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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 583  
134<sup>th</sup> General Assembly

## Final Fiscal Note & Local Impact Statement

[Click here for H.B. 583's Bill Analysis](#)

**Primary Sponsors:** Reps. Bird and Jones

**Local Impact Statement Procedure Required:** No

Andrew C. Ephlin, Budget Analyst, and other LBO staff

### Highlights

#### School funding and scholarship programs

- The bill's changes to the H.B. 110 school funding formula decrease state foundation aid for traditional districts by \$35.5 million in FY 2022 and \$11.7 million in FY 2023 compared to current law. State foundation aid for community and science, technology, engineering, and mathematics (STEM) schools decreases by \$1.0 million in FY 2022 and \$118,000 in FY 2023. These decreases are mainly due to a provision specifying that FY 2020 statewide average transportation costs per rider and per mile be used in the transportation formula instead of the prior year's costs. This change conforms the law to the Ohio Department of Education's (ODE) current practice for FY 2022. FY 2021 costs appear to be unusually high due to a decrease in ridership as a result of the pandemic.
- The bill increases GRF payments to districts and schools provided outside foundation aid, including for special education transportation (\$5.1 million in FY 2022 and \$5.3 million in FY 2023), preschool special education (\$1.0 million in FY 2022 and \$564,000 in FY 2023), and county developmental disabilities boards for school-age children (\$650,000 in FY 2022 and \$324,000 in FY 2023). Existing appropriations for these purposes are sufficient to absorb the increased payments.
- The bill increases state payments for EdChoice Expansion scholarships by at least an estimated \$5.9 million each year starting in FY 2023 by qualifying for an EdChoice Expansion scholarship a student whose sibling received such a scholarship in the previous or current school year and by eliminating proration of EdChoice Expansion scholarships and the income cap for recipients whose family income rises above the base level to qualify for a new scholarship. State foundation aid for districts and schools is projected to decrease by \$1.6 million annually due to a portion of the newly eligible students leaving public schools to take a scholarship. Overall, these provisions increase state aid by at least a net \$4.4 million per year.

- The bill may increase lottery profits-backed Quality Community Schools Support payments in FY 2023 and subsequent years by specifying that a community school first designated for the program for FY 2020 maintains that designation for FY 2023 and may renew it, which provides continued eligibility for schools that otherwise may lose their designation. However, the total amount paid is limited to the program's appropriation.
- Other provisions increase state expenditures to address specific situations at certain community schools and chartered nonpublic schools regarding state foundation aid and EdChoice scholarship payments, respectively.

### **Tutoring and remediation program**

- The bill appropriates \$2.4 million in federal American Rescue Plan Act state activity funds for emergency needs to pay certain costs that ODE and participating educational service centers (ESCs) will incur for the bill's tutoring and remedial education services program.
- The ESC of Central Ohio (acting as a coordinating body), other ESCs, and public schools that opt to participate may incur costs to carry out the program. Program costs will depend on implementation decisions made by these entities. Notably, tutors may be paid, receive other benefits, or serve as a volunteer, but will be employed or engaged as a volunteer by the ESC of Central Ohio. A participating school must transfer funds to the ESC of Central Ohio to help compensate tutors placed in that school.

### **Teacher licensing**

- The bill increases the pool of substitute and other teachers by (1) extending by two years, temporary authority for an individual to obtain a substitute teacher license without a bachelor's degree under certain conditions and (2) temporarily prohibiting the State Board of Education from limiting the subject areas in which an individual may receive an alternative resident educator license.
- A greater pool of substitute teachers may decrease costs for some districts and schools that are dealing with a shortage in this area, as the costs of paying a substitute teacher may be lower than supplemental amounts paid to contract teachers to provide coverage. Any additional administrative costs to process additional license applications and background checks will be more or less offset by gains in fee revenue.

### **Dyslexia screening and professional development**

- The bill's one-year delay to the start of dyslexia screening requirements may defer potential increases in district and school expenditures to administer screening assessments and provide intervention services to students exhibiting signs of dyslexia and delay potential increases in state special education funding if the screenings lead to additional students diagnosed with learning disabilities.
- Professional development costs for districts and schools may decrease by exempting teachers that provide instruction in fine arts, music, or physical education from current law's requirement that teachers complete professional development regarding dyslexia.

## Community school sponsor ratings

- The bill’s provisions may prevent some sponsors from becoming subject to certain sanctions or penalties.

## Detailed Analysis

The bill makes changes to a variety of education laws in regard to school funding and scholarship programs, tutoring and remediation programs, teaching licenses, dyslexia screening and professional development requirements, and community school sponsor ratings, among other topics. Provisions with fiscal effects are discussed below.

## School funding and scholarship programs

### State foundation aid formula changes

#### Summary

The bill makes various changes to the state foundation aid formula. Many provisions are technical or clarifying in nature. Others, some of which can be described as corrective, substantively affect the school funding formula and may result in changes to a district or school’s funding levels for FY 2022 and FY 2023 compared to current law. These changes include (1) alterations to the data used for transportation funding purposes, (2) removing excess cost adjustments from certain funding bases, (3) moving supplemental targeted assistance “outside” the calculation of temporary transitional aid, (4) adjusting the calculation of the state share percentage, and (5) adding an “enrollment credit” for traditional districts whose students open-enroll into the district and then attend a joint vocational school district (JVSD). The table below summarizes the marginal change in funding levels for FY 2022 and FY 2023, before and after the formula’s phase-in and guarantees are accounted for, compared to current law by school type. JVSDs, whose funding is projected to change by a very small amount in each fiscal year, are excluded from the table.

Note that this analysis estimates the effect of the formula changes relative to current law. However, the Ohio Department of Education (ODE) has partially or fully implemented a number of the bill’s provisions in district and school payments for FY 2022, particularly with respect to transportation aid. In these cases, the bill’s changes align the law with current ODE practice.

**Table 1. Estimated Marginal Change in State Foundation Aid (in millions) by Formula Component and School Type, H.B. 583, FY 2022-FY 2023**

Formula Component	Traditional Districts	Community and STEM Schools	Total
Calculated Core Foundation Aid – FY 2022	\$30.3	\$0.1	\$30.4
Effect of Phase-in – FY 2022	-\$25.3	-\$0.1	-\$25.4
Temporary Transitional Aid – FY 2022	\$5.5	\$0.0	\$5.5
Transportation Aid – FY 2022	-\$38.5	-\$1.4	-\$40.0

<b>Table 1. Estimated Marginal Change in State Foundation Aid (in millions) by Formula Component and School Type, H.B. 583, FY 2022-FY 2023</b>			
<b>Formula Component</b>	<b>Traditional Districts</b>	<b>Community and STEM Schools</b>	<b>Total</b>
Formula Transition Supplement – FY 2022	-\$7.5	\$0.4	-\$7.1
<b>Total – FY 2022</b>	<b>-\$35.5</b>	<b>-\$1.0</b>	<b>-\$36.5</b>
Calculated Core Foundation Aid – FY 2023	\$20.1	\$0.1	\$20.2
Effect of Phase-in – FY 2023	-\$13.4	\$0.0	-\$13.5
Temporary Transitional Aid – FY 2023	\$4.5	\$0.0	\$4.5
Transportation Aid – FY 2023	-\$16.4	-\$0.2	-\$16.6
Formula Transition Supplement – FY 2023	-\$6.5	\$0.0	-\$6.5
<b>Total – FY 2023</b>	<b>-\$11.7</b>	<b>-\$0.1</b>	<b>-\$11.8</b>

As the above table shows, the bill increases the calculated amount of core foundation aid in both years, by \$30.4 million in FY 2022 and \$20.2 million in FY 2023. However, the formula's phase-in mechanism limits the increases to \$5.1 million in FY 2022 and \$6.7 million in FY 2023. The temporary transitional aid guarantee increases in each fiscal year, mainly due to the provision moving supplemental targeted assistance outside this guarantee. Transportation aid decreases by \$40.0 million in FY 2022 and \$16.6 million in FY 2023, which are driving the overall results. Changes in core foundation and transportation aid interact with the bill's removal of excess costs from the formula transition supplement funding base to, on a statewide basis, decrease aid received through the supplement. In total, the bill's changes decrease state foundation aid for traditional school districts by \$35.5 million (0.5%) in FY 2022 and \$11.7 million (0.2%) in FY 2023 compared to current law. State foundation aid for community schools decreases by \$1.0 million (0.1%) in FY 2022 and \$118,000 (0.0%) in FY 2023. Effects on individual districts and schools vary. Additional details regarding the bill's changes are provided below.

### **Transportation aid**

Under current law, base transportation funding is calculated using a formula that looks at two statewide cost measures from the prior fiscal year: the average cost per pupil transported and the average cost per mile. The state averages are multiplied by the number of students transported and the number of miles driven in the current year for each district. The greater of these two amounts is then multiplied by the greater of the district's state share percentage or the minimum transportation state share, which is 29.17% in FY 2022 and 33.33% in FY 2023.

The bill requires that, in FY 2022 and FY 2023, the statewide average costs per rider and per mile be based on data from FY 2020, rather than on data for the prior year. This decreases transportation funding substantially compared to current law. To illustrate, the statewide average costs per rider and per mile for FY 2021, which is what ODE would use in the formula for

FY 2022 under current law, are \$1,643 and \$5.45, respectively. In contrast, the respective average costs for FY 2020 were \$1,058 and \$5.15. The average costs for FY 2021 are unusually high primarily due to large declines in school bus ridership reported by school districts for the first week of October (the time period used for funding purposes) resulting from the pandemic. Under current law, transportation funding far surpasses the amount appropriated in FY 2022 for transportation formula payments in GRF line item 200502, Pupil Transportation. ODE would prorate transportation payments to fit the appropriation. We project the averages for FY 2022, for use in FY 2023, to be much closer to the FY 2020 averages, as ridership in particular has rebounded to a large degree.

### **Excess cost in funding bases**

Under current law, the excess cost charged by an educating school district to a resident school district for services provided to open enrollment students with disabilities is included in a school district's FY 2020 funding base for purposes of calculating the foundation aid formula's phase-in and temporary transitional aid. Such costs are also included in a school district's FY 2021 funding base for purposes of calculating the formula transition supplement. The bill removes excess cost adjustments from the calculation of the FY 2020 funding base in FY 2023 and from the FY 2021 funding base in FY 2022 and FY 2023. Historically, excess cost adjustments have not been considered a part of the foundation formula. According to ODE, the charges occur nine months after the end of the fiscal year.

Removing the adjustments increases the base for districts that have net losses on excess cost for open enrollment students and reduces them for districts that have net gains. A larger base means a larger phased-in funding amount and a larger guaranteed level under temporary transitional aid and the formula transition supplement and vice versa. The very large urban districts tend to benefit from this change while other district types tend to receive less funding.

### **Supplemental targeted assistance**

Supplemental targeted assistance provides per-pupil funding on a sliding scale to help districts most adversely affected by the transition from the prior law method of calculating student enrollment based on the number of students residing in the district, even if educated outside district schools, to the current method of counting students in the district or school in which a student is educated. Urban districts in particular tend to have relatively large shares of resident students educated outside the district, which, when removed from the district's student count for funding purposes, makes those districts look wealthier to the formula and, thus, may lead to reduced state funding. Under current law, supplemental targeted assistance is inadvertently included in a district's current year funding that is compared to its funding base when calculating the temporary transitional aid guarantee. The bill, essentially, moves supplemental targeted assistance "outside" this guarantee calculation to conform to the intent behind the formula.

### **State share percentage**

The state share percentage is used in the calculation of various categorical components and additional aid items outside the foundation formula. Under current law, a district's state share percentage is calculated as its aggregate state share of the base cost divided by the district's total base cost. Notably, the formula calculates the aggregate state share using current year enrolled average daily membership (ADM) while the base cost is calculated using "base cost

enrolled ADM,” which equals the greater of (a) the average of the three prior years enrolled ADM or (b) the prior year enrolled ADM. Base cost enrolled ADM is greater than current year enrolled ADM for districts whose enrollment is decreasing. In general, the bill calculates the state share percentage as a ratio of a district’s per-pupil state share of the base cost and its per-pupil base cost, with a minimum state share percentage of 5%. The formula calculates both per-pupil amounts using base cost enrolled ADM, which increases the state share percentage for most school districts. Most of the increase in calculated core foundation aid in the table above stems from this provision.

### **JVSD open enrollment student credit**

The bill requires ODE to add to the enrolled ADM of each traditional school district a number equal to 20% of the students who open enroll into the district and then enroll in a JVSD or under a career-technical education compact. A similar credit had been included in open enrollment transfers under the former school funding system. However, the school funding formula enacted in H.B. 110 omitted it. In FY 2022, this change increases statewide base cost enrolled ADM by about 670 students and current year enrolled ADM by about 725 students.

## **Additional funding outside the foundation aid formula**

### **Special education transportation**

In addition to funding a portion of regular pupil transportation, the state provides funds outside of the main foundation aid formula to school districts, county developmental disabilities (DD) boards, and educational service centers (ESCs) to assist them in providing required transportation services to students with disabilities whom it is impossible or impractical to transport by regular school bus. The bill modifies the special education transportation formula for county DD boards and ESCs. Under current law, the formula for these payments is determined through rules adopted by the State Board of Education. The bill statutorily requires the payments for these entities to be in an amount equal to their actual costs incurred transporting students with disabilities in the prior fiscal year multiplied by 29.17% for FY 2022 and 33.33% for FY 2023. This formula is nearly the same as the one used to calculate special education transportation funding for traditional districts.

This provision increases special education transportation funding by \$2.9 million in FY 2022 and \$4.3 million in FY 2023. Traditional districts also see some increases in special education transportation funding due to changes in the state share percentage, amounting to \$2.2 million in FY 2022 and \$1.0 million in FY 2023. Special education transportation payments are funded by the GRF through an earmark of line item 200502, Pupil Transportation. The earmarked amount under current law is sufficient to fund the increased payments under the bill without an appropriation increase.

### **Payments for preschool special education and school-age county DD boards’ students**

Also outside of the main foundation aid formula, the state provides funding to school districts for the special education and related services they provide to preschool-aged (ages three through five) children with disabilities and to county DD boards for school-age educational services. The formulas for these payments both rely, in part, on the state share percentage. The bill’s changes to the state share percentage increase preschool special education funding by \$1.0 million in FY 2022 and \$564,000 in FY 2023 while payments to county DD boards increase by

\$650,000 in FY 2022 and \$324,000 in FY 2023. These payments are funded by the GRF through earmarks of line item 200540, Special Education Enhancements. The earmarked amounts under current law are sufficient to fund the increased payments under the bill without an appropriation increase.

## **Other funding-related provisions**

### **EdChoice Scholarship Program**

#### ***Sibling eligibility for income-based EdChoice scholarships***

The income-based EdChoice Expansion Program provides scholarships to attend participating nonpublic schools for students whose family income is less than 250% of the federal poverty level (FPL), regardless of the academic rating of the public school they would otherwise attend. In FY 2022 and FY 2023, the scholarship amount equals the lesser of tuition or \$5,500 for students in grades K-8 and \$7,500 for students in grades 9-12. The bill expands eligibility for EdChoice Expansion scholarships by qualifying for the program any student whose sibling received an income-based scholarship for at least one of the following: (1) the school year immediately prior to the school year for which the student is seeking a scholarship or (2) the school year for which the student is seeking a scholarship. Continuing law contains a similar provision under the traditional EdChoice Scholarship Program. A student will become newly eligible under the bill if the student's family income exceeds 250% of FPL and the student has a sibling living in a separate household that obtained an income-based EdChoice scholarship.

It is unclear how many students to which this situation applies. As a point of reference, ODE reports that 1,282 students have been awarded new traditional EdChoice scholarships for FY 2022 under sibling-based criteria. However, the traditional EdChoice Scholarship Program has a significantly larger number of participants in FY 2022 (36,700) than the EdChoice Expansion Program (20,500). For simplicity, we calculated a rough estimate of the number of new scholarships under this provision by deflating the number of new traditional EdChoice "sibling" scholarships by 55.8%, which equals the ratio of income-based scholarships to traditional scholarships. The result is an estimated 716 new scholarships. The actual number may be more or less than this amount.

If the newly eligible students leave a public school to take a scholarship, state foundation aid to public schools may decrease. To calculate the estimated reduction in state foundation aid, we made some simplifying assumptions due to uncertainty surrounding the state foundation formula in FY 2024 and future years. Specifically, we calculated the statewide average marginal change in per-pupil funding for FY 2022 from "basic formula aid" for traditional districts when student counts were reduced by roughly the same amount of public "transfer" students, spread proportionately across school districts. The basic formula aid calculation uses only the state share of the base cost and the wealth and capacity tiers of targeted assistance. In addition, the per-pupil marginal change was calculated without factoring in the H.B. 110 formula's guarantee and phase-in provisions. In this scenario, the average per-pupil reduction in basic formula aid is about \$6,670. This may result in a savings effect for students in grades K-8, whose maximum scholarship amount may be lower than the marginal amount of state foundation aid provided for the student.

It is also unclear what proportion of these students may be currently attending a public school. However, roughly 33% of the new FY 2022 income-based scholarship recipients entering

grades 1-12 were students who attended a public school the previous year. Assuming the same proportion for this new group, we calculated an estimated 239 public transfer students. The remaining 477 students are assumed to be existing nonpublic school students that represent a new state responsibility.

The estimated net change in state aid for these students is \$2.7 million, as illustrated in Table 2 below. We assume that the students are evenly distributed among grades with an average scholarship award of \$5,932, which equals 97% of the implied weighted average of \$6,115 to account for circumstances in which a student's tuition is lower than the maximum.

<b>Table 2. Annual Net State Aid for Estimated New Income-Based EdChoice Scholarships Under Sibling Eligibility</b>	
Existing private school students	477
Public transfer students	239
<b>Total estimated new scholarships</b>	<b>716</b>
Estimate average scholarship award	\$5,932
<b>Scholarship cost (millions)</b>	<b>\$4.2</b>
Average reduction in foundation aid for public transfer students	-\$6,670
<b>Change in foundation aid (millions)</b>	<b>-\$1.6</b>
<b>Net change in state aid (millions)</b>	<b>\$2.7</b>

### ***Eliminating proration of scholarship amounts and income cap***

Under current law, income-based EdChoice participants whose household income rises above 250% of FPL receive a prorated scholarship amount until household income exceeds 400% of FPL, at which point the student is no longer eligible for an income-based scholarship. If the student's family income is above 250% of FPL but at or below 300% of FPL, the student receives 75% of the full scholarship amount (\$4,125 for grades K-8 and \$5,625 for grades 9-12). If the student's family income is above 300% of FPL but at or below 400% of FPL, the student receives 50% of the full scholarship amount (\$2,750 for grades K-8 and \$3,750 for grades 9-12). The income levels ODE is using to determine current law eligibility and scholarship amounts for the upcoming 2022-2023 school year are as follows: 250% of the federal poverty level (FPL) equals \$69,375, 300% of FPL equals \$83,250, and 400% of FPL equals \$111,000.

The bill removes the proration for EdChoice Expansion scholarship recipients and eliminates the upper limit of 400% of the FPL for existing scholarship recipients. Thus, existing scholarship recipients who currently receive prorated scholarships will receive higher amounts under the bill and scholarship recipients who would have stopped receiving a scholarship because their family income exceeds 400% of FPL will remain eligible.



In FY 2022, 1,065 (5.2%) of the 20,500 or so EdChoice Expansion scholarship recipients received a lower scholarship amount due to the proration policy. The estimated cost of paying the full scholarship amount for these students is roughly \$1.7 million per year. Removing the 400% of FPL income cap will generate additional but uncertain state costs, as households, including those with children, tend to increase their incomes over time. LBO does not have data that indicates how many students lose eligibility each year because of the income cap in current law. As a point of reference, however, the number of EdChoice Expansion scholarship students with family incomes near the 400% of FPL threshold is relatively small. In FY 2022, about 160 EdChoice Expansion recipients had family incomes between 350% and 400% of FPL. While this number provides some insight as to the size of the population likely to be affected by this provision in the immediate future, it is not known how quickly scholarship recipients' household incomes grow over time. Thus, the extent of the longer term fiscal effects of the provision are uncertain, as without this data, it is difficult to estimate the size of the population that would lose scholarship eligibility each year in future years.

### ***EdChoice corrective payments***

The bill permits a chartered nonpublic school participating in the EdChoice Scholarship Program, for up to 90 days after the bill's effective date, to request that ODE review scholarship payments for students attending the school in the 2020-2021 school year and determine whether there was a payment error for any such student based on the student's attendance. If ODE finds that payments were less than they should have been, the bill requires that ODE make corrective payments to the chartered nonpublic schools for the underpaid amount. The provision addresses a situation in which a chartered nonpublic school's staffing vacancy during the pandemic led to reduced or unfunded scholarship awards for some students for the 2020-2021 school year because certain clerical requirements were not completed. The one-time estimated cost of this corrective payment for the school suspected to have been underpaid is \$277,000, and will likely be paid out in FY 2023.

### **Private school participation in Cleveland Scholarship Program**

The bill allows a nonpublic school located outside the Cleveland Municipal School District (CMSD) to enroll students under the Cleveland Scholarship Program if it (1) offers grades K-8 but not grades 9-12 and (2) is located within the boundaries of another school district that is (a) located in a municipal corporation with a population greater than 10,000 but less than 13,000, (b) located within five miles of the border of CMSD, and (c) located in Cuyahoga County. The provision applies to St. Thomas More, a school of about 150 students in Brooklyn, Ohio. Making the school eligible to participate in the Cleveland Scholarship Program will increase the pool of potential attendance choices for CMSD residents. This may attract additional applicants to the program and increase state payments for Cleveland scholarships. A Cleveland scholarship for a student in grades K-8 equals the lesser of tuition or \$5,500.

### **Quality Community School Support Program**

The Quality Community School Support (QCSS) Program provides funds to community schools that meet certain measures of quality with respect to report card grades, sponsor ratings, and other factors. A designated school receives per-pupil funding, supported by lottery profits, of \$1,750 for students who are identified as economically disadvantaged and \$1,000 for all other students. A school maintains its designation for the two fiscal years following the fiscal year in which the school was initially designated.

The bill expands eligibility for QCSS payments by specifying that a school that first qualified for the program for the 2019-2020 school year (FY 2020) maintains that designation for the 2022-2023 school year (FY 2023) and may renew its designation for following school years. As a result, state spending may increase for the program, as the bill maintains eligibility for schools that otherwise may lose their designation. However, the total amount awarded is limited to the program's appropriation. In each of FY 2022 and FY 2023, H.B. 110 appropriates \$54 million for the program. In FY 2022, payments are prorated to 94.3% of the calculated amount to fit within the appropriation.

### **State funding for certain community schools**

In general, S.B. 229 of the 134<sup>th</sup> General Assembly permits, for the 2021-2022 school year only, school districts and other public schools to continue to provide instruction using the district or school's remote learning plan submitted for the 2020-2021 school year under H.B. 164 of the 133<sup>rd</sup> General Assembly under certain conditions. This means that a community or STEM school must have been open in the 2020-2021 school year to qualify for this option. The bill addresses a situation in which two community schools that opened for the first time for the 2021-2022 school year, Buckeye Community School at London and Buckeye Community School at Marion, operated under a remote learning plan used by a school with the same sponsor. These schools are ineligible for state funding based on recent ODE enrollment reviews that indicated the schools did not perform the required documentation of learning opportunities.

The bill authorizes state funding for these schools by specifying that a community school is considered to have met the requirements to receive state funding for FY 2022 if it (1) opened for the first time in the 2021-2022 school year, (2) has the same sponsor as another community school that was open during the 2020-2021 and 2021-2022 school years that used a remote learning plan for both years, and (3) implemented the same model during the 2021-2022 school year as the other school that was open during the 2020-2021 and 2021-2022 school years. State expenditures will increase as a result of this provision. As a practical matter, ODE has been making state funding payments to the two schools so far this fiscal year. As of the May 2022 payment, Buckeye Community School at London is slated to receive about \$691,000 in state foundation aid for FY 2022, and Buckeye Community School at Marion is slated to receive \$2.1 million.

### **Transportation collaboration grants**

The bill reappropriates the unused balance of a \$250,000 earmark from GRF line item 200502, Pupil Transportation, supporting transportation collaboration grants, at the end of FY 2022, for the same purpose for FY 2023. It also permits ODE to allow transportation collaboration grant recipients to carry over funds for expenses incurred in the fiscal year following the year the grant award was made.

### **Catastrophic cost reimbursement set-aside**

Current law generally requires that 10% of a district or school's special education funding be set aside into a pool for catastrophic costs for special education students. However, it calculates the set-aside as equal to 10% of the overall special education amount that a traditional district or JVSD receives in special education funding before application of the phase-in. In contrast, current law calculates the set-aside as equal to 10% of the amount actually paid to community schools and STEM schools after application of the phase-in. The bill requires ODE to withhold 10% of the special education funding provided to traditional districts and JVSDs, after

application of the phase-in. This provision puts the district formula for withholding on par with community and STEM schools and reduces the amount withheld for catastrophic costs compared to current law.

### **School district payments in lieu of transportation**

Under continuing law, a traditional school district may determine that it is impractical to transport a student who is eligible for transportation to and from a school and may offer the student's parent or guardian a payment in lieu of transportation. Current law requires the payments to be at least 50% of and not more than the amount determined by ODE as the average cost of pupil transportation for the previous school year. School districts make these payments without state reimbursement. The bill requires that, in FY 2022 and FY 2023, the statewide average cost per rider used to calculate payment in lieu of transportation payments be based on FY 2020 data. Given the lower statewide averages in FY 2020, this provision will decrease school district expenditures for the payments compared to current law.

## **Tutoring and remediation services program**

### **Overview**

The bill requires the Superintendent of Public Instruction to establish a program that provides tutoring and remedial education services to students in public and chartered nonpublic schools. School participation in the program is voluntary. The program will use retired teachers, substitute teachers, and other individuals determined to be eligible to provide tutoring services in reading and English language arts, mathematics, science, and social studies. The program will be implemented and administered by ODE, with assistance from educational service centers (ESCs) and in consultation with the participating schools. The bill designates the ESC of Central Ohio as the "coordinating service center." Under this arrangement, the ESC will receive and evaluate applications from tutors wishing to participate, employ, or engage as volunteers the tutors that will help carry out the program, create a training course for tutors, and may coordinate the placement of tutors with other ESCs.

The bill pays for certain program costs by (1) appropriating \$2.4 million in federal American Rescue Plan Act (ARPA) state activity funds for emergency needs from Federal Fund 3HS0 line item 200640, Federal Coronavirus School Relief, for the bill's program and (2) reappropriating the unused balance of these funds at the end of FY 2022 for the same purposes in FY 2023.

### **Ohio Department of Education**

The bill increases ODE's administrative costs to implement and administer the program but appropriates the federal funding described above to pay such costs in FY 2022 or FY 2023. The bill's appropriation of federal ARPA state activity funds will be used to provide for the program's administrative and implementation costs, to develop the tutor training course, and provide technical assistance, among other uses. The bill prohibits ODE from compensating tutors under the program.

Separately, ODE's administrative costs may increase to compile a list of tutoring programs that it considers to be of high quality by issuing a request for qualifications, creating a rubric to evaluate the programs, and determining a minimum score needed to be placed on the list. ODE

must post the initial list of tutoring programs on its website by October 1, 2022. The bill's appropriation may not be used for this work.

### **Tutor registration**

The bill requires a tutor wishing to participate in the program to register with ODE (after applying to the ESC of Central Ohio), undergo a background check, and be enrolled in the Retained Applicant Fingerprint Database (RAPBACK) continuous criminal record monitoring service.<sup>1</sup> These requirements are similar to those required of an applicant for a teacher license. The bill, therefore, may increase ODE administrative costs from the State Board of Educator Licensure Fund (Fund 4L20) to process tutor registration applications. ODE may also pay more in fees for RAPBACK. However, tutors wishing to participate will not pay any out-of-pocket costs. The bill prohibits ODE from charging a registration fee to tutors wishing to participate in the program and requires the tutors to request the background checks through the ESC of Central Ohio and submit results to ODE. ODE will reimburse the ESC for the background checks and pay for RAPBACK enrollment using the bill's appropriation.

The bill makes tutors participating in the program members of the State Teachers Retirement System (STRS), instead of School Employees Retirement System (SERS). This provision has no direct fiscal effect on the state or political subdivisions. It does not change the employer contribution rate for STRS or SERS.

### **ESCs and public schools**

The bill may increase costs for the ESC of Central Ohio, other ESCs, and participating public schools to carry out the program. Program costs will depend on implementation decisions made by these entities. For example, a tutor providing services under the program may be paid, receive other benefits, or serve as a volunteer. However, the tutors must be employed or engaged as a volunteer by the ESC of Central Ohio, rather than the school in which a tutor provides services. Some or all of the ESC of Central Ohio's tutor compensation costs will be offset by the participating schools, as the bill requires a participating school to transfer funds to the ESC of Central Ohio to help the ESC in making payments, or paying the costs of other benefits, to the tutors placed in that school.

In addition, the ESC of Central Ohio will act as a coordinating body for the program. The bill authorizes it to coordinate the placement of tutors with 16 regional ESCs and with other ESCs. The ESCs in each of the 16 regions may select one ESC in the region to administer the training program for tutors, in conjunction with the ESC of Central Ohio. The ESC selected for each region may cooperate with other ESCs in the region to implement that training program. The bill's appropriation of federal ARPA state activity funds may be used to pay incidental costs of training opportunities conducted by ESCs if funds are available after the other funded program costs are

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<sup>1</sup> RAPBACK provides participating entities notice that an individual they have enrolled in the database has been arrested or convicted of a criminal offense. The Attorney General's (AGO) Bureau of Criminal Investigation charges participating agencies an initial fee for each individual entered in RAPBACK and an ongoing annual fee per individual, both of which are \$5. ODE pays the fees from Fund 4L20. Upon receipt, AGO deposits RAPBACK fees into the General Reimbursement Fund (Fund 1060).

supported and in a manner determined by ODE. Also, each ESC may coordinate the placement of tutors at participating schools within its service territory.

Public schools that choose to participate in this program also may incur costs to provide the necessary materials, space, and equipment for the tutors placed in the school. Participating schools must use their own funds to pay any costs incurred from participating in the program. In addition, administrative costs for participating public schools and ESCs may increase to report program data to ODE for purposes of the Department's required review of the effectiveness of the program.

## **Provisions related to teaching licenses**

Generally, educator licenses, permits, or certificates issued by the State Board of Education for teaching grades K-12, including serving as a substitute teacher, require at least a bachelor's degree. However, temporary law enacted in S.B. 1 of the 134<sup>th</sup> General Assembly permits the employment and temporary licensure of substitute teachers who do not hold postsecondary degrees for the 2021-2022 school year. The bill amends S.B. 1 to extend this authority by two years, through the 2023-2024 school year (FY 2024).

The bill also makes changes to the alternative resident educator license, which is a four-year license intended to give individuals who have not graduated from a traditional teacher preparation program the opportunity to work toward a standard licensure while employed full time as a teacher. It is valid for teaching in grades K-12 in a designated subject area or in the area of intervention specialist, as defined by rule of the State Board. The designated subject areas are comprised of a set of teaching fields. The bill prohibits, for five years from July 1 following the bill's effective date, the State Board and ODE from limiting the subject areas in which an individual may receive an alternative resident educator license.

## **Fiscal effects**

### **School districts and other public schools**

In general, the bill's changes temporarily increase the pool of available teachers. Additional substitute teachers may lead to a decrease in school district expenditures while the provisions are in effect. Some districts and schools may be addressing shortages of substitute teachers by assigning contract teachers to use their planning periods to cover classes in which a substitute teacher is not available. Contract teachers generally are paid supplemental amounts for each of these "substitute periods." The supplemental amounts appear to hover around \$25 per period based on a limited review of a number of school district collective bargaining agreements across a range of different district types. Considering a typical school day may consist of around eight periods more or less, this might equate to about \$200 per day. A substitute teacher, by contrast, earns an average of \$105 per full day.<sup>2</sup>

### **Ohio Department of Education**

The bill may lead to an increase in ODE administrative costs to process additional license applications. ODE may also pay more in fees for the Retained Applicant Fingerprint Database

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<sup>2</sup> National Substitute Teachers Alliance, "[Frequently Asked Questions](https://nstasubs.org)," which is available on the Alliance's website: [nstasubs.org](https://nstasubs.org).

(RAPBACK) continuous criminal record monitoring service if additional individuals become enrolled. However, any additional cost will be more or less offset by a gain in license fee revenue paid by applicants. A one-year substitute teacher license carries a fee of \$25 while an alternative resident educator license, which is valid for four years, carries a fee of \$160 (applicants for an alternative resident educator license also pay a \$50 fee for an ODE evaluation of the individual's transcripts to ensure the license's academic requirements are met). Educator licensure fees are deposited into the State Board of Education Licensure Fund (Fund 4L20). These fees cover the costs of processing licensure applications (including RAPBACK fees), providing technical assistance related to licensure, and administering the educator disciplinary process, among other functions. As a point of reference, ODE has issued 5,406 active temporary substitute teaching licenses statewide in FY 2022 under the authority granted by S.B. 1 and 1,892 active alternative resident educator licenses, as of May 23, 2022.

## **Background checks**

Various provisions of the bill may increase the number of individuals wishing to obtain a license or registration from ODE. An applicant for a license or registration will need to have current state and federal background checks on file with ODE. According to ODE, the checks can be no older than one year at the time ODE issues the credential. Background checks filed with ODE are valid for five years. The bill may affect the workload of the Attorney General's BCI if the number of background checks requested increases as a result of the bill. Any associated increase in BCI's annual operating expenses will be more or less offset by the fees charged to conduct a check. BCI performs state-only background checks by comparing an individual's fingerprints against a database of criminal fingerprints to determine if there is a criminal record. BCI also administers federal background checks through the Federal Bureau of Investigation (FBI), which uses a national database to search for criminal history records. The base fees of the state-only and FBI background checks are \$22 and \$25.25, respectively. All of the fees are credited to the General Reimbursement Fund (Fund 1060),<sup>3</sup> with \$23.25 of the FBI background check fee subsequently disbursed to the FBI.

## **Dyslexia screening and professional development**

### **Screening requirement delay**

H.B. 436 of the 133<sup>rd</sup> General Assembly established a comprehensive set of requirements for school districts and other public schools to improve the identification of and interventions for students with dyslexia. One of the key facets of the law is a requirement for districts and schools to administer dyslexia screenings to students. Under current law, districts and schools are required to conduct these screenings for all students in grades K-3 and, by request of a student's parent or teacher, students in grades 4-6 in the 2022-2023 school year, and for all kindergarten students and, by request, students in grades 1-6 each year thereafter. The bill delays the start of the screening requirements by one year, to the 2023-2024 school year, but permits districts and schools to conduct these screenings before they are required.

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<sup>3</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.

These changes provide districts and schools with additional flexibility to implement the screening process. They also defer potential increases in district and school expenditures to administer the assessments and provide intervention services to students exhibiting signs of dyslexia. The bill may also delay a potential increase in special education funding provided through the state foundation formula if identifying additional students as at risk for dyslexia leads to an increase in the number of students receiving special education services for a learning disability. The International Dyslexia Association estimates that as much as 20% of the general population may have symptoms of dyslexia.

### **Professional development requirements**

The bill also exempts a teacher that provides instruction in fine arts, music, or physical education from current law's requirement that teachers complete approved professional development for identifying characteristics of dyslexia and understanding the pedagogy for instructing students with dyslexia. These teachers would have had to complete six instructional hours, starting with teachers of grades K-1 by the beginning of the 2023-2024 school year, and extending to teachers of grades 2-3 by the beginning of the 2024-2025 school year. This change may decrease professional development-related costs for districts and schools. However, ODE reports that it will develop and make available a free course to meet current law's professional development requirements. This course is expected to be available in late fall 2022.

### **Provisions related to community schools and sponsors**

#### **Community school sponsor ratings**

Generally, continuing law requires ODE to rate all community school sponsors as either "exemplary," "effective," "ineffective," or "poor," on an annual basis, based on the following components: (1) student academic performance, (2) adherence to the quality practices prescribed by ODE, and (3) compliance with all applicable laws and administrative rules. Higher performing sponsors may qualify for certain incentives while lower performing sponsors are subject to certain sanctions or penalties. The bill creates a safe harbor period from community school sponsor sanctions and penalties based on ratings for the 2021-2022 school year, extending similar provisions enacted for the ratings for the 2019-2020 and 2020-2021 school years. Instead, ratings from previous (nonsafe harbor) and subsequent years will be considered. In addition, the bill prohibits ODE from assigning an overall rating of "ineffective" or lower to a sponsor solely because the sponsor received no points on one of the components of that evaluation.

These provisions may prevent some sponsors, which include school districts, ESCs, and other nonprofit organizations, who would otherwise have received ratings of "ineffective" or "poor" for the 2021-2022 school year or future years from becoming subject to certain sanctions or penalties. For example, sponsors rated "ineffective" are prohibited from sponsoring new or additional schools and are subject to a quality improvement plan. Sponsorship authority is revoked, subject to an available appeals process, for sponsors that receive a "poor" rating or three consecutive "ineffective" ratings. The administrative costs of ODE's Office of School Sponsorship may decrease. The Office of School Sponsorship is authorized to take over sponsorship for a school having a sponsor rated as "poor" or "ineffective" for three consecutive years until the school finds a new sponsor. The Office's operations are financed by a sponsorship fee of up to 3% of each sponsored school's operating revenue.

Under the bill, a sponsor may elect to have the sponsor's rating for the 2021-2022 school year count for the purposes of qualifying for incentives for which the sponsor was not previously eligible, provided that the overall rating for that school year is calculated based on all three rating components. Entities with an overall rating of "exemplary" or "effective" for at least three consecutive years are evaluated by ODE once every three years, instead of annually. Entities with an overall rating of "exemplary" for at least two consecutive years may sponsor an unlimited number of schools with no territorial restrictions and also receive exemptions from certain requirements on contracts with ODE and the sponsored schools.

### **Sponsor switching prohibitions – safe harbor**

For the 2022-2023 school year only, the bill permits a low-performing community school that is otherwise prohibited from entering into a contract with a new sponsor based on the school's state report card issued for the 2021-2022 school year to do so without approval from ODE, as required under continuing law. This provision may minimally decrease ODE's administrative workload.

### **Work-based learning tax credit administration**

S.B. 166 of the 134<sup>th</sup> General Assembly created an income tax credit for employers that provide work-based learning experiences for career-technical education students. In order to receive a credit, employers must apply for a tax credit certificate from ODE. To issue the certificate, ODE must be able to verify that the student claimed by the employer meets the requirements for the tax credit. However, continuing law generally prohibits ODE from having access to a student's name, address, Social Security number, and other personally identifying information. ODE contracts with a vendor that assigns a data verification code, also called the statewide student identifier (SSID), to each public school student to protect student privacy. The bill facilitates the administration of the tax credit by allowing ODE to obtain the data verification code for the students included on a tax credit certificate application so that it may verify the students' information and issue the tax credit certificates.

### **Substitute teacher shortage study committee**

The bill establishes the Substitute Teacher Shortages Study Committee to address the shortage of substitute teachers, examine the temporary substitute teacher licensing provisions found in H.B. 409 of the 133<sup>rd</sup> General Assembly and S.B. 1 of the 134<sup>th</sup> General Assembly, and consider permanent action to alleviate some of the causes of the shortage. This committee, consisting of three members of the House of Representatives and three members of the Senate, must produce a report of its findings by December 31, 2022. State administrative costs may increase to support the committee.

### **Pre-licensure education programs for licensed practical nurses**

The bill revises the law governing nursing pre-licensure programs for licensed practical nurses by authorizing those programs to use an individual who holds a baccalaureate degree in nursing or is scheduled to receive such a degree within 12 calendar months as a member of its faculty until February 1, 2028. Under current rules, faculty for a practical nursing education program are required to have a baccalaureate degree in nursing, have at least two years of experience as a registered nurse, and completed an approved registered nursing education



program.<sup>4</sup> The Board of Nursing is unlikely to experience any direct costs resulting from this change. At the end of FY 2021, the Board regulated 247 nursing education programs and training programs, including 76 for practical nurses. Many of the education programs are offered by joint vocational or traditional school districts and community or technical colleges. The provision may make it easier for these entities to fill staffing needs.

The bill further specifies the Board of Nursing may continue this authorization by adopting rules on or after February 1, 2028. The Board may incur an administrative cost in order to promulgate rules, but this cost would be permissive.

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<sup>4</sup> Ohio Administrative Code 4723-5-11.