

As Passed by the Senate

**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, Lehner, Widener, Hite, Daniels**

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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