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Representative Hite

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A B I L L

To amend sections 3301.0710 and 3301.0711 of the	1
Revised Code to specify administration dates for	2
the elementary achievement tests.	3

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

Section 1. That sections 3301.0710 and 3301.0711 of the	4
Revised Code be amended to read as follows:	5

Sec. 3301.0710. The state board of education shall adopt	6
rules establishing a statewide program to test student	7
achievement. The state board shall ensure that all tests	8
administered under the testing program are aligned with the	9
academic standards and model curricula adopted by the state board	10
and are created with input from Ohio parents, Ohio classroom	11
teachers, Ohio school administrators, and other Ohio school	12

personnel pursuant to section 3301.079 of the Revised Code. 13

The testing program shall be designed to ensure that students 14
who receive a high school diploma demonstrate at least high school 15
levels of achievement in reading, writing, mathematics, science, 16
and social studies. 17

(A)(1) The state board shall prescribe all of the following: 18

(a) Two statewide achievement tests, one each designed to 19
measure the level of reading and mathematics skill expected at the 20
end of third grade; 21

(b) Three statewide achievement tests, one each designed to 22
measure the level of reading, writing, and mathematics skill 23
expected at the end of fourth grade; 24

(c) Four statewide achievement tests, one each designed to 25
measure the level of reading, mathematics, science, and social 26
studies skill expected at the end of fifth grade; 27

(d) Two statewide achievement tests, one each designed to 28
measure the level of reading and mathematics skill expected at the 29
end of sixth grade; 30

(e) Three statewide achievement tests, one each designed to 31
measure the level of reading, writing, and mathematics skill 32
expected at the end of seventh grade; 33

(f) Four statewide achievement tests, one each designed to 34
measure the level of reading, mathematics, science, and social 35
studies skill expected at the end of eighth grade. 36

(2) The state board shall determine and designate at least 37
five ranges of scores on each of the achievement tests described 38
in divisions (A)(1) and (B) of this section. Each range of scores 39
shall be deemed to demonstrate a level of achievement so that any 40
student attaining a score within such range has achieved one of 41
the following: 42

- (a) An advanced level of skill; 43
- (b) An accelerated level of skill; 44
- (c) A proficient level of skill; 45
- (d) A basic level of skill; 46
- (e) A limited level of skill. 47

(B) The tests prescribed under this division shall 48
collectively be known as the Ohio graduation tests. The state 49
board shall prescribe five statewide high school achievement 50
tests, one each designed to measure the level of reading, writing, 51
mathematics, science, and social studies skill expected at the end 52
of tenth grade. The state board shall designate a score in at 53
least the range designated under division (A)(2)(c) of this 54
section on each such test that shall be deemed to be a passing 55
score on the test as a condition toward granting high school 56
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 57
of the Revised Code. 58

The state board may enter into a reciprocal agreement with 59
the appropriate body or agency of any other state that has similar 60
statewide achievement testing requirements for receiving high 61
school diplomas, under which any student who has met an 62
achievement testing requirement of one state is recognized as 63
having met the similar achievement testing requirement of the 64
other state for purposes of receiving a high school diploma. For 65
purposes of this section and sections 3301.0711 and 3313.61 of the 66
Revised Code, any student enrolled in any public high school in 67
this state who has met an achievement testing requirement 68
specified in a reciprocal agreement entered into under this 69
division shall be deemed to have attained at least the applicable 70
score designated under this division on each test required by this 71
division that is specified in the agreement. 72

(C) Except as provided in division (H) of this section, the 73

state board shall annually designate as follows the dates on which 74
the tests prescribed under this section shall be administered: 75

(1) For the reading test prescribed under division (A)(1)(a) 76
of this section, as follows: 77

(a) One date prior to the thirty-first day of December each 78
school year; 79

(b) At least one date of each school year that is not earlier 80
than Monday of the week containing the ~~first~~ twenty-fourth day of 81
~~May~~ April. 82

(2) For the mathematics test prescribed under division 83
(A)(1)(a) of this section and the tests prescribed under divisions 84
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one 85
date of each school year that is not earlier than Monday of the 86
week containing the ~~first~~ twenty-fourth day of ~~May~~ April; 87

(3) For the tests prescribed under division (B) of this 88
section, at least one date in each school year that is not earlier 89
than Monday of the week containing the fifteenth day of March for 90
all tenth grade students and at least one date prior to the 91
thirty-first day of December and at least one date subsequent to 92
that date but prior to the thirty-first day of March of each 93
school year for eleventh and twelfth grade students. 94

(D) In prescribing test dates pursuant to division (C)(3) of 95
this section, the state board shall, to the greatest extent 96
practicable, provide options to school districts in the case of 97
tests administered under that division to eleventh and twelfth 98
grade students and in the case of tests administered to students 99
pursuant to division (C)(2) of section 3301.0711 of the Revised 100
Code. Such options shall include at least an opportunity for 101
school districts to give such tests outside of regular school 102
hours. 103

(E) In prescribing test dates pursuant to this section, the 104

state board of education shall designate the dates in such a way 105
as to allow a reasonable length of time between the administration 106
of tests prescribed under this section and any administration of 107
the National Assessment of Education Progress Test given to 108
students in the same grade level pursuant to section 3301.27 of 109
the Revised Code or federal law. 110

(F) The state board shall prescribe a practice version of 111
each Ohio graduation test described in division (B) of this 112
section that is of comparable length to the actual test. 113

(G) Any committee established by the department of education 114
for the purpose of making recommendations to the state board 115
regarding the state board's designation of scores on the tests 116
described by this section shall inform the state board of the 117
probable percentage of students who would score in each of the 118
ranges established under division (A)(2) of this section on the 119
tests if the committee's recommendations are adopted by the state 120
board. To the extent possible, these percentages shall be 121
disaggregated by gender, major racial and ethnic groups, limited 122
English proficient students, economically disadvantaged students, 123
students with disabilities, and migrant students. 124

If the state board intends to make any change to the 125
committee's recommendations, the state board shall explain the 126
intended change to the Ohio accountability task force established 127
by section 3302.021 of the Revised Code. The task force shall 128
recommend whether the state board should proceed to adopt the 129
intended change. Nothing in this division shall require the state 130
board to designate test scores based upon the recommendations of 131
the task force. 132

(H)(1) The state board shall require any alternate assessment 133
administered to a student under division (C)(1) of section 134
3301.0711 of the Revised Code to be completed and submitted to the 135
entity with which the department contracts for the scoring of the 136

test not later than the first day of April of the school year in 137
which the test is administered. 138

(2) For any test prescribed by this section, the state board 139
may designate a date one week earlier than the applicable date 140
designated under division (C) of this section for the 141
administration of the test to limited English proficient students. 142

(3) In designating days for the administration of the tests 143
prescribed by division (A) of this section, the state board shall 144
require the tests for each grade level to be administered ~~on~~ 145
~~consecutive days~~ over a period of two weeks. 146

Sec. 3301.0711. (A) The department of education shall: 147

(1) Annually furnish to, grade, and score all tests required 148
by section 3301.0710 of the Revised Code to be administered by 149
city, local, exempted village, and joint vocational school 150
districts, except that each district shall score any test 151
administered pursuant to division (B)(10) of this section. Each 152
test so furnished shall include the data verification code of the 153
student to whom the test will be administered, as assigned 154
pursuant to division (D)(2) of section 3301.0714 of the Revised 155
Code. In furnishing the practice versions of Ohio graduation tests 156
prescribed by division (F) of section 3301.0710 of the Revised 157
Code, the department shall make the tests available on its web 158
site for reproduction by districts. In awarding contracts for 159
grading tests, the department shall give preference to Ohio-based 160
entities employing Ohio residents. 161

(2) Adopt rules for the ethical use of tests and prescribing 162
the manner in which the tests prescribed by section 3301.0710 of 163
the Revised Code shall be administered to students. 164

(B) Except as provided in divisions (C) and (J) of this 165
section, the board of education of each city, local, and exempted 166

village school district shall, in accordance with rules adopted 167
under division (A) of this section: 168

(1) Administer the reading test prescribed under division 169
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually 170
to all students in the third grade who have not attained the score 171
designated for that test under division (A)(2)(c) of section 172
3301.0710 of the Revised Code. 173

(2) Administer the mathematics test prescribed under division 174
(A)(1)(a) of section 3301.0710 of the Revised Code at least once 175
annually to all students in the third grade. 176

(3) Administer the tests prescribed under division (A)(1)(b) 177
of section 3301.0710 of the Revised Code at least once annually to 178
all students in the fourth grade. 179

(4) Administer the tests prescribed under division (A)(1)(c) 180
of section 3301.0710 of the Revised Code at least once annually to 181
all students in the fifth grade. 182

(5) Administer the tests prescribed under division (A)(1)(d) 183
of section 3301.0710 of the Revised Code at least once annually to 184
all students in the sixth grade. 185

(6) Administer the tests prescribed under division (A)(1)(e) 186
of section 3301.0710 of the Revised Code at least once annually to 187
all students in the seventh grade. 188

(7) Administer the tests prescribed under division (A)(1)(f) 189
of section 3301.0710 of the Revised Code at least once annually to 190
all students in the eighth grade. 191

(8) Except as provided in division (B)(9) of this section, 192
administer any test prescribed under division (B) of section 193
3301.0710 of the Revised Code as follows: 194

(a) At least once annually to all tenth grade students and at 195
least twice annually to all students in eleventh or twelfth grade 196

who have not yet attained the score on that test designated under 197
that division; 198

(b) To any person who has successfully completed the 199
curriculum in any high school or the individualized education 200
program developed for the person by any high school pursuant to 201
section 3323.08 of the Revised Code but has not received a high 202
school diploma and who requests to take such test, at any time 203
such test is administered in the district. 204

(9) In lieu of the board of education of any city, local, or 205
exempted village school district in which the student is also 206
enrolled, the board of a joint vocational school district shall 207
administer any test prescribed under division (B) of section 208
3301.0710 of the Revised Code at least twice annually to any 209
student enrolled in the joint vocational school district who has 210
not yet attained the score on that test designated under that 211
division. A board of a joint vocational school district may also 212
administer such a test to any student described in division 213
(B)(8)(b) of this section. 214

(10) If the district has been declared to be under an 215
academic watch or in a state of academic emergency pursuant to 216
section 3302.03 of the Revised Code or has a three-year average 217
graduation rate of not more than seventy-five per cent, administer 218
each test prescribed by division (F) of section 3301.0710 of the 219
Revised Code in September to all ninth grade students, beginning 220
in the school year that starts July 1, 2005. 221

(C)(1)(a) Any student receiving special education services 222
under Chapter 3323. of the Revised Code may be excused from taking 223
any particular test required to be administered under this section 224
if the individualized education program developed for the student 225
pursuant to section 3323.08 of the Revised Code excuses the 226
student from taking that test and instead specifies an alternate 227
assessment method approved by the department of education as 228

conforming to requirements of federal law for receipt of federal 229
funds for disadvantaged pupils. To the extent possible, the 230
individualized education program shall not excuse the student from 231
taking a test unless no reasonable accommodation can be made to 232
enable the student to take the test. 233

(b) Any alternate assessment approved by the department for a 234
student under this division shall produce measurable results 235
comparable to those produced by the tests which the alternate 236
assessments are replacing in order to allow for the student's 237
assessment results to be included in the data compiled for a 238
school district or building under section 3302.03 of the Revised 239
Code. 240

(c) Any student enrolled in a chartered nonpublic school who 241
has been identified, based on an evaluation conducted in 242
accordance with section 3323.03 of the Revised Code or section 504 243
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 244
794, as amended, as a child with a disability shall be excused 245
from taking any particular test required to be administered under 246
this section if a plan developed for the student pursuant to rules 247
adopted by the state board excuses the student from taking that 248
test. In the case of any student so excused from taking a test, 249
the chartered nonpublic school shall not prohibit the student from 250
taking the test. 251

(2) A district board may, for medical reasons or other good 252
cause, excuse a student from taking a test administered under this 253
section on the date scheduled, but any such test shall be 254
administered to such excused student not later than nine days 255
following the scheduled date. The board shall annually report the 256
number of students who have not taken one or more of the tests 257
required by this section to the state board of education not later 258
than the thirtieth day of June. 259

(3) As used in this division, "limited English proficient 260

student" has the same meaning as in 20 U.S.C. 7801. 261

No school district board shall excuse any limited English 262
proficient student from taking any particular test required to be 263
administered under this section, except that any limited English 264
proficient student who has been enrolled in United States schools 265
for less than one full school year shall not be required to take 266
any such reading or writing test. However, no board shall prohibit 267
a limited English proficient student who is not required to take a 268
test under this division from taking the test. A board may permit 269
any limited English proficient student to take any test required 270
to be administered under this section with appropriate 271
accommodations, as determined by the department. For each limited 272
English proficient student, each school district shall annually 273
assess that student's progress in learning English, in accordance 274
with procedures approved by the department. 275

The governing authority of a chartered nonpublic school may 276
excuse a limited English proficient student from taking any test 277
administered under this section. However, no governing authority 278
shall prohibit a limited English proficient student from taking 279
the test. 280

(D)(1) In the school year next succeeding the school year in 281
which the tests prescribed by division (A)(1) or (B) of section 282
3301.0710 of the Revised Code or former division (A)(1), (A)(2), 283
or (B) of section 3301.0710 of the Revised Code as it existed 284
prior to September 11, 2001, are administered to any student, the 285
board of education of any school district in which the student is 286
enrolled in that year shall provide to the student intervention 287
services commensurate with the student's test performance, 288
including any intensive intervention required under section 289
3313.608 of the Revised Code, in any skill in which the student 290
failed to demonstrate at least a score at the proficient level on 291
the test. 292

(2) Following any administration of the tests prescribed by 293
division (F) of section 3301.0710 of the Revised Code to ninth 294
grade students, each school district that has a three-year average 295
graduation rate of not more than seventy-five per cent shall 296
determine for each high school in the district whether the school 297
shall be required to provide intervention services to any students 298
who took the tests. In determining which high schools shall 299
provide intervention services based on the resources available, 300
the district shall consider each school's graduation rate and 301
scores on the practice tests. The district also shall consider the 302
scores received by ninth grade students on the reading and 303
mathematics tests prescribed under division (A)(1)(f) of section 304
3301.0710 of the Revised Code in the eighth grade in determining 305
which high schools shall provide intervention services. 306

Each high school selected to provide intervention services 307
under this division shall provide intervention services to any 308
student whose test results indicate that the student is failing to 309
make satisfactory progress toward being able to attain scores at 310
the proficient level on the Ohio graduation tests. Intervention 311
services shall be provided in any skill in which a student 312
demonstrates unsatisfactory progress and shall be commensurate 313
with the student's test performance. Schools shall provide the 314
intervention services prior to the end of the school year, during 315
the summer following the ninth grade, in the next succeeding 316
school year, or at any combination of those times. 317

(E) Except as provided in section 3313.608 of the Revised 318
Code and division (M) of this section, no school district board of 319
education shall utilize any student's failure to attain a 320
specified score on any test administered under this section as a 321
factor in any decision to deny the student promotion to a higher 322
grade level. However, a district board may choose not to promote 323
to the next grade level any student who does not take any test 324

administered under this section or make up such test as provided 325
by division (C)(2) of this section and who is not exempt from the 326
requirement to take the test under division (C)(3) of this 327
section. 328

(F) No person shall be charged a fee for taking any test 329
administered under this section. 330

(G)(1) Each school district board shall ~~submit~~ designate one 331
location for the collection of tests administered in the spring 332
under division (B)(1) of this section and the tests administered 333
under divisions (B)(2) to (7) of this section. Each district board 334
shall submit the tests to the entity with which the department 335
contracts for the scoring of the tests as follows: 336

(a) If the district's total enrollment in grades kindergarten 337
through twelve during the first full school week of October was 338
less than two thousand five hundred, not later than the Friday 339
after all of the tests are have been administered, ~~except that;~~ 340

(b) If the district's total enrollment in grades kindergarten 341
through twelve during the first full school week of October was 342
two thousand five hundred or more, but less than seven thousand, 343
not later than the Monday after all of the tests have been 344
administered; 345

(c) If the district's total enrollment in grades kindergarten 346
through twelve during the first full school week of October was 347
seven thousand or more, not later than the Tuesday after all of 348
the tests have been administered. 349

However, any such test that a student takes during the 350
make-up period described in division (C)(2) of this section shall 351
be submitted not later than the Friday following the day the 352
student takes the test. 353

(2) The department or an entity with which the department 354
contracts for the scoring of the test shall send to each school 355

district board a list of the individual test scores of all persons 356
taking any test prescribed by division (A)(1) or (B) of section 357
3301.0710 of the Revised Code within sixty days after its 358
administration, but in no case shall the scores be returned later 359
than the fifteenth day of June following the administration. For 360
any tests administered under this section by a joint vocational 361
school district, the department or entity shall also send to each 362
city, local, or exempted village school district a list of the 363
individual test scores of any students of such city, local, or 364
exempted village school district who are attending school in the 365
joint vocational school district. 366

(H) Individual test scores on any tests administered under 367
this section shall be released by a district board only in 368
accordance with section 3319.321 of the Revised Code and the rules 369
adopted under division (A) of this section. No district board or 370
its employees shall utilize individual or aggregate test results 371
in any manner that conflicts with rules for the ethical use of 372
tests adopted pursuant to division (A) of this section. 373

(I) Except as provided in division (G) of this section, the 374
department or an entity with which the department contracts for 375
the scoring of the test shall not release any individual test 376
scores on any test administered under this section. The state 377
board of education shall adopt rules to ensure the protection of 378
student confidentiality at all times. The rules may require the 379
use of the data verification codes assigned to students pursuant 380
to division (D)(2) of section 3301.0714 of the Revised Code to 381
protect the confidentiality of student test scores. 382

(J) Notwithstanding division (D) of section 3311.52 of the 383
Revised Code, this section does not apply to the board of 384
education of any cooperative education school district except as 385
provided under rules adopted pursuant to this division. 386

(1) In accordance with rules that the state board of 387

education shall adopt, the board of education of any city, 388
exempted village, or local school district with territory in a 389
cooperative education school district established pursuant to 390
divisions (A) to (C) of section 3311.52 of the Revised Code may 391
enter into an agreement with the board of education of the 392
cooperative education school district for administering any test 393
prescribed under this section to students of the city, exempted 394
village, or local school district who are attending school in the 395
cooperative education school district. 396

(2) In accordance with rules that the state board of 397
education shall adopt, the board of education of any city, 398
exempted village, or local school district with territory in a 399
cooperative education school district established pursuant to 400
section 3311.521 of the Revised Code shall enter into an agreement 401
with the cooperative district that provides for the administration 402
of any test prescribed under this section to both of the 403
following: 404

(a) Students who are attending school in the cooperative 405
district and who, if the cooperative district were not 406
established, would be entitled to attend school in the city, 407
local, or exempted village school district pursuant to section 408
3313.64 or 3313.65 of the Revised Code; 409

(b) Persons described in division (B)(8)(b) of this section. 410

Any testing of students pursuant to such an agreement shall 411
be in lieu of any testing of such students or persons pursuant to 412
this section. 413

(K)(1) Any chartered nonpublic school may participate in the 414
testing program by administering any of the tests prescribed by 415
section 3301.0710 or 3301.0712 of the Revised Code if the chief 416
administrator of the school specifies which tests the school 417
wishes to administer. Such specification shall be made in writing 418

to the superintendent of public instruction prior to the first day 419
of August of any school year in which tests are administered and 420
shall include a pledge that the nonpublic school will administer 421
the specified tests in the same manner as public schools are 422
required to do under this section and rules adopted by the 423
department. 424

(2) The department of education shall furnish the tests 425
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 426
to any chartered nonpublic school electing to participate under 427
this division. 428

(L)(1) The superintendent of the state school for the blind 429
and the superintendent of the state school for the deaf shall 430
administer the tests described by section 3301.0710 of the Revised 431
Code. Each superintendent shall administer the tests in the same 432
manner as district boards are required to do under this section 433
and rules adopted by the department of education and in conformity 434
with division (C)(1)(a) of this section. 435

(2) The department of education shall furnish the tests 436
described by section 3301.0710 of the Revised Code to each 437
superintendent. 438

(M) Notwithstanding division (E) of this section, a school 439
district may use a student's failure to attain a score in at least 440
the basic range on the mathematics test described by division 441
(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 442
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 443
of section 3301.0710 of the Revised Code as a factor in retaining 444
that student in the current grade level. 445

(N)(1) In the manner specified in divisions (N)(3) to (5) of 446
this section, the tests required by section 3301.0710 of the 447
Revised Code shall become public records pursuant to section 448
149.43 of the Revised Code on the first day of July following the 449

school year that the test was administered. 450

(2) The department may field test proposed test questions 451
with samples of students to determine the validity, reliability, 452
or appropriateness of test questions for possible inclusion in a 453
future year's test. The department also may use anchor questions 454
on tests to ensure that different versions of the same test are of 455
comparable difficulty. 456

Field test questions and anchor questions shall not be 457
considered in computing test scores for individual students. Field 458
test questions and anchor questions may be included as part of the 459
administration of any test required by section 3301.0710 of the 460
Revised Code. 461

(3) Any field test question or anchor question administered 462
under division (N)(2) of this section shall not be a public 463
record. Such field test questions and anchor questions shall be 464
redacted from any tests which are released as a public record 465
pursuant to division (N)(1) of this section. 466

(4) This division applies to the tests prescribed by division 467
(A) of section 3301.0710 of the Revised Code. 468

(a) The first administration of each test, as specified in 469
section 3301.0712 of the Revised Code, shall be a public record. 470

(b) For subsequent administrations of each test, not less 471
than forty per cent of the questions on the test that are used to 472
compute a student's score shall be a public record. The department 473
shall determine which questions will be needed for reuse on a 474
future test and those questions shall not be public records and 475
shall be redacted from the test prior to its release as a public 476
record. 477

(5) Each test prescribed by division (B) of section 3301.0710 478
of the Revised Code that is administered in the spring shall be a 479
public record. Each test prescribed by that division that is 480

administered in the fall or summer shall not be a public record. 481

(0) As used in this section: 482

(1) "Three-year average" means the average of the most recent 483
consecutive three school years of data. 484

(2) "Dropout" means a student who withdraws from school 485
before completing course requirements for graduation and who is 486
not enrolled in an education program approved by the state board 487
of education or an education program outside the state. "Dropout" 488
does not include a student who has departed the country. 489

(3) "Graduation rate" means the ratio of students receiving a 490
diploma to the number of students who entered ninth grade four 491
years earlier. Students who transfer into the district are added 492
to the calculation. Students who transfer out of the district for 493
reasons other than dropout are subtracted from the calculation. If 494
a student who was a dropout in any previous year returns to the 495
same school district, that student shall be entered into the 496
calculation as if the student had entered ninth grade four years 497
before the graduation year of the graduating class that the 498
student joins. 499

Section 2. That existing sections 3301.0710 and 3301.0711 of 500
the Revised Code are hereby repealed. 501