

Sub. H.B. 33
As Passed by the Senate
EDUCD86

_____ moved to amend as follows:

In line 71 of the title, after "3301.0723," insert 1
"3301.163," 2

In line 74 of the title, after "3313.603," insert "3313.608," 3

In line 814, after "3301.0723," insert "3301.163," 4

In line 817, after "3313.603," insert "3313.608," 5

After line 42318, insert: 6

"**Sec. 3301.163.** (A) Beginning July 1, 2015, any third-grade 7
student who attends a chartered nonpublic school with a 8
scholarship awarded under either the educational choice 9
scholarship pilot program, prescribed in sections 3310.01 to 10
3310.17, or the pilot project scholarship program prescribed in 11
sections 3313.974 to 3313.979 of the Revised Code, shall be 12
subject to the third-grade reading guarantee retention provisions 13
under division (A)(2) of section 3313.608 of the Revised Code, 14
including the exemptions prescribed by that division. For purposes 15
of determining if a child with a disability is exempt from 16
retention under this section, an individual services plan created 17
for the child that has been reviewed by either the student's 18
school district of residence or the school district in which the 19

chartered nonpublic school is located and that specifies that the student is not subject to retention shall be considered in the same manner as an individualized education program or plan under section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 794, as amended, as prescribed by division (A)(2) of section 3313.608 of the Revised Code.

As used in this section, "child with a disability" and "school district of residence" have the same meanings as in section 3323.01 of the Revised Code.

(B)(1) Each chartered nonpublic school that enrolls students in any of grades kindergarten through three and that accepts students under the educational choice scholarship pilot program or the pilot project scholarship program shall adopt policies and procedures for the annual assessment of the reading skills of those students. Each school may use the diagnostic assessment to measure reading ability for the appropriate grade level prescribed in division (D) of section 3301.079 of the Revised Code. If the school uses such assessments, the department of education shall furnish them to the chartered nonpublic school.

(2) For each student identified as having reading skills below grade level, the school shall do both of the following:

(a) Provide to the student's parent or guardian, in writing, all of the following:

(i) Notification that the student has been identified as having a substantial deficiency in reading;

(ii) Notification that if the student attains a score in the range designated under division (A)(3) of section 3301.0710 of the Revised Code on the assessment prescribed under that section to measure skill in English language arts expected at the end of

third grade, the student shall be retained unless the student is
exempt under division (A)(1) of section 3313.608 of the Revised
Code.

(b) Provide intensive reading instruction services, as
determined appropriate by the school, to each student identified
under this section.

(C) Each chartered nonpublic school subject to this section
annually shall report to the department the number of students
identified as reading at grade level and the number of students
identified as reading below grade level.

(D) Each chartered nonpublic school shall provide reading
intervention services required under division (B)(2) of this
section for students who did not achieve the required level of
skill under division (A)(3) of section 3310.0710 of the Revised
Code but were promoted to the fourth grade, that do all of the
following:

(1) Continue to be offered for as long as a student does not
achieve a proficient level of skill in reading for the student's
current grade level;

(2) Provides high-dosage tutoring opportunities aligned with
the student's classroom instruction through a state-approved
vendor on the list of high-quality tutoring vendors under section
3301.136 of the Revised Code or a locally approved opportunity
that aligns with high-dosage tutoring best practices high-dosage
tutoring opportunities shall include additional instruction time
of at least three days per week, or at least fifty hours over
thirty-six weeks;

(3) Align with the science of reading as defined under
section 3313.6028 of the Revised Code."

After line 45768, insert: 78

"**Sec. 3313.608.** (A)(1) Beginning with students who enter 79
 third grade in the school year that starts July 1, 2009, and until 80
 June 30, 2013, unless the student is excused under division (C) of 81
 section 3301.0711 of the Revised Code from taking the assessment 82
 described in this section, for any student who does not attain at 83
 least the equivalent level of achievement designated under 84
 division (A)(3) of section 3301.0710 of the Revised Code on the 85
 assessment prescribed under that section to measure skill in 86
 English language arts expected at the end of third grade, each 87
 school district, in accordance with the policy adopted under 88
 section 3313.609 of the Revised Code, shall do one of the 89
 following: 90

(a) Promote the student to fourth grade if the student's 91
 principal and reading teacher agree that other evaluations of the 92
 student's skill in reading demonstrate that the student is 93
 academically prepared to be promoted to fourth grade; 94

(b) Promote the student to fourth grade but provide the 95
 student with intensive intervention services in fourth grade; 96

(c) Retain the student in third grade. 97

(2) Beginning with students who enter third grade in the 98
 2013-2014 school year, unless the student is excused under 99
 division (C) of section 3301.0711 of the Revised Code from taking 100
 the assessment described in this section, no school district shall 101
 promote to fourth grade any student who does not attain at least 102
 the equivalent level of achievement designated under division 103
 (A)(3) of section 3301.0710 of the Revised Code on the assessment 104
 prescribed under that section to measure skill in English language 105
 arts expected at the end of third grade, unless one of the 106

following applies:	107
(a) The student is an English learner who has been enrolled	108
in United States schools for less than three full school years and	109
has had less than three years of instruction in an English as a	110
second language program.	111
(b) The student is a child with a disability entitled to	112
special education and related services under Chapter 3323. of the	113
Revised Code and the student's individualized education program	114
exempts the student from retention under this division.	115
(c) The student demonstrates an acceptable level of	116
performance on an alternative standardized reading assessment as	117
determined by the department of education.	118
(d) All of the following apply:	119
(i) The student is a child with a disability entitled to	120
special education and related services under Chapter 3323. of the	121
Revised Code.	122
(ii) The student has taken the third grade English language	123
arts achievement assessment prescribed under section 3301.0710 of	124
the Revised Code.	125
(iii) The student's individualized education program or plan	126
under section 504 of the "Rehabilitation Act of 1973," 87 Stat.	127
355, 29 U.S.C. 794, as amended, shows that the student has	128
received intensive remediation in reading for two school years but	129
still demonstrates a deficiency in reading.	130
(iv) The student previously was retained in any of grades	131
kindergarten to three.	132
(e)(i) The student received intensive remediation for reading	133
for two school years but still demonstrates a deficiency in	134

reading and was previously retained in any of grades kindergarten
to three. 135
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(ii) A student who is promoted under division (A)(2)(e)(i) of 137
this section shall continue to receive intensive reading 138
instruction in grade four. The instruction shall include an 139
altered instructional day that includes specialized diagnostic 140
information and specific research-based reading strategies for the 141
student that have been successful in improving reading among 142
low-performing readers. 143

(f) A student's parent or guardian, in consultation with the 144
student's reading teacher and building principal, requests that 145
the student, regardless of if the student is reading at grade 146
level, be promoted to the fourth grade. 147

A student who is promoted under division (A)(2)(f) of this 148
section shall continue to receive intensive reading instruction in 149
the same manner as a student retained under this section until the 150
student is able to read at grade level. 151

(B)(1) Beginning in the 2012-2013 school year, to assist 152
students in meeting the third grade guarantee established by this 153
section, each school district board of education shall adopt 154
policies and procedures with which it annually shall assess the 155
reading skills of each student, except those students with 156
significant cognitive disabilities or other disabilities as 157
authorized by the department on a case-by-case basis, enrolled in 158
kindergarten to third grade and shall identify students who are 159
reading below their grade level. The reading skills assessment 160
shall be completed by the thirtieth day of September for students 161
in grades one to three, and by the twentieth day of instruction of 162
the school year for students in kindergarten. Each district shall 163
use the diagnostic assessment to measure reading ability for the 164

appropriate grade level adopted under section 3301.079 of the
Revised Code, or a comparable tool approved by the department of
education, to identify such students. The policies and procedures
shall require the students' classroom teachers to be involved in
the assessment and the identification of students reading below
grade level. The assessment may be administered electronically
using live, two-way video and audio connections whereby the
teacher administering the assessment may be in a separate location
from the student.

(2) For each student identified by the diagnostic assessment
prescribed under this section as having reading skills below grade
level, the district shall do both of the following:

(a) Provide to the student's parent or guardian, in writing,
all of the following:

(i) Notification that the student has been identified as
having a substantial deficiency in reading;

(ii) A description of the current services that are provided
to the student;

(iii) A description of the proposed supplemental
instructional services and supports that will be provided to the
student that are designed to remediate the identified areas of
reading deficiency;

(iv) Notification that if the student attains a score in the
range designated under division (A)(3) of section 3301.0710 of the
Revised Code on the assessment prescribed under that section to
measure skill in English language arts expected at the end of
third grade, the student shall be retained unless the student is
exempt under division (A) of this section. The notification shall
specify that the assessment under section 3301.0710 of the Revised

Code is not the sole determinant of promotion and that additional
evaluations and assessments are available to the student to assist
parents and the district in knowing when a student is reading at
or above grade level and ready for promotion.

(v) A statement that connects the child's proficiency level
in reading to long-term outcomes of success related to proficiency
in reading.

(b) Provide intensive reading instruction services and
regular diagnostic assessments to the student immediately
following identification of a reading deficiency until the
development of the reading improvement and monitoring plan
required by division (C) of this section. These intervention
services shall be aligned with the science of reading as defined
under section 3313.6028 of the Revised Code and include
research-based reading strategies that have been shown to be
successful in improving reading among low-performing readers and
instruction targeted at the student's identified reading
deficiencies.

(3) For each student retained under division (A) of this
section, the district shall do all of the following:

(a) Provide intense remediation services until the student is
able to read at grade level. The remediation services shall
include intensive interventions in reading that address the areas
of deficiencies identified under this section including, but not
limited to, not less than ninety minutes of reading instruction
per day, and may include any of the following:

- (i) Small group instruction;
- (ii) Reduced teacher-student ratios;
- (iii) More frequent progress monitoring;

(iv) Tutoring or mentoring;	223
(v) Transition classes containing third and fourth grade students;	224 225
(vi) Extended school day, week, or year;	226
(vii) Summer reading camps.	227
(b) Establish a policy for the mid-year promotion of a student retained under division (A) of this section who demonstrates that the student is reading at or above grade level;	228 229 230
(c) Provide each student with a teacher who satisfies one or more of the criteria set forth in division (H) of this section.	231 232
The district shall offer the option for students to receive applicable services from one or more providers other than the district. Providers shall be screened and approved by the district or the department of education. If the student participates in the remediation services and demonstrates reading proficiency in accordance with standards adopted by the department prior to the start of fourth grade, the district shall promote the student to that grade.	233 234 235 236 237 238 239 240
(4) For each student retained under division (A) of this section who has demonstrated proficiency in a specific academic ability field, each district shall provide instruction commensurate with student achievement levels in that specific academic ability field.	241 242 243 244 245
As used in this division, "specific academic ability field" has the same meaning as in section 3324.01 of the Revised Code.	246 247
(C) For each student required to be provided intervention services under this section, the district shall develop a reading improvement and monitoring plan within sixty days after receiving	248 249 250

the student's results on the diagnostic assessment or comparable	251
tool administered under division (B)(1) of this section. The	252
district shall involve the student's parent or guardian and	253
classroom teacher in developing the plan. The plan shall include	254
all of the following:	255
(1) Identification of the student's specific reading	256
deficiencies;	257
(2) A description of the additional instructional services	258
and support that will be provided to the student to remediate the	259
identified reading deficiencies;	260
(3) Opportunities for the student's parent or guardian to be	261
involved in the instructional services and support described in	262
division (C)(2) of this section;	263
(4) A process for monitoring the extent to which the student	264
receives the instructional services and support described in	265
division (C)(2) of this section;	266
(5) A reading curriculum during regular school hours that	267
does all of the following:	268
(a) Assists students to read at grade level;	269
(b) Provides scientifically based and reliable assessment;	270
(c) Provides initial and ongoing analysis of each student's	271
reading progress.	272
(6) A statement that if the student does not attain at least	273
the equivalent level of achievement designated under division	274
(A)(3) of section 3301.0710 of the Revised Code on the assessment	275
prescribed under that section to measure skill in English language	276
arts expected by the end of third grade, the student may be	277
retained in third grade.	278

(7) High-dosage tutoring opportunities aligned with the student's classroom instruction through a state-approved vendor on the list of high-quality tutoring vendors under section 3301.136 of the Revised Code or a locally approved opportunity that aligns with high-dosage tutoring best practices. High-dosage tutoring opportunities shall include additional instruction time of at least three days per week, or at least fifty hours over thirty-six weeks.

The district shall continue to provide the plan developed under division (C) of this section until the student achieves the required level of skill in reading for the student's current grade level.

Each student with a reading improvement and monitoring plan under this division who enters third grade after July 1, 2013, shall be assigned to a teacher who satisfies one or more of the criteria set forth in division (H) of this section.

The district shall report any information requested by the department about the reading improvement monitoring plans developed under this division in the manner required by the department.

(D) Each school district shall report annually to the department on its implementation and compliance with this section using guidelines prescribed by the superintendent of public instruction. The superintendent of public instruction annually shall report to the governor and general assembly the number and percentage of students in grades kindergarten through four reading below grade level based on the diagnostic assessments administered under division (B) of this section and the achievement assessments administered under divisions (A)(1)(a) and (b) of section 3301.0710 of the Revised Code in English language arts, aggregated

by school district and building; the types of intervention	309
services provided to students; and, if available, an evaluation of	310
the efficacy of the intervention services provided.	311
(E) Any summer remediation services funded in whole or in	312
part by the state and offered by school districts to students	313
under this section shall meet the following conditions:	314
(1) The remediation methods are based on reliable educational	315
research.	316
(2) The school districts conduct assessment before and after	317
students participate in the program to facilitate monitoring	318
results of the remediation services.	319
(3) The parents of participating students are involved in	320
programming decisions.	321
(F) Any intervention or remediation services required by this	322
section shall include intensive, explicit, and systematic	323
instruction.	324
(G) This section does not create a new cause of action or a	325
substantive legal right for any person.	326
(H)(1) Except as provided under divisions (H)(2), (3), and	327
(4) of this section, each student described in division (B)(3) or	328
(C) of this section who enters third grade for the first time on	329
or after July 1, 2013, shall be assigned a teacher who has at	330
least one year of teaching experience and who satisfies one or	331
more of the following criteria:	332
(a) The teacher holds a reading endorsement on the teacher's	333
license and has attained a passing score on the corresponding	334
assessment for that endorsement, as applicable.	335
(b) The teacher has completed a master's degree program with	336

a major in reading. 337

(c) The teacher was rated "most effective" for reading 338
 instruction consecutively for the most recent two years based on 339
 assessments of student growth measures developed by a vendor and 340
 that is on the list of student assessments approved by the state 341
 board under division (B)(2) of section 3319.112 of the Revised 342
 Code. 343

(d) The teacher was rated "above expected value added," in 344
 reading instruction, as determined by criteria established by the 345
 department, for the most recent, consecutive two years. 346

(e) The teacher has earned a passing score on a rigorous test 347
 of principles of scientifically research-based reading instruction 348
 as approved by the state board. 349

(f) The teacher holds an educator license for teaching grades 350
 pre-kindergarten through three or four through nine issued on or 351
 after July 1, 2017. 352

(2) Notwithstanding division (H)(1) of this section, a 353
 student described in division (B)(3) or (C) of this section who 354
 enters third grade for the first time on or after July 1, 2013, 355
 may be assigned to a teacher with less than one year of teaching 356
 experience provided that the teacher meets one or more of the 357
 criteria described in divisions (H)(1)(a) to (f) of this section 358
 and that teacher is assigned a teacher mentor who meets the 359
 qualifications of division (H)(1) of this section. 360

(3) Notwithstanding division (H)(1) of this section, a 361
 student described in division (B)(3) or (C) of this section who 362
 enters third grade for the first time on or after July 1, 2013, 363
 but prior to July 1, 2016, may be assigned to a teacher who holds 364
 an alternative credential approved by the department or who has 365

successfully completed training that is based on principles of 366
scientifically research-based reading instruction that has been 367
approved by the department. Beginning on July 1, 2014, the 368
alternative credentials and training described in division (H)(3) 369
of this section shall be aligned with the reading competencies 370
adopted by the state board of education under section 3301.077 of 371
the Revised Code. 372

(4) Notwithstanding division (H)(1) of this section, a 373
student described in division (B)(3) or (C) of this section who 374
enters third grade for the first time on or after July 1, 2013, 375
may receive reading intervention or remediation services under 376
this section from an individual employed as a speech-language 377
pathologist who holds a license issued by the state speech and 378
hearing professionals board under Chapter 4753. of the Revised 379
Code and a professional pupil services license as a school 380
speech-language pathologist issued by the state board of 381
education. 382

(5) A teacher, other than a student's teacher of record, may 383
provide any services required under this section, so long as that 384
other teacher meets the requirements of division (H) of this 385
section and the teacher of record and the school principal agree 386
to the assignment. Any such assignment shall be documented in the 387
student's reading improvement and monitoring plan. 388

As used in this division, "teacher of record" means the 389
classroom teacher to whom a student is assigned. 390

(I) Notwithstanding division (H) of this section, a teacher 391
may teach reading to any student who is an English language 392
learner, and has been in the United States for three years or 393
less, or to a student who has an individualized education program 394
developed under Chapter 3323. of the Revised Code if that teacher 395

holds an alternative credential approved by the department or has 396
successfully completed training that is based on principles of 397
scientifically research-based reading instruction that has been 398
approved by the department. Beginning on July 1, 2014, the 399
alternative credentials and training described in this division 400
shall be aligned with the reading competencies adopted by the 401
state board of education under section 3301.077 of the Revised 402
Code. 403

(J) If, on or after June 4, 2013, a school district or 404
community school cannot furnish the number of teachers needed who 405
satisfy one or more of the criteria set forth in division (H) of 406
this section for the 2013-2014 school year, the school district or 407
community school shall develop and submit a staffing plan by June 408
30, 2013. The staffing plan shall include criteria that will be 409
used to assign a student described in division (B)(3) or (C) of 410
this section to a teacher, credentials or training held by 411
teachers currently teaching at the school, and how the school 412
district or community school will meet the requirements of this 413
section. The school district or community school shall post the 414
staffing plan on its web site for the applicable school year. 415

Not later than March 1, 2014, and on the first day of March 416
in each year thereafter, a school district or community school 417
that has submitted a plan under this division shall submit to the 418
department a detailed report of the progress the district or 419
school has made in meeting the requirements under this section. 420

A school district or community school may request an 421
extension of a staffing plan beyond the 2013-2014 school year. 422
Extension requests must be submitted to the department not later 423
than the thirtieth day of April prior to the start of the 424
applicable school year. The department may grant extensions valid 425

through the 2015-2016 school year.

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Until June 30, 2015, the department annually shall review all staffing plans and report to the state board not later than the thirtieth day of June of each year the progress of school districts and community schools in meeting the requirements of this section.

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(K) The department of education shall designate one or more staff members to provide guidance and assistance to school districts and community schools in implementing the third grade guarantee established by this section, including any standards or requirements adopted to implement the guarantee and to provide information and support for reading instruction and achievement."

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In line 124636, after "3301.071," insert "3301.0710,"

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In line 124637, after "3301.0723," insert "3301.163,"

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In line 124640, after "3313.603," insert "3313.608,"

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After line 281012, insert:

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Section 733.10. Notwithstanding anything in the Revised Code or Administrative Code to the contrary, any school district, community school, STEM school, or chartered nonpublic school that is subject to section 3301.163 of the Revised Code that retained a student in the third grade under that section or section 3313.608 of the Revised Code for the 2023-2024 school year based on the student's level of achievement on the assessment prescribed under section 3301.0710 of the Revised Code to measure skill in English language arts expected at the end of third grade in the 2022-2023 school year shall promote such a student to the fourth grade on the effective date of this section unless the student's parent or guardian requests that the student continue to be retained for that school year. A student who is promoted under this section

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shall continue to receive intensive reading instruction in the 455
 same manner as a student retained under this section until the 456
 student is able to read at grade level." 457

The motion was _____ agreed to.

SYNOPSIS

Third-Grade Reading Guarantee-designated level of achievement 458
for retention 459

R.C. 3313.608 and 3301.163 460

Permits a student to be promoted to fourth grade if the 461
 student's parent or guardian, in consultation with the student's 462
 reading teacher and building principal, requests that the student, 463
 regardless of if the student is reading at grade level, be 464
 promoted, and specifies that the student continue to receive 465
 reading intervention services until the student reads at grade 466
 level. 467

For a student reading below the required level of skill on 468
 the third grade reading assessment, requires schools to send in 469
 the written notification to the parents or guardians of the 470
 student a statement that details the connection between reading 471
 proficiency and long-term outcomes of success. 472

Requires that intensive reading instruction be provided to 473
 students reading below grade level until the student reaches the 474
 required level of skill in reading for the student's current grade 475
 level. 476

Requires schools to provide high-dosage tutoring 477
 opportunities aligned with the student's classroom instruction 478

through a state-approved vendor on the list of high-quality 479
 tutoring vendors for students reading below grade level or select 480
 a locally approved opportunity that aligns with high-dosage 481
 tutoring best practices. Requires that high-dosage tutoring 482
 opportunities include instruction time of at least three days per 483
 week, or at least 50 hours over 36 weeks. 484

Third Grade Reading Guarantee Safe Harbor 485

Section 733.10 486

Requires school districts and schools that retained students 487
 for the 2023-2024 school year based on that student's level of 488
 achievement on the third grade achievement assessment in reading 489
 in the 2022-2023 school year to promote those students to the 490
 fourth grade unless the student's parent or guardian requests that 491
 the student continue to be retained for that school year. 492

Requires that intensive reading instruction be provided to 493
 students reading below grade level until the student reaches the 494
 required level of skill in reading for the student's current grade 495
 level. 496