

As Reported by the Senate Education Committee

132nd General Assembly

Regular Session

2017-2018

H. B. No. 428

Representatives Ginter, LaTourette

Cosponsors: Representatives Antani, Brenner, Brinkman, Hill, Huffman, Johnson, Kent, Koehler, Lang, Lipps, McColley, Patmon, Riedel, Roegner, Romanchuk, Ryan, Schaffer, Scherer, Smith, R., Thompson, Butler, Anielski, Carfagna, Dean, Dever, Green, Hagan, Henne, Keller, McClain, Merrin, Perales, Retherford, Stein, Wiggam, Young, Zeltwanger

A BILL

To amend sections 3313.601, 3314.03, 3326.11, and 1
3328.24 and to enact sections 3320.01, 3320.02, 2
and 3320.03 of the Revised Code regarding 3
student religious expression and to entitle the 4
act the "Ohio Student Religious Liberties Act of 5
2018." 6

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

Section 1. That sections 3313.601, 3314.03, 3326.11, and 7
3328.24 be amended and sections 3320.01, 3320.02, and 3320.03 of 8
the Revised Code be enacted to read as follows: 9

Sec. 3313.601. The board of education of each school 10
district may provide for a moment of silence each school day for 11
prayer, reflection, or meditation upon a moral, philosophical, 12
or patriotic theme. No board of education, school, or employee 13
of the school district shall require a pupil to participate in a 14
moment of silence provided for pursuant to this section. No 15

board of education shall prohibit a classroom teacher from 16
providing in the teacher's classroom reasonable periods of time 17
for activities of a moral, philosophical, or patriotic theme. No 18
pupil shall be required to participate in such activities if 19
they are contrary to the religious convictions of the pupil or 20
the pupil's parents or guardians. 21

No board of education of a school district shall adopt any 22
policy or rule respecting or promoting an establishment of 23
religion or prohibiting any pupil from the free, individual, and 24
voluntary exercise or expression of the pupil's religious 25
beliefs in any primary or secondary school. ~~The board of 26
education may limit the exercise or expression of the pupil's 27
religious beliefs as described in this section to lunch periods 28
or other noninstructional time periods when pupils are free to 29
associate.~~ 30

Sec. 3314.03. A copy of every contract entered into under 31
this section shall be filed with the superintendent of public 32
instruction. The department of education shall make available on 33
its web site a copy of every approved, executed contract filed 34
with the superintendent under this section. 35

(A) Each contract entered into between a sponsor and the 36
governing authority of a community school shall specify the 37
following: 38

(1) That the school shall be established as either of the 39
following: 40

(a) A nonprofit corporation established under Chapter 41
1702. of the Revised Code, if established prior to April 8, 42
2003; 43

(b) A public benefit corporation established under Chapter 44

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| 1702. of the Revised Code, if established after April 8, 2003. | 45 |
| (2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum; | 46 47 48 49 |
| (3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments; | 50 51 52 53 |
| (4) Performance standards, including but not limited to all applicable report card measures set forth in section 3302.03 or 3314.017 of the Revised Code, by which the success of the school will be evaluated by the sponsor; | 54 55 56 57 |
| (5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; | 58 59 60 |
| (6) (a) Dismissal procedures; | 61 |
| (b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student. | 62 63 64 65 66 67 |
| (7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves; | 68 69 |
| (8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial | 70 71 72 |

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| records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code. | 73 74 75 |
| (9) An addendum to the contract outlining the facilities to be used that contains at least the following information: | 76 77 |
| (a) A detailed description of each facility used for instructional purposes; | 78 79 |
| (b) The annual costs associated with leasing each facility that are paid by or on behalf of the school; | 80 81 |
| (c) The annual mortgage principal and interest payments that are paid by the school; | 82 83 |
| (d) The name of the lender or landlord, identified as such, and the lender's or landlord's relationship to the operator, if any. | 84 85 86 |
| (10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code. | 87 88 89 90 91 92 |
| (11) That the school will comply with the following requirements: | 93 94 |
| (a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year. | 95 96 97 |
| (b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school. | 98 99 100 |

(c) The school will be nonsectarian in its programs, 101
admission policies, employment practices, and all other 102
operations, and will not be operated by a sectarian school or 103
religious institution. 104

(d) The school will comply with sections 9.90, 9.91, 105
109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.19, 3301.0710, 106
3301.0711, 3301.0712, 3301.0715, 3301.0729, 3301.948, 3313.472, 107
3313.50, 3313.536, 3313.539, 3313.5310, 3313.608, 3313.609, 108
3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 3313.643, 109
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 110
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 111
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 112
3313.721, 3313.80, 3313.814, 3313.816, 3313.817, 3313.86, 113
3313.89, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 114
3319.41, 3319.46, 3320.01, 3320.02, 3320.03, 3321.01, 3321.041, 115
3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 116
4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 117
3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code 118
as if it were a school district and will comply with section 119
3301.0714 of the Revised Code in the manner specified in section 120
3314.17 of the Revised Code. 121

(e) The school shall comply with Chapter 102. and section 122
2921.42 of the Revised Code. 123

(f) The school will comply with sections 3313.61, 124
3313.611, and 3313.614 of the Revised Code, except that for 125
students who enter ninth grade for the first time before July 1, 126
2010, the requirement in sections 3313.61 and 3313.611 of the 127
Revised Code that a person must successfully complete the 128
curriculum in any high school prior to receiving a high school 129
diploma may be met by completing the curriculum adopted by the 130

governing authority of the community school rather than the 131
curriculum specified in Title XXXVIII of the Revised Code or any 132
rules of the state board of education. Beginning with students 133
who enter ninth grade for the first time on or after July 1, 134
2010, the requirement in sections 3313.61 and 3313.611 of the 135
Revised Code that a person must successfully complete the 136
curriculum of a high school prior to receiving a high school 137
diploma shall be met by completing the requirements prescribed 138
in division (C) of section 3313.603 of the Revised Code, unless 139
the person qualifies under division (D) or (F) of that section. 140
Each school shall comply with the plan for awarding high school 141
credit based on demonstration of subject area competency, and 142
beginning with the 2017-2018 school year, with the updated plan 143
that permits students enrolled in seventh and eighth grade to 144
meet curriculum requirements based on subject area competency 145
adopted by the state board of education under divisions (J) (1) 146
and (2) of section 3313.603 of the Revised Code. Beginning with 147
the 2018-2019 school year, the school shall comply with the 148
framework for granting units of high school credit to students 149
who demonstrate subject area competency through work-based 150
learning experiences, internships, or cooperative education 151
developed by the department under division (J) (3) of section 152
3313.603 of the Revised Code. 153

(g) The school governing authority will submit within four 154
months after the end of each school year a report of its 155
activities and progress in meeting the goals and standards of 156
divisions (A) (3) and (4) of this section and its financial 157
status to the sponsor and the parents of all students enrolled 158
in the school. 159

(h) The school, unless it is an internet- or computer- 160
based community school, will comply with section 3313.801 of the 161

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| Revised Code as if it were a school district. | 162 |
| (i) If the school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district. | 163 164 165 166 167 168 169 |
| (j) If the school operates a preschool program that is licensed by the department of education under sections 3301.52 to 3301.59 of the Revised Code, the school shall comply with sections 3301.50 to 3301.59 of the Revised Code and the minimum standards for preschool programs prescribed in rules adopted by the state board under section 3301.53 of the Revised Code. | 170 171 172 173 174 175 |
| (k) The school will comply with sections 3313.6021 and 3313.6023 of the Revised Code as if it were a school district unless it is either of the following: | 176 177 178 |
| (i) An internet- or computer-based community school; | 179 |
| (ii) A community school in which a majority of the enrolled students are children with disabilities as described in division (A) (4) (b) of section 3314.35 of the Revised Code. | 180 181 182 |
| (12) Arrangements for providing health and other benefits to employees; | 183 184 |
| (13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section. | 185 186 187 188 |
| (14) The governing authority of the school, which shall be | 189 |

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| responsible for carrying out the provisions of the contract; | 190 |
| (15) A financial plan detailing an estimated school budget | 191 |
| for each year of the period of the contract and specifying the | 192 |
| total estimated per pupil expenditure amount for each such year. | 193 |
| (16) Requirements and procedures regarding the disposition | 194 |
| of employees of the school in the event the contract is | 195 |
| terminated or not renewed pursuant to section 3314.07 of the | 196 |
| Revised Code; | 197 |
| (17) Whether the school is to be created by converting all | 198 |
| or part of an existing public school or educational service | 199 |
| center building or is to be a new start-up school, and if it is | 200 |
| a converted public school or service center building, | 201 |
| specification of any duties or responsibilities of an employer | 202 |
| that the board of education or service center governing board | 203 |
| that operated the school or building before conversion is | 204 |
| delegating to the governing authority of the community school | 205 |
| with respect to all or any specified group of employees provided | 206 |
| the delegation is not prohibited by a collective bargaining | 207 |
| agreement applicable to such employees; | 208 |
| (18) Provisions establishing procedures for resolving | 209 |
| disputes or differences of opinion between the sponsor and the | 210 |
| governing authority of the community school; | 211 |
| (19) A provision requiring the governing authority to | 212 |
| adopt a policy regarding the admission of students who reside | 213 |
| outside the district in which the school is located. That policy | 214 |
| shall comply with the admissions procedures specified in | 215 |
| sections 3314.06 and 3314.061 of the Revised Code and, at the | 216 |
| sole discretion of the authority, shall do one of the following: | 217 |
| (a) Prohibit the enrollment of students who reside outside | 218 |

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| the district in which the school is located; | 219 |
| (b) Permit the enrollment of students who reside in | 220 |
| districts adjacent to the district in which the school is | 221 |
| located; | 222 |
| (c) Permit the enrollment of students who reside in any | 223 |
| other district in the state. | 224 |
| (20) A provision recognizing the authority of the | 225 |
| department of education to take over the sponsorship of the | 226 |
| school in accordance with the provisions of division (C) of | 227 |
| section 3314.015 of the Revised Code; | 228 |
| (21) A provision recognizing the sponsor's authority to | 229 |
| assume the operation of a school under the conditions specified | 230 |
| in division (B) of section 3314.073 of the Revised Code; | 231 |
| (22) A provision recognizing both of the following: | 232 |
| (a) The authority of public health and safety officials to | 233 |
| inspect the facilities of the school and to order the facilities | 234 |
| closed if those officials find that the facilities are not in | 235 |
| compliance with health and safety laws and regulations; | 236 |
| (b) The authority of the department of education as the | 237 |
| community school oversight body to suspend the operation of the | 238 |
| school under section 3314.072 of the Revised Code if the | 239 |
| department has evidence of conditions or violations of law at | 240 |
| the school that pose an imminent danger to the health and safety | 241 |
| of the school's students and employees and the sponsor refuses | 242 |
| to take such action. | 243 |
| (23) A description of the learning opportunities that will | 244 |
| be offered to students including both classroom-based and non- | 245 |
| classroom-based learning opportunities that is in compliance | 246 |

with criteria for student participation established by the 247
department under division (H) (2) of section 3314.08 of the 248
Revised Code; 249

(24) The school will comply with sections 3302.04 and 250
3302.041 of the Revised Code, except that any action required to 251
be taken by a school district pursuant to those sections shall 252
be taken by the sponsor of the school. However, the sponsor 253
shall not be required to take any action described in division 254
(F) of section 3302.04 of the Revised Code. 255

(25) Beginning in the 2006-2007 school year, the school 256
will open for operation not later than the thirtieth day of 257
September each school year, unless the mission of the school as 258
specified under division (A) (2) of this section is solely to 259
serve dropouts. In its initial year of operation, if the school 260
fails to open by the thirtieth day of September, or within one 261
year after the adoption of the contract pursuant to division (D) 262
of section 3314.02 of the Revised Code if the mission of the 263
school is solely to serve dropouts, the contract shall be void. 264

(26) Whether the school's governing authority is planning 265
to seek designation for the school as a STEM school equivalent 266
under section 3326.032 of the Revised Code; 267

(27) That the school's attendance and participation 268
policies will be available for public inspection; 269

(28) That the school's attendance and participation 270
records shall be made available to the department of education, 271
auditor of state, and school's sponsor to the extent permitted 272
under and in accordance with the "Family Educational Rights and 273
Privacy Act of 1974," 88 Stat. 571, 20 U.S.C. 1232g, as amended, 274
and any regulations promulgated under that act, and section 275

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| 3319.321 of the Revised Code; | 276 |
| (29) If a school operates using the blended learning model, as defined in section 3301.079 of the Revised Code, all of the following information: | 277 278 279 |
| (a) An indication of what blended learning model or models will be used; | 280 281 |
| (b) A description of how student instructional needs will be determined and documented; | 282 283 |
| (c) The method to be used for determining competency, granting credit, and promoting students to a higher grade level; | 284 285 |
| (d) The school's attendance requirements, including how the school will document participation in learning opportunities; | 286 287 288 |
| (e) A statement describing how student progress will be monitored; | 289 290 |
| (f) A statement describing how private student data will be protected; | 291 292 |
| (g) A description of the professional development activities that will be offered to teachers. | 293 294 |
| (30) A provision requiring that all moneys the school's operator loans to the school, including facilities loans or cash flow assistance, must be accounted for, documented, and bear interest at a fair market rate; | 295 296 297 298 |
| (31) A provision requiring that, if the governing authority contracts with an attorney, accountant, or entity specializing in audits, the attorney, accountant, or entity shall be independent from the operator with which the school has | 299 300 301 302 |

contracted. 303

(B) The community school shall also submit to the sponsor 304
a comprehensive plan for the school. The plan shall specify the 305
following: 306

(1) The process by which the governing authority of the 307
school will be selected in the future; 308

(2) The management and administration of the school; 309

(3) If the community school is a currently existing public 310
school or educational service center building, alternative 311
arrangements for current public school students who choose not 312
to attend the converted school and for teachers who choose not 313
to teach in the school or building after conversion; 314

(4) The instructional program and educational philosophy 315
of the school; 316

(5) Internal financial controls. 317

When submitting the plan under this division, the school 318
shall also submit copies of all policies and procedures 319
regarding internal financial controls adopted by the governing 320
authority of the school. 321

(C) A contract entered into under section 3314.02 of the 322
Revised Code between a sponsor and the governing authority of a 323
community school may provide for the community school governing 324
authority to make payments to the sponsor, which is hereby 325
authorized to receive such payments as set forth in the contract 326
between the governing authority and the sponsor. The total 327
amount of such payments for monitoring, oversight, and technical 328
assistance of the school shall not exceed three per cent of the 329
total amount of payments for operating expenses that the school 330

receives from the state. 331

(D) The contract shall specify the duties of the sponsor 332
which shall be in accordance with the written agreement entered 333
into with the department of education under division (B) of 334
section 3314.015 of the Revised Code and shall include the 335
following: 336

(1) Monitor the community school's compliance with all 337
laws applicable to the school and with the terms of the 338
contract; 339

(2) Monitor and evaluate the academic and fiscal 340
performance and the organization and operation of the community 341
school on at least an annual basis; 342

(3) Report on an annual basis the results of the 343
evaluation conducted under division (D)(2) of this section to 344
the department of education and to the parents of students 345
enrolled in the community school; 346

(4) Provide technical assistance to the community school 347
in complying with laws applicable to the school and terms of the 348
contract; 349

(5) Take steps to intervene in the school's operation to 350
correct problems in the school's overall performance, declare 351
the school to be on probationary status pursuant to section 352
3314.073 of the Revised Code, suspend the operation of the 353
school pursuant to section 3314.072 of the Revised Code, or 354
terminate the contract of the school pursuant to section 3314.07 355
of the Revised Code as determined necessary by the sponsor; 356

(6) Have in place a plan of action to be undertaken in the 357
event the community school experiences financial difficulties or 358
closes prior to the end of a school year. 359

(E) Upon the expiration of a contract entered into under 360
this section, the sponsor of a community school may, with the 361
approval of the governing authority of the school, renew that 362
contract for a period of time determined by the sponsor, but not 363
ending earlier than the end of any school year, if the sponsor 364
finds that the school's compliance with applicable laws and 365
terms of the contract and the school's progress in meeting the 366
academic goals prescribed in the contract have been 367
satisfactory. Any contract that is renewed under this division 368
remains subject to the provisions of sections 3314.07, 3314.072, 369
and 3314.073 of the Revised Code. 370

(F) If a community school fails to open for operation 371
within one year after the contract entered into under this 372
section is adopted pursuant to division (D) of section 3314.02 373
of the Revised Code or permanently closes prior to the 374
expiration of the contract, the contract shall be void and the 375
school shall not enter into a contract with any other sponsor. A 376
school shall not be considered permanently closed because the 377
operations of the school have been suspended pursuant to section 378
3314.072 of the Revised Code. 379

Sec. 3320.01. (A) Sections 3320.01, 3320.02, and 3320.03 380
of the Revised Code shall be collectively known as the "Ohio 381
Student Religious Liberties Act of 2018." 382

(B) As used in sections 3320.01 to 3320.03 of the Revised 383
Code, "religious expression" includes any of the following: 384

(1) Prayer; 385

(2) Religious gatherings, including but not limited to 386
prayer groups, religious clubs, "see you at the pole" 387
gatherings, or other religious gatherings; 388

(3) Distribution of written materials or literature of a religious nature; 389
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(4) Any other activity of a religious nature, including wearing symbolic clothing or expression of a religious viewpoint, provided that the activity is not obscene, vulgar, offensively lewd, or indecent. 391
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Sec. 3320.02. (A) A student enrolled in a public school may engage in religious expression before, during, and after school hours in the same manner and to the same extent that a student is permitted to engage in secular activities or expression before, during, and after school hours. 395
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(B) A school district, community school established under Chapter 3314., STEM school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall give the same access to school facilities to students who wish to conduct a meeting for the purpose of engaging in religious expression as is given to secular student groups, without regard to the content of a student's or group's expression. 400
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Sec. 3320.03. No school district board of education, governing authority of a community school established under Chapter 3314. of the Revised Code, governing body of a STEM school established under Chapter 3326. of the Revised Code, or board of trustees of a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall prohibit a student from engaging in religious expression in the completion of homework, artwork, or other written or oral assignments. Assignment grades and scores shall be calculated using ordinary academic standards of substance and relevance, including any legitimate pedagogical concerns, and shall not 408
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penalize or reward a student based on the religious content of a 419
student's work. 420

Sec. 3326.11. Each science, technology, engineering, and 421
mathematics school established under this chapter and its 422
governing body shall comply with sections 9.90, 9.91, 109.65, 423
121.22, 149.43, 2151.357, 2151.421, 2313.19, 2921.42, 2921.43, 424
3301.0714, 3301.0715, 3301.0729, 3301.948, 3313.14, 3313.15, 425
3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 426
3313.481, 3313.482, 3313.50, 3313.536, 3313.539, 3313.5310, 427
3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.6020, 428
3313.6021, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 429
3313.648, 3313.6411, 3313.66, 3313.661, 3313.662, 3313.666, 430
3313.667, 3313.668, 3313.67, 3313.671, 3313.672, 3313.673, 431
3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.7112, 432
3313.721, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 433
3313.86, 3313.89, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 434
3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3319.46, 3320.01, 435
3320.02, 3320.03, 3321.01, 3321.041, 3321.05, 3321.13, 3321.14, 436
3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, 437
and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 438
3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the 439
Revised Code as if it were a school district. 440

Sec. 3328.24. A college-preparatory boarding school 441
established under this chapter and its board of trustees shall 442
comply with sections 102.02, 3301.0710, 3301.0711, 3301.0712, 443
3301.0714, 3301.0729, 3301.948, 3313.536, 3313.6013, 3313.6021, 444
3313.6411, 3313.7112, 3313.721, 3313.89, 3319.39, 3319.391, ~~and~~ 445
3319.46, 3320.01, 3320.02, and 3320.03 and Chapter 3365. of the 446
Revised Code as if the school were a school district and the 447
school's board of trustees were a district board of education. 448

Section 2. That existing sections 3313.601, 3314.03, 449
3326.11, and 3328.24 of the Revised Code are hereby repealed. 450

Section 3. Section 3328.24 of the Revised Code is 451
presented in this act as a composite of the section as amended 452
by both Am. Sub. H.B. 410 and Sub. S.B. 3 of the 131st General 453
Assembly. The General Assembly, applying the principle stated in 454
division (B) of section 1.52 of the Revised Code that amendments 455
are to be harmonized if reasonably capable of simultaneous 456
operation, finds that the composite is the resulting version of 457
the section in effect prior to the effective date of the section 458
as presented in this act. 459