

(125th General Assembly)
(Amended House Bill Number 493)

AN ACT

To amend sections 3119.89, 3119.90, 3119.94, 3121.38, 3301.0711, 3302.01, 3302.03, 3302.04, 3313.614, 3317.012, and 3319.55, to enact sections 5.2229, 3121.373, 3121.382, 3302.09, and 3319.63 of the Revised Code, and to repeal Section 7 of Am. Sub. S.B. 1 of the 124th General Assembly to designate the fourth week of September as "Parent's Week," to increase the penalties against and permit electronic transfers from the bank account of an employer who willfully fails to withhold the amount required under a support order, to make changes to the laws governing the impoundment of child support, to change the criteria for imposing sanctions on school districts under the No Child Left Behind Act, to make other changes to comply with that Act, to make teachers employed by chartered nonpublic schools eligible for stipends for holding valid certificates or licenses issued by the National Board for Professional Teaching Standards, to require the Department of Education to pay those stipends to qualified nonpublic school teachers for the 2003-2004 school year, to allow specified students to substitute passage of the Ohio Graduation Test in a particular subject for passage of the ninth grade proficiency test in that subject to satisfy diploma requirements, and to require school districts to grant professional leave to their employees who are members of the Educator Standards Board.

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

SECTION 1. That sections 3119.89, 3119.90, 3119.94, 3121.38, 3301.0711, 3302.01, 3302.03, 3302.04, 3313.614, 3317.012, and 3319.55 be amended and sections 5.2229, 3121.373, 3121.382, 3302.09, and 3319.63 of the Revised Code be enacted to read as follows:

Sec. 5.2229. The fourth week of September is designated as "Parent's Week" to commend and encourage the work of parents in supporting and caring for their children.

Sec. 3119.89. (A) Upon receipt of a notice pursuant to section 3119.87 of the Revised Code, the child support enforcement agency administering a child support order, within twenty days after receipt of the notice, shall complete an investigation. The agency administering a child support order may conduct an investigation upon its own initiative if it otherwise has reason to believe that there may be a reason for which the order should terminate. The agency's investigation shall determine the following:

- (1) Whether any reason exists for which the order should terminate;
- (2) Whether there are other children subject to the order;
- (3) Whether the obligor owes any arrearages under the order;
- (4) Whether the agency believes it is necessary to continue withholding or deduction pursuant to a notice or order described in section 3121.03 of the Revised Code for the other children or arrearages;

(5) Whether child support amounts paid pursuant to the order being investigated should be impounded because continuation of receipt and disbursement would lead to an overpayment by the obligor.

(5) Whether child support amounts paid pursuant to the order being investigated should be impounded because continuation of receipt and disbursement would lead to an overpayment by the obligor.

(B) If the agency, pursuant to the investigation under division (A) of this section, determines that other children are subject to the child support order and that it is necessary to continue withholding or deduction for the other children, the agency shall divide the child support due annually and per month under the order by the number of children who are the subject of the order and subtract the amount due for the child for whom the order should be terminated from the total child support amount due annually and per month. The resulting annual and per month child support amount shall be included in the results of the agency's investigation as the recommended child support amount due annually and monthly under a revised child support order. If arrearage amounts are owed, those amounts may be included as part of the recommended child support amount. The investigation under division (A) of this section shall not include a review pursuant to sections 3119.60 to 3119.76 of the Revised Code of any other children subject to the child support order.

Sec. 3119.90. (A) If, pursuant to an investigation conducted under

section 3119.89 of the Revised Code, the child support enforcement agency determines both that a child support order should terminate and that child support amounts paid pursuant to the order should be impounded because continuation of receipt and disbursement would lead to an overpayment by the obligor, the agency shall do the following:

~~(1)~~ With respect to a court child support order, ~~if the child support enforcement agency determines the order should terminate, it~~ immediately shall notify the court that issued the order of the results of its investigation and shall submit to the court an order impounding any funds received for the child pursuant to the court child support order that was under investigation;

~~(B)(2)~~ With respect to an administrative child support order, ~~if the agency determines as a result of an investigation that the order should terminate, it shall~~ issue an administrative order impounding any funds received for the child pursuant to the administrative child support order that was under investigation.

~~(C)(B)~~ A child support enforcement agency that conducts an investigation of a child support order shall give the obligor and obligee under the order notice of the results of its investigation and a copy of any court or administrative impound order issued pursuant to division (A) ~~or (B)~~ of this section. The obligor and obligee also shall be given all of the following:

(1) Notice of their right to request an administrative hearing regarding any conclusions of the investigation;

(2) Notice of the procedures and time deadlines for requesting the hearing;

(3)(a) Notice that the conclusions of the investigations will be issued as an administrative order by the agency if the underlying order is an administrative child support order;

(b) Notice that the conclusions of the investigations will be submitted to the court for inclusion into a revised or terminated court child support order with no further court hearing if the underlying order is a court child support order.

(4) Notice that no revised administrative or court child support order will be issued if either the obligor or obligee requests an administrative hearing on the investigation conclusions within thirty days after receipt of the notice under this division.

Sec. 3119.94. (A) The director of job and family services shall adopt rules that provide for all of the following:

~~(A)(1)~~ The payment to the appropriate person of any funds that a court or child support enforcement agency has impounded under section 3119.90

or 3119.92 of the Revised Code;

~~(B)(2)~~ The return to the appropriate person of any other payments made pursuant to a child support order if the payments were made at any time after the child support order has been terminated pursuant to section 3119.90 or 3119.92 of the Revised Code;

~~(C)(3)~~ Any other standards, forms, or procedures needed to ensure uniform implementation of sections 3119.86 to 3119.94 of the Revised Code.

(B) With respect to the court order for impoundment required under division (A)(1) of section 3119.90 of the Revised Code, the director of job and family services may adopt rules that specify a form for the order or approve a form developed by the Ohio judicial conference.

Sec. 3121.373. (A) As used in this section, "willfully" means voluntarily and intentionally with a specific intent to take an action or fail to take an action.

(B) When a child support enforcement agency seeks an order for contempt pursuant to section 3121.371 of the Revised Code against a payor that is an employer, the court may, on motion of the agency or on the court's own motion, hold a hearing to determine whether the payor has done either of the following:

(1) Willfully failed to comply with a withholding notice issued pursuant to section 3121.03 of the Revised Code;

(2) Failed three times within twelve consecutive months to comply with a withholding notice issued pursuant to section 3121.03 of the Revised Code.

(C) Not later than fourteen days before holding a hearing under division (B) of this section, the court shall serve notice on the payor that complies with court rules regarding service of summonses. The notice must contain all of the following:

(1) The date, time, and location of the hearing;

(2) A statement that if the court determines the payor has committed acts or omissions described in division (B) of this section, the court may order either or both of the penalties set forth in section 3121.382 of the Revised Code.

Sec. 3121.38. A payor that fails to withhold an amount from an obligor's income for support in accordance with a withholding requirement included in a withholding notice issued under section 3121.03 of the Revised Code or a financial institution that fails to deduct funds from an obligor's account for support in accordance with a deduction requirement included in a deduction notice issued under section 3121.03 of the Revised Code is liable for the

amount that was not withheld or deducted, except that a payor that is an employer whose normal pay and disbursement cycles make it impossible to comply with a withholding requirement contained in a withholding notice shall not be liable for the amount not withheld if the employer, as soon as possible after receipt of the withholding notice, provides the court or child support enforcement agency that issued the notice with written notice of the impossibility and the reasons for the impossibility.

A payor who is liable under this provision for an amount that was not withheld shall be ordered by the court ~~or agency~~ to pay that amount to the office of child support in the department of job and family services, to be disbursed in accordance with the support order for the benefit of the child or spouse.

Sec. 3121.382. (A) As used in this section, "willfully" means voluntarily and intentionally with a specific intent to take an action or fail to take an action.

(B) If, after a hearing conducted pursuant to section 3121.373 of the Revised Code, the court determines that a payor that is an employer has willfully failed to comply with a withholding notice issued pursuant to section 3121.03 of the Revised Code, or has failed three times within twelve consecutive months to comply with a withholding notice, the court may issue an order requiring one or both of the following:

(1) The payment of support by electronic transfer of funds from the bank account of the payor;

(2) A civil penalty, in addition to any other penalty permitted by law, of up to fifty per cent of the amount not withheld from the obligor's income or not timely forwarded to the office of child support in accordance with the withholding notice.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any test administered pursuant to division (B)(10) of this section. In furnishing the practice versions of Ohio graduation tests prescribed by division (F) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading tests, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that test under division (A)(2)(c) of section 3301.0710 of the Revised Code and once each summer to students receiving summer remediation services under section 3313.608 of the Revised Code.

(2) Administer the mathematics test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the tests prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the tests prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the tests prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the tests prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any test prescribed under division (B) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that test designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a

joint vocational school district shall administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

(C)(1)(a) Any student receiving special education services under Chapter 3323. of the Revised Code may be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test and instead specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking a test unless no reasonable accommodation can be made to enable the student to take the test.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the

date scheduled, but any such test shall be administered to such excused student not later than nine days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular test required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any such reading or writing test. However, no board shall prohibit a limited English proficient student who is not required to take a test under this division from taking the test. A board may permit any limited English proficient student to take any test required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any test administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the test.

(D)(1) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's test performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the test.

(2) Following any administration of the tests prescribed by division (F) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the tests. In determining which high schools shall provide intervention services based on the resources available, the district shall

consider each school's graduation rate and scores on the practice tests. The district also shall consider the scores received by ninth grade students on the reading and mathematics tests prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose test results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's test performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on any test administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take any test administered under this section or make up such test as provided by division (C)(2) of this section and who is not exempt from the requirement to take the test under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) Not later than sixty days after any administration of any test prescribed by division (A)(1) or (B) of section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test. For any tests administered under this section by a joint vocational school district, the department shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical

use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under this section and shall adopt rules to ensure the protection of student confidentiality at all times.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any test prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by

section 3301.0710 or 3301.0712 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the basic range on the mathematics test described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on any of the tests described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) The tests required by section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the test was administered, except that the reading test prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code shall become a public record on the sixteenth day of July following the school year that the test was administered.

(2) The department may field test proposed test questions with samples of students to determine the validity, reliability, or appropriateness of test questions for possible inclusion in a future year's test. The department also may use anchor questions on tests to ensure that different versions of the same test are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing test scores for individual students. Field test questions and anchor questions may be included as part of the administration of any test required by section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any tests which are released as a public record pursuant to division (N)(1) of this section.

(O) As used in this section, ~~"three year average" and "graduation rate" have the same meanings as in section 3302.01 of the Revised Code;~~

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

Sec. 3302.01. As used in this chapter:

~~(A) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country.~~

~~(B) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.~~

~~(C) "Attendance rate" means the ratio of the number of students actually in attendance over the course of a school year to the number of students who were required to be in attendance that school year, as calculated pursuant to rules of the superintendent of public instruction.~~

~~(D) "Three year average" means the average of the most recent consecutive three school years of data.~~

~~(E) "Performance index score" means the average of the totals derived from calculations for each subject area of reading, writing, mathematics, science, and social studies of the weighted proportion of untested students and students scoring at each level of skill described in division (A)(2) of section 3301.0710 of the Revised Code on the tests prescribed by divisions (A) and (B) of that section. The department of education shall assign weights such that students who do not take a test receive a weight of zero~~

and students who take a test receive progressively larger weights dependent upon the level of skill attained on the test. The department shall also determine the performance index score a school district or building needs to achieve for the purpose of the performance ratings assigned pursuant to section 3302.03 of the Revised Code.

Students shall be included in the "performance index score" in accordance with division (D)(2) of section 3302.03 of the Revised Code.

~~(F)~~(B) "Subgroup" means a subset of the entire student population of the state, a school district, or a school building and includes each of the following:

- (1) Major racial and ethnic groups;
- (2) Students with disabilities;
- (3) Economically disadvantaged students;
- (4) Limited English proficient students.

~~(G)~~ "Other academic indicators" means measures of student academic performance other than scores on tests administered under section 3301.0710 of the Revised Code, which shall be the attendance rate for elementary and middle schools and the graduation rate for high schools.

~~(H)~~ "Annual measurable objective" means the yearly percentage of students, which shall be established by the state board, who must score at or above the proficient level on tests established under section 3301.0710 of the Revised Code in reading and mathematics administered to their grade level for a school district or a school building to be deemed to have made sufficient progress for that school year toward the goal of having all students scoring at or above the proficient level on such tests by June 30, 2014. For the school year that begins July 1, 2003, the state board shall establish an "annual measurable objective" in accordance with the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6311. In the school year following the first administration of each test established under section 3301.0710 of the Revised Code, the state board shall use the results from such tests to make any necessary adjustments in the applicable annual measurable objective.

~~(I)~~(C) "No Child Left Behind Act of 2001" includes the statutes codified at 20 U.S.C. 6301 et seq. and any amendments thereto, rules and regulations promulgated pursuant to those statutes, guidance documents, and any other policy directives regarding implementation of that act issued by the United States department of education.

~~(D)~~ "Adequate yearly progress;" as required by the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6311, means a measure of annual academic performance as calculated in accordance with the "No

Child Left Behind Act of 2001. . "Adequate yearly progress" is made by a school district or a school building when the district or building satisfies either divisions (I)(1) and (2) of this section or divisions (I)(1) and (3) of this section in the applicable school year:

(1) At least ninety-five per cent of the total student population and of each subgroup enrolled in the district or building at the time of the test administration takes each test in reading and mathematics prescribed by section 3301.0710 of the Revised Code that is administered to their grade level, except that this requirement shall not apply to any subgroup in the district or building that contains less than forty students. Those students taking a test with accommodations or an alternate assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code shall be counted as taking that test for the purposes of this division. Any limited English proficient student who has been enrolled in United States schools for less than one full school year and does not take a reading test administered to the student's grade level shall be counted as taking that test for the purposes of this division if, in the same school year, the student has been assessed to determine the student's progress in learning English in accordance with division (C)(3) of section 3301.0711 of the Revised Code.

(2) The total student population and each subgroup in the district or building, as defined in division (D)(2) of section 3302.03 of the Revised Code, meets or exceeds the annual measurable objective for that school year in reading and mathematics based upon data from the current school year or a three-year average of data and the district or building meets or exceeds the minimum threshold or makes progress on the other academic indicators for that school year. In calculating whether a district or building satisfies this division, the department shall include any subgroup in the district or building that contains thirty or more students, except that the department shall not include the subgroup described in division (F)(2) of this section unless such subgroup contains forty five or more students. The determination of students in the subgroup described in division (F)(2) of this section who are not required to score at or above the proficient level on tests established under section 3301.0710 of the Revised Code for the purpose of determining whether a district or building satisfies this division shall comply with federal statutes, rules, and regulations.

(3) If the performance of the total student population or any subgroup in the district or building results in the failure of the district or building to satisfy division (I)(2) of this section, the district or building shall fulfill both of the following requirements with respect to the total student population or any pertinent subgroup:

~~(a) The percentage of students scoring below the proficient level on the applicable tests in the total student population or subgroup decreases by at least ten per cent from the percentage of such students in the total student population or subgroup in the preceding school year or from the average percentage of such students in the total student population or subgroup in the two preceding school years.~~

~~(b) The total student population or subgroup meets or exceeds the minimum threshold on the other academic indicators for that school year or makes progress toward meeting the minimum threshold on one of the other academic indicators for that school year.~~

~~(J)(E)~~ "Supplemental educational services" means additional academic assistance, such as tutoring, remediation, or other educational enrichment activities, that is conducted outside of the regular school day by a provider approved by the department in accordance with the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6316.

~~(K)(F)~~ "Value-added progress dimension" means a measure of academic gain for a student or group of students over a specific period of time that is calculated by applying a statistical methodology to individual student achievement data derived from the achievement tests prescribed by section 3301.0710 of the Revised Code.

Sec. 3302.03. (A) Annually the department of education shall report for each school district and each school building in a district all of the following:

(1) The extent to which the school district or building meets each of the applicable performance indicators created by the state board of education under section 3302.02 of the Revised Code and the number of applicable performance indicators that have been achieved;

(2) The performance index score of the school district or building;

(3) Whether the school district or building has made adequate yearly progress;

(4) Whether the school district or building is excellent, effective, needs continuous improvement, is under an academic watch, or is in a state of academic emergency.

(B)(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the

applicable state performance indicators or has a performance index score established by the department.

(2) A school district or building shall be declared effective if it fulfills one of the following requirements:

(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.

(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:

(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.

(b) It does not make adequate yearly progress and either meets at least fifty per cent but less than seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department.

(4) A school district or building shall be declared to be under an academic watch if it does not make adequate yearly progress and either meets at least thirty-one per cent but less than fifty per cent of the applicable state performance indicators or has a performance index score established by the department.

(5) A school district or building shall be declared to be in a state of academic emergency if it does not make adequate yearly progress, does not meet at least thirty-one per cent of the applicable state performance indicators, and has a performance index score established by the department.

(C)(1) The department shall issue annual report cards for each school district, each building within each district, and for the state as a whole reflecting performance on the indicators created by the state board under section 3302.02 of the Revised Code, the performance index score, and adequate yearly progress.

(2) The department shall include on the report card for each district information pertaining to any change from the previous year made by the school district or school buildings within the district on any performance indicator.

(3) When reporting data on student performance, the department shall disaggregate that data according to the following categories:

- (a) Performance of students by age group;
- (b) Performance of students by race and ethnic group;
- (c) Performance of students by gender;
- (d) Performance of students grouped by those who have been enrolled in a district or school for three or more years;
- (e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;
- (f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;
- (g) Performance of students grouped by those who are economically disadvantaged;
- (h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;
- (i) Performance of students grouped by those who are classified as limited English proficient;
- (j) Performance of students grouped by those who have disabilities;
- (k) Performance of students grouped by those who are classified as migrants;
- (l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.

The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.

In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student performance data for any group identified in division (C)(3) of this section that contains less than ten students.

(4) The department may include with the report cards any additional education and fiscal performance data it deems valuable.

(5) The department shall include on each report card a list of additional information collected by the department that is available regarding the district or building for which the report card is issued. When available, such additional information shall include student mobility data disaggregated by

race and socioeconomic status, college enrollment data, and the reports prepared under section 3302.031 of the Revised Code.

The department shall maintain a site on the world wide web. The report card shall include the address of the site and shall specify that such additional information is available to the public at that site. The department shall also provide a copy of each item on the list to the superintendent of each school district. The district superintendent shall provide a copy of any item on the list to anyone who requests it.

(6) For any district that sponsors a conversion community school under Chapter 3314. of the Revised Code, the department shall combine data regarding the academic performance of students enrolled in the community school with comparable data from the schools of the district for the purpose of calculating the performance of the district as a whole on the report card issued for the district.

(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," ~~115 Stat. 1425, 20 U.S.C. 7801,~~ and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of master teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating reading, writing, mathematics, social studies, or science proficiency or achievement test passage rates used to determine school district or building performance under this section, the department shall include all students taking a test with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any test prescribed by section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by ~~division (D)(1) of section 3302.01 of the Revised Code~~ the "No Child Left Behind Act of 2001" for the calculation of adequate yearly progress, exclude for each district or building any limited English proficient student who has been enrolled in United States schools for less than one full school year.

Sec. 3302.04. (A) The department of education shall establish a system of intensive, ongoing support for the improvement of school districts and school buildings. The system shall give priority to districts and buildings that have been declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code and shall include services provided to districts and buildings through regional service providers, such as educational service centers, regional professional development centers, and special education regional resource centers.

(B) When a school district has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or a building within the district has failed to make adequate yearly progress for two consecutive school years, the district shall develop a three-year continuous improvement plan for the district or building containing each of the following:

(1) An analysis of the reasons for the failure of the district or building to meet any of the applicable performance indicators established under section 3302.02 of the Revised Code that it did not meet and an analysis of the reasons for its failure to make adequate yearly progress;

(2) Specific strategies that the district or building will use to address the problems in academic achievement identified in division (B)(1) of this section;

(3) Identification of the resources that the district will allocate toward improving the academic achievement of the district or building;

(4) A description of any progress that the district or building made in the preceding year toward improving its academic achievement;

(5) An analysis of how the district is utilizing the professional development standards adopted by the state board pursuant to section 3319.61 of the Revised Code;

(6) Strategies that the district or building will use to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

No three-year continuous improvement plan shall be developed or adopted pursuant to this division unless at least one public hearing is held within the affected school district or building concerning the final draft of the plan. Notice of the hearing shall be given two weeks prior to the hearing

by publication in one newspaper of general circulation within the territory of the affected school district or building. Copies of the plan shall be made available to the public.

(C) When a school district or building has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or building is under an academic watch or in a state of academic emergency, the district or building shall be subject to any rules establishing intervention in academic watch or emergency school districts or buildings.

(D)(1) Within one hundred twenty days after any school district or building is declared to be in a state of academic emergency under section 3302.03 of the Revised Code, the department may initiate a site evaluation of the building or school district.

(2) If any school district that is declared to be in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code or encompasses a building that is declared to be in a state of academic emergency or in a state of academic watch fails to demonstrate to the department satisfactory improvement of the district or applicable buildings or fails to submit to the department any information required under rules established by the state board of education, prior to approving a three-year continuous improvement plan under rules established by the state board of education, the department shall conduct a site evaluation of the school district or applicable buildings to determine whether the school district is in compliance with minimum standards established by law or rule.

(3) Site evaluations conducted under divisions (D)(1) and (2) of this section shall include, but not be limited to, the following:

(a) Determining whether teachers are assigned to subject areas for which they are licensed or certified;

(b) Determining pupil-teacher ratios;

(c) Examination of compliance with minimum instruction time requirements for each school day and for each school year;

(d) Determining whether materials and equipment necessary to implement the curriculum approved by the school district board are available;

(e) Examination of whether the teacher and principal evaluation system reflects the evaluation system guidelines adopted by the state board of education under section 3319.112 of the Revised Code;

(f) Examination of the adequacy of efforts to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

(E) This division applies only to school districts that operate a school building that fails to make adequate yearly progress for two or more consecutive school years.

(1) For any school building that fails to make adequate yearly progress for two consecutive school years, the district shall do all of the following:

(a) Provide written notification of the academic issues that resulted in the building's failure to make adequate yearly progress to the parent or guardian of each student enrolled in the building. The notification shall also describe the actions being taken by the district or building to improve the academic performance of the building and any progress achieved toward that goal in the immediately preceding school year.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, offer all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001," ~~15 Stat. 1425, 20 U.S.C. 6316.~~ Notwithstanding Chapter 3327. of the Revised Code, the district shall spend an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under this division, unless the district can satisfy all demand for transportation with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation, the district shall grant priority over all other students to the lowest achieving students among the subgroup described in division ~~(F)~~(B)(3) of section 3302.01 of the Revised Code in providing transportation. Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under this division.

(2) For any school building that fails to make adequate yearly progress for three consecutive school years, the district shall do both of the following:

(a) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, provide all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school

improvement status as defined by the "No Child Left Behind Act of 2001," ~~115 Stat. 1425, 20 U.S.C. 6316.~~ Notwithstanding Chapter 3327. of the Revised Code, the district shall provide transportation for students who enroll in alternative buildings under this division to the extent required under division (E)(2) of this section.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, offer supplemental educational services to students who are enrolled in the building and who are in the subgroup described in division ~~(F)~~(B)(3) of section 3302.01 of the Revised Code.

The district shall spend a combined total of an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section and to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can satisfy all demand for transportation and pay the costs of supplemental educational services for those students who request them with a lesser amount. In allocating funds between the requirements of divisions (E)(1)(b) and (E)(2)(a) and (b) of this section, the district shall spend at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section, unless the district can satisfy all demand for transportation with a lesser amount, and at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can pay the costs of such services for all students requesting them with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation under divisions (E)(1)(b) and (E)(2)(a) of this section and to pay the costs of all of the supplemental educational services provided to students under division (E)(2)(b) of this section, the district shall grant priority over all other students in providing transportation and in paying the costs of supplemental educational services to the lowest achieving students among the subgroup described in division ~~(F)~~(B)(3) of section 3302.01 of the Revised Code.

Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under division (E)(2)(a) of this section or to pay the costs of supplemental educational services provided to any student under division (E)(2)(b) of this section.

No student who enrolls in an alternative building under division (E)(2)(a) of this section shall be eligible for supplemental educational services under division (E)(2)(b) of this section.

(3) For any school building that fails to make adequate yearly progress for four consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement at least one of the following options with respect to the building:

(a) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(b) Decrease the degree of authority the building has to manage its internal operations;

(c) Appoint an outside expert to make recommendations for improving the academic performance of the building. The district may request the department to establish a state intervention team for this purpose pursuant to division (G) of this section.

(d) Extend the length of the school day or year;

(e) Replace the building principal or other key personnel;

(f) Reorganize the administrative structure of the building.

(4) For any school building that fails to make adequate yearly progress for five consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall develop a plan during the next succeeding school year to improve the academic performance of the building, which shall include at least one of the following options:

(a) Reopen the school as a community school under Chapter 3314. of the Revised Code;

(b) Replace personnel;

(c) Contract with a nonprofit or for-profit entity to operate the building;

(d) Turn operation of the building over to the department;

(e) Other significant restructuring of the building's governance.

(5) For any school building that fails to make adequate yearly progress for six consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement the plan developed pursuant to division (E)(4) of this section.

(6) A district shall continue to comply with division (E)(1)(b) or (E)(2) of this section, whichever was most recently applicable, with respect to any building formerly subject to one of those divisions until the building makes adequate yearly progress for two consecutive school years.

(F) This division applies only to school districts that ~~fail to make adequate yearly progress for two or more consecutive school years~~ have been identified for improvement by the department pursuant to the "No Child Left Behind Act of 2001."

(1) If a school district ~~fails to make adequate yearly progress~~ has been identified for improvement for ~~two consecutive~~ one school years year, the district shall provide a written description of the continuous improvement plan developed by the district pursuant to division (B) of this section to the parent or guardian of each student enrolled in the district. If the district does not have a continuous improvement plan, the district shall develop such a plan in accordance with division (B) of this section and provide a written description of the plan to the parent or guardian of each student enrolled in the district.

(2) If a school district ~~fails to make adequate yearly progress~~ has been identified for improvement for ~~three~~ two consecutive school years, the district shall continue to implement the continuous improvement plan developed by the district pursuant to division (B) or (F)(1) of this section.

(3) If a school district ~~fails to make adequate yearly progress~~ has been identified for improvement for ~~four~~ three consecutive school years, the department shall take at least one of the following corrective actions with respect to the district:

(a) Withhold a portion of the funds the district is entitled to receive under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339;

(b) Direct the district to replace key district personnel;

(c) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(d) Establish alternative forms of governance for individual school buildings within the district;

(e) Appoint a trustee to manage the district in place of the district superintendent and board of education.

The department shall conduct individual audits of a sampling of districts subject to this division to determine compliance with the corrective actions taken by the department.

(4) If a school district ~~fails to make adequate yearly progress~~ has been

identified for improvement for ~~five~~ four consecutive school years, the department shall continue to monitor implementation of the corrective action taken under division (F)(3) of this section with respect to the district.

(5) If a school district ~~fails to make adequate yearly progress~~ has been identified for improvement for ~~six~~ five consecutive school years, the department shall take at least one of the corrective actions identified in division (F)(3) of this section with respect to the district, provided that the corrective action the department takes is different from the corrective action previously taken under division (F)(3) of this section with respect to the district.

(G) The department may establish a state intervention team to evaluate all aspects of a school district or building, including management, curriculum, instructional methods, resource allocation, and scheduling. Any such intervention team shall be appointed by the department and shall include teachers and administrators recognized as outstanding in their fields. The intervention team shall make recommendations regarding methods for improving the performance of the district or building.

The department shall not approve a district's request for an intervention team under division (E)(3) of this section if the department cannot adequately fund the work of the team, unless the district agrees to pay for the expenses of the team.

(H) The department shall conduct individual audits of a sampling of community schools established under Chapter 3314. of the Revised Code to determine compliance with this section.

(I) The state board shall adopt rules for implementing this section.

Sec. 3302.09. (A) Whenever the United States department of education makes changes in its policies or rules regarding implementation of the No Child Left Behind Act of 2001, the Ohio department of education shall submit a written description of those changes to each member of the standing committees on education of the senate and house of representatives.

(B) If the Ohio department of education plans to change any of its policies or procedures regarding the state's implementation of the No Child Left Behind Act of 2001 based on changes in federal polices or rules described in division (A) of this section, the Ohio department of education shall submit to each member of the standing committees a written outline of the existing Ohio policy regarding that implementation and a written description of the changes it proposes to make.

(C) On and after July 1, 2005, the Ohio department of education shall not make any change proposed under division (B) of this section unless the

general assembly has adopted a concurrent resolution approving the proposed change.

Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the testing requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) Except as provided in division (B)(3) of this section, a person who fulfills the curriculum requirement for a diploma prior to September 15, 2006, is not required to pass the Ohio graduation test in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test in social studies. If a person fulfills the curriculum requirement for a diploma prior to September 15, 2006, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma.

(3) A person who begins tenth grade after July 1, 2004, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each

such person must pass Ohio graduation tests to meet the testing requirements applicable to that person as a condition to receiving a diploma.

(C) This division specifies the curriculum requirement that shall be completed as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who is under twenty-two years of age when the person fulfills the curriculum requirement for a diploma shall complete the curriculum required by the school district or school issuing the diploma for the first year that the person originally enrolled in high school.

(2) Once a person fulfills the curriculum requirement for a diploma, the person is never required, as a condition of receiving a diploma, to meet any different curriculum requirements that take effect pending the person's passage of proficiency or achievement tests, including changes mandated by section 3313.603 of the Revised Code, the state board, a school district board of education, or a governing authority of a community school or chartered nonpublic school.

Sec. 3317.012. (A)(1) The general assembly, having analyzed school district expenditure and cost data for fiscal year 1999, performed the calculation described in division (B) of this section, adjusted the results for inflation, and added the amounts described in division (A)(2) of this section, hereby determines that the base cost of an adequate education per pupil for the fiscal year beginning July 1, 2001, is \$4,814. The base cost per pupil, reflecting an annual rate of inflation of two and eight-tenths per cent, is \$4,949 for fiscal year 2003. The base cost per pupil, reflecting an annual rate of inflation of two and two-tenths per cent, is \$5,058 for fiscal year 2004 and \$5,169 for fiscal year 2005.

(2) The base cost per pupil amounts specified in division (A)(1) of this section include amounts to reflect the cost to school districts of increasing the minimum number of high school academic units required for graduation beginning September 15, 2001, under section 3313.603 of the Revised Code. Analysis of fiscal year 1999 data revealed that the school districts meeting the requirements of division (B) of this section on average required high school students to complete a minimum of nineteen and eight-tenths units to graduate. The general assembly determines that the cost of funding the additional two-tenths unit required by section 3313.603 of the Revised Code is \$12 per pupil in fiscal year 2002. This amount was added after the calculation described in division (B) of this section and the adjustment for inflation from fiscal year 1999 to fiscal year 2002. It is this total amount, the calculated base cost plus the supplement to pay for the additional partial unit, that constitutes the base cost amount specified in division (A)(1) of this

section for fiscal year 2002 and that is inflated to produce the base cost amounts for fiscal years 2003 through 2005.

(B) In determining the base cost stated in division (A) of this section, capital and debt costs, costs paid for by federal funds, and costs covered by funds provided for disadvantaged pupil impact aid and transportation were excluded, as were the effects on the districts' state funds of the application of the cost-of-doing-business factors, assuming a seven and one-half per cent variance.

The base cost for fiscal year 1999 was calculated as the unweighted average cost per student, on a school district basis, of educating students who were not receiving vocational education or services pursuant to Chapter 3323. of the Revised Code and who were enrolled in a city, exempted village, or local school district that in fiscal year 1999 met all of the following criteria:

(1) The district met at least twenty of the following twenty-seven performance indicators:

(a) A ninety per cent or higher graduation rate;

(b) At least seventy-five per cent of fourth graders proficient on the mathematics test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(c) At least seventy-five per cent of fourth graders proficient on the reading test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(d) At least seventy-five per cent of fourth graders proficient on the writing test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(e) At least seventy-five per cent of fourth graders proficient on the citizenship test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(f) At least seventy-five per cent of fourth graders proficient on the science test prescribed under former division (A)(1) of section 3301.0710 of the Revised Code;

(g) At least seventy-five per cent of sixth graders proficient on the mathematics test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(h) At least seventy-five per cent of sixth graders proficient on the reading test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(i) At least seventy-five per cent of sixth graders proficient on the writing test prescribed under former division (A)(2) of section 3301.0710 of

the Revised Code;

(j) At least seventy-five per cent of sixth graders proficient on the citizenship test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(k) At least seventy-five per cent of sixth graders proficient on the science test prescribed under former division (A)(2) of section 3301.0710 of the Revised Code;

(l) At least seventy-five per cent of ninth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(m) At least seventy-five per cent of ninth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(n) At least seventy-five per cent of ninth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(o) At least seventy-five per cent of ninth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(p) At least seventy-five per cent of ninth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(q) At least eighty-five per cent of tenth graders proficient on the mathematics test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(r) At least eighty-five per cent of tenth graders proficient on the reading test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(s) At least eighty-five per cent of tenth graders proficient on the writing test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(t) At least eighty-five per cent of tenth graders proficient on the citizenship test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(u) At least eighty-five per cent of tenth graders proficient on the science test prescribed under Section 4 of Am. Sub. S.B. 55 of the 122nd general assembly;

(v) At least sixty per cent of twelfth graders proficient on the mathematics test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(w) At least sixty per cent of twelfth graders proficient on the reading test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(x) At least sixty per cent of twelfth graders proficient on the writing test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(y) At least sixty per cent of twelfth graders proficient on the citizenship test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(z) At least sixty per cent of twelfth graders proficient on the science test prescribed under former division (A)(3) of section 3301.0710 of the Revised Code;

(aa) An attendance rate for the year of at least ninety-three per cent as defined in section 3302.01 of the Revised Code.

In determining whether a school district met any of the performance standards specified in divisions (B)(1)(a) to (aa) of this section, the general assembly used a rounding procedure previously recommended by the department of education. It is the same rounding procedure the general assembly used in 1998 to determine whether a district had met the standards of former divisions (B)(1)(a) to (r) of this section for purposes of constructing the previous model based on fiscal year 1996 data.

(2) The district was not among the five per cent of all districts with the highest income, nor among the five per cent of all districts with the lowest income.

(3) The district was not among the five per cent of all districts with the highest valuation per pupil, nor among the five per cent of all districts with the lowest valuation per pupil.

This model for calculating the base cost of an adequate education is expenditure-based. The general assembly recognizes that increases in state funding to school districts since fiscal year 1996, the fiscal year upon which the general assembly based its model for calculating state funding to school districts for fiscal years 1999 through 2001, has increased school district base cost expenditures for fiscal year 1999, the fiscal year upon which the general assembly based its model for calculating state funding for fiscal years 2002 through 2005. In the case of school districts included in the fiscal year 1999 model that also had met the fiscal year 1996 performance criteria of former division (B)(1) of this section, the increased state funding may have driven the districts' expenditures beyond the expenditures that were actually needed to maintain their educational programs at the level necessary to maintain their ability to meet the fiscal year 1999 performance

criteria of current division (B)(1) of this section. The general assembly has determined to control for this effect by stipulating in the later model that the fiscal year 1999 base cost expenditures of the districts that also met the performance criteria of former division (B)(1) of this section equals their base cost expenditures per pupil for fiscal year 1996, inflated to fiscal year 1999 using an annual rate of inflation of two and eight-tenths per cent. However, if this inflated amount exceeded the district's actual fiscal year 1999 base cost expenditures per pupil, the district's actual fiscal year 1999 base cost expenditures per pupil were used in the calculation. For districts in the 1999 model that did not also meet the performance criteria of former division (B)(1) of this section, the actual 1999 base cost per pupil expenditures were used in the calculation of the average district per pupil costs of the model districts.

Sec. 3319.55. (A) A grant program is hereby established to recognize and reward ~~public school~~ teachers in public and chartered nonpublic schools who hold valid teaching certificates or licenses issued by the national board for professional teaching standards. The superintendent of public instruction shall administer this program in accordance with this section and rules which the state board of education shall adopt in accordance with Chapter 119. of the Revised Code.

In each fiscal year that the general assembly appropriates funds for purposes of this section, the superintendent of public instruction shall award a grant to each person who, by the first day of April of that year and in accordance with the rules adopted under this section, submits to the superintendent evidence indicating all of the following:

- (1) The person holds a valid certificate or license issued by the national board for professional teaching standards;
- (2) The person has been employed full-time as a teacher by the board of education of a school district or by a chartered nonpublic school in this state during the current school year;
- (3) The date the person was accepted into the national board certification or licensure program.

An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section.

(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following:

- (1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or

before December 31, 2004;

(2) One thousand dollars for any other teacher issued a certificate or license by the national board.

However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person.

Sec. 3319.63. The board of education of a school district that employs any person who is appointed to serve as a member of the educator standards board under division (A)(1) or (3) of section 3319.60 of the Revised Code shall grant that person paid professional leave for the purpose of attending meetings and conducting official business of the educator standards board.

SECTION 2. That existing sections 3119.89, 3119.90, 3119.94, 3121.38, 3301.0711, 3302.01, 3302.03, 3302.04, 3313.614, 3317.012, and 3319.55 of the Revised Code are hereby repealed.

SECTION 3. (A) The Department of Education shall pay a stipend to each person who meets the following conditions:

(1) The person holds or held a certificate or license issued by the National Board for Professional Teaching Standards that was valid in the 2003-2004 school year.

(2) The person was employed full-time as a teacher by a chartered nonpublic school in the 2003-2004 school year.

(3) The person did not receive a stipend under section 3319.55 of the Revised Code for the 2003-2004 school year.

(B) Each person who wishes to receive the stipend shall submit to the Superintendent of Public Instruction, by a date set by the Superintendent that is not earlier than the sixty-first day after the effective date of this section, evidence indicating satisfaction of the conditions prescribed in division (A) of this section and evidence indicating the date the person was accepted into the National Board certification or licensure program.

(C) The stipend paid to each eligible person under this section shall be in the amount of a stipend paid under section 3319.55 of the Revised Code for the 2003-2004 school year to a similarly certificated or licensed teacher employed by a school district board of education.

(D) The Department shall pay stipends under this section from funds earmarked by Section 41.03 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, from appropriation item 200-410, Professional

Development, to pay stipends under section 3319.55 of the Revised Code. The Department first shall use funds so earmarked for fiscal year 2004 that are encumbered but not expended prior to the effective date of this section. If those funds are not sufficient to pay all stipends under this section, the Department next shall use funds so earmarked for fiscal year 2005.

SECTION 4. That Section 7 of Am. Sub. S.B. 1 of the 124th General Assembly is hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____