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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 89\*  
133<sup>rd</sup> General Assembly

## Bill Analysis

[Click here for S.B. 89's Fiscal Note](#)

**Version:** As Reported by House Primary and Secondary Education

**Primary Sponsor:** Sen. M. Huffman

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## SUMMARY

### CAREER-TECHNICAL EDUCATION

#### Joint vocational school district operations

- Requires the board of education of a joint vocational school district (JVSD) to hold its organizational meeting anytime in January of each year (rather than by January 15 as under current law).
- Permits the district board of a JVSD to include in its calamity day plan the use of additional online lessons, student internships, student projects, or other options to make up any number of hours missed as the result of school closures among JVSD member districts.
- Provides that, when a city, local, or exempted village school district negotiates to receive compensation for property tax revenue foregone due to an enterprise zone tax exemption, any JVSD located in the enterprise zone also must receive similar compensation.

#### Business advisory council

- Specifies that a city, local, or exempted village school district is not required to appoint a business advisory council if the district has entered into an agreement with the business advisory committee of a JVSD to represent the district.

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\* This analysis was prepared before the report of the House Primary and Secondary Education Committee appeared in the House Journal. Note that the legislative history may be incomplete.

## **Technical assessments**

- Requires the Department of Education to consider the possibility of attaining college credit as a factor when identifying an acceptable measure of technical skill.
- Specifies that the Department, in consultation with career-technical stakeholders, must update a list of technical assessments by May 31 of each year.

## **Career-technical planning district operations**

- Requires a student's "home" school district to provide the student's attendance records to the district providing career-technical education services (either a Career-Technical Planning District (CTPD) lead district or another district under a contract) when the education services are provided in facilities operated by the home district.
- Permits the lead district of a CTPD to enter into an agreement with a school district within the CTPD regarding a method of determining the full-time equivalency of a student enrolled in both districts for state funding purposes.

## **Career-technical education and licensure**

- Stipulates that, subject to approval of the district superintendent, an individual holding a substitute career-technical teaching license may work outside the individual's career field for up to one semester.
- Specifies that an individual holding an adult education permit may be employed by any district and not just the district that recommended and employed the individual at the time of the permit's issuance.
- Permits an individual holding an adult education permit to work as a substitute career-technical teacher in high school courses offered by the individual's employing district.
- Specifies that a 12-hour or 40-hour teaching permit issued by the State Board of Education must be renewable and that the qualifications for a permit must include career-technical experience for individuals assigned to a career-technical class.
- Requires the State Board to issue a 40-hour teaching permit to an individual teaching a career-technical course in which a student may earn an industry-recognized credential at a dropout prevention and recovery community school.

## **Industry-recognized credentials**

- Requires the Governor's Office of Workforce Transformation, the Department of Education, and the Chancellor of Higher Education, in consultation with career-technical and other appropriate stakeholders, to develop "model guidance" regarding maintaining a statewide inventory of industry-recognized credentials.
- Specifies the "model guidance" must include (1) methods for state agencies to organize categories of industry-recognized credentials, (2) the potential creation of a public, inter-agency database of information regarding credentials, (3) methods to streamline

the process of adding career-technical programs to approved credentialing lists, and (4) methods to increase transparency in the approval process of credentials.

## **Evaluation of teachers**

- Specifies that value-added progress dimension data may not be used as a measure of high-quality student data for evaluation of individuals teaching career-technical education courses at any school district or for individuals teaching any other subject at a joint vocational school district.

## **STEM AND STEAM SCHOOLS AND EQUIVALENTS**

- Limits the requirement to combine the academic performance data of students enrolled in STEM or STEAM schools with comparable data from the students' resident school districts to just the students in schools that are not sponsored by a single school district.
- Permits career centers to receive a STEM school equivalent designation in the same manner as a community school or a chartered nonpublic school.

## **EDUCATION MANAGEMENT INFORMATION SYSTEM**

- Requires the Department of Education, by June 1, 2020, to develop a procedure to (1) solicit comments from users of the Education Management Information System (EMIS) regarding proposed new or updated EMIS guidance, (2) respond to user comments, and (3) permit users to review the finalized guidance before it takes effect.
- Specifies the Department does not have to initiate the procedure when issuing supplement documents regarding EMIS or updated guidance that addresses either unforeseen technical errors or issues that are not substantive.
- Requires the Department to establish uniform training for Department personnel administering EMIS and uniform guidance for CTPDs and information technology centers regarding EMIS and EMIS guidance for CTPDs.

## **K-12 SCHOLARSHIPS**

### **Buckeye Opportunity Scholarship Program**

- Renames the income-based expansion of the Educational Choice (Ed Choice) Scholarship Program to the Buckeye Opportunity Scholarship Program.
- Extends eligibility for a Buckeye Opportunity scholarship to the siblings of a student who received a scholarship in the prior school year.
- Increases the family income eligibility threshold to receive first-time a Buckeye Opportunity scholarship to 250% of the federal poverty line (FPL), rather than 200% FPL as under current law, and reduces to 300% FPL the threshold above which a student is no longer eligible for a scholarship, rather than 400% FPL as under current law.

- Specifies that families with incomes between 250 to 275% FPL and 275 to 300% FPL must receive pro-rated Buckeye Opportunity scholarship amounts, rather than 200 to 300% FPL and 300 to 400% FPL as under current law.
- Applies the pro-rated amounts to some first-time recipients and students with rising family incomes who are renewing scholarships, rather than solely to students with rising family incomes as under current law.
- Requires the Department of Education to prioritize awarding Buckeye Opportunity scholarships to students who received them in the prior school year and their siblings, and then to award scholarships to other eligible students in order of family income according to FPL, with lower income students given priority over higher income students.
- Beginning in the 2021-2022 school year, disqualifies a student from renewing a performance-based Ed Choice scholarship if the student meets the income eligibility requirements of the Buckeye Opportunity scholarship and instead generally makes that student eligible for the maximum amount of the Buckeye Opportunity scholarship until the student completes 12<sup>th</sup> grade.

### **Performance-based Ed Choice scholarships**

- Prohibits the Department from awarding a first-time performance-based Ed Choice scholarship, unless one of two exceptions apply to the student:
  - The student meets certain conditions under continuing law enacted in S.B. 120 of the 133<sup>rd</sup> General Assembly; or
  - The student's sibling received a performance-based scholarship for the 2019-2020 school year and the school building to which the student would be assigned meets certain conditions.
- Specifies that a student who received a performance-based Ed Choice scholarship for the 2019-2020 school year may continue receiving that scholarship until the student completes 12<sup>th</sup> grade, provided the student meets certain criteria prescribed under continuing law.

### **“Sibling” defined**

- For purposes of the Buckeye Opportunity and Ed Choice Scholarship programs, defines “sibling” as a brother, half-brother, sister, or half-sister, by birth, adoption, or marriage, without regard to residence or custodial status, or a child residing in the same household as a foster child or under a guardianship or custodial order.

### **Application period**

- Specifies that the application period for the Ed Choice and Buckeye Opportunity programs runs from February 1 until April 1 prior to the school year for which the scholarship is sought.

## State Educational Assessments Study Committee

- Establishes the State Educational Assessments Study Committee and requires it to submit to the General Assembly by October 1, 2020, a report that evaluates certain topics regarding testing under state and federal law.

## Emergency clause

- Declares that the changes to the Ed Choice program, the Buckeye Opportunity program, and the creation of the State Educational Assessments Study Committee are an emergency.

## OTHER PROVISIONS

### School district territory transfer

- Repeals a provision of current law that permits the transfer of school district territory located within a township that is split between two or more school districts to an adjacent school district through a petition and vote of electors residing in the territory.
- Specifies the repeal takes effect on September 1, 2020, but permits a transfer ongoing at the time of the repeal to continue in accordance with the provision as it existed prior to the repeal.

### School treasurers and fiscal officers

- Includes community school fiscal officers in the current protection from strict liability for school treasurers.

### School financing studies

- Makes changes regarding school financing studies by the Department of Education.

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## DETAILED ANALYSIS

### CAREER-TECHNICAL EDUCATION

The bill makes numerous changes to the law regarding the operation of career-technical education programs. Each city, exempted village, or local school district generally must provide career-technical education for its students in grades 7-12. To do so, a district may (1) choose to provide its own program (sometimes referred to as a comprehensive high school), (2) become a member of a joint vocational school district (JVSD) (sometimes called a career center), or (3) contract for those services from another district (sometimes called a compact).<sup>1</sup> In addition, the Department of Education has organized the delivery of career-technical education throughout the state based on 93 career-technical planning districts (CTPDs), each one with a “lead district” to coordinate services within the district. Each of the 49 JVSDs is a CTPD, and the remaining CTPDs are compacts or comprehensive programs.<sup>2</sup>

#### Joint vocational school district operations

##### Organizational meeting

The bill requires that the board of education of a JVSD hold its first meeting anytime in January of each year and organize by electing a president and vice president from among its members. Currently, a JVSD board must organize by January 15, in the same manner as city, exempted village, or local school districts.<sup>3</sup>

##### Make up missed hours

The bill permits a JVSD board to include in its calamity day plan additional online lessons, planned student internships, student projects, or other options to make up any number of hours missed as a result of the closure of schools belonging to the JVSD’s member districts.

Current law permits the district board of any school district to adopt a plan requiring that students complete either online lessons posted on the district’s website or, under certain circumstances, paper copies of lessons to make up hours in the school year for which district schools were closed for specified reasons. The reasons include disease epidemic, hazardous weather conditions, law enforcement emergencies, inoperability of school buses or equipment necessary to the school’s operation, damage to a school building, or other temporary circumstances due to utility failure rendering the building unfit for school use. However, under current law a district may make up only the number of hours equivalent to three school days.<sup>4</sup>

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<sup>1</sup> R.C. 3313.90, not in the bill.

<sup>2</sup> See R.C. 3317.023(A)(1) and (2).

<sup>3</sup> R.C. 3313.14.

<sup>4</sup> R.C. 3313.482.

## Compensation of JVSDs located in enterprise zones

Enterprise zones are areas designated by a municipal corporation or county for the purpose of fostering economic development. A municipal corporation or county may enter into enterprise zone agreements with businesses that operate, or plan to operate, within the zone in exchange for property tax and other incentives or for governmental support negotiated as part of the enterprise zone agreement.

Continuing law requires that, if a municipal corporation or county plans to allow a property tax exemption that would exceed a certain percentage of the businesses' property value (75% in most cases), the legislative authority must notify, and receive the approval of, the board of education of each city, local, and exempted village school district located in the proposed zone. Before granting its approval, a district board may negotiate with the legislative authority to receive compensation for the property tax revenue the district would forego as a result of the tax exemption.

Under current law, a legislative authority also may provide for compensation to be paid to JVSDs located in the proposed zone, but there is no requirement to do so, and approval of the JVSD is never required before an enterprise zone agreement is finalized.

The bill requires that, if a legislative authority enters into a compensation agreement with a school district, any JVSD where the enterprise zone is located also must be compensated at the same rate, and under the same terms, as the compensation to be paid to the school district. The bill's JVSD compensation provisions apply only to enterprise zone agreements entered into on and after the bill's effective date.<sup>5</sup>

(Requirements identical to those added in the bill already apply to compensation agreements entered into as a result of a tax increment financing (TIF) arrangement.)<sup>6</sup>

## Business advisory council

The bill specifies that a city, local, or exempted village school district is not required to appoint a business advisory council if the district has entered into an agreement with a JVSD business advisory committee to represent the district. Under continuing law, a district is not required to appoint a council if the district agrees to be represented by the council of the educational service center with which the district has a service agreement.<sup>7</sup>

## Technical assessments

The bill requires the Department of Education to consider the possibility of attaining college credit as a factor when identifying an acceptable measure of technical skill. Additionally,

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<sup>5</sup> R.C. 5709.62, 5709.63, 5709.632, 5709.82, and 5709.83; Section 10.

<sup>6</sup> R.C. 5709.82.

<sup>7</sup> R.C. 3313.82.

the Department, in consultation with specified career-technical stakeholders, must update a list developed by the Department regarding technical assessments by May 31 of each year.<sup>8</sup>

## **Background**

Continuing law requires the Department to consider an industry-recognized credential, or a state-issued license that requires an exam as an acceptable measure of technical skill attainment, unless otherwise required by federal law.

The Department is prohibited from requiring a student to take additional technical assessments if the student (1) has a credential or license or (2) has participated in or will be participating in a credentialing assessment or a license exam aligned to the student's career-technical education program. However, a student that does not participate in the assessment or exam must take technical assessments required by the Department.

The Department must develop procedures for identifying (1) industry-recognized credentials and licenses aligned to a student's career-technical education program that can be used as an acceptable measure of technical skill, and (2) students in the process of earning such credentials or licenses. Those procedures must be developed in consultation with career-technical stakeholders.<sup>9</sup>

## **CTPD operations**

### **Attendance records**

The bill requires the superintendent of a student's "home" school district to provide the student's attendance records to the lead district of the home district's CTPD or a contracting district when the student receives career-technical education services from the lead district or contracting district in facilities operated by the student's home district. A contracting district is a school district that has entered into a contract to provide career-technical education that meet standards set by the State Board. The bill specifies the lead district and the contracting district are provided with the attendance records to maintain student enrollment records for state funding purposes.<sup>10</sup>

### **Full-time equivalency agreement**

The bill permits the lead district of a CTPD to enter into an agreement with another district within the CTPD to establish a method to determine the full-time equivalency of a student enrolled in both districts in order to calculate the enrollment of each district for state funding purposes.<sup>11</sup>

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<sup>8</sup> R.C. 3313.903, fourth and fifth paragraphs.

<sup>9</sup> R.C. 3313.903.

<sup>10</sup> R.C. 3317.037(A) and (B).

<sup>11</sup> R.C. 3317.037(C).

## **Career-technical education and licensure**

### **Career-technical substitute licenses**

The bill requires that the rules adopted by the State Board of Education regarding substitute teaching educator licenses must allow an individual with a substitute career-technical teaching license to teach outside the individual's certified career field for up to one semester, if approved by the superintendent of the individual's employing district.<sup>12</sup>

### **Adult education permit**

The bill specifies that an individual who holds an adult education permit may be employed by any school district using that permit. The bill prohibits limiting that individual's employment to the district that recommended and employed the individual at the time of the permit's initial issuance.

Additionally, the bill stipulates that an individual who holds an adult education permit issued by the State Board may be assigned to work as a substitute career-technical teacher in high school courses offered by the individual's employing district.<sup>13</sup>

### **12-hour and 40-hour teaching permits**

The bill makes several changes to 12-hour and 40-hour a week teaching permits issued by the State Board to individuals who do not hold standard educator licenses. The bill specifies that a 12-hour or 40-hour teaching permit must be renewable and that the qualifications for a permit include career-technical experience for an individual assigned to a career-technical class. Under continuing law, the qualifications for a permit already includes significant experience related to subject matter.<sup>14</sup>

Additionally, the bill requires the State Board to issue a 40-hour teaching permit to an individual teaching a career-technical course offered at a dropout recovery and prevention community school if a student may earn an industry-recognized credential in the course. Under current law, only an individual teaching at a STEM school is permitted to receive a 40-hour teaching permit. Continuing law permits an individual teaching a career-technical course to qualify for a 12-hour teaching permit.<sup>15</sup>

## **Industry-recognized credentials**

The bill requires the Governor's Office of Workforce Transformation, the Department of Education, and the Chancellor of Higher Education, in consultation with career-technical and other appropriate stakeholders, to develop "model guidance" for maintaining a statewide inventory of industry-recognized credentials. The guidance must address all of the following:

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<sup>12</sup> R.C. 3319.226(C).

<sup>13</sup> R.C. 3319.2211.

<sup>14</sup> R.C. 3319.301(B).

<sup>15</sup> R.C. 3319.301(B); conforming changes in R.C. 3314.03 and 3314.19.

1. Methods for state agencies to organize categories of industry-recognized credentials in a manner that permits students, public schools, private schools, and institutions of higher education to understand available credentialing options based on an individual student's circumstances;
2. The potential creation of a public, centralized, and inter-agency database of information on all industry-recognized credentials;
3. Methods to streamline the process of adding career-technical programs to approved credentialing lists; and
4. Methods to increase transparency in the approval process for industry-recognized credentials.<sup>16</sup>

## Evaluation of teachers

The bill specifies that data for the value-added progress dimension or any other form of value-added data may not be used as a measure of high-quality student data in relation to the evaluation of individuals teaching career-technical education courses at any school district, including any joint vocational school district (JVSD). It also specifies that such value-added data may not be used to evaluate an individual teaching any other subject at a JVSD.<sup>17</sup>

Under current law, the State Board of Education is required to adopt a framework for the evaluation of teachers based on the recommendations of the Educator Standards Board. Among the required evaluation factors is the use of at least two measures of "high-quality student data" to provide evidence of student learning that is attributable to the teacher being evaluated. For this purpose, high-quality student data means any of the following: value-added data, approved vendor assessment data, or data from district-determined instruments. Current law additionally specifies that, when applicable to the grade level or subject area taught by a teacher, one of the two measures of high-quality student data used must include the value-added progress dimension as used for state report cards.<sup>18</sup>

## STEM AND STEAM SCHOOLS AND EQUIVALENTS

### STEM and STEAM school state report cards

Beginning with the state report cards issued for the 2019-2020 school year, the bill limits the requirement to combine the academic performance data of students enrolled in STEM or STEAM schools with comparable data from the students' resident school districts to just the students in schools that are not sponsored by a single school district (see "**STEM and STEAM school governance models**" below). Currently, the data for students enrolled in

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<sup>16</sup> R.C. 6301.23.

<sup>17</sup> R.C. 3319.112(A)(6).

<sup>18</sup> R.C. 3319.112(A)(1) and (6).

all STEM or STEAM schools (regardless of governance model) are included in the report cards for those students' resident districts as well as the schools they attend.<sup>19</sup>

## **STEM or STEAM equivalent designation for career centers**

The bill permits a career center to receive a STEM or STEAM school equivalent designation in the same manner as a community school or a chartered nonpublic school. For the purposes of the bill's provision, a career center is a school that enrolls students in any of grades 9 and 12 and in which a CTPD provides career-technical education services that meets standards adopted by the State Board of Education. Under the bill, a career center may submit a proposal for a STEM school equivalent designation to the STEM committee.<sup>20</sup>

## **Background**

A STEM school is an independent, public school for any of grades K-12 established through a collaborative endeavor of both public and private entities, including at least one school district. As the name suggests, STEM schools emphasize study in the disciplines of science, technology, engineering, and math, but they also offer all courses required for graduation and are authorized to award their graduates high school diplomas. A STEAM school is a type of STEM school where the "A" denotes "arts." Each school, whether a STEM school or a STEAM school, is approved for operation by the STEM Committee of the Department of Education, consisting of the Superintendent of Public Instruction, the Chancellor of Higher Education, the Director of Development Services, and four public members appointed by the Governor, Speaker of the House, and Senate President.<sup>21</sup>

A STEM or STEAM school equivalent is a community school or a chartered nonpublic school that meets the curriculum requirements of a STEM or STEAM school, but is governed under its own laws or articles of incorporation.<sup>22</sup>

## **STEM and STEAM school governance models**

There are two models for governance and funding for STEM and STEAM schools. Under one model, the school is "sponsored" by a single school district, while still collaborating with various other public and private entities including other school districts. In that case, the school's governing body is the board of education of the sponsoring district, which must govern and control the school as one of the district's schools.<sup>23</sup> Under the other model, the school is under the oversight of a new, independent board of individuals selected in the manner described in the school's proposal as approved by the STEM Committee.<sup>24</sup>

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<sup>19</sup> R.C. 3326.17.

<sup>20</sup> R.C. 3326.032.

<sup>21</sup> R.C. 3326.01 to 3326.03, none in the bill.

<sup>22</sup> R.C. 3326.032.

<sup>23</sup> R.C. 3326.51, not in the bill.

<sup>24</sup> R.C. 3326.03, not in the bill.

## **Funding**

Under the single-district model, the school's sponsoring district includes its resident students attending the school in the district's student count and receives state funding directly for those students. If students from other districts enroll in a school established under this model, the Department must transfer state funds from the students' resident school districts to the district sponsoring the school using the formulas of the open enrollment laws.<sup>25</sup> On the other hand, under the second model, the STEM or STEAM school is paid a per pupil amount for each enrolled student that is deducted from the state aid account of the student's resident school district.<sup>26</sup>

## **EDUCATION MANAGEMENT INFORMATION SYSTEM**

### **EMIS users review of guidance**

The bill changes how the Department of Education issues guidance regarding the Education Management Information System (EMIS). EMIS is a statewide electronic system of data collecting, reporting, and compiling for school districts and schools prescribed under continuing law.<sup>27</sup> Under the bill, the Department must develop a procedure by June 1, 2020, that permits EMIS users to review and comment upon any new or updated guidance regarding the information to be collected and reported through EMIS, along with any definitions, procedures, and guidelines necessary to implement EMIS.<sup>28</sup>

Under the procedure, the Department must post a copy of proposed new or updated EMIS guidance on its website and then solicit comments from EMIS users about the guidance for 30 consecutive days. Within 30 days after the end of that comment period, the Department must respond to the comments and may revise the guidance. After the end of the response period, the Department must post the finalized guidance on its website for a final review by users for 30 consecutive days. The guidance takes effect after that final review period ends.<sup>29</sup>

### **Required use**

While the bill generally requires the Department to use that procedure when issuing new or updated EMIS guidance, it creates two separate triggers under which the Department must initiate the procedure. If the Department issues new or updated guidance to implement a program, initiative, or policy, it must initiate the procedure by May 15 immediately prior to the school year in which the guidance is scheduled to take effect. The Department must initiate the procedure under that trigger beginning with guidance issued for the 2021-2022 school year.<sup>30</sup>

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<sup>25</sup> R.C. 3326.51, not in the bill.

<sup>26</sup> R.C. 3326.31 to 3326.41, none in the bill.

<sup>27</sup> See R.C. 3301.0714, not in the bill.

<sup>28</sup> R.C. 3301.0730(A) and (B).

<sup>29</sup> R.C. 3301.0730(B).

<sup>30</sup> R.C. 3301.0730(C).

The bill creates a separate trigger that requires the Department, beginning June 1, 2020, to initiate the procedure for any new or updated guidance developed by the Department for the purposes of implementing any of the following:

1. A newly enacted state or federal law;
2. A new or updated federal rule; and
3. A rule or resolution adopted by the State Board of Education.<sup>31</sup>

### **Exceptions**

However, the bill also specifies that the Department is not required to initiate the procedure when it issues any of the following:

1. Updated EMIS guidance to address issues that are not substantive, such as correcting grammatical errors;
2. Updated EMIS guidance to address unforeseen technical errors; and
3. Supplemental documents regarding EMIS guidance, including documents that: (1) clarify the implementation of the guidance, (2) answer questions submitted by EMIS users, or (3) provide training regarding EMIS.<sup>32</sup>

### **Miscellaneous EMIS changes**

Additionally, the bill specifies that the Department must establish uniform guidance for CTPDs and information technology centers regarding EMIS and EMIS guidance for CTPDs and must establish uniform training programs for Department personnel that administer EMIS.<sup>33</sup>

## **K-12 SCHOLARSHIPS**

### **Overview**

The bill makes a series of changes to the Educational Choice (Ed Choice) Scholarship Program. First, the bill renames the income-based expansion of the Ed Choice Scholarship Program to the Buckeye Opportunity Scholarship Program and changes that program's eligibility criteria. Second, it limits the awarding of first-time performance-based Ed Choice scholarships and creates a process for transferring students who previously received a performance-based scholarship to an income-based scholarship. Additionally, the bill modifies the application period for both scholarship programs. Finally, the bill declares the changes to the scholarship programs to be an emergency.

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<sup>31</sup> R.C. 3301.0730(D).

<sup>32</sup> R.C. 3301.0730(E).

<sup>33</sup> R.C. 3301.0730(F).

## Buckeye Opportunity Scholarship Program

The bill renames the income-based Ed Choice Expansion Scholarship Program the Buckeye Opportunity Scholarship Program and makes a series of changes to the eligibility criteria of the program.<sup>34</sup>

Generally, the bill increases the family income eligibility threshold for a first-time Buckeye Opportunity scholarship to 250% of the federal poverty level (FPL), extends eligibility for a first-time scholarship to the siblings of a student who received a scholarship in the prior school year, and specifies that a scholarship recipient with a family income:

1. At or below 250% FPL must receive the maximum scholarship amount (rather than the maximum amount at or below 200% FPL as under current law);
2. Above 250 to 275% FPL must receive a pro-rated scholarship of 75% of the maximum amount (rather than a 75% scholarship amount between 200 and 300% FPL as under current law);
3. Above 275 to 300% FPL must receive a pro-rated scholarship of 50% of the maximum amount (rather than a 50% scholarship amount between 300 and 400% FPL as under current law); and
4. Above 300% FPL is not eligible to receive a scholarship (rather than above 400% FPL as under current law).

Under the bill, both first-time Buckeye Opportunity scholarship recipients who are eligible based on their sibling's scholarship status and students with rising family incomes who are renewing their scholarships receive pro-rated amounts if they fall within the specified income thresholds. Current law stipulates that a student can only receive a first-time scholarship if the student's family income is at or below 200% FPL and must receive pro-rated amounts if the student's family income subsequently rises above established income eligibility thresholds.<sup>35</sup>

Additionally, the bill requires the Department to prioritize awarding Buckeye Opportunity scholarships in the following order:

1. Students who received a scholarship in the prior school year and their siblings;
2. Other first-time scholarship recipients in order of family income according to FPL, with lower income students given priority over higher income students.

Under current law, the Department must prioritize awarding income-based scholarships in three tiers: (1) students who received a scholarship in the prior school year, (2) eligible students at or below 100% FPL, and (3) all other eligible students. Current law also stipulates that, if there are not enough funds appropriated to award scholarships to all eligible students in

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<sup>34</sup> R.C. 3310.032; conforming change in R.C. 3310.08.

<sup>35</sup> R.C. 3310.032(A) and (E); conforming change in R.C. 3310.01.

either the second or third tiers, the Department must use a lottery to determine which students are awarded scholarships.<sup>36</sup>

Finally, for the 2021-2022 school year and each school year thereafter, the bill disqualifies a student from renewing a performance-based Ed Choice scholarship if the student meets the income eligibility requirements of the Buckeye Opportunity Scholarship Program. The bill instead makes that student eligible for a Buckeye Opportunity Scholarship and, provided the student meets certain academic conditions under continuing law, specifies the student remains eligible for the maximum of that scholarship until the student completes 12<sup>th</sup> grade, regardless of any changes to the student's family income.<sup>37</sup>

### **First-time, performance-based Ed Choice scholarships**

The bill generally prohibits the Department from awarding any first-time performance-based Ed Choice scholarships for the 2020-2021 school year and any school year thereafter. However, the bill also specifies that a student who received a performance-based scholarship for the 2019-2020 school year may continue to receive that type of scholarship until the student completes 12<sup>th</sup> grade, provided that the student meets certain criteria established under continuing law.<sup>38</sup>

As an exception to the general prohibition against awarding first-time performance-based scholarships, the bill specifies that a student must receive that type of scholarship if:

1. The student's sibling received a performance-based scholarship for the 2019-2020 school year;
2. The student would be assigned to a district school building that was Ed Choice eligible in the 2019-2020 school year based on a performance criteria other than the state report card's Improving At-Risk K-3 Readers performance measure; and
3. In the 2019-2020 school year, the student was enrolled in a public or nonpublic school in any of grades K-12, or was homeschooled for the equivalent.<sup>39</sup>

Additionally, the bill creates another exception to that general prohibition for first-time performance-based scholarships awarded by the Department in accordance with continuing law under S.B. 120 of the 133<sup>rd</sup> General Assembly. Among other things, that act earmarked \$10 million for the 2020-2021 school year for first-time Ed Choice performance-based scholarships to be awarded on a first-come, first-served basis and established an Ed Choice application window for that school year beginning on April 1, 2020, to run for 60 days.<sup>40</sup>

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<sup>36</sup> R.C. 3310.032(D).

<sup>37</sup> R.C. 3310.03(K) and 3310.032(A) and (E).

<sup>38</sup> R.C. 3310.03, first and second paragraphs; conforming change repeals R.C. 3310.05.

<sup>39</sup> R.C. 3310.03(J).

<sup>40</sup> Section 265.120 of H.B. 166 of the 133<sup>rd</sup> General Assembly, as amended by S.B. 120 of the 133<sup>rd</sup> General Assembly.

Finally, among the conforming changes made in response to the changes to the performance-based scholarships, the bill:

1. Specifies that a provision establishing procedures for awarding performance-based scholarships to students attending a nonpublic school at the time that school receives a charter from the State Board of Education no longer applies for the 2020-2021 school year and thereafter;<sup>41</sup>
2. Repeals a provision that generally requires a student who is eligible for both an income-based and performance-based scholarship to receive a performance-based scholarship first;<sup>42</sup> and
3. Stipulates that a student receiving a performance-based scholarship is not eligible for an income-based scholarship, rather than stating that a student who is eligible for a performance-based scholarship is not eligible for an income-based scholarship as under current law.<sup>43</sup>

### **“Sibling” defined**

For purposes of the Buckeye Opportunity and Ed Choice Scholarship programs, the bill defines “sibling” as a brother, half-brother, sister, or half-sister, by birth, adoption, or marriage, without regard to residence or custodial status, or a child residing in the same household as a foster child or under a guardianship or custodial order.<sup>44</sup>

### **Application period for certain scholarship programs**

The bill specifies that, beginning with scholarships for the 2021-2022 school year, the application period for the Ed Choice Scholarship Program and the Buckeye Opportunity Scholarship Program runs from February 1 to April 1 prior to the school year for which the scholarship is sought.

Additionally, the bill eliminates provisions of current law providing for:

1. A priority application period;
2. A rolling application period that runs from the closure of the priority period to the end of the school year for which a scholarship is sought; and
3. Pro-rated scholarship amounts for a scholarship awarded after the beginning of the school year for which a scholarship is sought.<sup>45</sup>

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<sup>41</sup> R.C. 3310.031.

<sup>42</sup> Repealed R.C. 3310.035.

<sup>43</sup> R.C. 3310.032(A).

<sup>44</sup> R.C. 3310.01.

<sup>45</sup> R.C. 3310.16.

## State Educational Assessments Study Committee

The bill establishes the State Educational Assessments Study Committee and requires it to submit to the General Assembly a report that includes all of the following:

1. Federal requirements regarding testing;
2. State requirements regarding testing;
3. End-of-course examination and assessment score ranges under current law;
4. Performance measures used to determine letter grades on the state report card; and
5. Any potential waivers from federal testing requirements that the state may seek.

Additionally, the bill specifies that the committee must consist of the following members:

1. Five members of the House of Representatives, three of whom must be from the majority party and two of whom must be from the minority party;
2. Five members of the Senate, three of whom must be from the majority party and two of whom must be from the minority party.

The committee is required to submit a report of its findings to the General Assembly by October 1, 2020.<sup>46</sup>

## Emergency clause

The bill declares the following are emergency measures:

1. The changes to the Ed Choice Scholarship Program;
2. The changes to the Buckeye Opportunity Scholarship Program; and
3. The creation of the State Educational Assessments Study Committee.<sup>47</sup>

## Background

The Ed Choice Scholarship Program operates statewide in every school district except Cleveland to provide scholarships for students who (1) are assigned or would be assigned to district school buildings that have persistently low academic achievement (known as “traditional” or “performance-based” Ed Choice) or (2) are from low-income families (known as “income-based” Ed Choice Expansion). Under current law, the income-based portion of the program, a student qualifies if the student’s family income is 200% of poverty or below, but a student can continue to receive a reduced scholarship as family income increases up to 400% of poverty.

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<sup>46</sup> Section 11.

<sup>47</sup> Section 13.

Students may use their scholarships to enroll in participating chartered nonpublic schools.

The amount awarded under the program is the lesser of the tuition charged by the school, minus certain qualifying discounts not related to the student's family income, athletic ability, or academic ability, or the maximum scholarship award. The maximum scholarship award is \$4,650 for students in grades K-8 and \$6,000 for students in grades 9-12. For students who qualify based on the performance of their resident districts' schools, the scholarships are deducted from the districts' state aid accounts. For students who qualify based on family income, the scholarships are paid from a specific appropriation of the General Assembly.

## **OTHER PROVISIONS**

### **School district territory transfer**

The bill repeals a provision of current law that permits the transfer of school district territory located within a township that is split between two or more school districts to an adjacent school district through a petition and vote of electors residing in the territory. Under the bill, the provision's repeal takes effect on September 1, 2020. However, the bill also stipulates that a territory transfer ongoing under the provision at the time of its repeal must continue in accordance with the provision as it existed prior to the repeal.<sup>48</sup>

Continuing law, not affected by the amendment, prescribes several other processes that provide for the transfer of school district territory.<sup>49</sup> The repealed provision was enacted in H.B. 166 of the 133<sup>rd</sup> General Assembly (effective October 17, 2019).

### **School treasurers and fiscal officers**

Current law, enacted in 2018, protects from strict liability, for loss of public funds the treasurer of a school district or educational service center (ESC) who has performed all official duties with reasonable care. As such, a treasurer will not be held liable unless the funds were lost as a result of the treasurer's own negligence or other wrongful act. Thus, a treasurer may not be held liable when a treasurer relies on some other school employee's filed reports and required copies of educator licenses necessary for legal salary payments. These provisions depart from the usual rule of strict liability for the performance of a treasurer's fiduciary duties.

The bill applies these provisions in a similar manner to community school fiscal officers. It also expressly states that the provisions apply to ESC treasurers.<sup>50</sup>

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<sup>48</sup> Repealed R.C. 3311.242; Sections 3 and 4.

<sup>49</sup> R.C. 3311.22, 3311.231, or 3311.24, none in the bill.

<sup>50</sup> R.C. 3313.25 and 3314.011.

## School financing studies

### Economically disadvantaged students

The bill makes all of the following changes to the study of economically disadvantaged students that the Department of Education is required to conduct under current law:

- Requires the Department to complete the study by December 31, 2021 (rather than December 31, 2020, as under current law);
- Requires the Department to evaluate and determine the essential types and amounts of resources needed to provide economically disadvantaged students the emotional, social, and academic services necessary to ensure adequate opportunities for success (rather than requiring the Department to review the criteria used in the current school funding formula to define “economically disadvantaged students” in order to determine the effectiveness of the criteria, as under current law);
- Requires the Department to evaluate and revise the current definition of “economically disadvantaged student” (rather than requiring the Department to research how other states define “economically disadvantaged students” and how “economically disadvantaged students” are addressed in other states’ school funding formulas, as under current law); and
- Requires the report to be submitted to (1) the chair, vice-chair, and ranking minority member of the Finance Committee of the House of Representatives and Senate, (2) the chair, vice-chair, and ranking minority member of the Finance Subcommittees regarding primary and secondary education of the House of Representatives and Senate, (3) the chair, vice-chair, and ranking minority member of the standing committee of the House of Representatives and Senate that consider legislation regarding primary and secondary education, (4) the Superintendent of Public Instruction, and (5) the president of the State Board of Education (rather than the President and Minority Leader of the Senate, Speaker and Minority Leader of the House of Representatives, and members of the standing committees of the House of Representatives and Senate that consider legislation regarding primary and secondary education, as under current law).<sup>51</sup>

### Special education

The bill requires the Department to conduct an evaluation of all of the following topics regarding special education (and to submit a report of its findings and recommendations by December 31, 2021, to the same individuals receiving the report described above):

- The categories of special education students specified in the Revised Code and the funding amounts corresponding to those categories;
- Best practices for providing education to special education students;

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<sup>51</sup> R.C. 3317.60(A)(1) and (B)(1).

- Protocols for providing treatment to special education students;
- Technology to enhance the provision of special education; and
- Costs of providing special education.<sup>52</sup>

### **English language learners**

The bill requires the Department to evaluate the funding amounts and required services for all categories of English language learners described in the Revised Code and to submit a report of its findings by December 31, 2021, to the same individuals receiving the reports described above.<sup>53</sup>

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## **HISTORY**

Action	Date
Introduced	03-06-19
Reported, S. Education	10-16-19
Passed Senate (31-0)	10-23-19
Reported, H. Primary & Secondary Education	---

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S0089-RH-133/ks

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<sup>52</sup> R.C. 3317.60(A)(3) and (B)(1).

<sup>53</sup> R.C. 3317.60(A)(4) and (B)(1).