As Introduced

133rd General Assembly
Regular Session 2019-2020

S. B. No. 358

Senators Fedor, Manning
Cosponsors: Senators Kunze, Antonio, Thomas, Williams, Craig, Yuko, Maharath

A BILL

To amend Sections 11 and 12 of H.B. 164 of the 133rd General Assembly, Section 31 of H.B. 197 of the 133rd General Assembly, Section 17 of H.B. 197 of the 133rd General Assembly, as subsequently amended, and Section 7 of S.B. 216 of the 132nd General Assembly, as subsequently amended, to make changes to education law for the 2020-2021 school year in response to implications from COVID-19 and to declare an emergency.

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

Section 1. That Sections 11 and 12 of H.B. 164 of the 133rd General Assembly be amended to read as follows:

Sec. 11. Notwithstanding anything to the contrary in section 3319.02 of the Revised Code, a school district board of education may choose to complete the performance evaluation of a principal for the 2019-2020 and 2020-2021 school years under that section without a student growth measure as part of the evaluation.
Sec. 12. (A) As used in this section:

(1) "End-of-course examination" means an end-of-course examination prescribed under section 3301.0712 of the Revised Code.

(2) "District or school" means any of the following:

(a) A city, local, exempted village, or joint vocational school district;

(b) A community school established under Chapter 3314. of the Revised Code;

(c) A STEM school established under Chapter 3326. of the Revised Code;

(d) A college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(e) The State School for the Deaf;

(f) The State School for the Blind;

(g) A chartered nonpublic school.

(3) "Qualifying course" means a course associated with an end-of-course examination.

(B) Notwithstanding anything to the contrary in sections 3313.618 and 3313.6114 of the Revised Code, a student who was scheduled to take or retake an end-of-course examination in the 2019-2020 or 2020-2021 school year, but did not do so because the administration of that examination was canceled, may use the student's final course grade in the course associated with that examination in lieu of a score on the examination to satisfy conditions for a high school diploma prescribed under sections 3313.618 and 3313.6114 of the Revised Code. A student who was
scheduled to take the end-of-course examination for the first time in the 2019-2020 or 2020-2021 school year may use the final course grade for the qualifying course that the student completed in that school year, while a student who was scheduled to retake the examination in the 2019-2020 or 2020-2021 school year may use a final course grade for a qualifying course that the student completed in the 2019-2020 or 2020-2021 school year or a prior school year. For the purposes of determining whether a student satisfies a condition, a final course grade shall be equivalent to a level of skill prescribed under division (B)(5) (a) of section 3301.0712 of the Revised Code or a competency score prescribed under division (B)(10) of that section, as follows:

(1) Any "A" letter grade shall be equivalent to an advanced level of skill.

(2) Any "B" letter grade shall be equivalent to an accelerated level of skill.

(3) Any "C" letter grade shall be equivalent to a proficient level of skill.

(4) Any "D" letter grade shall be equivalent to a basic level of skill.

(5) Any "F" letter grade shall be equivalent to a limited level of skill.

(6) Any "C" letter grade or higher shall be equivalent to a competency score.

(7) In the case of a course that issues a pass or fail designation rather than a letter grade for a final course grade, a fail designation shall be equivalent to an "F" letter grade and a limited level of skill. For a pass designation, the
student's district or school shall determine which level of skill is equivalent to the student's performance in the course. A pass designation also shall be equivalent to a competency score.

(C) A student who completed a qualifying course in the 2019-2020 or 2020-2021 school year shall be deemed to have completed an administration of the end-of-course examination associated with that course for the purposes of determining whether that student may demonstrate competency in a subject area using one of the options prescribed under divisions (B)(1)(a) to (c) of section 3313.618 of the Revised Code.

(D) A student who completed a qualifying course in the 2019-2020 or 2020-2021 school year may elect to take the end-of-course examination associated with that course in an administration of that examination in a subsequent school year.

Section 2. That existing Sections 11 and 12 of H.B. 164 of the 133rd General Assembly are hereby repealed.

Section 3. That Section 31 of H.B. 197 of the 133rd General Assembly be amended to read as follows:

Sec. 31. (A) Notwithstanding section 3310.03 of the Revised Code, Section 265.210 of H.B. 166 of the 133rd General Assembly, as amended by S.B. 120 of the 133rd General Assembly, and any other provision of law to the contrary, the Department of Education shall not accept, process, or award first-time performance-based Educational Choice scholarships under section 3310.03 of the Revised Code for the 2020-2021 school year to students who are eligible for the scholarship for the first time for the 2020-2021 school year and whose scholarships would have been paid for under Section 265.210 of H.B. 166 of the 133rd
General Assembly, as amended by S.B. 120 of the 133rd General Assembly.

However, for each of the 2020-2021 and 2021-2022 school years, the Department shall accept, process, and award scholarships for any of the following:

(1) Students who received a scholarship in the previous school year;

(2) A student who satisfies all of the following criteria:

(a) The student's sibling received a scholarship under section 3310.03 of the Revised Code during the 2019-2020 or 2020-2021 school year.

(b) The student is enrolled in or would be enrolled in a building that, in the 2019-2020 or 2020-2021 school year, met any of the conditions prescribed in section 3310.03 of the Revised Code.

(c) The student was enrolled in a public or nonpublic school in any of grades kindergarten through twelve or was homeschooled for the equivalent of those grades for the 2019-2020 or 2020-2021 school year, or will be enrolled in kindergarten or will start homeschooling for the equivalent of kindergarten in the 2020-2021 or 2021-2022 school year.

As used in this section, "sibling" means a brother, half-brother, sister, or half-sister, by birth, adoption, or marriage, without regard to residence or custodial status, or a child residing in the same household as a foster child or under a guardianship or custodial order. As used in this section, "foster child" means a child placed in a family foster home, as defined in section 5103.02 of the Revised Code.
(3) Students who were eligible for scholarships for the 2019-2020 or 2020-2021 school year, regardless of whether the students received scholarships for that either of those school year years, and remain eligible for the 2020-2021 and 2021-2022 school year years;

(4) Students who did not receive a scholarship for the 2019-2020 or 2020-2021 school year but, for the 2020-2021 or 2021-2022 school year are or would be newly enrolled in a building operated by the students' resident district that met the conditions prescribed in section 3310.03 of the Revised Code for the 2019-2020 or 2020-2021 school year, as that section existed for that 2019-2020 school year, and also continued to meet the conditions for the 2020-2021 or 2021-2022 school year, including students entering kindergarten, entering high school students, or students who have recently relocated to the district or building's attendance territory.

Scholarships for students described in divisions (A)(1), (2), (3), and (4) of this section shall be funded through deductions from the students' resident school districts in the manner described in section 3310.08 of the Revised Code.

The Department shall accept, process, or award performance-based Educational Choice scholarships for the each of the 2020-2021 and 2021-2022 school year years for students described in divisions (A)(1) to (4) of this section under the during a sixty-day-application period that begins on first day of April 1, 2020, pursuant to Section 265.210 of H.B. 166 of the 133rd General Assembly, as amended by S.B. 120 of the 133rd General Assembly of the previous school year.

(B) The Department shall accept, process, and award performance-based Educational Choice scholarships under section.
3310.03 of the Revised Code beginning on February 1, 20212022, for the 2021-2022-2023 school year in accordance with section 3310.16 of the Revised Code.

(C) This section does not affect the awarding of income-based scholarships.

Section 4. That existing Section 31 of H.B. 197 of the 133rd General Assembly is hereby repealed.

Section 5. That Section 17 of H.B. 197 of the 133rd General Assembly (as amended by H.B. 164 of the 133rd General Assembly) be amended to read as follows:

Sec. 17. Notwithstanding anything in the Revised Code or Administrative Code to the contrary, for the 2019-2020 and 2020-2021 school year only, except as otherwise provided in this section, due to the Director of Health's order under section 3701.13 of the Revised Code "In re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, or any local board of health order, and any extension of any order, based on the implications of COVID-19, all of the following apply:

(A)(1) Any city, exempted village, local, joint vocational, or municipal school district, any community school established under Chapter 3314. of the Revised Code, any STEM school established under Chapter 3326. of the Revised Code, any chartered nonpublic school, and the State School for the Deaf and the State School for the Blind shall not be required to administer the assessments prescribed in sections 3301.0710, 3301.0711, 3301.0712, 3313.903, and 3314.017 of the Revised Code, including the Ohio English Language Proficiency Assessment administered to English learners pursuant to division (C)(3)(b)
of section 3301.0711 of the Revised Code and the Alternate Assessment for Students with Significant Cognitive Disabilities prescribed in division (C)(1) of section 3301.0711 of the Revised Code. The Department of Education shall seek a waiver, not later than December 15, 2020, if possible, from the United States Secretary of Education for testing requirements prescribed under federal law for the 2020-2021 school year. If a waiver becomes available after December 15, 2020, the Department shall seek a waiver at that time. If the Department does not receive a waiver, the Department shall determine which assessments are required to meet federal requirements. The Superintendent of Public Instruction shall adjust assessment administration dates, prescribed under division (C) of section 3301.0710 of the Revised Code, to accommodate any assessment administration required by federal law. School districts and schools shall administer the assessments determined by the Department to be federally required.

(2) Any chartered nonpublic school that has chosen to administer assessments under section 3313.619 of the Revised Code that has not administered such assessments by March 17, 2020, shall not be required to administer those assessments.

(3) The Department of Education shall not exclude any student to whom an assessment was not administered in the 2019-2020 or 2020-2021 school year under division (A) of this section from counting in a district's or school's enrollment for the 2020-2021 or 2021-2022 school year pursuant to division (L)(3) of section 3314.08, division (E)(3) of section 3317.03, or division (C) of section 3326.37 of the Revised Code.

(4) If a student was not administered an assessment in the 2019-2020 or 2020-2021 school year under division (A) of this
section, that school year shall not count in determining if the
student is subject to withdrawal from a school pursuant to
section 3313.6410 or 3314.26 of the Revised Code.

(5) No student who received a scholarship under the
Educational Choice Scholarship Program under section 3310.03 or
3310.032 of the Revised Code, the Jon Peterson Special Needs
Scholarship Program under section 3310.52 of the Revised Code,
or the Pilot Project Scholarship Program under section 3313.975
of the Revised Code for the 2019-2020 or 2020-2021 school year
shall be considered ineligible to renew that scholarship for the
2020-2021 or 2021-2022 school year solely because the student
was not administered an assessment in the 2019-2020 or 2020-2021
school year under division (A) of this section.

(B)(1) The Department of Education shall not publish state
report card ratings under section 3302.03, 3302.033, 3314.012,
or 3314.017 of the Revised Code for the 2019-2020, 2020-2021,
and 2021-2022 school years nor shall the Department be required
to submit preliminary data for the report cards by the thirty-
first day of July 31, for 2020, 2021, and 2022 as required by
those sections. Furthermore, the Department shall not assign an
overall letter grade under division (C)(3) of section 3302.03 of
the Revised Code for any school district or building, shall not
assign an individual grade to any component prescribed under
division (C)(3) of section 3302.03 of the Revised Code, shall
not assign a grade to any measures under division (C)(1) of
section 3302.03 of the Revised Code, and shall not rank school
districts, community schools, or STEM schools under section
3302.21 of the Revised Code for the 2019-2020, 2020-2021, and
2021-2022 school years.

However, the Department shall report any data that it has
regarding the performance of districts and buildings for the 2019-2020 school year by September 15, 2020, for the 2020-2021 school year, by September 15, 2021, and by September 15, 2022, for the 2020-2022 school year.

(2) The absence of report card ratings for the 2019-2020, 2020-2021, and 2021-2022 school years shall have no effect in determining sanctions or penalties, and shall not create a new starting point for determinations that are based on ratings over multiple years. The report card ratings of any previous or subsequent years shall be considered in determining whether a school district or building is subject to sanctions or penalties. If a school district or building was subject to any of the following penalties or sanctions in the 2019-2020 or 2020-2021 school year based on its report card rating for previous school years, those penalties or sanctions shall remain in effect for the 2020-2021, 2021-2022, and 2022-2023 school years. Those penalties and sanctions include the following:

(a) Any restructuring provisions established under Chapter 3302. of the Revised Code, except as required under federal law;

(b) Provisions for the Columbus City School Pilot Project under section 3302.042 of the Revised Code;

(c) Provisions for academic distress commissions under section 3302.10 of the Revised Code. While a district subject to an academic distress commission prior to the effective date of this section, March 27, 2020, shall be considered to be subject to an academic distress commission for the 2020-2021, 2021-2022, and 2022-2023 school years, that year those years shall not be included for purposes of determining progressive consequences under divisions (H), (I), (J), (K), and (L) of section 3302.10 of the Revised Code that are in addition to those that were
being exercised by the chief executive officer during the 2019-2020, 2020-2021, and 2021-2022 school years or for purposes of the appointment of a new board of education under division (K) of that section. Nothing in division (B)(2)(c) of this section shall be construed to limit the powers that the chief executive officer exercised under section 3302.10 of the Revised Code prior to the 2020-2021, 2021-2022, and 2022-2023 school years.

(d) Provisions prescribing new buildings where students are eligible for the Educational Choice Scholarships under section 3310.03 of the Revised Code;

(e) Provisions defining "challenged school districts" in which new start-up community schools may be located, as prescribed in section 3314.02 of the Revised Code;

(f) Provisions prescribing community school closure requirements under section 3314.35 or 3314.351 of the Revised Code;

(g) Provisions of state or federal law that identify school districts or buildings for comprehensive or targeted support and improvement or additional targeted support and improvement. Districts and buildings so identified shall continue to receive supports and interventions consistent with their support and improvement plans in the 2020-2021, 2021-2022, and 2022-2023 school years.

(h) Provisions that determine the conditions under which community schools may change sponsors under section 3314.034 of the Revised Code.

(C) No school district, community school, or STEM school and no chartered nonpublic school that is subject to section
3301.163 of the Revised Code shall retain a student in the third grade under that section or section 3313.608 of the Revised Code based solely on a student's academic performance in reading in the 2019-2020 or 2020-2021 school year unless the principal of the school building in which a student is enrolled and the student's reading teacher agree that the student is reading below grade level and is not prepared to be promoted to the fourth grade.

(D)(1) Division (D) of this section applies to any student who meets both of the following criteria:

(a) The student was enrolled in the twelfth grade in the 2019-2020 or 2020-2021 school year or was on track to graduate in the 2019-2020 or 2020-2021 school year, as determined by the school district or other public or chartered nonpublic school in which the student was enrolled, regardless of the graduation cohort in which the student is included.

(b) The student had not completed the requirements for a high school diploma under section 3313.61, 3313.612, or 3325.08 of the Revised Code or under Section 3 of H.B. 491 of the 132nd General Assembly, as of March 17, 2020.

(2) A city, exempted village, local, or municipal school district, a community school, a STEM school, a chartered nonpublic school, the State School for the Blind, and the State School for the Deaf shall grant a high school diploma to any student to whom this section applies, if the student's principal, in consultation with teachers and counselors, reviews the student's progress toward meeting the requirements for a diploma and determines that the student has successfully completed the curriculum in the student's high school or the individualized education program developed for the student by
(3) If the board of education of a school district or the governing authority of a community school, STEM school, chartered nonpublic school, the State School for the Blind, or the State School for the Deaf has adopted a resolution under division (E) of section 3313.603 of the Revised Code requiring a more challenging curriculum than otherwise required under division (C) of that section, the district superintendent or the chief administrator of the school may elect to require only the minimum curriculum specified in division (C) of that section for the purpose of determining if a student to whom division (D) of this section applies has successfully completed the curriculum under division (D)(2) of this section. If such an election is made, the superintendent or chief administrator shall evaluate each student to whom division (D) of this section applies using the minimum curriculum specified in division (C) of this section.

(4) It is the intent of the General Assembly that school districts and other public and private schools do both of the following:
(a) Continue to provide ways to keep students actively engaged in learning opportunities between March 17, 2020, and the remainder of the school year while addressing the implications of COVID-19;

(b) Grant students who need in-person instructional experiences to complete requirements for a diploma or a career-technical education program access to school facilities as soon as it is reasonably possible after the Director of Health permits such access to resume, even if the last instructional day of the school year has already passed.

(E) For the purpose of teacher evaluations conducted under sections 3319.111 and 3319.112 of the Revised Code, no school district board of education shall use value-added progress dimension data, established under section 3302.021 of the Revised Code, from the 2019-2020 or 2020-2021 school year to measure student learning attributable to the teacher being evaluated.

(F)(1) For community school sponsor evaluations required under section 3314.016 of the Revised Code, the Department shall not issue a rating for the components under division (B)(1) of that section to any sponsor, nor shall the Department issue an overall rating for the sponsor. The Department shall allow a sponsor to indicate that it could not comply with an applicable law or administrative rule or fully adhere to a quality practice because the required action was unable to be completed due to the Director of Health's order under section 3701.13 of the Revised Code "In Re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, any local board of health order, or any extension of such an order.

(2) The absence of community school sponsor ratings for
the 2019-2020 and 2020-2021 school year years shall have no
effect in determining sanctions or penalties of a sponsor under
Chapter 3314. of the Revised Code and shall not create a new
starting point for determinations that are based on ratings over
multiple years. The sponsor ratings of any previous or
subsequent school years shall be considered when a sponsor is
subject to sanctions or penalties under that chapter. A sponsor
shall remain eligible in the 2020-2021 and 2021-2022 school year
years for any incentives that the sponsor was eligible for in
the 2019-2020 or 2020-2021 school year, and the 2019-2020 and
2020-2021 school year years shall not count toward the number of
years in which a sponsor subject to division (B)(7)(b) of
section 3314.016 of the Revised Code is not required to be
evaluated.

(G) The Superintendent of Public Instruction may waive the
requirement to complete any report prescribed by law that is
based on data from assessments that would have been but were not
administered during the 2019-2020 or 2020-2021 school year
pursuant to division (A) of this section.

(H) The Department, on behalf of the State Board of
Education, may issue a one-year, nonrenewable provisional
license to any individual to practice in any category, type, and
level for which the State Board issues a license pursuant to
Title XXXIII of the Revised Code, if the individual has met all
requirements for the requested license except for the
requirement to pass an examination prescribed by the State Board
in the subject area for which application is being made. Any
individual to whom a provisional license is issued under this
division shall take and pass the appropriate subject area
examination prior to expiration of the license as a condition of
advancing the license in the appropriate category, type, and
The Department shall not issue a provisional license under this division that is valid on or after July 1, 2021.

(I) The Superintendent of Public Instruction may extend or waive any deadline for an action required of the State Board of Education, the Department of Education, or any person or entity licensed or regulated by the State Board or Department, during the duration of the Director of Health's order under section 3701.13 of the Revised Code "In re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, or any local board of health order, and any extension of any order, based on the implications of COVID-19, as necessary to ensure that the safety of students, families, and communities are prioritized while continuing to ensure the efficient operation of the Department and public and private schools in this state. Deadlines that may be extended or waived by the State Superintendent include, but are not limited to, deadlines related to the following:

1. The conduct of evaluations for school personnel under Chapter 3319. of the Revised Code;
2. Notice of intent not to reemploy school personnel under Chapter 3319. Of the Revised Code;
3. The conduct of school safety drills under section 3737.73 of the Revised Code;
4. The emergency management test required by division (E) of section 3313.536 of the Revised Code;
5. The filling of a vacancy in a board of education;
6. Updating of teacher evaluation policies to conform with the framework for evaluation of teachers adopted under section 3319.112 of the Revised Code;
(7) Identification and screening of gifted students under Chapter 3324. of the Revised Code.

(J) Notwithstanding anything in the Revised Code or Administrative Code to the contrary, the Chancellor of Higher Education, in consultation with the Superintendent of Public Instruction, may waive, extend, suspend, or modify requirements of the College Credit Plus program if the Chancellor, in consultation with the Superintendent, determines the waiver, extension, suspension, or modification is necessary in response to COVID-19.

(K) The Superintendent of Public Instruction shall collaborate with providers in the 22+ Adult High School Diploma Program authorized under sections 3314.38, 3317.23, 3317.231, 3317.24, and 3345.86 of the Revised Code and the Adult Diploma Program authorized under section 3313.902 of the Revised Code, and rules adopted thereunder, to ensure that the providers have maximum flexibility to assist students whose progress in the program has been affected by the Director of Health's order to complete the requirements to earn a high school diploma. For this purpose, the State Superintendent may waive or extend deadlines, or otherwise grant providers and students flexibility, for completion of program requirements.

(L) No school district shall require the parent of any student who was instructed at home in accordance with section 3321.04 of the Revised Code for the 2019-2020 or 2020-2021 school year to submit to the district superintendent the academic assessment report required under rule 3301-34-04 of the Administrative Code as a condition of the district allowing the student to continue to receive home instruction for the 2020-2021 or 2021-2022 school year.
(M) Notwithstanding anything in the Revised Code to the contrary, the board of education of any school district that, prior to the Director of Health's order under section 3701.13 of the Revised Code "In re: Order the Closure of All K-12 Schools in the State of Ohio" issued on March 14, 2020, or due to any local board of health order to close schools, or any extension of such an order due to the implications of COVID-19, even if the order or extension has been rescinded prior to July 1, 2021, had not completed an evaluation that was required under Chapter 3319. of the Revised Code for the 2019-2020 or 2020-2021 school year for an employee of the district, including a teacher, administrator, or superintendent, may elect not to conduct an evaluation of the employee for that school year, if the district board determines that it would be impossible or impracticable to do so. If a district board elects not to evaluate an employee for the 2019-2020 or 2020-2021 school year, the employee shall be considered not to have had evaluation procedures complied with pursuant to section 3319.111 of the Revised Code for purposes of section 3319.11 of the Revised Code. The district board may collaborate with any bargaining organization representing employees of the district in determining whether to complete evaluations for the 2019-2020 or 2020-2021 school year. Nothing in this section shall preclude a district board from using an evaluation completed prior to the Director of Health's order in employment decisions.

Section 6. That existing Section 17 of H.B. 197 of the 133rd General Assembly (as amended by H.B. 164 of the 133rd General Assembly) is hereby repealed.

Section 7. That Section 7 of S.B. 216 of the 132nd General Assembly (as amended by H.B. 164 of the 133rd General Assembly) be amended to read as follows:
Sec. 7. Notwithstanding the amendment or repeal of sections 3319.111, 3319.112, and 3319.114 of the Revised Code by S.B. 216 of the 132nd General Assembly, for the 2018-2019 and 2019-2020, and 2020-2021 school years, the following shall apply:

(A) Each school district, other than a district participating in the pilot program established under Section 6 of S.B. 216 of the 132nd General Assembly, shall conduct teacher evaluations in accordance with those sections as they existed prior to November 2, 2018, except that if the district board of education, in the 2019-2020 or 2020-2021 school year, chooses to complete an evaluation for a teacher to whom division (C)(2)(a) or (b) of section 3319.111 of the Revised Code applies without a student growth measure as part of the evaluation, the board may continue to evaluate that teacher every three or two years, respectively. Any teacher who did not have a student academic growth measure as part of the teacher's evaluation for the 2019-2020 or 2020-2021 school year shall remain at the same point in the teacher's evaluation cycle, and shall retain the same evaluation rating, for the 2020-2021 and 2021-2022 school years as for the 2019-2020 school year.

(B) Each state agency that employs teachers shall conduct teacher evaluations in accordance with its teacher evaluation policy developed under former division (E) of section 3319.112 of the Revised Code, as it existed prior to November 2, 2018.

(C) Any reference in law to evaluations conducted under section 3319.111 of the Revised Code shall be construed to include evaluations conducted as required by this section.

(D) References to "evaluation procedures" in section 3319.11 of the Revised Code shall be construed to include the
evaluation procedures required by this section.

Section 8. That existing Section 7 of S.B. 216 of the 132nd General Assembly (as amended by H.B. 164 of the 133rd General Assembly) is hereby repealed.

Section 9. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to ensure that the changes made by this act take effect before or as soon as possible after the start of the 2020-2021 school year. Therefore, this act shall go into immediate effect.