

# As Reported by the House Education Committee

127th General Assembly

Regular Session

2007-2008

H. B. No. 190

Representative Hite

Cosponsors: Representatives Bubp, Wagner, McGregor, J., Combs, Adams,  
Goodwin, Wagoner, Stebelton, Webster, Letson, Hottinger, Peterson, Latta,  
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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 proficient student from taking any particular test required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any such reading or writing test. However, no board shall prohibit a limited English proficient student who is not required to take a test under this division from taking the test. A board may permit any limited English proficient student to take any test required to be administered under this section with appropriate accommodations, as determined by the department. For each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

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

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

(2) Following any administration of the tests prescribed by

division (F) of section 3301.0710 of the Revised Code to ninth 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 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For any tests administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual test scores of any students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

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

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

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

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city,

exempted village, or local school district with territory in a 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