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# OHIO LEGISLATIVE SERVICE COMMISSION

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S.B. 358  
133<sup>rd</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Fedor and Manning

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### SUMMARY

#### Assessment related provisions

##### State assessments

- Extends the exemption for all public and chartered nonpublic schools from administering the state achievement assessments for the 2020-2021 school year.

##### State aid to districts

- Extends the prohibition for the Department of Education from subtracting from a district or school's student count for state funding for the 2021-2022 school year any students to whom a district or school did not administer assessments in the 2020-2021 school year.

##### E-school students

- Extends the prohibition for an internet- or computer-based school from withdrawing students who were unable to complete assessments for the 2020-2021 school year.

##### Scholarship students

- Extends the provision that specifies that students participating in certain state scholarship programs may apply to renew their scholarships for the 2021-2022 school year regardless of whether they took the state assessments in the 2020-2021 school year.

##### Homeschooled students

- Extends the waiver of the administrative requirement that the parents of a homeschooled student must submit assessment data to the resident school district as a condition of the district allowing the student to continue to receive home instruction for the 2021-2022 school year.

## Reports

- Extends the provision that permits the state Superintendent to waive the requirement to complete any report based on data from assessments that would have been but were not administered in the 2020-2021 school year.

## Third-grade reading guarantee

- Extends the exemption for schools from retaining a student under the third-grade reading guarantee based solely on the student's academic performance in reading in the 2020-2021 school year, unless the student's principal and reading teacher determine the student is not reading at grade level and is not prepared for fourth grade.

## High school graduation

- Extends the permission for public and nonpublic schools to grant a diploma to any student on track to graduate for the 2020-2021 school year and for whom the principal, in consultation with teachers and counselors, determines has successfully completed the high school curriculum or individualized education program.
- Extends the permission for a district or school that previously adopted a resolution to exceed the state minimum high school curriculum requirements to elect to require only the minimum curriculum for the purpose of determining high school graduation for the 2020-2021 school year.
- Extends the permission for a student who was scheduled to take or re-take an end-of-course exam in the 2020-2021 school year, but did not do so because the exam was cancelled, to use the student's final course grade in lieu of an exam score to satisfy conditions for a high school diploma.
- Extends the provision that specifies that a student who was scheduled to take an end-of-course exam for the first time in the 2020-2021 school year may use a final grade for a course completed in that year, while a student who was scheduled to re-take an exam that was cancelled may use a grade for a course completed in that year or a prior year.

## Report cards; sanctions and penalties

- Extends the prohibition on the Department of Education from publishing and issuing ratings for overall grades, components, and individual measures on the state report cards and submitting preliminary data for report cards for school districts and buildings for the 2020, 2021, and 2022 school years.
- Extends the safe harbor from penalties and sanctions for districts and schools based on the absence of state report card grades for the 2020-2021 and 2021-2022 school years.

## Ed Choice performance-based scholarships

- Extends the prohibition on the Department of Education from generally awarding first-time, performance-based Educational Choice (Ed Choice) scholarships for the 2021-2022 school year to students who were newly eligible for those scholarships for that year.

- Extends the requirement for the Department to continue awarding performance-based scholarships to students who received them in the prior year and to award first-time scholarships to certain students for the 2021-2022 school year.

### **Community school sponsor evaluations**

- Extends the prohibition against the use of certain components for community school sponsor ratings for the 2020-2021 school year.

### **School Employee evaluations**

- Extends the authority for a district board of education to elect not to conduct evaluations of district employees, including teachers, administrators, or a superintendent for the 2020-2021 school year, if the board determines that it would be impossible or impracticable to do so.
- Extends the prohibition for the use of the value-added progress dimension from the 2020-2021 school year to measure student learning for teacher performance evaluations
- Extends the authority for a school district that did not participate in the teacher evaluation pilot program established for the 2019-2020 school year to continue evaluating teachers on two-year or three-year evaluation cycles even if the district completes an evaluation for them in the 2020-2021 school year without a student growth measure.
- Extends the specification that a teacher who did not have a student growth measure as part of an evaluation for the 2020-2021 school year must remain at the same point in the teacher's evaluation cycle, and retain the same evaluation rating, for the 2021-2022 school year as the 2019-2020 school year.
- Extends the authorization for a school district to choose to complete a principal's performance evaluation for the 2020-2021 school year without using a student growth measure as part of the evaluation.

### **Other education provisions**

- Extends the authority for the state Superintendent to adjust deadlines for certain annual requirements for the 2020-2021 school year.
- Extends the authority for the Chancellor of Higher Education, in consultation with the state Superintendent, to extend, waive, or otherwise modify requirements of the College Credit Plus Program for the 2020-2021 school year.
- Extends the authority for the state Superintendent to waive or extend deadlines, or otherwise grant providers and students flexibility, for completion of adult education program requirements for the 2020-2021 school year.
- Extends the authority for the Department, on behalf of the State Board of Education, to issue one-year, nonrenewable, provisional licenses to educators that have met all other

requirements for the requested license except for the requirement to pass a subject area exam for the 2020-2021 school year.

## Emergency clause

- Declares an emergency.

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## DETAILED ANALYSIS

The bill extends to the 2020-2021 school year, and in some cases the 2021-2022 school year, the application of several temporary K-12 education provisions of current law addressing the implications of COVID-19. It includes provisions related to state assessments, high school graduation, state scholarship programs, and report cards that were enacted by H.B. 164 and

H.B. 197 of the 133<sup>rd</sup> General Assembly for the 2019-2020 school year. The extensions of these provisions are described below.

For a full description of provisions enacted by H.B. 164 and H.B. 197 please see the LSC final analyses for those acts.

- H.B. 164: <https://www.legislature.ohio.gov/download?key=14305&format=pdf>
- H.B. 197: <https://www.legislature.ohio.gov/download?key=13600&format=pdf>

## **Assessment related provisions**

### **State assessments**

S.B. 358 extends to the 2020-2021 school year H.B. 197's waiver of state assessments. Under that provision, public and chartered nonpublic schools are not required to administer the elementary state achievement assessments and high school end-of-course exams. The provision also waives the Ohio English Language Proficiency Assessment administered to English learners, WebXams for career-technical education students, and the Alternate Assessment for Students with Significant Cognitive Disabilities.<sup>1</sup>

The bill additionally requires the Department of Education, by December 15, 2020, to seek a waiver from the U.S. Secretary of Education from federal testing requirements for the 2020-2021 school year. If the Department is not granted such a waiver, federally required assessments must be administered.<sup>2</sup> Federal law requires one assessment in reading and one assessment in mathematics for each of grades three through eight. Students in grades nine through twelve are required to take one assessment each in reading and math between grades ten and twelve. One science assessment is required between grades three and five, one between grades six and nine, and one between grades ten and twelve.

### **State aid to districts**

The bill extends to the 2020-2021 school year a provision of H.B. 197 to prohibit the Department of Education from subtracting from a district or school's student count for state funding any students to whom a district or school did not administer assessments in the 2020-2021 school year.<sup>3</sup>

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<sup>1</sup> Section 17(A)(1) and (2) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>2</sup> Section 17(A)(1) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>3</sup> Section 17(A)(3) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill. See also, R.C. 3314.08(L)(3), 3317.03(E)(3), and 3326.37, none in the bill.

## **E-school students**

The bill also extends a provision of H.B. 197 that prohibits an internet- or computer-based school from withdrawing students who were unable to complete assessments for the 2020-2021 school year.<sup>4</sup>

## **Scholarship students**

The bill extends a provision of H.B. 197 that specifies that students participating in the Educational Choice Scholarship Program, the Jon Peterson Special Needs Scholarship Program, or the Pilot Project (Cleveland) Scholarship Program may apply to renew their scholarships for the 2021-2022 school year regardless of whether they took the state assessments in the 2020-2021 school year.<sup>5</sup>

Continuing law specifies that a student who receives a state scholarship will remain eligible for that scholarship and may continue to receive that scholarship in subsequent school years if the student meets certain eligibility requirements.<sup>6</sup> One of those requirements is that the student take all required state assessments unless otherwise excused.

The bill extends other temporary revisions regarding eligibility for performance-based Educational Choice Scholarships for the 2021-2022 application period (see “**Ed Choice performance-based scholarships**” below).

## **Homeschooled students**

The bill extends to the 2020-2021 school year H.B. 197’s waiver of the administrative requirement that the parents of a homeschooled student must submit assessment data to the resident school district as a condition of the district allowing the student to continue to receive home instruction.<sup>7</sup>

## **Reports**

The bill extends the authority granted to the state Superintendent by H.B. 197 to waive the requirement to complete any report based on data from assessments that would have been but were not administered in the 2020-2021 school year.<sup>8</sup>

## **Third-grade reading guarantee**

The bill extends to the 2020-2021 school year provisions of H.B. 197 that exempt schools from retaining students in the third grade under the third-grade reading guarantee based solely on a student’s academic performance in reading, unless the student’s principal and

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<sup>4</sup> Section 17(A)(4) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>5</sup> Section 17(A)(5) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>6</sup> R.C. 3301.0711(K), 3310.03(F), 3310.522, and 3313.976(A)(11), none in the bill.

<sup>7</sup> Section 17(L) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill. See Ohio Administrative Code 3301-34-04.

<sup>8</sup> Section 17(G) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

reading teacher determine the student is not reading at grade level and is not prepared for fourth grade.<sup>9</sup>

## **High school graduation**

### **High school diplomas**

The bill extends up to September 30, 2021, the authority for public and nonpublic schools to grant a diploma to any student on track to graduate and for whom the principal, in consultation with teachers and counselors, determines that the student has successfully completed the high school curriculum or individualized education program.<sup>10</sup>

The bill also expressly extends the authority for a district or school that has previously adopted a resolution to exceed the state minimum high school curriculum requirements to elect to require only the minimum curriculum for the purpose of determining high school graduation for the 2020-2021 school year.<sup>11</sup>

### **High school diploma qualifications**

Subsequent to the enactment of H.B. 197, H.B. 164 further addressed high school diploma qualifications. The bill extends to the 2020-2021 school year the authority for a student who was scheduled to take or re-take an end-of-course exam in the 2020-2021 school year, but did not do so because the exam was cancelled, to use the student's final course grade in lieu of an exam score to satisfy conditions for a high school diploma.

A student who was scheduled to take an end-of-course exam for the first time in the 2020-2021 school year may use the final grade the student received in that school year, while a student who was scheduled to re-take an exam may use a grade from that school year or a prior school year.<sup>12</sup>

For the purposes of determining whether a student satisfies a condition for a high school diploma, the bill relies on competency score and end-of-course exam performance levels equivalencies established by H.B. 164. A table describing these equivalencies can be found on p. 11 of the H.B. 164 Final Analysis.

In addition, the bill extends a provision that specifies that a student who completes a course associated with an end-of-course exam for the 2020-2021 school year must be considered to have completed an administration of that exam for the purposes of determining

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<sup>9</sup> Section 17(C) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>10</sup> Section 17(D)(2) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>11</sup> Section 17(D)(3) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill. See also R.C. 3313.603(C) to (F), not in the bill.

<sup>12</sup> Section 12(A) and (B) of H.B. 164 of the 133<sup>rd</sup> General Assembly, amended by Section 1 of the bill.

whether the student may use an alternative demonstration competency in lieu of attaining a competency score.<sup>13</sup>

Finally, the bill extends permission to a student who completed a course associated with an end-of-course exam in the 2020-2021 school year to choose to take that exam in a subsequent school year.<sup>14</sup>

## **Report cards; sanctions and penalties**

The bill extends for the 2020-2021 and 2021-2022 school years H.B. 197's prohibition on the Department of Education from publishing and issuing ratings for overall grades, components, and individual measures on the state report cards for any school districts or schools. It also relieves the Department from the requirement to submit preliminary data for report cards for school districts and buildings, extending the deadline of July 31, 2020, as required under current law, to the 2021 and 2022 school years.

However, the Department must report any data that it has regarding the performance of districts and buildings for the 2020-2021 and 2021-2022 school years by September 15, 2021, and September 15, 2022, respectively.

The bill also extends a safe harbor from various penalties and sanctions established by H.B. 197 for districts and schools based on the absence of state report card grades for the 2020-2021 and 2021-2022 school years.

## **Ed Choice performance-based scholarships**

S.B. 358 extends the provisions enacted by H.B. 197 related to eligibility for performance based Educational Choice (Ed Choice) scholarships that will be awarded for the 2021-2022 school year, as described below.

### **Permitted performance-based scholarships for 2021-2022**

First, the bill extends the eligibility requirements for the 2021-2022 school year for a student for a first-time, performance-based scholarship if the student meets all of the following criteria:

1. The student has a sibling who received a performance-based scholarship in the 2020-2021 school year;
2. The student is enrolled in or would be enrolled in a district school building that satisfied the eligibility conditions for performance-based scholarships in the 2020-2021 school year; and
3. The student was enrolled in a public or nonpublic school in any of grades K-12 or was homeschooled for the equivalent of those grades in the 2020-2021 school year.

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<sup>13</sup> Section 12(C) of H.B. 164 of the 133<sup>rd</sup> General Assembly, amended by Section 1 of the bill.

<sup>14</sup> Section 12(D) of H.B. 164 of the 133<sup>rd</sup> General Assembly, amended by Section 1 of the bill.



Second, the bill extends the qualification for a student for a first-time scholarship if the student was eligible for a scholarship for the 2020-2021 school year, regardless of whether the student received a scholarship for that year, and remains eligible for the 2021-2022 school year.<sup>15</sup>

Third, the bill extends the qualification for a student for a first-time scholarship if:

1. The student did not receive a scholarship for the 2020-2021 school year;
2. For the 2021-2022 school year, the student is enrolled or would be newly enrolled in a school building operated by the student's resident school district; and
3. The building met the eligibility conditions prescribed for a performance-based scholarship for the 2020-2021 school year and continued to meet those conditions in the 2021-2022 school year.

Additionally, the bill extends the requirement that the Department of Education must accept, process, and award some performance-based Ed Choice scholarships for the 2021-2022 school year during a 60-day application period, beginning on April 1. The Department must award performance-based scholarships to students who received them in the previous year (renewals) and to students who apply for a first-time scholarship and meet one of the three sets of eligibility criteria as described above. Performance-based scholarships must be paid using the deduct-and-transfer method prescribed under continuing law for those scholarships.<sup>16</sup>

### **Awarding performance-based scholarships for 2022-2023**

The bill extends the requirement that the Department must resume accepting, processing, and awarding performance-based Ed Choice scholarships beginning on February 1, 2022, for scholarships for the 2022-2023 school year.<sup>17</sup> Rather than February 1, 2021, as established under H.B. 197.

### **Community school sponsor evaluations**

The bill extends, for the 2020-2021 school year, the prohibition against community school sponsor ratings established under H.B. 197. It specifically prohibits the Department from (1) issuing a rating for the academic performance component, (2) using that rating for the overall rating, and (3) finding a sponsor out of compliance with laws and rules for any requirement for an action that should have occurred but did not due to implications of COVID-19.<sup>18</sup>

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<sup>15</sup> Section 31(A)(3) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 3 of the bill.

<sup>16</sup> Section 31(A)(1) and (4), second and third paragraphs of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 3 of the bill.

<sup>17</sup> Section 31(B) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 3 of the bill.

<sup>18</sup> Section 17(F) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

## **School employee evaluations**

### **District employee evaluations**

The bill extends permission to a district board of education to elect not to conduct evaluations of district employees, including teachers, administrators, or a superintendent for the 2020-2021 school year, if the board determines that it would be impossible or impracticable to do so. If a district board elects not to evaluate an employee for the 2020-2021 school year, the employee may not be penalized for the purpose of reemployment for lack of an evaluation.

The district board may collaborate with any bargaining organization representing its employees in determining whether to complete evaluations for the 2020-2021 school year.<sup>19</sup>

### **Teacher evaluations and value-added data**

The bill extends H.B. 197's prohibition of the use of the value-added progress dimension from the 2020-2021 school year to measure student learning for teachers' performance evaluations.<sup>20</sup>

### **Teacher and principal evaluations for 2020-2021**

The bill extends the authority for a school district that did not participate in the teacher evaluation pilot program established for the 2019-2020 school year to continue evaluating teachers on two-year or three-year evaluation cycles, even if the district completes an evaluation for those teachers in the 2020-2021 school year without using a student growth measure. It also specifies that a teacher who did not have a student growth measure as part of an evaluation for the 2020-2021 school year must remain at the same point in the teacher's evaluation cycle, and retain the same evaluation rating, for the 2021-2022 school year as for 2019-2020.<sup>21</sup> Similarly, the bill extends the authorization to a school district to choose to complete a principal's performance evaluation for 2020-2021 without using a student growth measure as part of the evaluation.<sup>22</sup>

## **Other education provisions**

### **Authority to adjust various deadlines**

The bill extends to the 2020-2021 school year the authority given to the state Superintendent under H.B. 197 to adjust deadlines for the following:<sup>23</sup>

1. District teacher evaluations;

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<sup>19</sup> Section 17(M) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>20</sup> Section 17(E) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>21</sup> Section 7 of S.B. 216 of the 132<sup>nd</sup> General Assembly, amended by Section 7 of the bill.

<sup>22</sup> Section 11 of H.B. 164 of the 133<sup>rd</sup> General Assembly, amended by Section 1 of the bill.

<sup>23</sup> Section 17(I) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

2. District intent to reemploy notifications;
3. School safety drills;
4. Emergency management tests;
5. Requirements to fill a vacancy on a district board of education;
6. Updating teacher evaluation policies; and
7. Gifted screening requirements.

### **College Credit Plus**

The bill extends to the 2020-2021 school year the authority given to the Chancellor of Higher Education, in consultation with the state Superintendent, to extend, waive, or otherwise modify requirements of the College Credit Plus Program.<sup>24</sup>

### **Adult education**

The bill extends to the 2020-2021 school year the permission given to the state Superintendent to waive or extend deadlines, or otherwise grant providers and students flexibility, for completion of adult education program requirements otherwise interrupted due to the COVID-19 outbreak.<sup>25</sup>

### **Provisional teacher licensure**

For the 2020-2021 school year, the bill extends the authority for the Department of Education, on behalf of the State Board of Education, to issue one-year, nonrenewable, provisional licenses to educators who have met all other requirements for the requested license except for the requirement to pass a subject area exam prescribed by the State Board. However, an educator who is issued a provisional license must take and pass the appropriate subject area exam before the license expires as a condition of advancing the license.<sup>26</sup>

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## **HISTORY**

Action	Date
Introduced	08-27-20

S0358-I-133/ks

<sup>24</sup> Section 17(J) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>25</sup> Section 17(K) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.

<sup>26</sup> Section 17(H) of H.B. 197 of the 133<sup>rd</sup> General Assembly, amended by Section 5 of the bill.