

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**S. B. No. 9**

**Senator Manning**

**Cosponsors: Senators Bacon, Beagle, Cates, Grendell, Jones, Jordan,  
Patton, Schaffer, Seitz, Wagoner**

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**A BILL**

To amend sections 3306.01, 3321.01, and 3321.05 of 1  
the Revised Code and to repeal Section 265.70.70 2  
of Am. Sub. H.B. 1 of the 128th General Assembly 3  
and Section 9 of Sub. H.B. 318 of the 128th 4  
General Assembly to eliminate the requirement that 5  
school districts offer all-day kindergarten and to 6  
allow public schools to continue charging tuition 7  
for all-day kindergarten. 8

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

**Section 1.** That sections 3306.01, 3321.01, and 3321.05 of the 9  
Revised Code be amended to read as follows: 10

**Sec. 3306.01.** This chapter shall be administered by the state 11  
board of education. The superintendent of public instruction shall 12  
calculate the amounts payable to each school district and shall 13  
certify the amounts payable to each eligible district to the 14  
treasurer of the district as determined under this chapter. As 15  
soon as possible after such amounts are calculated, the 16  
superintendent shall certify to the treasurer of each school 17  
district the district's adjusted charge-off increase, as defined 18

in section 5705.211 of the Revised Code. No moneys shall be 19  
distributed pursuant to this chapter without the approval of the 20  
controlling board. 21

The state board of education shall, in accordance with 22  
appropriations made by the general assembly, meet the financial 23  
obligations of this chapter. 24

Annually, the department of education shall calculate and 25  
report to each school district the district's adequacy amount 26  
utilizing the calculations in sections 3306.03 and 3306.13 of the 27  
Revised Code. The department shall calculate and report separately 28  
for each school district the district's total state and local 29  
funds for its students with disabilities, utilizing the 30  
calculations in sections 3306.05, 3306.11, and 3306.13 of the 31  
Revised Code. The department shall calculate and report separately 32  
for each school district the amount of funding calculated for each 33  
factor of the district's adequacy amount. 34

Not later than the thirty-first day of August of each fiscal 35  
year, the department of education shall provide to each school 36  
district a preliminary estimate of the amount of funding that the 37  
department calculates the district will receive under section 38  
3306.13 of the Revised Code. Not later than the first day of 39  
December of each fiscal year, the department shall update that 40  
preliminary estimate. 41

Moneys distributed pursuant to this chapter shall be 42  
calculated and paid on a fiscal year basis, beginning with the 43  
first day of July and extending through the thirtieth day of June. 44  
Unless otherwise provided, the moneys appropriated for each fiscal 45  
year shall be distributed at least monthly to each school 46  
district. The state board shall submit a yearly distribution plan 47  
to the controlling board at its first meeting in July. The state 48  
board shall submit any proposed midyear revision of the plan to 49

the controlling board in January. Any year-end revision of the 50  
plan shall be submitted to the controlling board in June. If 51  
moneys appropriated for each fiscal year are distributed other 52  
than monthly, such distribution shall be on the same basis for 53  
each school district. 54

The total amounts paid each month shall constitute, as nearly 55  
as possible, one-twelfth of the total amount payable for the 56  
entire year. 57

Payments shall be calculated to reflect the reporting of 58  
formula ADM. Annualized periodic payments for each school district 59  
shall be based on the district's final student counts verified by 60  
the superintendent of public instruction based on reports under 61  
section 3317.03 of the Revised Code, as adjusted, if so ordered, 62  
under division (K) of that section. 63

(A) Except as otherwise provided, payments under this chapter 64  
shall be made only to those school districts that comply with 65  
divisions (A)(1) to (3) of this section. 66

(1) Each city, exempted village, and local school district 67  
shall levy for current operating expenses at least twenty mills. 68  
Levies for joint vocational or cooperative education school 69  
districts or county school financing districts, limited to or to 70  
the extent apportioned to current expenses, shall be included in 71  
this qualification requirement. School district income tax levies 72  
under Chapter 5748. of the Revised Code, limited to or to the 73  
extent apportioned to current operating expenses, shall be 74  
included in this qualification requirement to the extent 75  
determined by the tax commissioner under division (D) of section 76  
3317.021 of the Revised Code. 77

(2) Each city, exempted village, local, and joint vocational 78  
school district, during the school year next preceding the fiscal 79  
year for which payments are calculated under this chapter, shall 80

meet the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. The superintendent of public instruction shall waive a number of days in accordance with section 3317.01 of the Revised Code on which it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours a school must be open for instruction with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to the district beginning with the school year commencing the second July succeeding the initiation of the plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the

length of the regularly scheduled learning day, for any number of 113  
days during the school year, was reduced by not more than two 114  
hours due to hazardous weather conditions. 115

(3) Each city, exempted village, local, and joint vocational 116  
school district shall have on file, and shall pay in accordance 117  
with, a teachers' salary schedule which complies with section 118  
3317.13 of the Revised Code. 119

(B) A school district board of education or educational 120  
service center governing board that has not conformed with other 121  
law, and the rules pursuant thereto, shall not participate in the 122  
distribution of funds authorized by this chapter, except for good 123  
and sufficient reason established to the satisfaction of the state 124  
board of education and the state controlling board. 125

(C) All funds allocated to school districts under this 126  
chapter, except those specifically allocated for other purposes, 127  
shall be used only to pay current operating expenses or for either 128  
~~of the following purposes:~~ 129

~~(1) The modification or purchase of classroom space to 130  
provide all day kindergarten as required by section 3321.05 of the 131  
Revised Code, provided the district certifies its shortage of 132  
space for providing all day kindergarten to the department of 133  
education, in a manner specified by the department;~~ 134

~~(2) The the modification or purchase of classroom space to 135  
reduce class sizes in grades kindergarten through three to attain 136  
the goal of fifteen students per core teacher, provided the 137  
district certifies its need for additional classroom space to the 138  
department, in a manner specified by the department. 139~~

(D) On or before the last day of each month, the department 140  
of education shall certify to the director of budget and 141  
management for payment, for each county: 142

(1)(a) That portion of the allocation of money under section 143

3306.13 of the Revised Code that is required to be paid in that 144  
month to each school district located wholly within the county 145  
subsequent to the deductions described in division (D)(1)(b) of 146  
this section; 147

(b) The amounts deducted from such allocation under sections 148  
3307.31 and 3309.51 of the Revised Code for payment directly to 149  
the school employees and state teachers retirement systems under 150  
such sections. 151

(2) If the district is located in more than one county, an 152  
apportionment of the amounts that would otherwise be certified 153  
under division (D)(1) of this section. The amounts apportioned to 154  
the county shall equal the amounts certified under division (D)(1) 155  
of this section times the percentage of the district's resident 156  
pupils who reside both in the district and in the county, based on 157  
the average daily membership reported under division (A) of 158  
section 3317.03 of the Revised Code in October of the prior fiscal 159  
year. 160

**Sec. 3321.01.** (A)(1) As used in this chapter, "parent," 161  
"guardian," or "other person having charge or care of a child" 162  
means either parent unless the parents are separated or divorced 163  
or their marriage has been dissolved or annulled, in which case 164  
"parent" means the parent who is the residential parent and legal 165  
custodian of the child. If the child is in the legal or permanent 166  
custody of a person or government agency, "parent" means that 167  
person or government agency. When a child is a resident of a home, 168  
as defined in section 3313.64 of the Revised Code, and the child's 169  
parent is not a resident of this state, "parent," "guardian," or 170  
"other person having charge or care of a child" means the head of 171  
the home. 172

A child between six and eighteen years of age is "of 173  
compulsory school age" for the purpose of sections 3321.01 to 174

3321.13 of the Revised Code. A child under six years of age who 175  
has been enrolled in kindergarten also shall be considered "of 176  
compulsory school age" for the purpose of sections 3321.01 to 177  
3321.13 of the Revised Code unless at any time the child's parent 178  
or guardian, at the parent's or guardian's discretion and in 179  
consultation with the child's teacher and principal, formally 180  
withdraws the child from kindergarten. The compulsory school age 181  
of a child shall not commence until the beginning of the term of 182  
such schools, or other time in the school year fixed by the rules 183  
of the board of the district in which the child resides. 184

(2) No child shall be admitted to a kindergarten or a first 185  
grade of a public school in a district in which all children are 186  
admitted to kindergarten and the first grade in August or 187  
September unless the child is five or six years of age, 188  
respectively, by the thirtieth day of September of the year of 189  
admittance, or by the first day of a term or semester other than 190  
one beginning in August or September in school districts granting 191  
admittance at the beginning of such term or semester, except that 192  
in those school districts using or obtaining educationally 193  
accepted standardized testing programs for determining entrance, 194  
as approved by the board of education of such districts, the board 195  
shall admit a child to kindergarten or the first grade who fails 196  
to meet the age requirement, provided the child meets necessary 197  
standards as determined by such standardized testing programs. If 198  
the board of education has not established a standardized testing 199  
program, the board shall designate the necessary standards and a 200  
testing program it will accept for the purpose of admitting a 201  
child to kindergarten or first grade who fails to meet the age 202  
requirement. Each child who will be the proper age for entrance to 203  
kindergarten or first grade by the first day of January of the 204  
school year for which admission is requested shall be so tested 205  
upon the request of the child's parent. 206

(3) Notwithstanding divisions (A)(2) and (D) of this section, 207  
beginning with the school year that starts in 2001 and continuing 208  
thereafter the board of education of any district may adopt a 209  
resolution establishing the first day of August in lieu of the 210  
thirtieth day of September as the required date by which students 211  
must have attained the age specified in those divisions. 212

(B) As used in divisions (C) and (D) of this section, 213  
"successfully completed kindergarten" and "successful completion 214  
of kindergarten" mean that the child has completed the 215  
kindergarten requirements at one of the following: 216

(1) A public or chartered nonpublic school; 217

(2) A kindergarten class that is both of the following: 218

(a) Offered by a day-care provider licensed under Chapter 219  
5104. of the Revised Code; 220

(b) If offered after July 1, 1991, is directly taught by a 221  
teacher who holds one of the following: 222

(i) A valid educator license issued under section 3319.22 of 223  
the Revised Code; 224

(ii) A Montessori preprimary credential or age-appropriate 225  
diploma granted by the American Montessori society or the 226  
association Montessori internationale; 227

(iii) Certification determined under division (G) of this 228  
section to be equivalent to that described in division 229

(B)(2)(b)(ii) of this section; 230

(iv) Certification for teachers in nontax-supported schools 231  
pursuant to section 3301.071 of the Revised Code. 232

(C) Except as provided in division (D) of this section, no 233  
school district shall admit to the first grade any child who has 234  
not successfully completed kindergarten. 235

(D) Upon request of a parent, the requirement of division (C) 236



of this section may be waived by the district's pupil personnel 237  
services committee in the case of a child who is at least six 238  
years of age by the thirtieth day of September of the year of 239  
admittance and who demonstrates to the satisfaction of the 240  
committee the possession of the social, emotional, and cognitive 241  
skills necessary for first grade. 242

The board of education of each city, local, and exempted 243  
village school district shall establish a pupil personnel services 244  
committee. The committee shall be composed of all of the following 245  
to the extent such personnel are either employed by the district 246  
or employed by the governing board of the educational service 247  
center within whose territory the district is located and the 248  
educational service center generally furnishes the services of 249  
such personnel to the district: 250

- (1) The director of pupil personnel services; 251
- (2) An elementary school counselor; 252
- (3) An elementary school principal; 253
- (4) A school psychologist; 254
- (5) A teacher assigned to teach first grade; 255
- (6) A gifted coordinator. 256

The responsibilities of the pupil personnel services 257  
committee shall be limited to the issuing of waivers allowing 258  
admittance to the first grade without the successful completion of 259  
kindergarten. The committee shall have no other authority except 260  
as specified in this section. 261

(E) The scheduling of times for kindergarten classes and 262  
length of the school day for kindergarten shall be determined by 263  
the board of education of a city, exempted village, or local 264  
school district, ~~subject to section 3321.05 of the Revised Code.~~ 265

(F) Any kindergarten class offered by a day-care provider or 266

school described by division (B)(1) or (B)(2)(a) of this section 267  
shall be developmentally appropriate. 268

(G) Upon written request of a day-care provider described by 269  
division (B)(2)(a) of this section, the department of education 270  
shall determine whether certification held by a teacher employed 271  
by the provider meets the requirement of division (B)(2)(b)(iii) 272  
of this section and, if so, shall furnish the provider a statement 273  
to that effect. 274

(H) As used in this division, "all-day kindergarten" has the 275  
same meaning as in section 3321.05 of the Revised Code. 276

(1) Any school district that did not receive for fiscal year 277  
2009 poverty-based assistance for all-day kindergarten under 278  
division (D) of section 3317.029 of the Revised Code may charge 279  
fees or tuition for students enrolled in all-day kindergarten. If 280  
a district charges fees or tuition for all-day kindergarten under 281  
this division, the district shall develop a sliding fee scale 282  
based on family incomes. 283

(2) The department of education shall conduct an annual 284  
survey of each school district described in division (H)(1) of 285  
this section to determine the following: 286

~~(1)~~(a) Whether the district charges fees or tuition for 287  
students enrolled in all-day kindergarten; 288

(b) The amount of the fees or tuition charged; 289

(c) How many of the students for whom tuition is charged are 290  
eligible for free lunches under the "National School Lunch Act," 291  
60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child 292  
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, 293  
and how many of the students for whom tuition is charged are 294  
eligible for reduced price lunches under those acts; 295

~~(2)~~(d) How many students are enrolled in traditional half-day 296

kindergarten and how many students are enrolled in rather than 297  
all-day kindergarten, ~~as defined in section 3321.05 of the Revised~~ 298  
~~Code.~~ 299

Each district shall report to the department, in the manner 300  
prescribed by the department, the information ~~required by this~~ 301  
~~division described in divisions (H)(2)(a) to (d) of this section.~~ 302

The department shall issue an annual report on the results of 303  
the survey and shall post the report on its web site. The 304  
department shall issue the first report not later than April 30, 305  
2008, and shall issue a report not later than the thirtieth day of 306  
April each year thereafter. 307

**Sec. 3321.05.** (A) As used in this section, "all-day 308  
kindergarten" means a kindergarten class that is in session five 309  
days per week for not less than the same number of clock hours 310  
each day as for students in grades one through six. 311

(B) Any school district may operate all-day kindergarten or 312  
extended kindergarten, but ~~beginning in fiscal year 2011, each~~ 313  
~~city, local, and exempted village school district shall provide~~ 314  
~~all day kindergarten to each student enrolled in kindergarten,~~ 315  
~~except as specified in divisions (C) and (D) of this section.~~ 316

~~(C) The board of education of a school district may apply to~~ 317  
~~the superintendent of public instruction for a waiver of the~~ 318  
~~requirement to provide all day kindergarten for all kindergarten~~ 319  
~~students. In making the determination to grant or deny the waiver,~~ 320  
~~the state superintendent may consider space concerns or~~ 321  
~~alternative delivery approaches used by the school district.~~ 322

~~(D) No~~ no district shall require any student to attend 323  
kindergarten for more than ~~one-half of~~ the number of clock hours 324  
required each day for ~~grades one through six~~ traditional 325  
kindergarten by the minimum standards adopted under division (D) 326

of section 3301.07 of the Revised Code. Each school district that 327  
operates all-day or extended kindergarten shall accommodate 328  
kindergarten students whose parents or guardians elect to enroll 329  
them for ~~one-half of~~ the minimum number of hours ~~required each day~~ 330  
~~for grades one through six.~~ 331

~~(E) A school district may use space in child day care centers~~ 332  
~~licensed under Chapter 5104. of the Revised Code to provide~~ 333  
~~all day kindergarten under this section.~~ 334

**Section 2.** That existing sections 3306.01, 3321.01, and 335  
3321.05 of the Revised Code are hereby repealed. 336

**Section 3.** That Section 265.70.70 of Am. Sub. H.B. 1 of the 337  
128th General Assembly and Section 9 of Sub. H.B. 318 of the 128th 338  
General Assembly are hereby repealed. 339

**Section 4.** Sections 1, 2, and 3 of this act take effect on 340  
the later of July 1, 2011, or the earliest date permitted by law. 341