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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 147  
135<sup>th</sup> General Assembly

## Final Fiscal Note & Local Impact Statement

[Click here for H.B. 147's Bill Analysis](#)

**Primary Sponsors:** Reps. Fowler Arthur and Miller, A.

**Local Impact Statement Procedure Required:** No

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### Highlights

- The bill modifies the calculation of certain statewide average per-pupil amounts in the school funding formula's base cost for FY 2024 and FY 2025 to reflect the enrollment of school districts that report relevant data, rather than all school districts in the state. The bill's change aligns the law for the current biennium with Department of Education and Workforce's (DEW) current practice, meaning that actual state foundation aid and scholarship payments will not change. If the per-pupil amounts under current law had been used, state foundation aid to public schools would have been lower by an estimated \$24 million in FY 2024 and \$29 million in FY 2025 and EdChoice and Cleveland scholarship payments would have been lower by roughly several million dollars in each of those years.
- The bill requires the transfer of up to \$1.5 million cash from the GRF to the High School Financial Literacy Fund during the FY 2024-FY 2025 biennium to reimburse public schools for the cost of obtaining financial literacy validations for teachers required under continuing law.
- The bill may increase public school and state expenditures by adding certain pre-K teachers to the types of teachers to whom public schools must pay, and for whom the state must reimburse, a stipend for completing state-required professional development in evidence-based literacy instruction. The current main operating budget earmarks \$43 million in each of FY 2024 and FY 2025 to reimburse schools for stipend costs.
- The bill may increase or decrease state GRF expenditures for Autism and Jon Peterson Special Needs scholarships by allowing services provided under those programs to be offered remotely by qualified credentialed providers.
- The Ohio Department of Children and Youth (ODCY) may realize additional administrative costs to check specified records for private before- and after-school care program employees.

- The Ohio Attorney General’s Bureau of Criminal Investigation (BCI) will realize an increase in costs to conduct additional records checks for private before- and after-school care program employees. However, BCI will also realize a corresponding increase in record check fees collected and deposited in the Attorney General Reimbursement Fund (Fund 1060).
- The bill may minimally increase the administrative workload for the State Board of Education, school districts, and educational service centers (ESCs) by expanding the school personnel subject to discipline by the State Board, adding prostitution as an automatic bar offense, and requiring districts, ESCs, and chartered nonpublic schools to file misconduct reports with the State Board in additional circumstances. The State Board investigates misconduct reports to determine if a disciplinary action against an employee’s license is necessary. Any additional workload can likely be completed with existing resources.

## Detailed Analysis

### Modification of certain school funding base cost calculations

Current law requires the Department of Education and Workforce (DEW) to calculate certain statewide average per-pupil amounts in the school funding formula’s base cost using the sum of the enrolled average daily membership (enrolled ADM) of every school district in the state. These per-pupil amounts include the academic co-curricular activity cost, supplies and academic content cost, athletic co-curricular activity cost, and building and operations cost. The bill modifies these calculations for FY 2024 and FY 2025 to reflect the total enrolled ADM of school districts that reported the applicable expenditure or other relevant data, rather than the enrolled ADM of every school district in the state.

This change reflects the methodology used by DEW in calculating payment amounts for the FY 2024-FY 2025 biennium. DEW calculated these base cost per-pupil amounts using the total enrolled ADM of districts reporting applicable expenditure or other relevant data, as the bill specifies, rather than using the calculation in current law. Calculating payments under the methodology in the bill results in higher per-pupil amounts for each affected base cost element and a higher statewide average base cost per pupil. If DEW had calculated the per-pupil amounts according to current law, state aid to traditional school districts; community and science, technology, engineering, and mathematics (STEM) schools; and joint vocational school districts (JVSDs) would have been lower by an estimated \$24 million in FY 2024 and \$29 million in FY 2025. The maximum amounts for EdChoice and Cleveland scholarship programs are tied to the percentage change in the statewide average base cost per pupil. The maximum amounts under the bill are greater than what they would be under current law by \$24 for students in grades K-8 and \$32 for students in grades 9-12. Thus, scholarship costs under current law would have been roughly several million dollars lower in each of FY 2024 and FY 2025.

Ultimately, the bill’s changes will not affect actual state foundation aid and scholarship payments in the current biennium since the bill aligns the law with DEW’s current practice. The higher per-pupil amounts used under current practice were also used in LBO budget simulations for purposes of determining state appropriation levels in H.B. 33. Therefore, the bill’s changes do not require additional state foundation aid appropriations.

## **GRF transfer to the High School Financial Literacy Fund**

The bill requires the Director of DEW to request the Director of Budget and Management to transfer up to \$1.5 million cash from the GRF to the High School Financial Literacy Fund during the FY 2024-FY 2025 biennium. It also changes the High School Financial Literacy Fund from a custodial fund, which is separate from the state treasury, to a state treasury fund. Under continuing law, the fund will be used to reimburse school districts for the costs of obtaining financial literacy validations for teachers they employ. S.B. 1 of the 134<sup>th</sup> General Assembly originally authorized the remittance of unclaimed funds to the High School Financial Literacy Fund during the FY 2022-FY 2023 biennium. However, the transfer did not ultimately occur since the rules regarding the validations were not adopted until early 2024. According to the Treasurer of State's Office, there is no cash balance in the custodial fund and the custodial fund has not been established. The Treasurer of State does not establish a custodial fund until the fund's administering agency requests it to avoid unnecessary banking fees.

## **Literacy professional development stipends**

Continuing law generally requires all teachers to take a professional development course to align teaching with the science of reading and evidence-based literacy practices by June 30, 2025. School districts, community schools, and STEM schools are required to pay stipends to teachers who complete the required professional development as follows:

- \$1,200 to each teacher of grades K-5, each English language arts teacher of grades 6-12, and each intervention specialist, English learner teacher, reading specialist, or instructional coach who serves any of grades pre-K-12
- \$400 for each teacher who teaches a subject area other than English language arts in grades 6-12.

DEW reimburses districts and schools for the stipends paid to teachers who complete the professional development course.

The bill requires a district or school to pay a \$1,200 stipend to a pre-K teacher who is not an intervention specialist, English learner teacher, reading specialist, or instructional coach and who completes the required course. As a result, the bill may increase public school and state expenditures to pay additional stipends and reimbursements, respectively. H.B. 33, the current main operating budget act, earmarks \$43 million in each of FY 2024 and FY 2025 from Fund 5AQ1 line item 2006A4, Literacy Improvement, for DEW to reimburse districts and schools for the stipends paid to teachers. Fund 5AQ1 is funded mainly by a cash transfer from the FY 2023 GRF ending balance.

## **Autism and Jon Peterson Special Needs scholarships**

### **Remote education services**

The Autism Scholarship Program provides state scholarships to a student with autism and an individualized education program (IEP) or education plan established by their resident school district whose parents choose to enroll the student in an approved special education program other than the one offered by the student's school district. The Jon Peterson Special Needs (JPSN) Scholarship Program is similar to the Autism Scholarship Program except that it is available to all students with disabilities that have an IEP established by their resident school district.

The bill allows services provided under the Autism and JPSN scholarship programs to be provided virtually by qualified credentialed providers. During the COVID-19 pandemic, emergency provisions allowed for IEP services covered by Autism and JPSN scholarships to be provided remotely. However, those provisions have expired. While continuing law permits certain health care professionals to provide telehealth services, current law neither expressly permits nor prohibits individuals licensed by the State Board of Education, such as intervention specialists and educational aides, to provide services remotely or via telehealth communication as part of the Autism or JPSN scholarship programs.

On one hand, the bill may increase state expenditures for Autism and JPSN scholarships if it permits certain services to be paid for through those scholarships that otherwise would not have been. In particular, the bill may assist students in rural areas whose access to in-person service providers may be limited. As a point of reference, a relatively small share of Autism and JPSN scholarship recipients, roughly 740 (6%) students, are estimated to reside in rural school districts in FY 2024.<sup>1</sup> On the other hand, remote services may take the place of some services currently delivered in person at a potentially lower cost. If so, the bill will create a savings effect in these circumstances.

Autism and JPSN scholarship program costs are paid directly by the state from the GRF. The maximum amount of an Autism scholarship is \$32,445 while the maximum amount for a JPSN scholarship varies by the student's disability category. In FY 2025, the maximum JPSN scholarship amounts range from \$9,585 to \$32,445. In both programs, the scholarship amount cannot exceed the total fees charged by the alternative provider.

### **Appropriately credentialed professionals**

Under current law, a registered private provider participating in the JPSN Scholarship Program must employ teaching and nonteaching professionals who hold credentials determined by the State Board to be appropriate for the special education program it operates. The bill, instead, lists certain professionals who hold appropriate credentials to provide services under a special education program. Current law includes a similar list of providers permitted to provide intervention services under the Autism Scholarship Program. The bill adds literacy intervention specialists certified through pathways recognized by the Ohio Dyslexia Committee, Ohio-licensed occupational and physical therapists, and intervention specialists licensed by the State Board to this list. These provisions may increase the availability of providers for services under a JPSN or Autism scholarship to the extent the identified professionals are not already permitted to provide services.

### **Teacher licensure and conduct**

The bill expands the school personnel subject to discipline by the State Board of Education for misconduct by modifying the definition of the term "license" to include a staff member holding (1) a pupil services personnel registration, (2) an authorization for an unlicensed individual otherwise qualified based on experience to teach at certain high-performing school districts, or (3) a registration as a private provider under the Autism Scholarship Program.

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<sup>1</sup> LBO estimated this number due to masking of district-level scholarship recipient data for school districts in which fewer than ten Autism and JPSN scholarship students reside.

The bill also requires a school district, educational service center (ESC), or chartered nonpublic school to file a report with the Superintendent of Public Instruction (1) if a licensed employee *retires* during a disciplinary investigation for misconduct, in addition to filing such a report when an employee *resigns* during a disciplinary investigation for misconduct as under current law, or (2) when the district, ESC, or nonpublic school removes a licensed employee from the list of eligible substitute teachers for committing an act unbecoming to the teaching profession. Finally, the bill requires the State Board to revoke a license or deny renewal of a license (invoke an “automatic bar”) for any applicant found guilty or convicted of prostitution unless the prostitution offense was committed under coercion.

The bill may minimally increase administrative workload for the State Board,<sup>2</sup> school districts, and ESCs. According to the Department of Education and Workforce (DEW), most districts already report misconduct by the types of personnel addressed in the bill’s expanded definition of “license.” DEW also reports that the amount of resources typically used in automatic bar cases is light. While the State Board may receive additional referrals for discipline as a result of the bill, any additional cases likely can be supported by existing resources.

## Background

When the State Board receives allegations of educator misconduct, staff members review the allegation and decide whether or not to open an investigation or collect additional facts. If the State Board opens an investigation, staff members create confidential case reports, which are submitted to office leaders for review. Ultimately, the State Board, or the Superintendent of Public Instruction in some cases, reviews the evidence to determine potential discipline for the educator and decides on a resolution, which may or may not include discipline. If discipline is intended, educators may request a due process administrative hearing before a hearing officer. A continuum of sanctions is available to discipline an educator depending on the severity of the misconduct, including a written reprimand, permanent loss of license, or a consent agreement that outlines the terms for bringing the educator’s license into good standing with the State Board.<sup>3</sup> The State Board is funded through license fees paid by teachers and school or district staff that are deposited into the State Board of Education Licensure Fund (Fund 4L20).

The state received 669 educator misconduct referrals from schools and districts in 2022 (the most recent year of data available), 410 of which were investigated. School and district referrals comprised 15% of the approximately 4,600 nonapplication referrals in 2022. Of total

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<sup>2</sup> H.B. 33 of the 135<sup>th</sup> General Assembly transferred control of the Ohio Department of Education (renamed the Department of Education and Workforce) from the State Board and the Superintendent of Public Instruction to a Governor-appointed Director of Education and Workforce. However, the State Board, which becomes an independent agency with the Superintendent as its administrative head, retains its duties and powers associated with educator licensure and discipline.

<sup>3</sup> See the DEW [Understanding the Educator Discipline Process \(PDF\)](#) resource, which is available on the State Board of Education’s website under professional conduct “Resources and Frequently Asked Questions”: [sboe.ohio.gov](http://sboe.ohio.gov).

case dispositions in 2022 (not just those originating from a school district referral), 45.5% resulted in a disciplinary outcome.<sup>4</sup>

## Background checks

With respect to an authorized private before and after school care program, the bill adds the program's owner, director, administrator, employee, or prospective employee to the law requiring ODCY to do the following before licensure or employment and every five years after for various child care providers: (1) request a criminal records check, (2) search the Uniform Statewide Automated Child Welfare Information System for reports of abuse or neglect, and (3) inspect the state and national registries of sex offenders.

The bill also requires that all credentialed providers under the JPSN scholarship and any of the provider's employees to undergo criminal records checks. Upon completion of the records check, DEW must enroll the providers in the Retained Applicant Fingerprint Database (RAPBACK), which allows employers to be alerted if the employee is arrested for relevant crimes on an ongoing basis. Current law includes a similar provision for Autism Scholarship Program providers. Administrative rules require private providers participating in the JPSN Scholarship Program to demonstrate that the provider is in compliance with current law regarding criminal records checks as if it were a school district.

## Fiscal effects

ODCY may realize additional administrative costs to check specified records for these providers and to ensure that these are done in accordance with the bill's timeline. However, the providers themselves or their employer will be responsible for paying the background check fee and ODCY will receive an electronic copy of the results.

Individuals seeking a background check under the bill can go to various Webcheck locations across the state. These agencies transmit fingerprints and other data electronically to the Bureau of Criminal Investigation (BCI), under the Attorney General, to determine if the individual has a criminal record. The current BCI base fee for criminal record checks is \$22 while the FBI criminal record check is \$25.25. However, Webcheck locations may charge additional fees, which vary by location. As a result, BCI will realize an increase in costs to conduct additional records checks and to request information from the FBI. However, BCI will also realize a corresponding increase in record check fees collected. The base fee amounts collected are deposited in the Attorney General Reimbursement Fund (Fund 1060).<sup>5</sup> If any local public agencies are Webcheck locations, the agency could have administrative costs to perform background checks, which could be offset by any additional fees that the agency charges.

BCI also charges participating agencies an initial fee for each individual entered in RAPBACK and an ongoing annual fee per individual, both of which are \$5 and deposited into Fund 1060. Accordingly, the State Board's costs for RAPBACK enrollment may increase.

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<sup>4</sup> See the DEW [2022 Educator Conduct Report, August 2023 \(PDF\)](#), which is available on the State Board of Education's website under professional conduct "Resources and Frequently Asked Questions": [sboe.ohio.gov](http://sboe.ohio.gov).

<sup>5</sup> The Attorney General uses the money credited to Fund 1060 to pay for operating expenses incurred in the provision of law enforcement services, legal representation, and overall office administration.



## **Ticket prices for school athletic events**

The bill prohibits schools participating in interscholastic athletic events, including public and chartered nonpublic schools, as well as interscholastic athletic conferences and organizations regulating them (for example, the Ohio High School Athletic Association), from charging different prices for cash and noncash purchases of tickets to athletic events. The bill permits schools to charge a processing fee for online and credit card ticket purchases, and requires schools to charge students enrolled in any school participating in the event a lower price than the standard adult ticket price.

This provision is likely to have a minimal effect on district and school revenues and expenditures related to interscholastic athletics. According to the Buckeye Association of School Administrators (BASA), comprehensive data does not exist on the current prices charged by schools for cash and noncash purchases. However, BASA indicates some districts and schools may offer discounts for online ticket purchases, which the bill would effectively prohibit. Additionally, BASA indicates most districts already charge students a lower ticket price under current practice, and those districts that do not already do so may choose to slightly raise adult and other ticket prices so that revenues would remain consistent after discounting student tickets.

## **Participation in interscholastic athletics at a different school**

The bill allows school district superintendents and chief administrative officers of other public schools and nonpublic schools to permit a student who is subject to a qualifying offense and is educated at home or enrolled in a different school district or school to participate in interscholastic athletics at any school overseen by that superintendent or chief administrative officer without penalty, restricted eligibility, or additional fees. A student may qualify to participate in interscholastic athletics at a different school under the bill if the student was subject to harassment, intimidation, bullying, an offense of violence or importuning (attempted or committed), or conduct that violates the Licensure Code of Professional Conduct for Ohio Educators.

The bill requires a student to, generally, be of the appropriate age and grade level and to fulfill the same academic, nonacademic, and financial requirements as any other participant. Based on conversations with BASA, the bill may lead to some permissive administrative costs for school districts and other public schools that opt to allow athletic transfers to verify eligibility in the school of attendance. Any interscholastic athletics program costs due to the bill are also permissive and will vary based on the policies districts have in place.