

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**H. B. No. 487**

**Representative Ingram**

**Cosponsors: Representatives Galonski, Howse, Ramos, Smith, K., West**

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**A BILL**

To amend sections 3313.41, 3318.08, and 5705.10, to 1  
enact new section 3313.411, and to repeal 2  
sections 3313.411, 3313.412, and 3313.413 of the 3  
Revised Code to eliminate the right of first 4  
refusal for community schools, college- 5  
preparatory boarding schools, and science, 6  
technology, engineering, and mathematics schools 7  
in the acquisition of school district real 8  
property. 9

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

**Section 1.** That sections 3313.41, 3318.08, and 5705.10 of 10  
the Revised Code be amended and new section 3313.411 be enacted 11  
to read as follows: 12

**Sec. 3313.41.** (A) ~~Except as provided in divisions (C),~~ 13  
~~(D), and (F) of this section and in sections 3313.412 and~~ 14  
~~3313.413 of the Revised Code, when~~ When a board of education 15  
decides to dispose of real or personal property that it owns in 16  
its corporate capacity and that exceeds in value ten thousand 17  
dollars, it shall sell the property at public auction, after 18

giving at least thirty days' notice of the auction by 19  
publication in a newspaper of general circulation in the school 20  
district, by publication as provided in section 7.16 of the 21  
Revised Code, or by posting notices in five of the most public 22  
places in the school district in which the property, if it is 23  
real property, is situated, or, if it is personal property, in 24  
the school district of the board of education that owns the 25  
property. The board may offer real property for sale as an 26  
entire tract or in parcels. 27

(B) When the board of education has offered real or 28  
personal property for sale at public auction at least once 29  
pursuant to division (A) of this section, and the property has 30  
not been sold, the board may sell it at a private sale. 31  
Regardless of how it was offered at public auction, at a private 32  
sale, the board shall, as it considers best, sell real property 33  
as an entire tract or in parcels, and personal property in a 34  
single lot or in several lots. 35

(C) If a board of education decides to dispose of real or 36  
personal property that it owns in its corporate capacity and 37  
that exceeds in value ten thousand dollars, it may sell the 38  
property to the adjutant general; to any subdivision or taxing 39  
authority as respectively defined in section 5705.01 of the 40  
Revised Code, township park district, board of park 41  
commissioners established under Chapter 755. of the Revised 42  
Code, or park district established under Chapter 1545. of the 43  
Revised Code; to a wholly or partially tax-supported university, 44  
university branch, or college; to a nonprofit institution of 45  
higher education that has a certificate of authorization under 46  
Chapter 1713. of the Revised Code; to the governing authority of 47  
a chartered nonpublic school; or to the board of trustees of a 48  
school district library, upon such terms as are agreed upon. The 49

sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this section.

(F) When a board of education has identified a parcel of real property that it determines is needed for school purposes, the board may, upon a majority vote of the members of the board, acquire that property by exchanging real property that the board owns in its corporate capacity for the identified real property or by using real property that the board owns in its corporate capacity as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition made pursuant to this division shall be made by a conveyance executed by the president and the treasurer of the board.

(G) When a school district board of education has property that the board, by resolution, finds is not needed for school district use, is obsolete, or is unfit for the use for which it

was acquired, the board may donate that property in accordance 80  
with this division if the fair market value of the property is, 81  
in the opinion of the board, two thousand five hundred dollars 82  
or less. 83

The property may be donated to an eligible nonprofit 84  
organization that is located in this state and is exempt from 85  
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). 86  
Before donating any property under this division, the board 87  
shall adopt a resolution expressing its intent to make unneeded, 88  
obsolete, or unfit-for-use school district property available to 89  
these organizations. The resolution shall include guidelines and 90  
procedures the board considers to be necessary to implement the 91  
donation program and shall indicate whether the school district 92  
will conduct the donation program or the board will contract 93  
with a representative to conduct it. If a representative is 94  
known when the resolution is adopted, the resolution shall 95  
provide contact information such as the representative's name, 96  
address, and telephone number. 97

The resolution shall include within its procedures a 98  
requirement that any nonprofit organization desiring to obtain 99  
donated property under this division shall submit a written 100  
notice to the board or its representative. The written notice 101  
shall include evidence that the organization is a nonprofit 102  
organization that is located in this state and is exempt from 103  
federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); 104  
a description of the organization's primary purpose; a 105  
description of the type or types of property the organization 106  
needs; and the name, address, and telephone number of a person 107  
designated by the organization's governing board to receive 108  
donated property and to serve as its agent. 109

After adoption of the resolution, the board shall publish, 110  
in a newspaper of general circulation in the school district or 111  
as provided in section 7.16 of the Revised Code, notice of its 112  
intent to donate unneeded, obsolete, or unfit-for-use school 113  
district property to eligible nonprofit organizations. The 114  
notice shall include a summary of the information provided in 115  
the resolution and shall be published twice. The second notice 116  
shall be published not less than ten nor more than twenty days 117  
after the previous notice. A similar notice also shall be posted 118  
continually in the board's office. If the school district 119  
maintains a web site on the internet, the notice shall be posted 120  
continually at that web site. 121

The board or its representatives shall maintain a list of 122  
all nonprofit organizations that notify the board or its 123  
representative of their desire to obtain donated property under 124  
this division and that the board or its representative 125  
determines to be eligible, in accordance with the requirements 126  
set forth in this section and in the donation program's 127  
guidelines and procedures, to receive donated property. 128

The board or its representative also shall maintain a list 129  
of all school district property the board finds to be unneeded, 130  
obsolete, or unfit for use and to be available for donation 131  
under this division. The list shall be posted continually in a 132  
conspicuous location in the board's office, and, if the school 133  
district maintains a web site on the internet, the list shall be 134  
posted continually at that web site. An item of property on the 135  
list shall be donated to the eligible nonprofit organization 136  
that first declares to the board or its representative its 137  
desire to obtain the item unless the board previously has 138  
established, by resolution, a list of eligible nonprofit 139  
organizations that shall be given priority with respect to the 140

item's donation. Priority may be given on the basis that the 141  
purposes of a nonprofit organization have a direct relationship 142  
to specific school district purposes of programs provided or 143  
administered by the board. A resolution giving priority to 144  
certain nonprofit organizations with respect to the donation of 145  
an item of property shall specify the reasons why the 146  
organizations are given that priority. 147

Members of the board shall consult with the Ohio ethics 148  
commission, and comply with Chapters 102. and 2921. of the 149  
Revised Code, with respect to any donation under this division 150  
to a nonprofit organization of which a board member, any member 151  
of a board member's family, or any business associate of a board 152  
member is a trustee, officer, board member, or employee. 153

Sec. 3313.411. (A) Except as provided in division (B) of 154  
this section, the governing authority of a community school, the 155  
board of trustees of a college-preparatory boarding school, or 156  
the governing body of a STEM school shall not sell any property 157  
purchased under division (B) of section 3313.411 of the Revised 158  
Code as it existed prior to the effective date of this section 159  
within five years of purchasing that property. 160

(B) The governing authority, board of trustees, or 161  
governing body may sell a property purchased under division (B) 162  
of section 3313.411 of the Revised Code as it existed prior to 163  
the effective date of this section within five years of the 164  
purchase, only if the governing authority, board of trustees, or 165  
governing body sells or transfers that property to another 166  
governing authority, board of trustees, or governing body. 167

**Sec. 3318.08.** Except in the case of a joint vocational 168  
school district that receives assistance under sections 3318.40 169  
to 3318.45 of the Revised Code, if the requisite favorable vote 170

on the election is obtained, or if the school district board has 171  
resolved to apply the proceeds of a property tax levy or the 172  
proceeds of an income tax, or a combination of proceeds from 173  
such taxes, as authorized in section 3318.052 of the Revised 174  
Code, the Ohio facilities construction commission, upon 175  
certification to it of either the results of the election or the 176  
resolution under section 3318.052 of the Revised Code, shall 177  
enter into a written agreement with the school district board 178  
for the construction and sale of the project. In the case of a 179  
joint vocational school district that receives assistance under 180  
sections 3318.40 to 3318.45 of the Revised Code, if the school 181  
district board of education and the school district electors 182  
have satisfied the conditions prescribed in division (D) (1) of 183  
section 3318.41 of the Revised Code, the commission shall enter 184  
into an agreement with the school district board for the 185  
construction and sale of the project. In either case, the 186  
agreement shall include, but need not be limited to, the 187  
following provisions: 188

(A) The sale and issuance of bonds or notes in 189  
anticipation thereof, as soon as practicable after the execution 190  
of the agreement, in an amount equal to the school district's 191  
portion of the basic project cost, including any securities 192  
authorized under division (J) of section 133.06 of the Revised 193  
Code and dedicated by the school district board to payment of 194  
the district's portion of the basic project cost of the project; 195  
provided, that if at that time the county treasurer of each 196  
county in which the school district is located has not commenced 197  
the collection of taxes on the general duplicate of real and 198  
public utility property for the year in which the controlling 199  
board approved the project, the school district board shall 200  
authorize the issuance of a first installment of bond 201

anticipation notes in an amount specified by the agreement, 202  
which amount shall not exceed an amount necessary to raise the 203  
net bonded indebtedness of the school district as of the date of 204  
the controlling board's approval to within five thousand dollars 205  
of the required level of indebtedness for the preceding year. In 206  
the event that a first installment of bond anticipation notes is 207  
issued, the school district board shall, as soon as practicable 208  
after the county treasurer of each county in which the school 209  
district is located has commenced the collection of taxes on the 210  
general duplicate of real and public utility property for the 211  
year in which the controlling board approved the project, 212  
authorize the issuance of a second and final installment of bond 213  
anticipation notes or a first and final issue of bonds. 214

The combined value of the first and second installment of 215  
bond anticipation notes or the value of the first and final 216  
issue of bonds shall be equal to the school district's portion 217  
of the basic project cost. The proceeds of any such bonds shall 218  
be used first to retire any bond anticipation notes. Otherwise, 219  
the proceeds of such bonds and of any bond anticipation notes, 220  
except the premium and accrued interest thereon, shall be 221  
deposited in the school district's project construction fund. In 222  
determining the amount of net bonded indebtedness for the 223  
purpose of fixing the amount of an issue of either bonds or bond 224  
anticipation notes, gross indebtedness shall be reduced by 225  
moneys in the bond retirement fund only to the extent of the 226  
moneys therein on the first day of the year preceding the year 227  
in which the controlling board approved the project. Should 228  
there be a decrease in the tax valuation of the school district 229  
so that the amount of indebtedness that can be incurred on the 230  
tax duplicates for the year in which the controlling board 231  
approved the project is less than the amount of the first 232



installment of bond anticipation notes, there shall be paid from 233  
the school district's project construction fund to the school 234  
district's bond retirement fund to be applied against such notes 235  
an amount sufficient to cause the net bonded indebtedness of the 236  
school district, as of the first day of the year following the 237  
year in which the controlling board approved the project, to be 238  
within five thousand dollars of the required level of 239  
indebtedness for the year in which the controlling board 240  
approved the project. The maximum amount of indebtedness to be 241  
incurred by any school district board as its share of the cost 242  
of the project is either an amount that will cause its net 243  
bonded indebtedness, as of the first day of the year following 244  
the year in which the controlling board approved the project, to 245  
be within five thousand dollars of the required level of 246  
indebtedness, or an amount equal to the required percentage of 247  
the basic project costs, whichever is greater. All bonds and 248  
bond anticipation notes shall be issued in accordance with 249  
Chapter 133. of the Revised Code, and notes may be renewed as 250  
provided in section 133.22 of the Revised Code. 251

(B) The transfer of such funds of the school district 252  
board available for the project, together with the proceeds of 253  
the sale of the bonds or notes, except premium, accrued 254  
interest, and interest included in the amount of the issue, to 255  
the school district's project construction fund; 256

(C) For all school districts except joint vocational 257  
school districts that receive assistance under sections 3318.40 258  
to 3318.45 of the Revised Code, the following provisions as 259  
applicable: 260

(1) If section 3318.052 of the Revised Code applies, the 261  
earmarking of the proceeds of a tax levied under section 5705.21 262

of the Revised Code for general permanent improvements or under 263  
section 5705.218 of the Revised Code for the purpose of 264  
permanent improvements, or the proceeds of a school district 265  
income tax levied under Chapter 5748. of the Revised Code, or 266  
the proceeds from a combination of those two taxes, in an amount 267  
to pay all or part of the service charges on bonds issued to pay 268  
the school district portion of the project and an amount 269  
equivalent to all or part of the tax required under division (B) 270  
of section 3318.05 of the Revised Code; 271

(2) If section 3318.052 of the Revised Code does not 272  
apply, one of the following: 273

(a) The levy of the tax authorized at the election for the 274  
payment of maintenance costs, as specified in division (B) of 275  
section 3318.05 of the Revised Code; 276

(b) If the school district electors have approved a 277  
continuing tax for general permanent improvements under section 278  
5705.21 of the Revised Code and that tax can be used for 279  
maintenance, the earmarking of an amount of the proceeds from 280  
such tax for maintenance of classroom facilities as specified in 281  
division (B) of section 3318.05 of the Revised Code; 282

(c) If, in lieu of the tax otherwise required under 283  
division (B) of section 3318.05 of the Revised Code, the 284  
commission has approved the transfer of money to the maintenance 285  
fund in accordance with section 3318.051 of the Revised Code, a 286  
requirement that the district board comply with the provisions 287  
of that section. The district board may rescind the provision 288  
prescribed under division (C) (2) (c) of this section only so long 289  
as the electors of the district have approved, in accordance 290  
with section 3318.063 of the Revised Code, the levy of a tax for 291  
the maintenance of the classroom facilities acquired under the 292

district's project and that levy continues to be collected as	293
approved by the electors.	294
(D) For joint vocational school districts that receive	295
assistance under sections 3318.40 to 3318.45 of the Revised	296
Code, provision for deposit of school district moneys dedicated	297
to maintenance of the classroom facilities acquired under those	298
sections as prescribed in section 3318.43 of the Revised Code;	299
(E) Dedication of any local donated contribution as	300
provided for under section 3318.084 of the Revised Code,	301
including a schedule for depositing such moneys applied as an	302
offset of the district's obligation to levy the tax described in	303
division (B) of section 3318.05 of the Revised Code as required	304
under division (D) (2) of section 3318.084 of the Revised Code;	305
(F) Ownership of or interest in the project during the	306
period of construction, which shall be divided between the	307
commission and the school district board in proportion to their	308
respective contributions to the school district's project	309
construction fund;	310
(G) Maintenance of the state's interest in the project	311
until any obligations issued for the project under section	312
3318.26 of the Revised Code are no longer outstanding;	313
(H) The insurance of the project by the school district	314
from the time there is an insurable interest therein and so long	315
as the state retains any ownership or interest in the project	316
pursuant to division (F) of this section, in such amounts and	317
against such risks as the commission shall require; provided,	318
that the cost of any required insurance until the project is	319
completed shall be a part of the basic project cost;	320
(I) The certification by the director of budget and	321

management that funds are available and have been set aside to 322  
meet the state's share of the basic project cost as approved by 323  
the controlling board pursuant to either section 3318.04 or 324  
division (B) (1) of section 3318.41 of the Revised Code; 325

(J) Authorization of the school district board to 326  
advertise for and receive construction bids for the project, for 327  
and on behalf of the commission, and to award contracts in the 328  
name of the state subject to approval by the commission; 329

(K) Provisions for the disbursement of moneys from the 330  
school district's project account upon issuance by the 331  
commission or the commission's designated representative of 332  
vouchers for work done to be certified to the commission by the 333  
treasurer of the school district board; 334

(L) Disposal of any balance left in the school district's 335  
project construction fund upon completion of the project; 336

(M) Limitations upon use of the project or any part of it 337  
so long as any obligations issued to finance the project under 338  
section 3318.26 of the Revised Code are outstanding; 339

(N) Provision for vesting the state's interest in the 340  
project to the school district board when the obligations issued 341  
to finance the project under section 3318.26 of the Revised Code 342  
are outstanding; 343

(O) Provision for deposit of an executed copy of the 344  
agreement in the office of the commission; 345

(P) Provision for termination of the contract and release 346  
of the funds encumbered at the time of the conditional approval, 347  
if the proceeds of the sale of the bonds of the school district 348  
board are not paid into the school district's project 349  
construction fund and if bids for the construction of the 350

project have not been taken within such period after the 351  
execution of the agreement as may be fixed by the commission; 352

(Q) Provision for the school district to maintain the 353  
project in accordance with a plan approved by the commission; 354

(R) Provision that all state funds reserved and encumbered 355  
to pay the state share of the cost of the project and the funds 356  
provided by the school district to pay for its share of the 357  
project cost, including the respective shares of the cost of a 358  
segment if the project is divided into segments, be spent on the 359  
construction and acquisition of the project or segment 360  
simultaneously in proportion to the state's and the school 361  
district's respective shares of that basic project cost as 362  
determined under section 3318.032 of the Revised Code or, if the 363  
district is a joint vocational school district, under section 364  
3318.42 of the Revised Code. However, if the school district 365  
certifies to the commission that expenditure by the school 366  
district is necessary to maintain the federal tax status or tax- 367  
exempt status of notes or bonds issued by the school district to 368  
pay for its share of the project cost or to comply with 369  
applicable temporary investment periods or spending exceptions 370  
to rebate as provided for under federal law in regard to those 371  
notes or bonds, the school district may commit to spend, or 372  
spend, a greater portion of the funds it provides during any 373  
specific period than would otherwise be required under this 374  
division. 375

(S) A provision stipulating that the commission may 376  
prohibit the district from proceeding with any project if the 377  
commission determines that the site is not suitable for 378  
construction purposes. The commission may perform soil tests in 379  
its determination of whether a site is appropriate for 380

construction purposes. 381

(T) A provision stipulating that, unless otherwise 382  
authorized by the commission, any contingency reserve portion of 383  
the construction budget prescribed by the commission shall be 384  
used only to pay costs resulting from unforeseen job conditions, 385  
to comply with rulings regarding building and other codes, to 386  
pay costs related to design clarifications or corrections to 387  
contract documents, and to pay the costs of settlements or 388  
judgments related to the project as provided under section 389  
3318.086 of the Revised Code; 390

(U) A provision stipulating that for continued release of 391  
project funds the school district board shall comply with 392  
~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ of the Revised 393  
Code throughout the project and shall notify the department of 394  
education and the Ohio community school association when the 395  
board plans to dispose of facilities by sale under that section; 396

(V) A provision stipulating that the commission shall not 397  
approve a contract for demolition of a facility until the school 398  
district board has complied with ~~sections~~ section 3313.41, ~~3313.411, and 3313.413~~ 399  
of the Revised Code relative to that 400  
facility, unless demolition of that facility is to clear a site 401  
for construction of a replacement facility included in the 402  
district's project; 403

(W) A requirement for the school district to adhere to a 404  
facilities maintenance plan approved by the commission. 405

**Sec. 5705.10.** (A) All revenue derived from the general 406  
levy for current expense within the ten-mill limitation, from 407  
any general levy for current expense authorized by vote in 408  
excess of the ten-mill limitation, and from sources other than 409

the general property tax, unless its use for a particular 410  
purpose is prescribed by law, shall be paid into the general 411  
fund. 412

(B) All revenue derived from general or special levies for 413  
debt charges, whether within or in excess of the ten-mill 414  
limitation, which is levied for the debt charges on serial 415  
bonds, notes, or certificates of indebtedness having a life less 416  
than five years, shall be paid into the bond retirement fund; 417  
and all such revenue which is levied for the debt charges on all 418  
other bonds, notes, or certificates of indebtedness shall be 419  
paid into the sinking fund. 420

(C) All revenue derived from a special levy shall be 421  
credited to a special fund for the purpose for which the levy 422  
was made. 423

(D) Except as otherwise provided by resolution adopted 424  
pursuant to section 3315.01 of the Revised Code, all revenue 425  
derived from a source other than the general property tax and 426  
which the law prescribes shall be used for a particular purpose, 427  
shall be paid into a special fund for such purpose. Except as 428  
otherwise provided by resolution adopted pursuant to section 429  
3315.01 of the Revised Code or as otherwise provided by section 430  
3315.40 of the Revised Code, all revenue derived from a source 431  
other than the general property tax, for which the law does not 432  
prescribe use for a particular purpose, including interest 433  
earned on the principal of any special fund, regardless of the 434  
source or purpose of the principal, shall be paid into the 435  
general fund. 436

(E) All proceeds from the sale of public obligations or 437  
fractionalized interests in public obligations as defined in 438  
section 133.01 of the Revised Code, except premium and accrued 439

interest, shall be paid into a special fund for the purpose of 440  
such issue, and any interest and other income earned on money in 441  
such special fund may be used for the purposes for which the 442  
indebtedness was authorized or may be credited to the general 443  
fund or other fund or account as the taxing authority authorizes 444  
and used for the purposes of that fund or account. The premium 445  
and accrued interest received from such sale shall be paid into 446  
the sinking fund or the bond retirement fund of the subdivision. 447

(F) Except as provided in divisions (G) and (H) of this 448  
section, if a permanent improvement of the subdivision is sold, 449  
the amount received from the sale shall be paid into the sinking 450  
fund, the bond retirement fund, or a special fund for the 451  
construction or acquisition of permanent improvements; provided 452  
that the proceeds from the sale of a public utility shall be 453  
paid into the sinking fund or bond retirement fund to the extent 454  
necessary to provide for the retirement of the outstanding 455  
indebtedness incurred in the construction or acquisition of such 456  
utility. Proceeds from the sale of property other than a 457  
permanent improvement shall be paid into the fund from which 458  
such property was acquired or is maintained or, if there is no 459  
such fund, into the general fund. 460

(G) A township that has a population greater than fifteen 461  
thousand according to the most recent federal decennial census 462  
and that has declared one or more improvements in the township 463  
to be a public purpose under section 5709.73 of the Revised Code 464  
may pay proceeds from the sale of a permanent improvement of the 465  
township into its general fund if both of the following 466  
conditions are satisfied: 467

(1) The township fiscal officer determines that all 468  
foreseeable public infrastructure improvements, as defined in 469



section 5709.40 of the Revised Code, to be made in the township 470  
in the ten years immediately following the date the permanent 471  
improvement is sold will have been financed through resolutions 472  
adopted under section 5709.73 of the Revised Code on or before 473  
the date of the sale. The fiscal officer shall provide written 474  
certification of this determination for the township's records. 475

(2) The permanent improvement being sold was financed 476  
entirely from moneys in the township's general fund. 477

(H) If a board of education of a school district disposes 478  
of real property under section 3313.41, ~~3313.411, or 3313.413~~ of 479  
the Revised Code, the proceeds received on or after September 480  
29, 2013, from the sale shall be used for either of the 481  
following purposes: 482

(1) The retirement of any debt that was incurred by the 483  
district with respect to that real property. Proceeds in excess 484  
of the funds necessary to retire that debt may be paid into the 485  
school district's capital and maintenance fund and used only to 486  
pay for the costs of nonoperating capital expenses related to 487  
technology infrastructure and equipment to be used for 488  
instruction and assessment. 489

(2) Payment into a special fund for the construction or 490  
acquisition of permanent improvements. 491

(I) Money paid into any fund shall be used only for the 492  
purposes for which such fund is established. 493

**Section 2.** That existing sections 3313.41, 3318.08, and 494  
5705.10 and sections 3313.411, 3313.412, and 3313.413 of the 495  
Revised Code are hereby repealed. 496