

**As Passed by the Senate**

**125th General Assembly**

**Regular Session**

**2003-2004**

**Am. H. B. No. 493**

**Representatives Hoops, Husted, J. Stewart, Aslanides, C. Evans, T. Patton,  
Willamowski, Latta, Seitz, Raga, Schaffer, Flowers, Setzer, G. Smith, Kearns,  
McGregor, Hughes, Schmidt, Ujvagi, D. Evans, Combs, Faber, Widener,  
Taylor, Schlichter, Slaby, Widowfield, Wolpert, Carmichael, Collier, Hartnett,  
Skindell, Carano, S. Patton, Miller, Seaver, Perry, Cirelli, Chandler, Otterman,  
Beatty, Brown, D. Stewart, Key, Mason, Allen, Barrett, Calvert, Clancy,  
Daniels, DeBose, DeGeeter, Domenick, Gibbs, Gilb, Harwood, Martin,  
Niehaus, Oلمان, Price, Reidelbach, S. Smith, Strahorn, Walcher, Wilson  
Senators Coughlin, Robert Gardner, Randy Gardner**

—

**A B I L L**

To amend sections 3119.89, 3119.90, 3119.94, 3121.38, 1  
3301.0711, 3302.01, 3302.03, 3302.04, 3313.614, 2  
3317.012, and 3319.55, to enact sections 5.2229, 3  
3121.373, 3121.382, 3302.09, and 3319.63 of the 4  
Revised Code, and to repeal Section 7 of Am. Sub. 5  
S.B. 1 of the 124th General Assembly to designate 6  
the fourth week of September as "Parent's Week," 7  
to increase the penalties against and permit 8  
electronic transfers from the bank account of an 9  
employer who willfully fails to withhold the 10  
amount required under a support order, to make 11  
changes to the laws governing the impoundment of 12  
child support, to change the criteria for imposing 13  
sanctions on school districts under the No Child 14  
Left Behind Act, to make other changes to comply 15  
with that Act, to make teachers employed by 16

chartered nonpublic schools eligible for stipends 17  
for holding valid certificates or licenses issued 18  
by the National Board for Professional Teaching 19  
Standards, to require the Department of Education 20  
to pay those stipends to qualified nonpublic 21  
school teachers for the 2003-2004 school year, to 22  
allow specified students to substitute passage of 23  
the Ohio Graduation Test in a particular subject 24  
for passage of the ninth grade proficiency test in 25  
that subject to satisfy diploma requirements, and 26  
to require school districts to grant professional 27  
leave to their employees who are members of the 28  
Educator Standards Board. 29

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 3119.89, 3119.90, 3119.94, 3121.38, 30  
3301.0711, 3302.01, 3302.03, 3302.04, 3313.614, 3317.012, and 31  
3319.55 be amended and sections 5.2229, 3121.373, 3121.382, 32  
3302.09, and 3319.63 of the Revised Code be enacted to read as 33  
follows: 34

**Sec. 5.2229.** The fourth week of September is designated as 35  
"Parent's Week" to commend and encourage the work of parents in 36  
supporting and caring for their children. 37

**Sec. 3119.89.** (A) Upon receipt of a notice pursuant to 38  
section 3119.87 of the Revised Code, the child support enforcement 39  
agency administering a child support order, within twenty days 40  
after receipt of the notice, shall complete an investigation. The 41  
agency administering a child support order may conduct an 42  
investigation upon its own initiative if it otherwise has reason 43  
to believe that there may be a reason for which the order should 44

terminate. The agency's investigation shall determine the 45  
following: 46

(1) Whether any reason exists for which the order should 47  
terminate; 48

(2) Whether there are other children subject to the order; 49

(3) Whether the obligor owes any arrearages under the order; 50

(4) Whether the agency believes it is necessary to continue 51  
withholding or deduction pursuant to a notice or order described 52  
in section 3121.03 of the Revised Code for the other children or 53  
arrearages; 54

(5) Whether child support amounts paid pursuant to the order 55  
being investigated should be impounded because continuation of 56  
receipt and disbursement would lead to an overpayment by the 57  
obligor. 58

(B) If the agency, pursuant to the investigation under 59  
division (A) of this section, determines that other children are 60  
subject to the child support order and that it is necessary to 61  
continue withholding or deduction for the other children, the 62  
agency shall divide the child support due annually and per month 63  
under the order by the number of children who are the subject of 64  
the order and subtract the amount due for the child for whom the 65  
order should be terminated from the total child support amount due 66  
annually and per month. The resulting annual and per month child 67  
support amount shall be included in the results of the agency's 68  
investigation as the recommended child support amount due annually 69  
and monthly under a revised child support order. If arrearage 70  
amounts are owed, those amounts may be included as part of the 71  
recommended child support amount. The investigation under division 72  
(A) of this section shall not include a review pursuant to 73  
sections 3119.60 to 3119.76 of the Revised Code of any other 74

children subject to the child support order.

75

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:

76

77

78

79

80

81

82

~~(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-;

83

84

85

86

87

88

~~(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.

89

90

91

92

93

~~(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:

94

95

96

97

98

99

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

100

101

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

102

103

(3)(a) Notice that the conclusions of the investigations will

104

be issued as an administrative order by the agency if the 105  
underlying order is an administrative child support order; 106

(b) Notice that the conclusions of the investigations will be 107  
submitted to the court for inclusion into a revised or terminated 108  
court child support order with no further court hearing if the 109  
underlying order is a court child support order. 110

(4) Notice that no revised administrative or court child 111  
support order will be issued if either the obligor or obligee 112  
requests an administrative hearing on the investigation 113  
conclusions within thirty days after receipt of the notice under 114  
this division. 115

**Sec. 3119.94. (A)** The director of job and family services 116  
shall adopt rules that provide for all of the following: 117

~~(A)(1)~~ The payment to the appropriate person of any funds 118  
that a court or child support enforcement agency has impounded 119  
under section 3119.90 or 3119.92 of the Revised Code; 120

~~(B)(2)~~ The return to the appropriate person of any other 121  
payments made pursuant to a child support order if the payments 122  
were made at any time after the child support order has been 123  
terminated pursuant to section 3119.90 or 3119.92 of the Revised 124  
Code; 125

~~(C)(3)~~ Any other standards, forms, or procedures needed to 126  
ensure uniform implementation of sections 3119.86 to 3119.94 of 127  
the Revised Code. 128

(B) With respect to the court order for impoundment required 129  
under division (A)(1) of section 3119.90 of the Revised Code, the 130  
director of job and family services may adopt rules that specify a 131  
form for the order or approve a form developed by the Ohio 132  
judicial conference. 133

Sec. 3121.373. (A) As used in this section, "willfully" means 134  
voluntarily and intentionally with a specific intent to take an 135  
action or fail to take an action. 136

(B) When a child support enforcement agency seeks an order 137  
for contempt pursuant to section 3121.371 of the Revised Code 138  
against a payor that is an employer, the court may, on motion of 139  
the agency or on the court's own motion, hold a hearing to 140  
determine whether the payor has done either of the following: 141

(1) Willfully failed to comply with a withholding notice 142  
issued pursuant to section 3121.03 of the Revised Code; 143

(2) Failed three times within twelve consecutive months to 144  
comply with a withholding notice issued pursuant to section 145  
3121.03 of the Revised Code. 146

(C) Not later than fourteen days before holding a hearing 147  
under division (B) of this section, the court shall serve notice 148  
on the payor that complies with court rules regarding service of 149  
summonses. The notice must contain all of the following: 150

(1) The date, time, and location of the hearing; 151

(2) A statement that if the court determines the payor has 152  
committed acts or omissions described in division (B) of this 153  
section, the court may order either or both of the penalties set 154  
forth in section 3121.382 of the Revised Code. 155

**Sec. 3121.38.** A payor that fails to withhold an amount from 156  
an obligor's income for support in accordance with a withholding 157  
requirement included in a withholding notice issued under section 158  
3121.03 of the Revised Code or a financial institution that fails 159  
to deduct funds from an obligor's account for support in 160  
accordance with a deduction requirement included in a deduction 161  
notice issued under section 3121.03 of the Revised Code is liable 162

for the amount that was not withheld or deducted, except that a 163  
payor that is an employer whose normal pay and disbursement cycles 164  
make it impossible to comply with a withholding requirement 165  
contained in a withholding notice shall not be liable for the 166  
amount not withheld if the employer, as soon as possible after 167  
receipt of the withholding notice, provides the court or child 168  
support enforcement agency that issued the notice with written 169  
notice of the impossibility and the reasons for the impossibility. 170

A payor who is liable under this provision for an amount that 171  
was not withheld shall be ordered by the court ~~or agency~~ to pay 172  
that amount to the office of child support in the department of 173  
job and family services, to be disbursed in accordance with the 174  
support order for the benefit of the child or spouse. 175

Sec. 3121.382. (A) As used in this section, "willfully" means 176  
voluntarily and intentionally with a specific intent to take an 177  
action or fail to take an action. 178

(B) If, after a hearing conducted pursuant to section 179  
3121.373 of the Revised Code, the court determines that a payor 180  
that is an employer has willfully failed to comply with a 181  
withholding notice issued pursuant to section 3121.03 of the 182  
Revised Code, or has failed three times within twelve consecutive 183  
months to comply with a withholding notice, the court may issue an 184  
order requiring one or both of the following: 185

(1) The payment of support by electronic transfer of funds 186  
from the bank account of the payor; 187

(2) A civil penalty, in addition to any other penalty 188  
permitted by law, of up to fifty per cent of the amount not 189  
withheld from the obligor's income or not timely forwarded to the 190  
office of child support in accordance with the withholding notice. 191

<b>Sec. 3301.0711.</b> (A) The department of education shall:	192
(1) Annually furnish to, grade, and score all tests required	193
by section 3301.0710 of the Revised Code to be administered by	194
city, local, exempted village, and joint vocational school	195
districts, except that each district shall score any test	196
administered pursuant to division (B)(10) of this section. In	197
furnishing the practice versions of Ohio graduation tests	198
prescribed by division (F) of section 3301.0710 of the Revised	199
Code, the department shall make the tests available on its web	200
site for reproduction by districts. In awarding contracts for	201
grading tests, the department shall give preference to Ohio-based	202
entities employing Ohio residents.	203
(2) Adopt rules for the ethical use of tests and prescribing	204
the manner in which the tests prescribed by section 3301.0710 of	205
the Revised Code shall be administered to students.	206
(B) Except as provided in divisions (C) and (J) of this	207
section, the board of education of each city, local, and exempted	208
village school district shall, in accordance with rules adopted	209
under division (A) of this section:	210
(1) Administer the reading test prescribed under division	211
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually	212
to all students in the third grade who have not attained the score	213
designated for that test under division (A)(2)(c) of section	214
3301.0710 of the Revised Code and once each summer to students	215
receiving summer remediation services under section 3313.608 of	216
the Revised Code.	217
(2) Administer the mathematics test prescribed under division	218
(A)(1)(a) of section 3301.0710 of the Revised Code at least once	219
annually to all students in the third grade.	220
(3) Administer the tests prescribed under division (A)(1)(b)	221
of section 3301.0710 of the Revised Code at least once annually to	222



all students in the fourth grade.	223
(4) Administer the tests prescribed under division (A)(1)(c)	224
of section 3301.0710 of the Revised Code at least once annually to	225
all students in the fifth grade.	226
(5) Administer the tests prescribed under division (A)(1)(d)	227
of section 3301.0710 of the Revised Code at least once annually to	228
all students in the sixth grade.	229
(6) Administer the tests prescribed under division (A)(1)(e)	230
of section 3301.0710 of the Revised Code at least once annually to	231
all students in the seventh grade.	232
(7) Administer the tests prescribed under division (A)(1)(f)	233
of section 3301.0710 of the Revised Code at least once annually to	234
all students in the eighth grade.	235
(8) Except as provided in division (B)(9) of this section,	236
administer any test prescribed under division (B) of section	237
3301.0710 of the Revised Code as follows:	238
(a) At least once annually to all tenth grade students and at	239
least twice annually to all students in eleventh or twelfth grade	240
who have not yet attained the score on that test designated under	241
that division;	242
(b) To any person who has successfully completed the	243
curriculum in any high school or the individualized education	244
program developed for the person by any high school pursuant to	245
section 3323.08 of the Revised Code but has not received a high	246
school diploma and who requests to take such test, at any time	247
such test is administered in the district.	248
(9) In lieu of the board of education of any city, local, or	249
exempted village school district in which the student is also	250
enrolled, the board of a joint vocational school district shall	251
administer any test prescribed under division (B) of section	252

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 285  
has been identified, based on an evaluation conducted in 286  
accordance with section 3323.03 of the Revised Code or section 504 287  
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 288  
794, as amended, as a child with a disability shall be excused 289  
from taking any particular test required to be administered under 290  
this section if a plan developed for the student pursuant to rules 291  
adopted by the state board excuses the student from taking that 292  
test. In the case of any student so excused from taking a test, 293  
the chartered nonpublic school shall not prohibit the student from 294  
taking the test. 295

(2) A district board may, for medical reasons or other good 296  
cause, excuse a student from taking a test administered under this 297  
section on the date scheduled, but any such test shall be 298  
administered to such excused student not later than nine days 299  
following the scheduled date. The board shall annually report the 300  
number of students who have not taken one or more of the tests 301  
required by this section to the state board of education not later 302  
than the thirtieth day of June. 303

(3) As used in this division, "limited English proficient 304  
student" has the same meaning as in 20 U.S.C. 7801. 305

No school district board shall excuse any limited English 306  
proficient student from taking any particular test required to be 307  
administered under this section, except that any limited English 308  
proficient student who has been enrolled in United States schools 309  
for less than one full school year shall not be required to take 310  
any such reading or writing test. However, no board shall prohibit 311  
a limited English proficient student who is not required to take a 312  
test under this division from taking the test. A board may permit 313  
any limited English proficient student to take any test required 314  
to be administered under this section with appropriate 315  
accommodations, as determined by the department. For each limited 316

English proficient student, each school district shall annually 317  
assess that student's progress in learning English, in accordance 318  
with procedures approved by the department. 319

The governing authority of a chartered nonpublic school may 320  
excuse a limited English proficient student from taking any test 321  
administered under this section. However, no governing authority 322  
shall prohibit a limited English proficient student from taking 323  
the test. 324

(D)(1) In the school year next succeeding the school year in 325  
which the tests prescribed by division (A)(1) or (B) of section 326  
3301.0710 of the Revised Code or former division (A)(1), (A)(2), 327  
or (B) of section 3301.0710 of the Revised Code as it existed 328  
prior to September 11, 2001, are administered to any student, the 329  
board of education of any school district in which the student is 330  
enrolled in that year shall provide to the student intervention 331  
services commensurate with the student's test performance, 332  
including any intensive intervention required under section 333  
3313.608 of the Revised Code, in any skill in which the student 334  
failed to demonstrate at least a score at the proficient level on 335  
the test. 336

(2) Following any administration of the tests prescribed by 337  
division (F) of section 3301.0710 of the Revised Code to ninth 338  
grade students, each school district that has a three-year average 339  
graduation rate of not more than seventy-five per cent shall 340  
determine for each high school in the district whether the school 341  
shall be required to provide intervention services to any students 342  
who took the tests. In determining which high schools shall 343  
provide intervention services based on the resources available, 344  
the district shall consider each school's graduation rate and 345  
scores on the practice tests. The district also shall consider the 346  
scores received by ninth grade students on the reading and 347  
mathematics tests prescribed under division (A)(1)(f) of section 348

3301.0710 of the Revised Code in the eighth grade in determining 349  
which high schools shall provide intervention services. 350

Each high school selected to provide intervention services 351  
under this division shall provide intervention services to any 352  
student whose test results indicate that the student is failing to 353  
make satisfactory progress toward being able to attain scores at 354  
the proficient level on the Ohio graduation tests. Intervention 355  
services shall be provided in any skill in which a student 356  
demonstrates unsatisfactory progress and shall be commensurate 357  
with the student's test performance. Schools shall provide the 358  
intervention services prior to the end of the school year, during 359  
the summer following the ninth grade, in the next succeeding 360  
school year, or at any combination of those times. 361

(E) Except as provided in section 3313.608 of the Revised 362  
Code and division (M) of this section, no school district board of 363  
education shall utilize any student's failure to attain a 364  
specified score on any test administered under this section as a 365  
factor in any decision to deny the student promotion to a higher 366  
grade level. However, a district board may choose not to promote 367  
to the next grade level any student who does not take any test 368  
administered under this section or make up such test as provided 369  
by division (C)(2) of this section and who is not exempt from the 370  
requirement to take the test under division (C)(3) of this 371  
section. 372

(F) No person shall be charged a fee for taking any test 373  
administered under this section. 374

(G) Not later than sixty days after any administration of any 375  
test prescribed by division (A)(1) or (B) of section 3301.0710 of 376  
the Revised Code, the department shall send to each school 377  
district board a list of the individual test scores of all persons 378  
taking the test. For any tests administered under this section by 379

a joint vocational school district, the department shall also send 380  
to each city, local, or exempted village school district a list of 381  
the individual test scores of any students of such city, local, or 382  
exempted village school district who are attending school in the 383  
joint vocational school district. 384

(H) Individual test scores on any tests administered under 385  
this section shall be released by a district board only in 386  
accordance with section 3319.321 of the Revised Code and the rules 387  
adopted under division (A) of this section. No district board or 388  
its employees shall utilize individual or aggregate test results 389  
in any manner that conflicts with rules for the ethical use of 390  
tests adopted pursuant to division (A) of this section. 391

(I) Except as provided in division (G) of this section, the 392  
department shall not release any individual test scores on any 393  
test administered under this section and shall adopt rules to 394  
ensure the protection of student confidentiality at all times. 395

(J) Notwithstanding division (D) of section 3311.52 of the 396  
Revised Code, this section does not apply to the board of 397  
education of any cooperative education school district except as 398  
provided under rules adopted pursuant to this division. 399

(1) In accordance with rules that the state board of 400  
education shall adopt, the board of education of any city, 401  
exempted village, or local school district with territory in a 402  
cooperative education school district established pursuant to 403  
divisions (A) to (C) of section 3311.52 of the Revised Code may 404  
enter into an agreement with the board of education of the 405  
cooperative education school district for administering any test 406  
prescribed under this section to students of the city, exempted 407  
village, or local school district who are attending school in the 408  
cooperative education school district. 409

(2) In accordance with rules that the state board of 410

education shall adopt, the board of education of any city, 411  
exempted village, or local school district with territory in a 412  
cooperative education school district established pursuant to 413  
section 3311.521 of the Revised Code shall enter into an agreement 414  
with the cooperative district that provides for the administration 415  
of any test prescribed under this section to both of the 416  
following: 417

(a) Students who are attending school in the cooperative 418  
district and who, if the cooperative district were not 419  
established, would be entitled to attend school in the city, 420  
local, or exempted village school district pursuant to section 421  
3313.64 or 3313.65 of the Revised Code; 422

(b) Persons described in division (B)(8)(b) of this section. 423

Any testing of students pursuant to such an agreement shall 424  
be in lieu of any testing of such students or persons pursuant to 425  
this section. 426

(K)(1) Any chartered nonpublic school may participate in the 427  
testing program by administering any of the tests prescribed by 428  
section 3301.0710 or 3301.0712 of the Revised Code if the chief 429  
administrator of the school specifies which tests the school 430  
wishes to administer. Such specification shall be made in writing 431  
to the superintendent of public instruction prior to the first day 432  
of August of any school year in which tests are administered and 433  
shall include a pledge that the nonpublic school will administer 434  
the specified tests in the same manner as public schools are 435  
required to do under this section and rules adopted by the 436  
department. 437

(2) The department of education shall furnish the tests 438  
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 439  
to any chartered nonpublic school electing to participate under 440  
this division. 441

(L)(1) The superintendent of the state school for the blind 442  
and the superintendent of the state school for the deaf shall 443  
administer the tests described by section 3301.0710 of the Revised 444  
Code. Each superintendent shall administer the tests in the same 445  
manner as district boards are required to do under this section 446  
and rules adopted by the department of education and in conformity 447  
with division (C)(1)(a) of this section. 448

(2) The department of education shall furnish the tests 449  
described by section 3301.0710 of the Revised Code to each 450  
superintendent. 451

(M) Notwithstanding division (E) of this section, a school 452  
district may use a student's failure to attain a score in at least 453  
the basic range on the mathematics test described by division 454  
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 455  
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 456  
of section 3301.0710 of the Revised Code as a factor in retaining 457  
that student in the current grade level. 458

(N)(1) The tests required by section 3301.0710 of the Revised 459  
Code shall become public records pursuant to section 149.43 of the 460  
Revised Code on the first day of July following the school year 461  
that the test was administered, except that the reading test 462  
prescribed under division (A)(1)(a) of section 3301.0710 of the 463  
Revised Code shall become a public record on the sixteenth day of 464  
July following the school year that the test was administered. 465

(2) The department may field test proposed test questions 466  
with samples of students to determine the validity, reliability, 467  
or appropriateness of test questions for possible inclusion in a 468  
future year's test. The department also may use anchor questions 469  
on tests to ensure that different versions of the same test are of 470  
comparable difficulty. 471

Field test questions and anchor questions shall not be 472



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.

(0) 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.~~ 503  
504  
505  
506  
507

~~(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.~~ 508  
509  
510  
511  
512  
513  
514  
515  
516  
517

~~(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.~~ 518  
519  
520  
521  
522

~~(D) "Three year average" means the average of the most recent consecutive three school years of data.~~ 523  
524

~~(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~~ 525  
526  
527  
528  
529  
530  
531  
532  
533

dependent upon the level of skill attained on the test. The 534  
department shall also determine the performance index score a 535  
school district or building needs to achieve for the purpose of 536  
the performance ratings assigned pursuant to section 3302.03 of 537  
the Revised Code. 538

Students shall be included in the "performance index score" 539  
in accordance with division (D)(2) of section 3302.03 of the 540  
Revised Code. 541

~~(F)~~(B) "Subgroup" means a subset of the entire student 542  
population of the state, a school district, or a school building 543  
and includes each of the following: 544

- (1) Major racial and ethnic groups; 545
- (2) Students with disabilities; 546
- (3) Economically disadvantaged students; 547
- (4) Limited English proficient students. 548

~~(G) "Other academic indicators" means measures of student 549  
academic performance other than scores on tests administered under 550  
section 3301.0710 of the Revised Code, which shall be the 551  
attendance rate for elementary and middle schools and the 552  
graduation rate for high schools. 553~~

~~(H) "Annual measurable objective" means the yearly percentage 554  
of students, which shall be established by the state board, who 555  
must score at or above the proficient level on tests established 556  
under section 3301.0710 of the Revised Code in reading and 557  
mathematics administered to their grade level for a school 558  
district or a school building to be deemed to have made sufficient 559  
progress for that school year toward the goal of having all 560  
students scoring at or above the proficient level on such tests by 561  
June 30, 2014. For the school year that begins July 1, 2003, the 562  
state board shall establish an "annual measurable objective" in 563~~

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;	658 659
(3) Whether the school district or building has made adequate yearly progress;	660 661
(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.	662 663 664
(B)(1) A school district or building shall be declared excellent if it fulfills one of the following requirements:	665 666
(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.	667 668 669 670
(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.	671 672 673 674 675
(2) A school district or building shall be declared effective if it fulfills one of the following requirements:	676 677
(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.	678 679 680 681
(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.	682 683 684 685 686 687

(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	718
department shall disaggregate that data according to the following	719
categories:	720
(a) Performance of students by age group;	721
(b) Performance of students by race and ethnic group;	722
(c) Performance of students by gender;	723
(d) Performance of students grouped by those who have been	724
enrolled in a district or school for three or more years;	725
(e) Performance of students grouped by those who have been	726
enrolled in a district or school for more than one year and less	727
than three years;	728
(f) Performance of students grouped by those who have been	729
enrolled in a district or school for one year or less;	730
(g) Performance of students grouped by those who are	731
economically disadvantaged;	732
(h) Performance of students grouped by those who are enrolled	733
in a conversion community school established under Chapter 3314.	734
of the Revised Code;	735
(i) Performance of students grouped by those who are	736
classified as limited English proficient;	737
(j) Performance of students grouped by those who have	738
disabilities;	739
(k) Performance of students grouped by those who are	740
classified as migrants;	741
(l) Performance of students grouped by those who are	742
identified as gifted pursuant to Chapter 3324. of the Revised	743
Code.	744
The department may disaggregate data on student performance	745
according to other categories that the department determines are	746

appropriate. To the extent possible, the department shall 747  
disaggregate data on student performance according to any 748  
combinations of two or more of the categories listed in divisions 749  
(C)(3)(a) to (l) of this section that it deems relevant. 750

In reporting data pursuant to division (C)(3) of this 751  
section, the department shall not include in the report cards any 752  
data statistical in nature that is statistically unreliable or 753  
that could result in the identification of individual students. 754  
For this purpose, the department shall not report student 755  
performance data for any group identified in division (C)(3) of 756  
this section that contains less than ten students. 757

(4) The department may include with the report cards any 758  
additional education and fiscal performance data it deems 759  
valuable. 760

(5) The department shall include on each report card a list 761  
of additional information collected by the department that is 762  
available regarding the district or building for which the report 763  
card is issued. When available, such additional information shall 764  
include student mobility data disaggregated by race and 765  
socioeconomic status, college enrollment data, and the reports 766  
prepared under section 3302.031 of the Revised Code. 767

The department shall maintain a site on the world wide web. 768  
The report card shall include the address of the site and shall 769  
specify that such additional information is available to the 770  
public at that site. The department shall also provide a copy of 771  
each item on the list to the superintendent of each school 772  
district. The district superintendent shall provide a copy of any 773  
item on the list to anyone who requests it. 774

(6) For any district that sponsors a conversion community 775  
school under Chapter 3314. of the Revised Code, the department 776  
shall combine data regarding the academic performance of students 777

enrolled in the community school with comparable data from the 778  
schools of the district for the purpose of calculating the 779  
performance of the district as a whole on the report card issued 780  
for the district. 781

(7) The department shall include on each report card the 782  
percentage of teachers in the district or building who are highly 783  
qualified, as defined by the "No Child Left Behind Act of 2001," 784  
~~115 Stat. 1425, 20 U.S.C. 7801,~~ and a comparison of that 785  
percentage with the percentages of such teachers in similar 786  
districts and buildings. 787

(8) The department shall include on the report card the 788  
number of master teachers employed by each district and each 789  
building once the data is available from the education management 790  
information system established under section 3301.0714 of the 791  
Revised Code. 792

(D)(1) In calculating reading, writing, mathematics, social 793  
studies, or science proficiency or achievement test passage rates 794  
used to determine school district or building performance under 795  
this section, the department shall include all students taking a 796  
test with accommodation or to whom an alternate assessment is 797  
administered pursuant to division (C)(1) or (3) of section 798  
3301.0711 of the Revised Code. 799

(2) In calculating performance index scores, rates of 800  
achievement on the performance indicators established by the state 801  
board under section 3302.02 of the Revised Code, and adequate 802  
yearly progress for school districts and buildings under this 803  
section, the department shall do all of the following: 804

(a) Include for each district or building only those students 805  
who are included in the ADM certified for the first full school 806  
week of October and are continuously enrolled in the district or 807  
building through the time of the spring administration of any test 808

prescribed by section 3301.0710 of the Revised Code that is 809  
administered to the student's grade level; 810

(b) Include cumulative totals from both the fall and spring 811  
administrations of the third grade reading achievement test; 812

(c) Except as required by ~~division (I)(1) of section 3302.01~~ 813  
~~of the Revised Code~~ the "No Child Left Behind Act of 2001" for the 814  
calculation of adequate yearly progress, exclude for each district 815  
or building any limited English proficient student who has been 816  
enrolled in United States schools for less than one full school 817  
year. 818

**Sec. 3302.04.** (A) The department of education shall establish 819  
a system of intensive, ongoing support for the improvement of 820  
school districts and school buildings. The system shall give 821  
priority to districts and buildings that have been declared to be 822  
under an academic watch or in a state of academic emergency under 823  
section 3302.03 of the Revised Code and shall include services 824  
provided to districts and buildings through regional service 825  
providers, such as educational service centers, regional 826  
professional development centers, and special education regional 827  
resource centers. 828

(B) When a school district has been notified by the 829  
department pursuant to division (A) of section 3302.03 of the 830  
Revised Code that the district or a building within the district 831  
has failed to make adequate yearly progress for two consecutive 832  
school years, the district shall develop a three-year continuous 833  
improvement plan for the district or building containing each of 834  
the following: 835

(1) An analysis of the reasons for the failure of the 836  
district or building to meet any of the applicable performance 837  
indicators established under section 3302.02 of the Revised Code 838

that it did not meet and an analysis of the reasons for its 839  
failure to make adequate yearly progress; 840

(2) Specific strategies that the district or building will 841  
use to address the problems in academic achievement identified in 842  
division (B)(1) of this section; 843

(3) Identification of the resources that the district will 844  
allocate toward improving the academic achievement of the district 845  
or building; 846

(4) A description of any progress that the district or 847  
building made in the preceding year toward improving its academic 848  
achievement; 849

(5) An analysis of how the district is utilizing the 850  
professional development standards adopted by the state board 851  
pursuant to section 3319.61 of the Revised Code; 852

(6) Strategies that the district or building will use to 853  
improve the cultural competency, as defined pursuant to section 854  
3319.61 of the Revised Code, of teachers and other educators. 855

No three-year continuous improvement plan shall be developed 856  
or adopted pursuant to this division unless at least one public 857  
hearing is held within the affected school district or building 858  
concerning the final draft of the plan. Notice of the hearing 859  
shall be given two weeks prior to the hearing by publication in 860  
one newspaper of general circulation within the territory of the 861  
affected school district or building. Copies of the plan shall be 862  
made available to the public. 863

(C) When a school district or building has been notified by 864  
the department pursuant to division (A) of section 3302.03 of the 865  
Revised Code that the district or building is under an academic 866  
watch or in a state of academic emergency, the district or 867  
building shall be subject to any rules establishing intervention 868

in academic watch or emergency school districts or buildings. 869

(D)(1) Within one hundred twenty days after any school 870  
district or building is declared to be in a state of academic 871  
emergency under section 3302.03 of the Revised Code, the 872  
department may initiate a site evaluation of the building or 873  
school district. 874

(2) If any school district that is declared to be in a state 875  
of academic emergency or in a state of academic watch under 876  
section 3302.03 of the Revised Code or encompasses a building that 877  
is declared to be in a state of academic emergency or in a state 878  
of academic watch fails to demonstrate to the department 879  
satisfactory improvement of the district or applicable buildings 880  
or fails to submit to the department any information required 881  
under rules established by the state board of education, prior to 882  
approving a three-year continuous improvement plan under rules 883  
established by the state board of education, the department shall 884  
conduct a site evaluation of the school district or applicable 885  
buildings to determine whether the school district is in 886  
compliance with minimum standards established by law or rule. 887

(3) Site evaluations conducted under divisions (D)(1) and (2) 888  
of this section shall include, but not be limited to, the 889  
following: 890

(a) Determining whether teachers are assigned to subject 891  
areas for which they are licensed or certified; 892

(b) Determining pupil-teacher ratios; 893

(c) Examination of compliance with minimum instruction time 894  
requirements for each school day and for each school year; 895

(d) Determining whether materials and equipment necessary to 896  
implement the curriculum approved by the school district board are 897  
available; 898

(e) Examination of whether the teacher and principal 899  
evaluation system reflects the evaluation system guidelines 900  
adopted by the state board of education under section 3319.112 of 901  
the Revised Code; 902

(f) Examination of the adequacy of efforts to improve the 903  
cultural competency, as defined pursuant to section 3319.61 of the 904  
Revised Code, of teachers and other educators. 905

(E) This division applies only to school districts that 906  
operate a school building that fails to make adequate yearly 907  
progress for two or more consecutive school years. 908

(1) For any school building that fails to make adequate 909  
yearly progress for two consecutive school years, the district 910  
shall do all of the following: 911

(a) Provide written notification of the academic issues that 912  
resulted in the building's failure to make adequate yearly 913  
progress to the parent or guardian of each student enrolled in the 914  
building. The notification shall also describe the actions being 915  
taken by the district or building to improve the academic 916  
performance of the building and any progress achieved toward that 917  
goal in the immediately preceding school year. 918

(b) If the building receives funds under Title 1, Part A of 919  
the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 920  
6311 to 6339, from the district, in accordance with section 921  
3313.97 of the Revised Code, offer all students enrolled in the 922  
building the opportunity to enroll in an alternative building 923  
within the district that is not in school improvement status as 924  
defined by the "No Child Left Behind Act of 2001," ~~115 Stat.~~ 925  
~~1425, 20 U.S.C. 6316.~~ Notwithstanding Chapter 3327. of the Revised 926  
Code, the district shall spend an amount equal to twenty per cent 927  
of the funds it receives under Title I, Part A of the "Elementary 928  
and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to 929

provide transportation for students who enroll in alternative 930  
buildings under this division, unless the district can satisfy all 931  
demand for transportation with a lesser amount. If an amount equal 932  
to twenty per cent of the funds the district receives under Title 933  
I, Part A of the "Elementary and Secondary Education Act of 1965," 934  
20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for 935  
transportation, the district shall grant priority over all other 936  
students to the lowest achieving students among the subgroup 937  
described in division ~~(F)~~(B)(3) of section 3302.01 of the Revised 938  
Code in providing transportation. Any district that does not 939  
receive funds under Title I, Part A of the "Elementary and 940  
Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall 941  
not be required to provide transportation to any student who 942  
enrolls in an alternative building under this division. 943

(2) For any school building that fails to make adequate 944  
yearly progress for three consecutive school years, the district 945  
shall do both of the following: 946

(a) If the building receives funds under Title 1, Part A of 947  
the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 948  
6311 to 6339, from the district, in accordance with section 949  
3313.97 of the Revised Code, provide all students enrolled in the 950  
building the opportunity to enroll in an alternative building 951  
within the district that is not in school improvement status as 952  
defined by the "No Child Left Behind Act of 2001~~7~~," ~~115 Stat.~~ 953  
~~1425, 20 U.S.C. 6316.~~ Notwithstanding Chapter 3327. of the Revised 954  
Code, the district shall provide transportation for students who 955  
enroll in alternative buildings under this division to the extent 956  
required under division (E)(2) of this section. 957

(b) If the building receives funds under Title 1, Part A of 958  
the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 959  
6311 to 6339, from the district, offer supplemental educational 960  
services to students who are enrolled in the building and who are 961



in the subgroup described in division ~~(F)~~(B)(3) of section 3302.01  
of the Revised Code.

962  
963

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

964  
965  
966  
967  
968  
969  
970  
971  
972  
973  
974  
975  
976  
977  
978  
979  
980  
981  
982  
983  
984  
985  
986  
987  
988  
989  
990  
991  
992  
993

to students under division (E)(2)(b) of this section, the district 994  
shall grant priority over all other students in providing 995  
transportation and in paying the costs of supplemental educational 996  
services to the lowest achieving students among the subgroup 997  
described in division ~~(F)~~(B)(3) of section 3302.01 of the Revised 998  
Code. 999

Any district that does not receive funds under Title I, Part 1000  
A of the "Elementary and Secondary Education Act of 1965," 20 1001  
U.S.C. 6311 to 6339, shall not be required to provide 1002  
transportation to any student who enrolls in an alternative 1003  
building under division (E)(2)(a) of this section or to pay the 1004  
costs of supplemental educational services provided to any student 1005  
under division (E)(2)(b) of this section. 1006

No student who enrolls in an alternative building under 1007  
division (E)(2)(a) of this section shall be eligible for 1008  
supplemental educational services under division (E)(2)(b) of this 1009  
section. 1010

(3) For any school building that fails to make adequate 1011  
yearly progress for four consecutive school years, the district 1012  
shall continue to comply with division (E)(2) of this section and 1013  
shall implement at least one of the following options with respect 1014  
to the building: 1015

(a) Institute a new curriculum that is consistent with the 1016  
statewide academic standards adopted pursuant to division (A) of 1017  
section 3301.079 of the Revised Code; 1018

(b) Decrease the degree of authority the building has to 1019  
manage its internal operations; 1020

(c) Appoint an outside expert to make recommendations for 1021  
improving the academic performance of the building. The district 1022  
may request the department to establish a state intervention team 1023  
for this purpose pursuant to division (G) of this section. 1024

(d) Extend the length of the school day or year;	1025
(e) Replace the building principal or other key personnel;	1026
(f) Reorganize the administrative structure of the building.	1027
(4) For any school building that fails to make adequate	1028
yearly progress for five consecutive school years, the district	1029
shall continue to comply with division (E)(2) of this section and	1030
shall develop a plan during the next succeeding school year to	1031
improve the academic performance of the building, which shall	1032
include at least one of the following options:	1033
(a) Reopen the school as a community school under Chapter	1034
3314. of the Revised Code;	1035
(b) Replace personnel;	1036
(c) Contract with a nonprofit or for-profit entity to operate	1037
the building;	1038
(d) Turn operation of the building over to the department;	1039
(e) Other significant restructuring of the building's	1040
governance.	1041
(5) For any school building that fails to make adequate	1042
yearly progress for six consecutive school years, the district	1043
shall continue to comply with division (E)(2) of this section and	1044
shall implement the plan developed pursuant to division (E)(4) of	1045
this section.	1046
(6) A district shall continue to comply with division	1047
(E)(1)(b) or (E)(2) of this section, whichever was most recently	1048
applicable, with respect to any building formerly subject to one	1049
of those divisions until the building makes adequate yearly	1050
progress for two consecutive school years.	1051
(F) This division applies only to school districts that <del>fail</del>	1052
<del>to make adequate yearly progress for two or more consecutive</del>	1053

school years have been identified for improvement by the 1054  
department pursuant to the "No Child Left Behind Act of 2001." 1055

(1) If a school district ~~fails to make adequate yearly~~ 1056  
~~progress~~ has been identified for improvement for two consecutive 1057  
one school years year, the district shall provide a written 1058  
description of the continuous improvement plan developed by the 1059  
district pursuant to division (B) of this section to the parent or 1060  
guardian of each student enrolled in the district. If the district 1061  
does not have a continuous improvement plan, the district shall 1062  
develop such a plan in accordance with division (B) of this 1063  
section and provide a written description of the plan to the 1064  
parent or guardian of each student enrolled in the district. 1065

(2) If a school district ~~fails to make adequate yearly~~ 1066  
~~progress~~ has been identified for improvement for three two 1067  
consecutive school years, the district shall continue to implement 1068  
the continuous improvement plan developed by the district pursuant 1069  
to division (B) or (F)(1) of this section. 1070

(3) If a school district ~~fails to make adequate yearly~~ 1071  
~~progress~~ has been identified for improvement for four three 1072  
consecutive school years, the department shall take at least one 1073  
of the following corrective actions with respect to the district: 1074

(a) Withhold a portion of the funds the district is entitled 1075  
to receive under Title I, Part A of the "Elementary and Secondary 1076  
Education Act of 1965," 20 U.S.C. 6311 to 6339; 1077

(b) Direct the district to replace key district personnel; 1078

(c) Institute a new curriculum that is consistent with the 1079  
statewide academic standards adopted pursuant to division (A) of 1080  
section 3301.079 of the Revised Code; 1081

(d) Establish alternative forms of governance for individual 1082  
school buildings within the district; 1083

(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 1115  
the Revised Code to determine compliance with this section. 1116

(I) The state board shall adopt rules for implementing this 1117  
section. 1118

Sec. 3302.09. (A) Whenever the United States department of 1119  
education makes changes in its policies or rules regarding 1120  
implementation of the No Child Left Behind Act of 2001, the Ohio 1121  
department of education shall submit a written description of 1122  
those changes to each member of the standing committees on 1123  
education of the senate and house of representatives. 1124

(B) If the Ohio department of education plans to change any 1125  
of its policies or procedures regarding the state's implementation 1126  
of the No Child Left Behind Act of 2001 based on changes in 1127  
federal polices or rules described in division (A) of this 1128  
section, the Ohio department of education shall submit to each 1129  
member of the standing committees a written outline of the 1130  
existing Ohio policy regarding that implementation and a written 1131  
description of the changes it proposes to make. 1132

(C) On and after July 1, 2005, the Ohio department of 1133  
education shall not make any change proposed under division (B) of 1134  
this section unless the general assembly has adopted a concurrent 1135  
resolution approving the proposed change. 1136

**Sec. 3313.614.** (A) As used in this section, a person 1137  
"fulfills the curriculum requirement for a diploma" at the time 1138  
one of the following conditions is satisfied: 1139

(1) The person successfully completes the high school 1140  
curriculum of a school district, a community school, a chartered 1141  
nonpublic school, or a correctional institution. 1142

(2) The person successfully completes the individualized 1143

education program developed for the person under section 3323.08 1144  
of the Revised Code. 1145

(3) A board of education issues its determination under 1146  
section 3313.611 of the Revised Code that the person qualifies as 1147  
having successfully completed the curriculum required by the 1148  
district. 1149

(B) This division specifies the testing requirements that 1150  
must be fulfilled as a condition toward granting high school 1151  
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 1152  
of the Revised Code. 1153

(1) A person who fulfills the curriculum requirement for a 1154  
diploma before September 15, 2000, is not required to pass any 1155  
proficiency test or achievement test in science as a condition to 1156  
receiving a diploma. 1157

(2) Except as provided in division (B)(3) of this section, a 1158  
person who fulfills the curriculum requirement for a diploma prior 1159  
to September 15, 2006, is not required to pass the Ohio graduation 1160  
test in any subject as a condition to receiving a diploma once the 1161  
person has passed the ninth grade proficiency test in the same 1162  
subject, so long as the person passed the ninth grade proficiency 1163  
test prior to September 15, 2008. However, any such person who 1164  
passes the Ohio graduation test in any subject prior to passing 1165  
the ninth grade proficiency test in the same subject shall be 1166  
deemed to have passed the ninth grade proficiency test in that 1167  
subject as a condition to receiving a diploma. For this purpose, 1168  
the ninth grade proficiency test in citizenship substitutes for 1169  
the Ohio graduation test in social studies. If a person fulfills 1170  
the curriculum requirement for a diploma prior to September 15, 1171  
2006, but does not pass a ninth grade proficiency test or the Ohio 1172  
graduation test in a particular subject before September 15, 2008, 1173  
and passage of a test in that subject is a condition for the 1174

person to receive a diploma, the person must pass the Ohio 1175  
graduation test instead of the ninth grade proficiency test in 1176  
that subject to receive a diploma. 1177

(3) A person who begins tenth grade after July 1, 2004, in a 1178  
school district, community school, or chartered nonpublic school 1179  
is not eligible to receive a diploma based on passage of ninth 1180  
grade proficiency tests. Each such person must pass Ohio 1181  
graduation tests to meet the testing requirements applicable to 1182  
that person as a condition to receiving a diploma. 1183

(C) This division specifies the curriculum requirement that 1184  
shall be completed as a condition toward granting high school 1185  
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 1186  
of the Revised Code. 1187

(1) A person who is under twenty-two years of age when the 1188  
person fulfills the curriculum requirement for a diploma shall 1189  
complete the curriculum required by the school district or school 1190  
issuing the diploma for the first year that the person originally 1191  
enrolled in high school. 1192

(2) Once a person fulfills the curriculum requirement for a 1193  
diploma, the person is never required, as a condition of receiving 1194  
a diploma, to meet any different curriculum requirements that take 1195  
effect pending the person's passage of proficiency or achievement 1196  
tests, including changes mandated by section 3313.603 of the 1197  
Revised Code, the state board, a school district board of 1198  
education, or a governing authority of a community school or 1199  
chartered nonpublic school. 1200

**Sec. 3317.012.** (A)(1) The general assembly, having analyzed 1201  
school district expenditure and cost data for fiscal year 1999, 1202  
performed the calculation described in division (B) of this 1203  
section, adjusted the results for inflation, and added the amounts 1204  
described in division (A)(2) of this section, hereby determines 1205



that the base cost of an adequate education per pupil for the 1206  
fiscal year beginning July 1, 2001, is \$4,814. The base cost per 1207  
pupil, reflecting an annual rate of inflation of two and 1208  
eight-tenths per cent, is \$4,949 for fiscal year 2003. The base 1209  
cost per pupil, reflecting an annual rate of inflation of two and 1210  
two-tenths per cent, is \$5,058 for fiscal year 2004 and \$5,169 for 1211  
fiscal year 2005. 1212

(2) The base cost per pupil amounts specified in division 1213  
(A)(1) of this section include amounts to reflect the cost to 1214  
school districts of increasing the minimum number of high school 1215  
academic units required for graduation beginning September 15, 1216  
2001, under section 3313.603 of the Revised Code. Analysis of 1217  
fiscal year 1999 data revealed that the school districts meeting 1218  
the requirements of division (B) of this section on average 1219  
required high school students to complete a minimum of nineteen 1220  
and eight-tenths units to graduate. The general assembly 1221  
determines that the cost of funding the additional two-tenths unit 1222  
required by section 3313.603 of the Revised Code is \$12 per pupil 1223  
in fiscal year 2002. This amount was added after the calculation 1224  
described in division (B) of this section and the adjustment for 1225  
inflation from fiscal year 1999 to fiscal year 2002. It is this 1226  
total amount, the calculated base cost plus the supplement to pay 1227  
for the additional partial unit, that constitutes the base cost 1228  
amount specified in division (A)(1) of this section for fiscal 1229  
year 2002 and that is inflated to produce the base cost amounts 1230  
for fiscal years 2003 through 2005. 1231

(B) In determining the base cost stated in division (A) of 1232  
this section, capital and debt costs, costs paid for by federal 1233  
funds, and costs covered by funds provided for disadvantaged pupil 1234  
impact aid and transportation were excluded, as were the effects 1235  
on the districts' state funds of the application of the 1236  
cost-of-doing-business factors, assuming a seven and one-half per 1237

cent variance.	1238
The base cost for fiscal year 1999 was calculated as the	1239
unweighted average cost per student, on a school district basis,	1240
of educating students who were not receiving vocational education	1241
or services pursuant to Chapter 3323. of the Revised Code and who	1242
were enrolled in a city, exempted village, or local school	1243
district that in fiscal year 1999 met all of the following	1244
criteria:	1245
(1) The district met at least twenty of the following	1246
twenty-seven performance indicators:	1247
(a) A ninety per cent or higher graduation rate;	1248
(b) At least seventy-five per cent of fourth graders	1249
proficient on the mathematics test prescribed under former	1250
division (A)(1) of section 3301.0710 of the Revised Code;	1251
(c) At least seventy-five per cent of fourth graders	1252
proficient on the reading test prescribed under former division	1253
(A)(1) of section 3301.0710 of the Revised Code;	1254
(d) At least seventy-five per cent of fourth graders	1255
proficient on the writing test prescribed under former division	1256
(A)(1) of section 3301.0710 of the Revised Code;	1257
(e) At least seventy-five per cent of fourth graders	1258
proficient on the citizenship test prescribed under former	1259
division (A)(1) of section 3301.0710 of the Revised Code;	1260
(f) At least seventy-five per cent of fourth graders	1261
proficient on the science test prescribed under former division	1262
(A)(1) of section 3301.0710 of the Revised Code;	1263
(g) At least seventy-five per cent of sixth graders	1264
proficient on the mathematics test prescribed under former	1265
division (A)(2) of section 3301.0710 of the Revised Code;	1266
(h) At least seventy-five per cent of sixth graders	1267

proficient on the reading test prescribed under former division	1268
(A)(2) of section 3301.0710 of the Revised Code;	1269
(i) At least seventy-five per cent of sixth graders	1270
proficient on the writing test prescribed under former division	1271
(A)(2) of section 3301.0710 of the Revised Code;	1272
(j) At least seventy-five per cent of sixth graders	1273
proficient on the citizenship test prescribed under former	1274
division (A)(2) of section 3301.0710 of the Revised Code;	1275
(k) At least seventy-five per cent of sixth graders	1276
proficient on the science test prescribed under former division	1277
(A)(2) of section 3301.0710 of the Revised Code;	1278
(l) At least seventy-five per cent of ninth graders	1279
proficient on the mathematics test prescribed under Section 4 of	1280
Am. Sub. S.B. 55 of the 122nd general assembly;	1281
(m) At least seventy-five per cent of ninth graders	1282
proficient on the reading test prescribed under Section 4 of Am.	1283
Sub. S.B. 55 of the 122nd general assembly;	1284
(n) At least seventy-five per cent of ninth graders	1285
proficient on the writing test prescribed under Section 4 of Am.	1286
Sub. S.B. 55 of the 122nd general assembly;	1287
(o) At least seventy-five per cent of ninth graders	1288
proficient on the citizenship test prescribed under Section 4 of	1289
Am. Sub. S.B. 55 of the 122nd general assembly;	1290
(p) At least seventy-five per cent of ninth graders	1291
proficient on the science test prescribed under Section 4 of Am.	1292
Sub. S.B. 55 of the 122nd general assembly;	1293
(q) At least eighty-five per cent of tenth graders proficient	1294
on the mathematics test prescribed under Section 4 of Am. Sub.	1295
S.B. 55 of the 122nd general assembly;	1296
(r) At least eighty-five per cent of tenth graders proficient	1297

on the reading test prescribed under Section 4 of Am. Sub. S.B. 55	1298
of the 122nd general assembly;	1299
(s) At least eighty-five per cent of tenth graders proficient	1300
on the writing test prescribed under Section 4 of Am. Sub. S.B. 55	1301
of the 122nd general assembly;	1302
(t) At least eighty-five per cent of tenth graders proficient	1303
on the citizenship test prescribed under Section 4 of Am. Sub.	1304
S.B. 55 of the 122nd general assembly;	1305
(u) At least eighty-five per cent of tenth graders proficient	1306
on the science test prescribed under Section 4 of Am. Sub. S.B. 55	1307
of the 122nd general assembly;	1308
(v) At least sixty per cent of twelfth graders proficient on	1309
the mathematics test prescribed under former division (A)(3) of	1310
section 3301.0710 of the Revised Code;	1311
(w) At least sixty per cent of twelfth graders proficient on	1312
the reading test prescribed under former division (A)(3) of	1313
section 3301.0710 of the Revised Code;	1314
(x) At least sixty per cent of twelfth graders proficient on	1315
the writing test prescribed under former division (A)(3) of	1316
section 3301.0710 of the Revised Code;	1317
(y) At least sixty per cent of twelfth graders proficient on	1318
the citizenship test prescribed under former division (A)(3) of	1319
section 3301.0710 of the Revised Code;	1320
(z) At least sixty per cent of twelfth graders proficient on	1321
the science test prescribed under former division (A)(3) of	1322
section 3301.0710 of the Revised Code;	1323
(aa) An attendance rate for the year of at least ninety-three	1324
per cent <del>as defined in section 3302.01 of the Revised Code.</del>	1325
In determining whether a school district met any of the	1326
performance standards specified in divisions (B)(1)(a) to (aa) of	1327

this section, the general assembly used a rounding procedure 1328  
previously recommended by the department of education. It is the 1329  
same rounding procedure the general assembly used in 1998 to 1330  
determine whether a district had met the standards of former 1331  
divisions (B)(1)(a) to (r) of this section for purposes of 1332  
constructing the previous model based on fiscal year 1996 data. 1333

(2) The district was not among the five per cent of all 1334  
districts with the highest income, nor among the five per cent of 1335  
all districts with the lowest income. 1336

(3) The district was not among the five per cent of all 1337  
districts with the highest valuation per pupil, nor among the five 1338  
per cent of all districts with the lowest valuation per pupil. 1339

This model for calculating the base cost of an adequate 1340  
education is expenditure-based. The general assembly recognizes 1341  
that increases in state funding to school districts since fiscal 1342  
year 1996, the fiscal year upon which the general assembly based 1343  
its model for calculating state funding to school districts for 1344  
fiscal years 1999 through 2001, has increased school district base 1345  
cost expenditures for fiscal year 1999, the fiscal year upon which 1346  
the general assembly based its model for calculating state funding 1347  
for fiscal years 2002 through 2005. In the case of school 1348  
districts included in the fiscal year 1999 model that also had met 1349  
the fiscal year 1996 performance criteria of former division 1350  
(B)(1) of this section, the increased state funding may have 1351  
driven the districts' expenditures beyond the expenditures that 1352  
were actually needed to maintain their educational programs at the 1353  
level necessary to maintain their ability to meet the fiscal year 1354  
1999 performance criteria of current division (B)(1) of this 1355  
section. The general assembly has determined to control for this 1356  
effect by stipulating in the later model that the fiscal year 1999 1357  
base cost expenditures of the districts that also met the 1358  
performance criteria of former division (B)(1) of this section 1359

equals their base cost expenditures per pupil for fiscal year 1360  
1996, inflated to fiscal year 1999 using an annual rate of 1361  
inflation of two and eight-tenths per cent. However, if this 1362  
inflated amount exceeded the district's actual fiscal year 1999 1363  
base cost expenditures per pupil, the district's actual fiscal 1364  
year 1999 base cost expenditures per pupil were used in the 1365  
calculation. For districts in the 1999 model that did not also 1366  
meet the performance criteria of former division (B)(1) of this 1367  
section, the actual 1999 base cost per pupil expenditures were 1368  
used in the calculation of the average district per pupil costs of 1369  
the model districts. 1370

**Sec. 3319.55.** (A) A grant program is hereby established to 1371  
recognize and reward ~~public school~~ teachers in public and 1372  
chartered nonpublic schools who hold valid teaching certificates 1373  
or licenses issued by the national board for professional teaching 1374  
standards. The superintendent of public instruction shall 1375  
administer this program in accordance with this section and rules 1376  
which the state board of education shall adopt in accordance with 1377  
Chapter 119. of the Revised Code. 1378

In each fiscal year that the general assembly appropriates 1379  
funds for purposes of this section, the superintendent of public 1380  
instruction shall award a grant to each person who, by the first 1381  
day of April of that year and in accordance with the rules adopted 1382  
under this section, submits to the superintendent evidence 1383  
indicating all of the following: 1384

(1) The person holds a valid certificate or license issued by 1385  
the national board for professional teaching standards; 1386

(2) The person has been employed full-time as a teacher by 1387  
the board of education of a school district or by a chartered 1388  
nonpublic school in this state during the current school year; 1389

(3) The date the person was accepted into the national board certification or licensure program. 1390  
1391

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. 1392  
1393  
1394

(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: 1395  
1396  
1397

(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; 1398  
1399  
1400  
1401

(2) One thousand dollars for any other teacher issued a certificate or license by the national board. 1402  
1403

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. 1404  
1405  
1406  
1407  
1408

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. 1409  
1410  
1411  
1412  
1413  
1414

**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. 1415  
1416  
1417

**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.

1448

**Section 4.** That Section 7 of Am. Sub. S.B. 1 of the 124th

1449

General Assembly is hereby repealed.

1450