and secure copies of any document, resolution, or instrument pertaining to the effective financial accounting and reporting system, debt obligations, debt limits, financial recovery plan, balanced appropriation budgets, appropriation measures, report of audit, statement or

invoice, or other worksheet or record of the school district;

(3) To inspect and secure copies of any document, instrument, certification, records of proceedings, or other worksheet or records of the county budget commission, county auditor, or other official or employee of the school district or of any other political subdivision or agency of government of the state;

(4) To review, revise, and approve determinations and certifications affecting the school district made by the county budget commission or county auditor pursuant to Chapter 5705. of the Revised Code to ensure that such determinations and certifications are consistent with the laws of the state;

(5) To bring civil actions, including mandamus, to enforce this chapter;

(6) After consultation with the officials of the school district and the auditor of state, to implement or require implementation of any necessary or appropriate steps to bring the books of account, accounting systems, and financial procedures and reports of the school district into compliance with requirements prescribed by the auditor of state, and to assume responsibility for achieving such compliance and for making any desirable modifications and supplementary systems and procedures pertinent to the school district;

(7) To assist or provide assistance to the school district or to assume the total responsibility for the structuring or the terms of, and the placement for sale of, debt obligations of the school district;

(8) To perform all other powers, duties, and functions as provided under this chapter;

(9) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the exercise of its powers under this chapter;

(10) To consult with officials of the school district and make recommendations or assume the responsibility for implementing cost reductions and revenue increases to achieve balanced budgets and carry out the financial recovery plan in accordance with this chapter;

(11) To make reductions in force to bring the school district's budget into balance, notwithstanding section 3319.081 and divisions (A) and (B) of section 3319.17 Of the Revised Code, and notwithstanding any provision to the contrary in section 4117.08 or 4117.10 Of the Revised Code or in any collective bargaining agreement entered into on or after the effective date of this section.

In making reductions in force, the commission shall first consider reasonable reductions among the administrative and non-teaching employees of the school district giving DUE regard to ensuring the district's

ability to maintain the personnel, programs, and services essential to the provision of an adequate educational program.

In making these reductions in non-teaching employees in districts where Chapter 124. of the Revised Code controls such reductions, the reductions shall be made in accordance with sections 124.321 to 124.327 of the Revised Code. In making these reductions in non-teaching employees in districts where Chapter 124. of the Revised Code does not control these reductions, within each category of non-teaching employees, the commission shall give preference to those employees with continuing contracts or non-probationary status and who have greater seniority.

If revenues and expenditures cannot be balanced by reasonable reductions in administrative and non-teaching employees, the commission may also make reasonable reductions in the number of teaching contracts. If the commission finds it necessary to suspend teaching contracts, it shall suspend them in accordance with division (C) of section 3319.17 of the Revised Code but shall consider a reduction in non-classroom teachers before classroom teachers.

(B) During the fiscal emergency period, the commission shall, in addition to other powers:

(1) With respect to the appropriation measure in effect at the commencement of the fiscal emergency period of the school district if that period commenced more than three months prior to the end of the current fiscal year, and otherwise with respect to the appropriation measure for the next fiscal year:

(a) Review and determine the adequacy of all revenues to meet all expenditures for such fiscal year;

(b) Review and determine the extent of any deficiency of revenues to meet such expenditures;

(c) Require the school district board or superintendent to provide justification documents to substantiate, to the extent and in the manner considered necessary, any item of revenue or appropriation;

(d) Not later than sixty days after taking office or after receiving the appropriation measure for the next fiscal year, issue a public report regarding its review pursuant to division (B)(1) of this section.

(2) Require the school district board, by resolution, to establish monthly levels of expenditures and encumbrances consistent with the financial recovery plan and the commission's review pursuant to divisions (B)(1)(a) and ~~(1)~~(b) of this section, or establish such levels itself. If the commission permits the district board to make expenditures, the commission shall monitor the monthly levels of expenditures and encumbrances and require

justification documents to substantiate any departure from any approved level. No district board shall make any expenditure apart from the approved level without the written approval of the commission.

(C) In making any determination pursuant to division (B) of this section, the commission may rely on any information considered in its judgment reliable or material and shall not be restricted by any tax budget or certificate or any other document the school district may have adopted or received from any other governmental agency.

(D) County, state, and school district officers or employees shall assist the commission diligently and promptly in the prosecution of its duties, including the furnishing of any materials, including justification documents, required.

(E) Annually on or before the first day of April during the fiscal emergency period, the commission shall make reports and recommendations to the speaker of the house of representatives and the president of the senate concerning progress of the school district to eliminate fiscal emergency conditions, failures of the school district to comply with this chapter, and recommendations for further actions to attain the objectives of this chapter, including any legislative action needed to make provisions of law more effective for their purposes, or to enhance revenue raising or financing capabilities of school districts. The commission may make such interim reports as it considers appropriate for such purposes and shall make such additional reports as may be requested by either house of the general assembly.

Sec. 3316.20. The school district solvency assistance fund is hereby created in the state treasury, to consist of such amounts designated for the purposes of the fund by the general assembly. The fund shall be used to make advancements to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources.

Advancements shall be made from the fund by the Superintendent of Public Instruction in accordance with rules jointly adopted by the Superintendent and the Auditor of State specifying advancement approval criteria and procedures necessary for administering the fund.

The fund shall be reimbursed for any amounts advanced not later than the end of the second fiscal year following the fiscal year in which the advancement was made. If not made directly by the school district, such reimbursement shall be made by the director of budget and management from the amounts the school district would otherwise receive pursuant to sections 3317.022 to 3317.025 of the Revised Code, or from any other funds

appropriated for the district by the general assembly.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division (P) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 or 3317.11 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including leaves provided pursuant to division (B) of section 3314.10 of the Revised Code, suspension of schools, or territorial changes affecting the district or center;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference to teachers on continuing contracts and to teachers who have

greater seniority.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board in the order of seniority of service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified.

Sec. 3319.225. Notwithstanding sections 3319.01 and 3319.22 Of the Revised Code, the board of education of any city, local, or exempted village, or joint vocational school district, or the governing board of any educational service center may request the state board of education to issue a one-year temporary educator license valid for being employed as a superintendent, or in any other administrative position, to an individual specified by the district board. The state board of education may issue the educator license if the requesting district board has determined both of the following:

(A) The individual is of good moral character;

(B) The individual holds at least a baccalaureate degree from an accredited institution of higher education in a field related to finance or administration, or has five years of recent work experience in education, management, or administration.

A one-year temporary educator license is valid only in the district whose board requested the license. An individual holding such a license may be employed as a superintendent or in any other administrative position in such district. The state board of education may renew such license annually upon request of the employing district.

Sec. 5705.29. The tax budget shall present the following information in such detail as is prescribed by the auditor of state, unless an alternative form of the budget is permitted under section 5705.281 of the Revised Code:

(A)(1) A statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the subdivision, classified as to personal services and other expenses, and the fund from which such expenditures are to be made. Except in the case of a school district, this estimate may include a contingent expense not designated for any particular purpose, and not to exceed three per cent of the total amount of appropriations for current expenses. In the case of a school district, this estimate may include a contingent expense not designated for any particular purpose and not to exceed thirteen per cent of the total amount of appropriations for current expenses.

(2) A statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the

subdivision and the fund from which such expenditures are to be made;

(3) The amounts required for the payment of final judgments;

(4) A statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are to be made;

(5) Comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding fiscal years.

(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.21, or 5705.213, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the fiscal year following the year in which a levy proposed under section 5705.194,

5705.21, or 5705.213, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty per cent of the amount of the levy estimated to be available for appropriation in such year.

(3) Except as provided in division (E)(4) of this section, the full amount of any reserve balance the board includes in its budget shall be retained by the county auditor and county treasurer out of the first semiannual settlement of taxes until the beginning of the next succeeding fiscal year, and thereupon, with the depository interest apportioned thereto, it shall be turned over to the board of education, to be used for the purposes of such fiscal year.

(4) A board of education may, by a two-thirds vote of all members of the board, appropriate any amount withheld as a voluntary contingency reserve balance during the fiscal year for any lawful purpose, provided that prior to such appropriation the board of education has authorized the expenditure of all amounts appropriated for contingencies under section 5705.40 of the Revised Code. Upon request by the board of education, the county auditor shall draw a warrant on the district's account in the county treasury payable to the district in the amount requested.

(F)(1) As used in this division, "police or fire department equipment expenditures" includes expenditures for equipment used to provide ambulance or emergency medical services operated by a police or fire department.

A board of township trustees may include in its budget an estimate of expenditures to be known as a reserve balance for police or fire department equipment or road maintenance equipment expenditures. This reserve balance shall not exceed ten per cent of the total estimated appropriations included in the township budget estimate. If, in accordance with division (A) of section 505.83 of the Revised Code, the board of township trustees has unanimously adopted a resolution establishing the reserve balance account and specifying the reason for its creation and has certified the resolution to the county auditor, the full amount of the reserve balance, as allowed by the budget commission, shall be turned over to the township each year by the county auditor and county treasurer out of the second semiannual settlement of taxes until the date specified in the resolution, which shall not be later than five years from the date of the first such deposit in the account, or until the reserve amount has been reached, whichever occurs first.

(2) Upon receipt of a certified copy of a resolution to rescind the creation of a township reserve balance account pursuant to division (B) of

section 505.83 of the Revised Code, the county auditor shall close the account and transfer the account moneys and depository interest apportioned to it to the township's general fund.

(G)(1) A board of education may include a spending reserve in its budget ~~a spending reserve, which for fiscal years ending on or before June 30, 2002.~~ The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is the amount by which ~~fifty per cent~~ the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

<u>FISCAL YEAR ENDING IN:</u>	<u>DESIGNATED PERCENTAGE</u>
<u>1998</u>	<u>50%</u>
<u>1999</u>	<u>40%</u>
<u>2000</u>	<u>30%</u>
<u>2001</u>	<u>20%</u>
<u>2002</u>	<u>10%</u>

(H) As used in this division:

(1) "Police or fire department equipment expenditures" includes expenditures for equipment used to provide ambulance or emergency medical services operated by a police or fire department.

(2) "Detention facility" means any place used for the confinement of a person charged with or convicted of any crime or alleged or found to be a delinquent or unruly child.

The legislative authority of a municipal corporation may include in its budget an estimate of expenditures to be known as a reserve balance for police or fire department equipment expenditures, for constructing, acquiring, equipping, or repairing a detention facility, or for road maintenance equipment expenditures by creating, by ordinance or resolution, a reserve balance account. Money credited to the account may be derived from any general fund sources or from the proceeds of a special levy that may be used for the purpose for which the account is established. The ordinance or resolution shall state that money in the account may be expended only for the purpose for which the account is established, that the account will be maintained until a specified date not to exceed five years from the date of the first deposit in the account, and that the total amount of

money in all reserve balance accounts derived from general fund sources shall not exceed ten per cent of the current total estimated expenditures from the municipal corporation's general fund, and the total amount of money in all reserve balance accounts derived from a special levy shall not exceed ten per cent of the current total estimated expenditures from the special levy. The legislative authority shall certify a copy of the ordinance or resolution to the county auditor. Upon receiving the certified copy, the county auditor and county treasurer shall turn over to the municipal corporation, out of the second semiannual settlement of taxes, any amount of the reserve balance to be derived from property tax sources, but only until the date specified in the ordinance or resolution or until the reserve amount as indicated in the ordinance or resolution has been reached, whichever occurs first.

A legislative authority may create a separate reserve balance account under this division for police department equipment expenditures, fire department equipment expenditures, or ambulance or emergency medical services equipment expenditures, or any combination thereof. Each such account is subject to the provisions of this section regarding a single account for all such purposes.

Upon receiving a certified copy of an ordinance or resolution to rescind the creation of a municipal reserve balance account, the county auditor shall close the account and transfer all money in the account to the municipal general fund, if the account is derived from the general fund, or to the fund to which proceeds of the special levy are credited, if the account is derived from the proceeds of a special levy.

(I) A board of county commissioners that has adopted a resolution establishing a reserve balance account under section 305.23 of the Revised Code may include in its budget an estimate of expenditures to be known as a reserve balance for the purpose for which the account was established under that section. The reserve shall not exceed ten per cent of the total estimated appropriations included in the budget estimate of the general fund in the case of a reserve balance account established under division (A) of that section, or ten per cent of the total estimated appropriations included in the budget estimate of the special fund in which the account is established in the case of a reserve balance account established under division (B) of that section. If the board of county commissioners has certified a copy of a resolution to the county auditor pursuant to that section, the county auditor and county treasurer shall deposit the amount of the annual reserve balance into the reserve balance account out of the second semiannual settlement of taxes until the date specified in that resolution, or until the reserve amount specified in the resolution has been reached, whichever occurs first.

Upon receiving a certified copy of a resolution rescinding a reserve balance account, the county auditor shall close the account and transfer all money in the account to a special fund created for the purpose of receiving that money. Money deposited into the fund from the reserve balance account shall be expended only for the purpose for which the account was established.

(J) The county budget commission shall not reduce the taxing authority of a board of township trustees, a board of county commissioners, or the legislative authority of a municipal corporation as a result of the creation of a reserve balance account, and shall not consider the amount in a reserve balance account as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 or division (E)(3) or (4) of section 5747.62 of the Revised Code.

(K)(1) Each board of education shall include in its tax budget a budget reserve fund. The budget reserve fund shall consist of money reserved for the fund from general fund revenues or from other sources that may lawfully be credited to the general fund. The balance in the budget reserve fund shall not at any time be less than five per cent of general fund revenues for the most recently concluded fiscal year, except as provided in division (K)(2) or (3) of this section, and except for deficiencies arising from the appropriation of money from the fund for unanticipated deficiencies in revenue or other emergencies pursuant to a resolution adopted by two-thirds of the membership of the board of education specifying the reason for the appropriation. The auditor of state and the superintendent of public instruction jointly shall adopt rules governing conditions that constitute unanticipated deficiencies in revenue or emergencies for which appropriations may be made from a budget reserve fund. The rules also shall provide that a board of education that includes a spending reserve in its tax budget for a fiscal year under division (G) of this section is not subject to division (K)(2) of this section for that fiscal year. A board of education shall not appropriate money from a budget reserve fund without filing a schedule for replenishing the fund with the superintendent of public instruction and receiving approval of the schedule from the superintendent of public instruction.

(2) Beginning with the fiscal year ending in 1999 and continuing each fiscal year until the balance in the budget reserve fund equals five per cent of the district's revenues received for current expenses for the preceding fiscal year, if the growth in a district's total revenues received for current expenses from one fiscal year to the next is three per cent or more, the board of education shall credit to its budget reserve fund, from the general fund or

from other sources that may lawfully be credited to the general fund, an amount not less than one per cent of the revenue received for current expenses for the fiscal year, at which time the balance in the budget reserve fund shall be maintained as otherwise required under division (K)(1) of this section.

(3) The balance in the budget reserve fund of a school district may be less than five per cent of the general fund revenue for the most recently concluded fiscal year in any fiscal year in which the school district is in a state of fiscal watch or fiscal emergency pursuant to section 3316.03 Of the Revised Code.

(4) Notwithstanding any provision to the contrary in Chapter 4117. Of the Revised Code, the requirements of division (K) of this section prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after the effective date of this section.

Sec. 5705.38. (A) This division does not apply to school district appropriation measures. On or about the first day of each year, the taxing authority of each subdivision or other taxing unit shall pass an appropriation measure, and thereafter during the year it may pass any supplemental appropriation measures as it finds necessary, based on the revised tax budget and the official certificate of estimated resources or amendments of the certificate. If adoption of a tax budget was waived under section 5705.281 of the Revised Code, appropriation measures shall be based on the official certificate of estimated resources. If it desires to postpone the passage of the annual appropriation measure until an amended certificate is received based on the actual balances, it may pass a temporary appropriation measure for meeting the ordinary expenses of the taxing unit until no later than the first day of April of the current year, and the appropriations made in the temporary measure shall be chargeable to the appropriations in the annual appropriation measure for that fiscal year when passed.

(B) A board of education shall pass its annual appropriation measure by the first day of October. If, by the first day of October, a board has not received either the amended certificates of estimated resources required by division (B) of section 5705.36 of the Revised Code or certifications that no amended certificates need be issued, the adoption of the annual appropriation measure shall be delayed until the amended certificates or certifications are received. Prior to the passage of the annual appropriation measure, the board may pass a temporary appropriation measure for meeting the ordinary expenses of the district until it passes an annual appropriation measure, and appropriations made in the temporary measure shall be

chargeable to the appropriations in the annual appropriation measure for that fiscal year when passed. During the fiscal year and after the passage of the annual appropriation measure, a district may pass any supplemental appropriation measures as it finds necessary, based on the revised tax budget and the official certificate of estimated resources or amendments of the certificate. The annual appropriation measure, and any temporary or supplemental appropriation measure, shall provide for the reservation of a sufficient amount of money for the budget reserve fund as required under division (K) of section 5705.29 Of the Revised Code. School district appropriation measures shall be in the form as the auditor of state, after consultation with the tax commissioner, prescribes.

(C) Appropriation measures shall be classified so as to set forth separately the amounts appropriated for each office, department, and division, and, within each, the amount appropriated for personal services. In the case of a municipal university, the board of directors of which have assumed, in the manner provided by law, custody and control of the funds of the university, funds shall be appropriated as a lump sum for the use of the university.

Sec. 5705.391. (A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for appropriation by the district during the fiscal year and their sources; the nature and amount of expenses to be incurred by the district during such year, the outstanding and unpaid expenses on the date the appropriation measure, amendment, or supplement is adopted; the date or dates by which such expenses must be paid; and such other information as the superintendent requires to enable ~~him~~ the superintendent to determine whether during such year the district will incur any expenses that will impair its ability to operate its schools with the revenue available to it from existing revenue sources. The plan or amended plan shall be presented in such detail and form as the superintendent prescribes.

(B) No later than July 1, 1998, the department of education and the auditor of state shall jointly adopt rules requiring school districts to include five-year projections of revenues and expenditures in the spending plan required by this section. The rules shall provide for the auditor or the

department to examine the five-year projections and to determine whether any further fiscal analysis is needed to ascertain whether a district has the potential to incur a deficit during the first three years of the five-year period.

The auditor and the department may conduct any further audits or analyses necessary to assess any district's fiscal condition and shall immediately notify any district of any potential to incur a deficit in the current fiscal year or of any strong indications that a deficit will be incurred in either of the ensuing two years.

A district notified under this section shall take immediate steps to eliminate any deficit in the current fiscal year and shall begin to plan to avoid the projected future deficits.

(C) The state board of education, in accordance with sections 3319.31 and 3319.311 Of the Revised Code, may limit, suspend, or revoke a license as defined under section 3319.31 Of the Revised Code that has been issued to any school employee found to have willfully contributed erroneous, inaccurate, or incomplete data required for the submission of the appropriation measure and spending plan required by this section.

Sec. 5705.412. Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any contract, give any order involving the expenditure of money, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate signed by the treasurer and president of the board of education and the superintendent that the school district has in effect for the remainder of the fiscal year and the succeeding fiscal year the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to ~~operate~~ maintain all personnel, programs, and services essential to the provision of an adequate educational program for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in the succeeding fiscal year equal to the number of days instruction was held or is scheduled for the current fiscal year. However, a certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by the electors and is subject to appropriation in the current fiscal year ~~and a.~~ In addition, a certificate attached, in accordance with this section, to any contract shall cover the term of the contract or the

current fiscal year plus the two immediately succeeding fiscal years, whichever period of years is greater. If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and the succeeding fiscal year. Every contract made, order given, or schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. The department of education and the auditor of state jointly shall develop rules governing the methods by which treasurers, presidents of boards of education, and superintendents shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section. ~~The department of education shall adopt the jointly developed rules.~~

The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since the district's last audit, and the appropriation measure, contract, order, or wage and salary schedule to which such certificate was attached. This provision shall not preclude any court from making a determination regarding compliance with this section. If noncompliance is determined, the provisions of section 117.28 of the Revised Code shall have effect.

The treasurer shall forward a copy of each certificate of available resources required under this section to the auditor of any county in which a part of the district is located. The county auditor shall not distribute property taxes or any payment under Chapter 3317. of the Revised Code to a school district that has not forwarded copies of all such certificates. If a county auditor determines that a copy of a certificate has not been forwarded as required, or has reason to believe that a certificate for which a copy has been forwarded contains false statements or that a certificate has not been signed and attached to an appropriation measure, contract, order, or wage and salary schedule as required by this section, the auditor shall provide immediate written notification to the superintendent of public instruction. In the case of a certificate which the auditor has reason to believe contains false information or the failure to sign and attach a certificate as required, the auditor shall also provide immediate written notification to the auditor of state and the county prosecuting attorney, city director of law, or other chief

law officer of the district.

This section does not apply to any contract, order, or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract, order, or increase does not exceed the amount required to be paid to be in compliance with such division.

Any officer, employee, or other person who knowingly expends or authorizes the expenditure of any public funds or knowingly authorizes or executes any contract, order, or schedule contrary to this section, knowingly expends or authorizes the expenditure of any public funds on the void contract, order, or schedule, or knowingly issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract, order, or schedule. The officer, employee, or other person is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed twenty thousand dollars. However, no officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds. If an officer, employee, or other person is found to have complied with rules adopted by the department of education under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the taxpayer may institute the action in the taxpayer's own name in behalf of the subdivision.

This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for any purchase order, for current payrolls of, or contracts of employment with, regular employees or officers.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

- (A) The amount appropriated does not exceed twenty-five per cent of

the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(B) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(C) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

SECTION 2. That existing sections 3313.94, 3316.03, 3316.07, 3319.17, 5705.29, 5705.38, 5705.391, and 5705.412 of the Revised Code and Section 50.51 of Am. Sub. H.B. 215 of the 122nd General Assembly are hereby repealed.

SECTION 3. That section 133.301 of the Revised Code is hereby repealed, effective June 30, 2002.

SECTION 4. Section 5705.412 of the Revised Code, as amended by this act, shall take effect July 1, 1998.

SECTION 5. Section 5705.29 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 86 and Sub. H.B. 194 of the 121st General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 6. By December 31, 1997, pursuant to division (B) of section 3301.07 of the Revised Code, the State Board of Education shall develop and require each school district to prepare and make available to the public year-to-year financial comparisons for at least five years for the district using standardized financial reporting forms that are understandable to the average citizen.

SECTION 7. The rules required to be adopted by the Auditor of State and the Department of Education under division (K) of section 5705.29 of the Revised Code, as amended by this act, shall be adopted not later than June 30, 1998.

SECTION 8. The Department of Education shall, not later than March 31, 1998, develop the rules that will be required under section 5705.412 of the Revised Code once that section takes effect, as amended by this act. However, such rules shall not go into effect until July 1, 1998.

SECTION 9. The responsibilities imposed upon the Office of Education Accountability and Productivity and its director and governing board pursuant to section 3301.85 of the Revised Code do not apply unless and until the General Assembly makes appropriations sufficient for such purpose.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_