



H.B. 94*
124th General Assembly
(As Introduced)

Rep. Carey

BILL SUMMARY

PRIMARY-SECONDARY EDUCATION FUNDING

- Changes the methodology for determining the base cost of an adequate education for FY 2002 through FY 2007, resulting in increased per pupil amounts.
- Phases in the increased base costs over five fiscal years. The per pupil formula amounts for FY 2002 and FY 2003 are \$4,490 and \$4,670, respectively.
- Specifies that the increased base-cost and formula amounts include amounts for the increased costs associated with raising the minimum number of units required for graduation from high school after 2001.
- Continues the cap on school district state aid increases for FY 2002 only, as specified in current law.
- Increases the state share of special education weighted cost payments to school districts (other than joint vocational school districts), beginning in FY 2003.
- Extends the state "catastrophic costs" subsidy to cover all special education students and increases the state's share of the subsidy.
- Qualifies more school districts for state all-day kindergarten payments, beginning in FY 2003.

* *This analysis was prepared before the introduction of the bill appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Makes permanent the policy of using the special education weights to calculate payments to county MR/DD boards for providing special education to school-aged children.
- Requires the Speaker of the House and the President of the Senate to appoint a committee in July 2006 to reexamine the methodology for calculating the cost of an adequate education.
- Allows new students to enter the Cleveland Pilot Project Scholarship Program in kindergarten through eighth grade, rather than kindergarten through third grade only.
- Specifies that an educational service center governing board may acquire property to provide for office and classroom space.
- Permits a county board of commissioners to issue securities to acquire property for an educational service center as long as the service center agrees to pay the annual debt charges on those securities.
- Phases out by 2006 a county board of commissioner's responsibility to provide office space for the educational service center located within its territory.

LOTTERY

- Authorizes the Director of the State Lottery Commission to enter into agreements with other lottery jurisdictions to conduct statewide joint lottery games and, if the Governor signs an agreement personally or by means of an authenticating officer, to conduct statewide joint lottery games under the agreement.
- Requires that the entire net proceeds from any statewide joint lottery games be used to fund primary, secondary, vocational, and special education programs in Ohio.
- Requires the State Lottery Commission to adopt special rules to govern the conduct of statewide joint lottery games and to implement the agreements authorizing these games.
- Allows the Director of Budget and Management to transfer any amount of excess funds from the State Lottery Fund to the State Lottery Profits Education Fund.

BUILDINGS AND TECHNOLOGY

- Specifies that the Ohio School Facilities Commission must appoint an executive director who then must appoint other employees to carry out the duties of the Commission.
- Makes changes in the organization of data acquisition sites under the Ohio Education Computer Network.
- Specifies that the Superintendent of Public Instruction is the chairperson of the Ohio SchoolNet Commission.

OTHER PRIMARY-SECONDARY EDUCATION PROVISIONS

- Makes changes in the requirements for state-funded academic intervention services.
- Requires, beginning in FY 2003, at least 20% of a district's per pupil DPIA safety and remediation funds to be used to provide statutorily required intervention services.

HIGHER EDUCATION

- Increases the Ohio Instructional Grants for private, public, and proprietary institutions in both FY 2002 and FY 2003.
- Switches authority to fix compensation for all employees and staff from the Board of Regents to the Chancellor and no longer requires Board approval of the Chancellor's appointment of employees and staff.
- Requires appropriations for transfers to the Ohio Public Facilities Commission be made directly to the Board of Regents and not to state supported institutions of higher education and allows vice-chancellors to certify to the Director of Budget and Management the payments contracted to be made to the Public Facilities Commission.
- Permits the formation of a quorum and the taking of votes at Board of Regents meetings conducted by interactive video teleconference, so long as provisions are made for public attendance at any location involved in the teleconference.

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CONTENT AND OPERATION

PRIMARY-SECONDARY EDUCATION FUNDING

Background on current state education financing litigation

In *DeRolph I*, in 1997, the Supreme Court of Ohio ordered the General Assembly to create a new school funding system.¹ In that decision, the Court held that the state's then-current school funding system did not provide a "thorough and efficient system of common schools" as required under Article VI, Section 2 of the Ohio Constitution. Responding to that order, in 1997 and 1998, the 122nd General Assembly enacted several bills dealing with the financing and performance management of public schools.²

¹ *DeRolph v. State* (1997), 78 Ohio St.3d 193.

² Among these bills were: Am. Sub. H.B. 215, which was the general operating budget for the 1997-1999 biennium; Am. Sub. S.B. 102, which substantially amended the Classroom Facilities Assistance Program and created the Ohio School Facilities Commission; Am. Sub. S.B. 55, which added new academic accountability requirements; Sub. H.B. 412, which changed school district fiscal accountability requirements; and Am. Sub. H.B. 650 and Am. Sub. H.B. 770, which together created a new school funding system. In addition, in 1999, the 123rd General Assembly passed Am. Sub. H.B. 282,

On May 11, 2000, the Court held the new system unconstitutional on essentially the same grounds.³ In *DeRolph II*, the Court praised the effort made by the legislature but said that more had to be done in order to comply with its order. The General Assembly now has until June 15, 2001 to come up with a new system.⁴

Introduction--key concepts of the current school funding system

State per pupil payments to school districts for operating expenses have always varied according to (1) the wealth of the district and (2) the special circumstances experienced by some districts. Under both the school funding system in place prior to *DeRolph I* and the one in place since then, state operating funding for school districts is divided primarily into two types: base-cost funding and categorical funding.

Base-cost funding

Base-cost funding can be viewed as the minimum amount of money required per pupil for those expenses experienced by all school districts on a somewhat even basis. The primary costs would be for such things as teachers of curriculum courses; textbooks; janitorial and clerical services; administrative functions; and student support employees such as school librarians and guidance counselors.

Equalization. Both before and after the *DeRolph* case, state funds have been used to "equalize" school district revenues. Equalization means using state money to ensure that all districts, regardless of their property wealth, have an equal amount of combined state and local revenues to spend for something. In an equalized system, poor districts receive more state money than wealthy districts in order to guarantee the established minimum amount for all districts.

State and local shares. The current funding system essentially equalizes 23 mills of property tax for base-cost funding. It does this by providing sufficient

which enacted the state's first separate education budget and made some changes to the previous legislation.

³ *DeRolph v. State* (2000), 89 Ohio St.3d 1.

⁴ *In 2000, the 123rd General Assembly enacted two other bills also directed at some of the concerns expressed by the Court in its DeRolph II order. Am. Sub. S.B. 272 made substantial changes in the school facilities assistance programs. Am. Sub. S.B. 345 amended the school district solvency assistance program and modified requirements of some school district mandates.*

state money to each school district to ensure that, if all districts in the state levied exactly 23 effective mills, they all would have the same per pupil amount of base-cost money to spend (adjusted partially to reflect the cost-of-doing-business in the district's county).⁵ To accomplish this equalization, the base-cost formula uses five variables to compute the amount of state funding each district receives for its base cost:

(1) The stipulated amount of funding that is guaranteed per pupil in combined state and local funds (formally called the "**formula amount**").

(2) An adjustment to the formula amount known as the "**cost-of-doing-business factor**." This variable is a cost factor intended to reflect differences in the cost of doing business across Ohio's 88 counties. Each county is assigned a factor by statute. The formula amount is multiplied by the cost-of-doing-business factor for the appropriate county to obtain the specific guaranteed per pupil formula amount for each school district. In the current fiscal year, FY 2001, the factors range from 1.00 (Gallia County) to 1.138 (Hamilton County).⁶

(3) A number called the "**formula ADM**," which roughly reflects the full-time-equivalent number of district students.

(4) The **total taxable dollar value of real and personal property** subject to taxation in the district, adjusted in some cases to reflect lower levels of income wealth and to phase-in increases in valuation resulting from a county auditor's triennial reappraisal or update.

(5) The **local tax rate**, expressed in number of mills, assumed to produce the local share of the guaranteed per pupil funding. The tax rate assumed is 23 mills, although the law only requires districts to actually levy 20 mills to participate in the school funding system.

Each district's state base-cost funding is computed first by calculating the amount of combined state and local funds guaranteed to the district. This is done by adjusting the formula amount for the appropriate cost-of-doing-business factor and multiplying the adjusted amount by the district's formula ADM. Next, the assumed "local share" (commonly called the "charge-off") is calculated by multiplying the district's adjusted total taxable value by the 23 mills attributed as the local tax rate. This local share is then subtracted from the guaranteed amount to produce the district's state base-cost funding.

⁵ *One mill produces \$1 of tax revenue for every \$1,000 of taxable property valuation.*

⁶ *An increase in the variance in the cost-of-doing-business factors from 11% to 18% is being phased in under continuing law. The phase-in will be complete in FY 2004.*

Base-cost funding formula. Expressed as a formula, base-cost funding is calculated as follows:

[the formula amount X cost-of-doing-business factor X (the district's formula ADM)] – (.023 X the district's adjusted total taxable value)⁷

Sample FY 2001 calculation. If Hypothetical Local School District were located in a county with a cost-of-doing-business factor of 1.025 (meaning its cost of doing business is assumed to be 2.5% higher than in the lowest cost county), its formula ADM were 1,000 students, and it had an adjusted valuation of \$40 million, its FY 2001 state base-cost funding amount would be \$3,481,000, calculated as follows:

\$4,294	FY 2001 formula amount
x <u>1.025</u>	District's cost-of-doing-business factor
\$4,401	District's adjusted formula amount
x <u>1,000</u>	District's formula ADM (approximate enrollment)
\$4,401,000	District's base-cost amount
- <u>\$920,000</u>	District's charge-off (assumed local share based on 23 mills charged against the district's \$40 million in adjusted property valuation)
\$3,481,000	District's state payment toward base-cost amount
79%	District's state share percentage (per cent of total base cost paid by state)

How the current base-cost amount was established. The primary difference between the old funding system and the current system in calculating base-cost funding is that the state and local amount guaranteed per pupil (known as the formula amount) under the old system was stated in statute without any specific method of selecting the amount. Under the current system, the General Assembly adopted for the first time an explicit methodology for determining the base cost of an adequate education. From that methodology is derived the formula amount. The methodology relies on the premise that, all other things being equal, most school districts should be able to achieve satisfactory performance if they have available to them the average amount of funds spent by those districts that

⁷ R.C. 3317.022(A). In lieu of formula ADM, the Department of Education must use the district's "three-year average" formula ADM if it is greater than the current-year formula ADM.

have met the standard for satisfactory performance.⁸ The standard for that performance adopted by the General Assembly in 1998 was an "effective" rating in FY 1996 measured against the state performance standards.⁹ In essence, the General Assembly developed an "expenditure model" by examining the average per pupil expenditures of effective school districts. From the initial group of effective districts, it eliminated "outriders" (the top and bottom 5% in property wealth and the top and bottom 10% according to personal income) and arrived at 103 districts to include in the model. The base cost derived from averaging that group's FY 1996 expenditures, adjusted for inflation, was \$4,063 per pupil for FY 1999. The General Assembly phased in full funding of the base cost.

Equity aid phase-out

The old funding system paid a second tier of state aid to school districts whose property wealth fell beneath an established threshold. This "equity aid" was paid beginning in FY 1993 as an add-on to the state base cost (then called "basic aid") funding. The current system has been phasing out equity aid by reducing the number of districts receiving the subsidy and decreasing the number of extra mills equalized under it for each fiscal year through FY 2002. Beginning in FY 2003, no more equity aid is scheduled to be paid.

Six-year funding plan

The current system specifies base-cost funding parameters for six fiscal years, from FY 1999 through FY 2004. These parameters are illustrated in the following table.

⁸ *The fact that "all other things are not equal" is the rationale behind the "categorical" funding provided for school districts with greater needs for transportation funding, DPIA, special education services, and similar requirements that vary from district to district.*

⁹ *R.C. 3302.02 and 3302.03, neither section in the bill. See also Ohio Admin. Code 3301-50-01. In order for a school district to achieve an "effective" rating, it must meet at least 94% of the state performance standards. To do so, a prescribed percentage of the district's students must achieve a passing score on certain of the state proficiency tests and the district must achieve a prescribed attendance rate and graduation rate.*

Base-Cost Funding Plan Under Current Law

Fiscal Year	Base Cost Amount	Actual Formula Amount	% of Base Cost in Formula Amount	Variance in Cost-of-Doing-Business Factors	Number of School Districts Eligible for Equity Aid	Additional Mills Equalized by Equity Aid
FY 1998	-----	\$3,663	-----	9.6%	292	13
FY 1999	\$4,063	\$3,851	94.8%	11.0%	228	12
FY 2000	\$4,177	\$4,052	97.0%	12.4%	197	11
FY 2001	\$4,294	\$4,294	100%	13.8%	162	10
FY 2002	\$4,414	\$4,414	100%	15.2%	117	9
FY 2003	\$4,538	\$4,538	100%	16.6%	0	0
FY 2004	\$4,665	\$4,665	100%	18.0%	0	0

Categorical funding

Categorical, or "add-on," funding is a type of funding the state provides school districts in addition to base-cost funding. It can be viewed as money a school district requires because of the special circumstances of some of its students or the special circumstances of the district itself (such as its location in a high-cost area of the state). Some categorical funding, namely the cost-of-doing-business factor and some adjustments to local property value, is actually built into the base-cost formula. But most categorical funding is paid separately from the base cost, including:

- (1) Special education additional weighted funding, which pays districts a portion of the additional costs associated with educating children with disabilities;
- (2) Vocational education additional weighted funding, which pays districts a portion of the additional costs associated with educating students in job-training, workforce development, and other vocational programs;
- (3) Gifted education unit funding, which provides funds to districts for special programs for gifted children;
- (4) Disadvantaged Pupil Impact Aid, or "DPIA," which provides additional state money to districts where the proportion of low-income students receiving public assistance through the Ohio Works First program is a certain percentage of the statewide proportion; and

(5) Transportation funding, which reimburses districts a portion of their costs of transporting children to and from public and private schools.

Special education and vocational education weights. The current school funding system pays a per pupil amount for special education and vocational education students on top of the amount generated by the base-cost formula for those students. It does this using an add-on formula assigning weights to those students. Weights are an expression of additional costs attributable to the special circumstances of the students in the weight class, and are expressed as a percentage of the formula amount. For example, a weight of 0.25 indicates that an additional 25% of the formula amount (or, about \$1,074 more dollars for FY 2001) is necessary to provide additional services to a student in that category.

The current weights for special education and vocational education are:

SPECIAL EDUCATION

- (a) **0.22** for students identified as specific learning disabled, other health handicapped, or developmentally handicapped;
- (b) **3.01** for students identified as hearing handicapped, orthopedically handicapped, vision impaired, multihandicapped, and severe behavior handicapped; and
- (c) **3.01** for students identified as autistic, having traumatic brain injuries, or as both hearing and vision disabled.

VOCATIONAL EDUCATION

- (a) **0.60** for students enrolled in job-training and workforce development programs approved by the Department of Education; and
- (b) **0.30** for students enrolled in other types of vocational education classes.

Each school district is paid its state share percentage of the additional weighted amount calculated for special education and vocational education (see "**State and local shares of special and vocational education costs,**" below). In addition, school districts may receive an additional "catastrophic cost" subsidy for an individual special education student in the third special education weight category if the district's costs to serve the student exceed \$25,000.

The state also pays a subsidy for speech services and for "associated vocational education services" using separate formulas.

State and local shares of special and vocational education costs. The current funding system equalizes special education and vocational education costs

by requiring a state and local share for the additional costs. This is determined for each district from the percentage of the base-cost amount supplied by each. For instance, if the state pays 55% of a district's base-cost amount and the district supplies the other 45%, the state and local shares of the additional special education and vocational funding likewise are 55% and 45%, respectively.

Gifted education funding. The state uses "unit funding" to pay school districts to serve students identified as gifted. A "unit" is a group of students receiving the same education program. In FY 2001, districts and educational service centers received for each approved unit the sum of:

(1) The annual salary the gifted teacher would receive if he or she were paid under the state's minimum teacher salary schedule for a teacher with his or her training and experience;

(2) An amount (for fringe benefits) equal to 15% of the salary allowance;

(3) A basic unit allowance of \$2,678; and

(4) A supplemental unit allowance, the amount of which partially depended on the district's state share percentage of base-cost funding. In FY 2001, for each gifted unit, a district received a supplemental unit allowance of \$2,625.50 plus the district's state share percentage of \$5,550 per unit.

Disadvantaged Pupil Impact Aid (DPIA). An additional, nonequalized state subsidy is paid to school districts with threshold percentages of resident children from families receiving public assistance (Ohio Works First). The amount paid for DPIA depends largely on the district's DPIA index, which is its percentage of Ohio Works First children compared to the statewide percentage of Ohio Works First children. Three separate calculations determine the total amount of a district's DPIA funds:

(1) Any district with a DPIA index greater than or equal to 0.35 (meaning its proportion of children receiving public assistance is at least 35% of the statewide proportion) receives money for safety and remediation. Districts with DPIA indices between 0.35 and 1.00 receive \$230 per pupil in a public assistance family. The per pupil amount increases proportionately for districts whose indices are greater than 1.00 as the DPIA index increases.

(2) Districts with a DPIA index greater than 0.60 receive an additional payment for increasing the amount of instructional attention per pupil in grades K to three, the amount of which payment also increases with the DPIA index. This payment is called the "third grade guarantee," but is also known as the "class-size reduction" payment.

(3) Districts that have either a DPIA index equal to or greater than 1.00 (having at least the statewide average percentage of public assistance children) or a three-year average formula ADM exceeding 17,500, and that offer all-day kindergarten receive state funding for the additional half day.

However, all districts (regardless of their DPIA indices) are eligible for at least the amount of DPIA funding they received during FY 1998, the last year of the old school funding system.

Transportation. In FY 1998, under the old school funding system, state payments to school districts for transportation averaged 38% of their total transportation costs. The current system established a new transportation funding formula and commenced a phase-in that, by FY 2003, will result in the state paying districts 60% of the amount calculated by the new formula. These payments are not equalized for district wealth. Every district receives that same percentage of the amount calculated for it under the formula.

The formula itself is based on the statistical method of multivariate regression analysis.¹⁰ Under this formula, each district's payment for transportation of students on school buses is based on (1) the number of daily bus miles traveled per day per student in the previous fiscal year and (2) the percentage of its student body that it transported on school buses in the previous fiscal year (whether the buses were owned by the district board or a contractor).¹¹ The Department of Education is to update the values for the formula and calculate the payments each year based on analysis of transportation data from the previous fiscal year. The Department must apply a 2.8% inflation factor to the previous year's cost data.

In addition, the current system pays a separate "rough road subsidy" targeted at relatively sparsely populated districts where there are relatively high proportions of rough road surfaces.

¹⁰ *Regression analysis is a statistical tool that can explain how much of the variance in one variable (in this case, transportation costs from district to district) can be explained by variance in other variables (here, number of bus miles per student per day and the percentage of students transported on buses).*

¹¹ *The statute presents the following model of the formula based on an analysis of FY 1998 transportation data: $51.79027 + (139.62626 \times \text{daily bus miles per student}) + (116.25573 \times \text{transported student percentage})$. Payments for FY 2000 and FY 2001 were to be calculated with a similar formula updated to reflect analysis of FY 1999 and FY 2000 data, respectively. (R.C. 3317.022(D)(2).)*

Subsidies addressing reliance on property taxes

Charge-off supplement ("gap aid revenue"). Certain school districts are not able to achieve 23 effective mills to cover their assumed local share of the base cost. In other cases, districts' effective tax rates will not cover their assumed local shares of special education and vocational education costs. In such cases, current law provides a subsidy to make up the gap between the districts' effective tax rates and their assumed local shares for base-cost funding, special education, and vocational education.

"Power equalization" subsidy. Current law provides another subsidy to school districts that have effective tax rates for operations above the formula charge-off (23 mills) but have below-average property valuations per pupil. The subsidy (referred to as "power equalization") supplements the amount that such a school district is able to raise from two mills of local property tax, so that the amount it raises locally, combined with the subsidy, equals the amount that a district having the statewide average property valuation per pupil will raise by levying two mills. If a school district qualifies for the subsidy and has an effective operating tax rate of less than 25 mills, the subsidy supplements the amount that the district is able to raise from whatever millage the district has in excess of 23 mills, rather than a full two mills.

State funding guarantee

The current funding system guarantees every school district with a formula ADM over 150 that it will receive a minimum amount of state aid based on its state funds for FY 1998. The state funds guaranteed include the sum of base-cost funding, special education funding, vocational education funding, gifted education funding, DPIA funds, equity aid, state subsidies for teachers with high training and experience, and state "extended service" subsidies for teachers working in summer school.

Temporary state funding cap

Most school districts, though, have experienced increases in their state funding from FY 1998. As part of the phase-in to the current system, the law temporarily limits school districts' increases in state funding, including transportation subsidies, through FY 2002. In FY 2001 and FY 2002 the law limits school districts' state aid increases to 12% over their previous year's aggregate state payment or 10% over their previous year's *per pupil* amount of state funds, whichever is greater. This "cap" no longer applies after June 30, 2002.

The bill continues the state aid cap for FY 2002

(Sections 14 and 16)

As provided in current law, the bill maintains the cap during FY 2002, limiting school districts to state aid increases of 12% overall or 10% per pupil, whichever is greater. Like current law, the bill does not extend the cap past FY 2002. (See Section 18(E) of H.B. 650 of the 122nd General Assembly, which appears in Section 14 of this bill; and Section 17(D) of H.B. 282 of the 123rd General Assembly, which appears in Section 16 of this bill.)

The bill continues unchanged the phase-in of transportation and power equalization funding, the phase-out of the equity subsidy, and the use of unit funding for gifted education

The bill also leaves the following aspects of the current funding system unchanged:

(1) Transportation funding. The bill retains the current transportation funding formula and continues the phase-in of the state share of transportation funding calculated for each district using that formula. As already stated in current law (R.C. 3317.022(D)(3)), these percentages are:

Fiscal Year	State Share of Transportation
FY 1999	50%
FY 2000	52.5%
FY 2001	55%
FY 2002	57.5%
FY 2003 and after	60%

(2) Gifted education funding. The bill retains unit funding for paying school districts for gifted education programs and applies the unit amounts currently in effect for FY 2001 to FY 2002 and FY 2003 (R.C. 3317.024(P), not in the bill, 3317.05(F), and 3317.053(B)).

(3) Power equalization. The bill continues the phase-in of the power equalization amounts to 100% in FY 2002, as already scheduled in current law. This phase-in occurred as follows:¹²

Fiscal Year	% of Subsidy Paid
FY 1999	25%
FY 2000	50%
FY 2001	75%
FY 2002 and after	100%

(4) Gap revenue funding. The bill continues unchanged the policy of paying districts the difference if the actual local revenues are less than the calculated local shares for base costs, special education, and vocational education (R.C. 3317.0216, not in the bill).

(5) Equity aid. The bill continues the phase-out of the equity subsidy through FY 2002.

The bill raises the base-cost amount and phases it in over five years

(R.C. 3317.012(A)(1) and 3317.02(B))

The bill declares that the General Assembly has analyzed school district expenditure data for FY 1999 and determined that the per pupil base cost of an adequate education for FY 2002 is \$4,909. That amount is increased by an inflation factor of 2.8% for each of the following five fiscal years, through FY 2007. But the bill does not incorporate the full per pupil amount into the base-cost formula until FY 2006 in order, as stated in the bill, "to allow for the orderly phase-in of the increased funding." Consequently, the actual formula amounts for FY 2002 through FY 2005 are less than the calculated base-cost amounts.

¹² R.C. 3317.0215 and Section 20(A) of Am. Sub. H.B. 650 of the 122nd General Assembly, neither of which appear in this bill.

Base Cost Formula Amounts – FY 1998 through FY 2007

Fiscal Year	Current Law		The Bill		
	Calculated Base Cost Per Pupil	Actual Formula Amount	Calculated Base Cost Per Pupil	Actual Formula Amount	% of Base Cost in Formula Amount
FY 2001	\$4,294	\$4,294	N/A	N/A	N/A
FY 2002	\$4,414	\$4,414	\$4,909	\$4,490	91.5%
FY 2003	\$4,538	\$4,538	\$5,047	\$4,670	92.5%
FY 2004	\$4,665	\$4,665	\$5,189	\$4,926	94.9%
FY 2005	Not Specified.		\$5,335	\$5,197	97.4%
FY 2006	Not Specified.		\$5,484	\$5,484	100%
FY 2007	Not Specified.		\$5,638	\$5,638	100%

How the proposed base-cost amounts were calculated

(R.C. 3317.012(A)(2) and (B))

The bill explains that the proposed base-cost amounts were derived as follows:

(1) First, by analyzing the expenditures of school districts that met certain criteria in FY 1999, taking an unweighted average of their base costs per pupil for that year, and adjusting the result for inflation. (Although the criteria for selecting model districts are different from those used in the current system, this approach is similar to the current system's premise that, all things being equal, most school districts should be able to perform satisfactorily if they have available the average amount of funds spent by the model districts.)

(2) Adding to that result an additional amount per pupil to account for the added costs to school districts of increasing to 21 the number of high school academic units required for graduation beginning September 15, 2001, as a result of legislation enacted in 1997 following *DeRolph I*.

Selection of model school districts. The following table compares the criteria used to select the model school districts under the current system versus the bill's proposal, as those criteria are explained in current law and the bill:

Criteria for Selecting Model Districts from Which to Calculate the Base Cost

CRITERIA	CURRENT LAW	THE BILL*
Academic performance	District met at least 17 of 18 state performance standards in FY 1996.	District met at least 20 of 27 state performance standards in FY 1999.
Academic resources	No criteria.	In FY 1999: (1) The district had an average pupil-to-teacher ratio of 21 to 1 (or less) in grades K through 12; (2) At least 80% of the district's teachers had at least five years of experience; and (3) The district offered at least one advanced placement course.
Income wealth screen	The district was not among the top or bottom 10% of all school districts in income wealth in FY 1996. ¹³	The district was not among the top or bottom 5% of all school districts in income wealth in FY 1999.
Property wealth screen	The district was not among the top or bottom 5% of all school districts in property valuation per pupil in FY 1996.	The district was not among the top or bottom 5% of all school districts in property valuation per pupil in FY 1999.

* The bill uses the same criteria recently approved by the State Board of Education in its "Resource and Accountability Model."

¹³ Both current law and the bill state that school district "income factors" were used to measure a district's income wealth. The income factor measures how the median income of a school district's residents compares to the state as a whole.

Additional amount for increased graduation requirements. The bill states a per pupil amount was added to the base cost derived from the model districts to reflect the cost of increasing the state-mandated minimum number of high school academic units required for students graduating after 2001. It specifies the following amounts as included in the base cost for this purpose:

Fiscal Year	Per Pupil Amount
FY 2002	\$24
FY 2003	\$25
FY 2004	\$26
FY 2005	\$27
FY 2006	\$28
FY 2007	\$29

New committee to reexamine the cost of an adequate education

(R.C. 3317.012(E))

Current law requires the Speaker of the House of Representatives and the President of the Senate each to appoint three members to a committee to reexamine the cost of an adequate education. The law requires appointments to be made in July of 2000 and in July every six years thereafter. The committee is required to issue its report within six months of its appointment. Such a committee was organized in July of 2000 and issued its report in December, 2000.

The bill requires the Speaker and the President to appoint a new committee to reexamine the cost of an adequate education sometime in July 2006 and every six years thereafter. It further requires that the committee issue its report within *one year* of its appointment.

The bill adjusts the cost-of-doing-business factors for the 88 counties

(R.C. 3317.02(N))

The bill continues the six-year phase-in to the 18% variance between the highest and lowest cost-of-doing-business counties. In addition, it reassigns the cost-of-doing-business factors among the 88 counties to reflect the Department of Education's latest examination of the relative costs among the counties. The new factors still have Gallia County as the base county at 1.00 and Hamilton County as the highest cost county relative to Gallia County. The total variance between Gallia and Hamilton County increases to 15.2% in FY 2002 and 16.6% in FY 2003.

The bill increases the state's share of special education payments beginning in FY 2003

(R.C. 3317.022(B)(3) and (C) and 3317.023(K))

The current funding system equalizes state special education payments to school districts by designating a percentage of the calculated payment that will be paid by the state and a percentage for which the school district is responsible. This is determined for each district from the percentage of the base-cost amount supplied by each. For instance, if the state pays 55% of a district's base-cost amount and the district supplies the other 45%, the state and local shares of the additional special education funding likewise are 55% and 45%, respectively. The state pays the district 55% of the calculated additional amount for special education.

The bill increases the state's percentage for special education payments for city, local, and exempted village school districts (but not joint vocational school districts) beginning in FY 2003, the second year of the biennium. It does this by requiring the state to add five percentage points to the district's calculated state share percentage. For instance, a district whose state and local shares ordinarily are 55% and 45%, respectively, would have its state share percentage increased to 60% and its local share reduced to 40%, beginning in FY 2003. But the bill states that no school district will have a state share percentage for special education that is more than 100%.

This "adjusted" state share percentage is to be applied to the calculation of the following payments to school districts:

- (1) Special education weighted payments (see "**Special education and vocational education weights**," above);
- (2) Speech services payments;¹⁴ and
- (3) "Catastrophic costs" subsidies.

¹⁴ The state speech subsidy is calculated based on the presumed cost of one professional for every 2,000 students. The bill states that this presumed cost in FY 2002 and FY 2003 is \$30,000, which is the same amount currently used for FY 2001. (R.C. 3317.022(C)(5) and 3317.16(D)(2).)

The bill increases the state payment under the "catastrophic costs" subsidy and extends it to cover all special education students

(R.C. 3314.08(E), 3317.022(C)(4), and 3317.16(E))

Category 3 special education students include students with autism, students with both visual and hearing handicaps, and students with traumatic brain injury. The special education weight assigned to these students is 3.01, the same as that assigned to special education students under Category 2. But under the current funding system, school districts may apply to the state for additional state aid if their costs in serving any Category 3 student exceeds \$25,000 in one year. The state currently must pay the district's state share percentage of the costs above the \$25,000 threshold.¹⁵

The bill expands this subsidy to cover all special education students, regardless of which weight category their disability is in. It makes this change for all school districts, including joint vocational school districts, and for community schools (popularly called "charter schools"), which also are eligible for the subsidy under current law.

Moreover, the bill increases the percentage of costs above the \$25,000 threshold that the state will reimburse school districts, including joint vocational school districts. (Community schools, which have no taxing authority, already are eligible for 100% reimbursement under current law.) Instead of paying the district's state share percentage, the bill requires the state to pay the sum of:

- (1) 100% of half the costs above \$25,000; plus
- (2) The district's state share percentage (plus 5% beginning in FY 2003) of the other half of the costs above \$25,000.

For example, if a school district spent \$30,000 to serve a special education student, the district would be eligible for reimbursement of a portion of the \$5,000 by which its costs for that student exceeded \$25,000. If the district's state share percentage were 55%, under current law it would be reimbursed \$2,750 (55% x \$5,000). Under the bill, the district would receive \$3,875 in FY 2002 (\$2,500 + (55% x \$2,500)) or \$4,000 in FY 2003 (\$2,500 + (60% x \$2,500)).

¹⁵ *The costs for which districts may receive reimbursement include only the costs of educational expenses and related services provided to the student in accordance with the student's individualized education program (IEP). Legal fees and court costs relating to the student cannot be reimbursed.*

The bill makes permanent the policy to use weights instead of units to pay county MR/DD boards for special education

(R.C. 3317.03(B)(11), 3317.052, 3317.20, 3323.09, 5126.05, and 5126.12)

During FY 1999, FY 2000, and FY 2001, county boards of mental retardation and developmental disabilities ("county MR/DD boards") received payment for providing special education to school-age children under a funding system that is similar to the system of weights used to pay school districts. Authorization for this arrangement is due to expire at the end of FY 2001, after which current law requires that the state resume paying MR/DD boards using "unit funding," which calculates payments based on groups of students using set amounts for the salary and benefits of the students' teacher and for other supplies.

The bill prevents the reversion back to unit funding, making the weighted system permanent for paying county MR/DD boards for serving school-age children.¹⁶ For each school-aged child provided special education and related services, the Department of Education must continue to pay a county MR/DD board the base-cost formula amount, adjusted by the cost-of-doing-business factor of the child's school district, plus the state share in the child's school district of the additional, weighted special education payment. This provides the boards with the state and local share of the base cost of educating the student, plus the state portion of the calculated additional special education cost. The bill, however, does *not* increase the state share percentage used to calculate the weighted amount paid to county MR/DD boards as it does for school districts.

As under current law, each county MR/DD board is guaranteed to receive each year at least the same amount per pupil that it received per pupil in FY 1998 under state unit funding. If the per pupil amount calculated using the weights is less than the FY 1998 per pupil amount, the Department must pay the board the difference.

Also as under current law, payments to county MR/DD boards are not deducted from a school district's state aid, unless the district places with a board more school-aged children than it had placed in FY 1998. If that is the case, the Department must deduct from the district's aid the amount paid the MR/DD board for each school-aged child exceeding the number placed that year.

But unlike current law, the bill does not place a cap on total state payments to county MR/DD boards. The cap amounts were \$40 million in FY 1999, \$44

¹⁶ *State payments for all special education to preschool children, whether provided by a school or county MR/DD board, is calculated using unit funding.*

million in FY 2000, and \$48.4 million in FY 2001, and appeared to be based on the amount of state unit funding provided to MR/DD boards in FY 1998. If total state payments calculated in a fiscal year exceeded the cap in any of those years, the Department had to proportionately reduce the amount paid to each board that year.¹⁷

DPIA changes

The bill qualifies more school districts for all-day kindergarten payments beginning in FY 2003

(R.C. 3317.029(D))

When a school district's base-cost payments are calculated, kindergarten students are counted as only 50% (that is, as half-day students), regardless of whether the district offers all-day, everyday kindergarten. The current funding system pays school districts for all-day kindergarten programs under the Disadvantaged Pupil Impact Aid (DPIA) program. A district is eligible for state all-day kindergarten funds only if its DPIA index equals or exceeds 1.00 or its three-year average formula ADM (approximate enrollment) exceeds 17,500. A DPIA index of 1.00 means that the district's proportion of children receiving public assistance from the Ohio Works First (OWF) program equals or exceeds the statewide proportion. In summary, state all-day kindergarten payments are generally targeted to districts where the concentration of children receiving OWF is higher than the proportion statewide.

The bill increases the number of districts eligible for this payment, beginning in FY 2003, by reducing the threshold for eligibility from a DPIA index of 1.00 to one of 0.60. A DPIA index of 0.60 means that the district's proportion of children receiving public assistance from OWF equals or exceeds 60% of the statewide proportion of these children.

The bill also codifies and makes permanent a provision qualifying a district for payment of all-day kindergarten if it had qualified for and received payment in a prior fiscal year. A similar provision had appeared in an uncodified section of the 1999-2001 biennial education budget act.¹⁸ This provision prevents interruption of payments to a district should its index fall a few percentage points below the threshold DPIA index after it has started providing all-day kindergarten.

¹⁷ Section 35 of Am. Sub. H.B. 770 of the 122nd General Assembly.

¹⁸ Section 4.12 of Am. Sub. H.B. 282 of the 123rd General Assembly.

Purchase of classroom space for all-day kindergarten

(R.C. 3317.029(H), (I), (J), and (K)(1); Section 18(G)(1)(b) of H.B. 650 of the 123rd General Assembly, which appears in Section 14 of this bill)

Under current law, school districts that qualify for all-day kindergarten payments must annually certify to the state the percentage of kindergartners that will be served in an all-day program. That certification is the basis for calculating the payment (which equals one-half of the per pupil base-cost formula amount for each student in the certified percentage), and the law requires that the district actually serve that percentage in all-day programs. Districts may use DPIA money to obtain additional classroom space to accommodate all-day kindergarten, so long as the percentage certified is actually served in an all-day program.

There is a temporary exception to these requirements, however, that allows districts to certify a higher percentage than they actually plan to serve, and then use the extra money generated by the artificially high certification to modify or purchase additional classroom space with which to provide all-day kindergarten. A school district must be approved by the Department of Education to take advantage of this exception, and the Department may issue its approval only if it determines that the district cannot reasonably provide all-day kindergarten without additional space. This exception expires at the end of FY 2002, while the bill's expansion of all-day kindergarten does not take effect until FY 2003.

DPIA funding for "third grade guarantee"--average teacher salary

(R.C. 3317.029(A)(7) and (E))

If a district's DPIA index is greater than 0.60 (meaning its proportion of children receiving public assistance is greater than 60% of the statewide proportion), it also may receive a payment based on the amount of money it would take to hire additional teachers to reduce class sizes in grades K to 3. The amount varies on a sliding scale, increasing as a district's DPIA index increases.

One of the components of the formula for calculating this "third grade guarantee" is the statutorily designated statewide average teacher salary. For FY 2001, this amount was established at \$41,312. The bill increases it to \$42,469 for FY 2002 and \$43,658 for FY 2003, thereby increasing the third grade guarantee funds for all eligible districts in each year of the biennium.

The bill maintains the per pupil payment amounts to educational service centers

(R.C. 3317.11(B) and (C))

The bill requires that the same per pupil amounts paid by the state to educational service centers in FY 2001 also be paid in FY 2002 and FY 2003. These amounts are to be paid for each pupil in the formula ADMs of the local school districts that are part of the service center and of the city and exempted village "client" school districts that sign agreements with the service center, as follows:

- (1) For centers that serve fewer than three counties, \$37 per pupil; and
- (2) For centers that serve three or more counties, \$40.52 per pupil.

Educational service center office space and equipment

(R.C. 133.07(C)(19), 3313.37(A), and 3319.19; repealed R.C. 307.031)

Background

An educational service center (ESC) is a regional public educational entity with its own superintendent and elected governing board that provides some educational supervision, curriculum development services, and other administrative services to all local school districts within its service area. In addition, ESCs may provide services to area city and exempted village school districts under contract with those "client" districts. Each ESC receives per pupil payments from the state and its local and client school districts for service to district students. An ESC governing board does not have taxing authority for purposes of operating the ESC.¹⁹

The bill

ESC governing boards may acquire property. Under current law, ESC governing boards are permitted to acquire property for special education programs and for driver's education courses. There is some uncertainty whether or not they

¹⁹ R.C. 3311.05, not in the bill. Prior to 1995, ESCs were called county school districts and ESC governing boards were called county boards of education. At one time there were 88 county school districts, but along with the name change provisions enacted in Am. Sub. H.B. 117 of the 121st General Assembly, certain former county school districts (now ESCs) were required to merge to form larger service areas. According to the Legislative Office of Education Oversight, in July of 1999 there were 61 ESCs.

can acquire property for other purposes.²⁰ The bill specifically permits an ESC governing board to acquire, lease, purchase, or sell real and personal property and to construct, enlarge, repair, renovate, furnish, or equip facilities, structures, or buildings for the ESC's purposes. To do so, a governing board may also enter into loan agreements, including mortgages. If a governing board does acquire its own facilities for office or classroom space, a county board of commissioners has no obligation to provide offices and associated services as otherwise provided under current law.²¹ (See "*Phase out of a county board of commissioner's responsibility to provide ESC office space*," below.) The bill also permits a county board of commissioners to issue securities under provisions of the Public Securities Law to acquire real and personal property for an ESC, if the ESC governing board has contracted to pay to the county an amount equal to the annual debt charges on those securities.²²

Phase out of a county board of commissioner's responsibility to provide ESC office space. Under current law, the county board of commissioners of the county in which an ESC is located must provide and equip office space and furnish water, light, heat, and janitorial services, for the ESC. If the service area of an ESC comprises territory in more than one county, the ESC governing board must designate one board of county commissioners to provide the office space, and the other boards of county commissioners must share in the costs.²³ (The law also provides for a state subsidy that *may* be paid to a county board of commissioners to help defray the cost of providing office space to an ESC. Apparently, since its enactment in 1990, there have been no appropriations for this subsidy and it has not been paid. The bill repeals this subsidy provision.²⁴)

²⁰ For example, at least one common pleas court has held that despite the general provision permitting school districts, which may include ESCs under some circumstances, to acquire property necessary for their educational programs, the specific provision limits that authority for ESCs to special education and driver's education controls. See *Paulding County Bd. of Edn. v. Paulding County Bd. of Commissioners* CI-86-049 (1986).

²¹ R.C. 3313.37(A)(1) to (2).

²² R.C. 133.07(C)(19) and 3313.37(A)(3).

²³ R.C. 3319.19(A).

²⁴ R.C. 3319.19(C) and Repealed R.C. 307.031. The subsidy, if appropriations are made for it, is to be allocated to each county board of commissioners that provides ESC office space based on a formula. Under the formula, a county board of commissioners receives an amount up to its actual expenses and equal to the greater of: (1) \$15,000, or (2) \$6 X the average daily membership (ADM) of the ESC (if the ratio of ADM to full-time

The bill provides instead for a three-year phase-out of the responsibility of any county board of commissioners to provide office space for an ESC. In fiscal year 2006 and thereafter, a county board of commissioners may provide office space and other facilities for an ESC by contract, but it is not required to do so.²⁵

The bill requires, in fiscal years 2003-2005, each county board of commissioners responsible for ESC office space to submit a detailed estimate of its cost to provide that space and the associated water, heat, light, and janitorial services to the ESC superintendent. The superintendent must review the estimate and may submit objections to that estimate to the county board of commissioners. If the superintendent does not reply to the estimate within 20 days of receipt of the estimate, it is considered to be a final estimate. If the superintendent does file timely objections, the county board of commissioners may revise the estimate and resubmit it to the superintendent. The superintendent then must reply within ten days of receipt of the revised estimate. If the superintendent continues to object to the estimated costs, the probate judge of the county with the greatest number of resident local school district students under supervision of the ESC will determine the final estimate.²⁶

During the three-year phase-out, the costs are to be divided between the county and the ESC. The county is responsible to pay the following:

- In fiscal year 2003, 75% of the final estimated cost;
- In fiscal year 2004, 50% of the final estimated cost;
- In fiscal year 2005, 25% of the final estimated cost.

Educational service centers themselves are responsible for the remaining portion of the costs of office space and for any unanticipated or unexpected increase beyond the final estimated costs.

equivalent (FTE) licensed educators employed by the ESC is equal to or greater than 100 to 1) or \$6 X the ESC's ADM plus \$250 X the number of FTE licensed educators employed by the ESC (if the ratio of ADM to FTE licensed educators is less than 100 to 1).

²⁵ R.C. 3319.19(D)(2) to (3).

²⁶ R.C. 3319.19(C).

In fiscal year 2006 and thereafter, no county board of commissioners is required to provide office space for an ESC or to pay any cost of providing such space.²⁷

Expansion of grade levels in which new students may enter the pilot project scholarship program

(Section 4.32)

In FY 2001, the Pilot Project Scholarship and Tutorial Assistance Program (commonly called the "voucher" program) operating in Cleveland served students in grades K to 7. In FY 2002 and FY 2003, if the program is allowed to continue, new kindergarten classes would replace the ones that advances to first grade, and the program would serve students in grades K to 8.²⁸

The codified law has always stipulated that new students may join the program only in grades K to 3; students in higher grades who withdraw could not be replaced. Since FY 1998, however, biennial appropriations acts have permitted new students to join the program in higher grades, as well.

For FY 2002 and FY 2003, the bill continues this trend by allowing first-time scholarships to be awarded to students in all of the covered grades. First-time scholarships may therefore be awarded to students in grades K to 8. But this will not necessarily increase the number of new program participants. That is determined by the Department of Education each year based on the amount of money appropriated for the program.

LOTTERY

Authority of the State Lottery Commission to enter agreements to conduct statewide joint lottery games

(R.C. 3770.02(J), 3770.03(B)(5), and 3770.06(A) and (B))

The bill authorizes the Director of the State Lottery Commission to enter into agreements with other lottery jurisdictions to conduct statewide joint lottery

²⁷ R.C. 3319.19(C) to (D)(1).

²⁸ *On December 11, 2000, the U.S. Sixth Circuit Court of Appeals upheld a summary judgment from the U.S. District Court invalidating the program on federal constitutional grounds. The district court had declared that the program impermissibly results in government advancement of religion because most private schools participating in it are parochial schools. (Simmons-Harris v. Zelman, Case Number 00-3055.) The state has appealed this ruling to the full membership of the Sixth Circuit Court of Appeals.*

games and, if the Governor signs an agreement personally or by means of an authenticating officer, to conduct statewide joint lottery games under the agreement. The entire net proceeds from any statewide joint lottery games must be used to fund primary, secondary, vocational, and special education programs in Ohio. "Statewide joint lottery game" means a lottery game that the Commission sells solely within Ohio under an agreement with other lottery jurisdictions to sell the same lottery game solely within their statewide or jurisdictional boundaries.

The Commission must conduct any statewide joint lottery games in accordance with rules it must adopt under the Administrative Procedure Act. These "special game rules" must (1) implement any agreements the Director enters into with other lottery jurisdictions to conduct statewide joint lottery games and (2) require that the Lottery Profits Education Fund created under existing law have transferred to it the entire net proceeds of statewide joint lottery games that remain after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games.

The bill relatedly requires that all *gross proceeds* from statewide joint lottery games be deposited into the State Lottery Gross Revenue Fund, which is created under existing law (see further detail below). The State Lottery Fund must have transferred to it all revenues of the State Lottery Gross Revenue Fund that represent the gross proceeds from statewide joint lottery games and that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not paid to lottery sales agents in the form of bonuses, commissions, and reimbursements, and that are not necessary to cover operating expenses associated with those games or to otherwise comply with the agreements the Director enters into or the rules the Commission adopts.

Whenever, in the Director of Budget and Management's judgment, the amount to the credit of the State Lottery Fund that represents proceeds from statewide joint lottery games equals the entire net proceeds of those games as described in the rules the Commission adopts regarding those games, the Director must transfer those proceeds to the Lottery Profits Education Fund.

Transfers from the State Lottery Fund to the Lottery Profits Education Fund

(R.C. 3770.06(B))

The State Lottery Gross Revenue Fund consists of all gross revenues received from sales of lottery tickets, fines, fees, and related proceeds. Specified moneys in the State Lottery Gross Revenue Fund must be transferred to the State Lottery Fund. Then, whenever, in the judgment of the Director of Budget and

Management, the amount to the credit of the State Lottery Fund is in excess of that needed to meet the maturing obligations of the State Lottery Commission and as working capital for its further operations, the Director must transfer the excess to the Lottery Profits Education Fund. However, the Director may only transfer into the Lottery Profits Education Fund an amount that is *no less than 30% of the total revenue accruing from the sale of lottery tickets*. The bill eliminates this limitation.

TECHNOLOGY AND BUILDINGS

Ohio Education Computer Network

(R.C. 3301.075)

Continuing law requires the State Board of Education to adopt rules for the creation of an Ohio Education Computer Network (OECN) to assist all school districts and educational service centers (ESCs) in the purchasing and leasing of data processing services and equipment.²⁹ With funding from the Department of Education, OECN must also operate a network of up to 27 data acquisition sites (DA sites), which will assist school districts and ESCs in gathering and reporting data electronically for their own use and for compliance with state reporting requirements. Currently there are 23 such sites. Most but not all school districts subscribe to the services of OECN.

Under current law, the service territory of the DA sites must be composed of combinations of school districts and ESCs from contiguous counties. The bill eliminates the contiguity requirement; thus, districts and ESCs not sharing boundaries may join a single DA site.

Prior to codification of the authorization to create OECN in 1983, districts joined DA sites under provisions of law permitting subdivisions to form regional councils for the acquisition of joint services.³⁰ After that date, it appears that the only way districts and ESCs could join a DA site subsidized by the Department of Education was through a provision of law permitting school districts to jointly

²⁹ *The assistance provided by OECN is in addition to assistance provided to school districts and ESCs in their implementation of educational technology by the Ohio SchoolNet Commission. SchoolNet and OECN have collaborated on activities regarding their respective duties.*

³⁰ *R.C. Chapter 167., not in the bill.*

acquire and use school facilities.³¹ Under the bill, districts and ESCs may use either method to join and participate in the activities of a DA site.

Ohio SchoolNet Commission

(R.C. 3301.80(B)(1))

The Ohio SchoolNet Commission is an independent state agency charged with allocating financial assistance and providing other technical services to school districts in the implementation of education technology. The Commission is made up of seven voting members, who are: the Superintendent of Public Instruction, Director of Budget and Management, Director of Administrative Services, Chairperson of the Public Utilities Commission, and Director of the Ohio Educational Telecommunications Network Commission, or their respective designees; and two members of the public who are appointed by the Speaker of the House of Representatives and the President of the Senate. It also consists of four nonvoting legislative members. The Commission employs an executive director who employs other individuals to carry out the duties of the Commission.

The bill specifies that the Superintendent of Public Instruction is the chairperson of the Commission.

Ohio School Facilities Commission executive director and other employees

(R.C. 3318.31)

The Ohio School Facilities Commission operates the state's programs that provide assistance to school districts in building, repairing, and improving their school facilities. The Commission consists of three voting members who are the Director of Administrative Services, the Director of Budget and Management, and the Superintendent of Public Instruction (or their respective designees). It also consists of four nonvoting legislative members appointed by the Speaker of the House of Representatives and the President of the Senate. Under current law, the Commission is authorized to employ and fix the compensation of any employees that will facilitate the activities and purposes of the Commission. The bill specifies that the Commission must employ and fix the compensation of an executive director who serves at the pleasure of the Commission. The bill then provides that the executive director may employ and fix the compensation of subordinate employees who serve at the pleasure of the executive director.

³¹ R.C. 3313.92, not in the bill.

OTHER PRIMARY-SECONDARY PROVISIONS

Requirements for academic intervention

Services that must be offered by school districts

(R.C. 3313.608)

Current law requires that school districts annually assess the reading skills of all students at the end of the first, second, and third grade, identify those students who are reading below grade level, notify their parents, and offer additional services to those students to help them improve their reading skills. The law also requires that those students reading below grade level at the end of the third grade be offered "intense remediation services" during the summer. In addition, those students who have not attained a passing score on the state fourth grade reading proficiency test by the end of fourth grade must be offered during the following summer intense remediation services and another opportunity to take the test. Finally, any student who fails to attain a passing score on three or more of the fourth or sixth grade proficiency tests must be offered summer remediation services.

The bill changes the prescribed services from "remediation" to "intervention" throughout all of these provisions.³² It also adds the requirement that school districts assess a student's reading level at the end of kindergarten and provide intervention at that time if the student is behind. The bill removes the requirement that the "intervention" services for third graders behind in reading be offered during the summer. It does retain, however, the requirement that summer intervention services be offered in the summer after fourth grade to any student who has not passed the fourth grade reading test. It also retains the summer intervention requirement for students who have failed any *three or more* of the *fourth* or *sixth* grade proficiency tests. In addition, the bill adds a provision that such a student must be offered intervention services "during the following school year" if needed.

³² *While the change might be semantic, the term appears to be preferred among the educators. In addition, "intervention" might connote services provided before a student fails high stakes tests rather than after and may represent a more preventative posture as opposed to a reactive one.*

Standards for services that are provided by school districts

(R.C. 3313.608(E))

Current law provides permanent statutory standards for summer "remediation" services funded with any state money. Such services must include the following:

- (1) Methods that are based on "reliable educational research";
- (2) Student testing before and after the services have been provided;
- (3) Parental involvement; and
- (4) Conduct of the services in a school building or a community center, and not on an "at-home" basis.

The bill applies these standards to *all* "intervention" services conducted with any state funding (not just summer programs). However, the bill also removes the requirement that students be tested before and after the services have been provided. It requires, instead, that each district that provides intervention services to a student "assess" that student at some point.

Funding of intervention services under DPIA

(R.C. 3317.029(C) and (F))

Disadvantaged Pupil Impact Aid (DPIA) is a state subsidy paid in addition to base-cost funding to school districts that have relatively moderate to high concentrations of students from low-income families. (See "**DPIA changes**," above.) Part of that subsidy is provided to qualifying districts to be used for "measures related to safety and security" and for "remediation." School districts with concentrations of students from low-income families above the state percentage of such students receive additional moneys to provide all-day kindergarten. Current law, not changed by the bill, requires any district receiving DPIA all-day kindergarten moneys to combine that amount with other moneys received under DPIA (including the funds for safety and remediation) so that it first fully funds its all-day kindergarten percentage before it uses those other DPIA moneys for other purposes.³³

³³ A district's "all-day kindergarten percentage" is the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten that the district certifies to the Department of Education (R.C. 3317.029(A)(9)).

The bill requires that, beginning in fiscal year 2003, any district that receives safety and remediation moneys under DPIA must use 20% of that money to pay for the intervention services that are required under R.C. 3313.608. Thus, under the bill, the money could be used to fund intervention services for students in grades kindergarten through three who are reading below grade level, for students who have failed the fourth grade reading proficiency test, or for students who have failed at least three of either the fourth grade or sixth grade proficiency tests. However, any district receiving safety and remediation moneys under DPIA that also has an obligation to provide all-day kindergarten must still fully fund its all-day kindergarten percentage before it can use the safety and remediation moneys to pay for intervention services. In the case of such a district, 20% of any safety and remediation money remaining after funding all-day kindergarten must be used for the required intervention services.

HIGHER EDUCATION

Increase in Ohio Instructional Grant amounts

(R.C. 3333.12; Section 7.07)

The Board of Regents administers an instructional grant program. This program basically pays instructional grants to full-time, Ohio resident students who attend a public, private, or proprietary institution of higher education in Ohio and are enrolled in a program leading to an associate or bachelor's degree. Grant amounts are for the equivalent of one academic year and the Board of Regents establishes all rules concerning application for the grant.

This amendment increases the maximum grant amounts for public, private, and proprietary institutions. In addition, it also raises the maximum base amount of gross income a student may have and still qualify for a grant, both in the case of students who are financially dependent and those students who are financially independent.

Grant amounts are generally based on whether an applicant is financially dependent or independent; the combined family income (if dependent) or the student and spouse income (if independent); the number of dependents; and whether the applicant attends a private nonprofit, public, or proprietary school. The amount of the grant cannot exceed the total instructional and general fees charged by the student's school.

Separate tables in each fiscal year set forth the grant amounts, one for each category of student (based on type of institution and financial dependence or independence). Each table has headings for income ranges and the number of dependents (up to five) in the family, with a grant amount for each income range

and family size. The maximum and minimum grant amount for each of the types of institutions is as follows:

For a student enrolled in a private nonprofit institution

	Current Year	FY 2002	FY 2003
Minimum Grant	\$396	\$420	\$444
Maximum Grant	\$4,872	\$5,466	\$5,466

For a student enrolled in a proprietary school

	Current Year	FY 2002	FY 2003
Minimum Grant	\$336	\$354	\$372
Maximum Grant	\$4,128	\$4,374	\$4,632

For a student enrolled in a public school

	Current Year	FY 2002	FY 2003
Minimum Grant	\$162	\$168	\$174
Maximum Grant	\$1,956	\$2,070	\$2,190

Chancellor has sole authority to appoint and fix compensation of employees and staff

(R.C. 3333.03)

Under current law the Board of Regents fixes the compensation for all employees of the Board and must give its approval to appointments of employees and staff made by the Chancellor. The amendment gives the Chancellor authority to fix the compensation for all employees and staff. In addition, Chancellor's employee and staff appointments no longer require Board approval.

Interactive video teleconferencing at Board of Regents meetings

(R.C. 3333.02)

The bill allows the Board of Regents to form a quorum and take votes at meetings conducted by interactive video teleconference. The Board, however, must make provisions for public attendance at any location involved in the teleconference.

Transfers to the Ohio Public Facilities Commission

(R.C. 3333.13)

Under current law money can be appropriated to either the Board of Regents or institutions of higher education in order to meet required lease payments to the Ohio Public Facilities Commission or the Treasurer of State. The Public Facilities Commission receives such payments as a result of leases or other agreements entered into between the Commission and the Board or the institution of higher education. The bill allows only the Board of Regents to receive appropriations for these payments. Concomitantly, it makes the Board alone responsible for estimating the amounts of such payments and submitting those estimates to the Director of Budget and Management.

Currently the Chancellor of the Board annually certifies to the Director the payments contracted to be made to the Commission. The bill gives authority to any vice-chancellor to make these certifications. A final change is that this certification must now also include amounts to be credited to the Higher Education Capital Facilities Bond Service Fund pursuant to Commission leases and agreements.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	---	---

H0094-I.124/jc