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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 229  
134<sup>th</sup> General Assembly

## Bill Analysis

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

**Primary Sponsor:** Sen. Blessing

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### SUMMARY

#### Blended learning for the 2021-2022 school year

- Permits a school district, other public school, or chartered nonpublic school to submit to the Department of Education a declaration to implement or discontinue use of a blended learning model during the 2021-2022 school year by April 30, 2022, rather than July 1, 2021, as under continuing permanent law.
- Requires the Department to post a list of districts and schools that have submitted a blended learning model declaration during the 2021-2022 school year on its website.
- Provides specific operating requirements for districts and schools that implement blended learning for any portion of the 2021-2022 school year.

#### Blended learning definition

- Revises the permanent law definition of blended learning to add “noncomputer-based learning opportunities.”

#### Remote learning for the 2021-2022 school year

- Permits a school district, other public school, or chartered nonpublic school to adopt a resolution to continue to provide instruction using the school’s remote learning plan for the 2021-2022 school year.
- Requires a district or school that adopts a resolution to notify the Department of that decision by December 15, 2021.
- Requires a school or district that continues to offer remote instruction to update its remote learning plan with specific requirements.

## COVID remediation plans

- Requires each school district and other public school to complete and submit to the Department a remediation plan to address the loss of learning students experienced during the COVID-19 pandemic and post the plan on its website unless the district or school previously submitted an Extended Learning Plan or Local Use of Funds Plan.
- Requires the Department to develop standards and a template for district and school remediation plans.
- Requires the Department to compile the submitted remediation plans and submit a report to the General Assembly.

## Provisions related to state report cards

- Adds two school district superintendents, a school principal, and a community school representative, appointed by the Superintendent of Public Instruction, to the State Report Card Review Committee and requires majority party members appointed from the House of Representatives and the Senate to serve as committee co-chairpersons.
- Prohibits the Department from considering performance on the chronic absenteeism measure on the state report card for the 2021-2022 school year.
- Requires the Department to report without a rating the four-year adjusted cohort graduation rate on the state report card for students who were *continuously* enrolled in the same district or building for grades 9-12.
- Requires the Department, by September 15, 2022, to calculate and publish the four-year adjusted cohort graduation rate as described just above and the total number of students in each cohort for all districts and buildings for the 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years as reported-only data on state report cards for the 2021-2022 school year.

## Online services for special needs students

- Between July 1, 2021, and June 30, 2022, and upon the request of a parent or guardian, permits an individual who holds a valid license issued by a licensing board to provide services via electronic delivery method or telehealth communication to qualifying students.
- Prohibits a licensing board from taking any disciplinary action against a license holder who provides services to qualifying students as described just above.

## Provisions related to quarantined students

- For the 2021-2022 school year only, permits a school or district operating an online learning school to allow a quarantined student to participate in the online learning school for the duration of the student's quarantine period.

- Requires that once a student is in quarantine that the district or school notify the student's parents or guardians of available learning options for the duration of the student's quarantine.
- For the 2021-2022 school year, requires districts and schools to report monthly to the Department of Education the number of students quarantined and the duration of the quarantine.

### **Withdrawal of certain students for failure to take assessments**

- Revises the law on automatic withdrawal of students by internet- or computer-based community schools (e-schools) and district-operated internet- or computer-based schools for failure to take state assessments, so that that new starting point for considering two years of failure to take the tests is the 2021-2022 school year.

### **Financial literacy instruction**

- Requires public and chartered nonpublic schools to integrate the study of economics and financial literacy into one or more existing social studies credits, or into the content of another class, for students who enter ninth grade for the first time on or after July 1, 2010, but prior to July 1, 2022 (Classes of 2014 through 2025).

### **Third Grade Reading Guarantee exemption**

- For the 2021-2022 school year only, exempts public and chartered nonpublic schools from retaining a student under the Third Grade Reading Guarantee based solely on the student's academic performance.

### **Online learning school exemption from emergency management plan requirement**

- Exempts an online learning school from the requirement that school administrators develop an emergency management plan for each building under their control, unless students participate in in-person instruction or assessments at a location that is not covered in a district's or school's existing emergency management plan.

### **Educational service center state operating subsidies**

- Specifies that the "funding base" used to determine state payments to an educational service center (ESC) must equal the amount the ESC would have received for FY 2020 using the student counts of the school districts with which the ESC has service agreements for the fiscal year for which payments are being made.

### **Educational Choice and Pilot Project scholarship payments**

- Specifies that, in the case of a student who is not living with the student's parent, the Department must make Educational Choice (Ed Choice) Scholarship and Pilot Project (Cleveland) Scholarship payments to the student's guardian, legal custodian, kinship caregiver, foster caregiver, or caretaker.

- Requires the Department to make monthly partial payments for the Cleveland Scholarship, rather than “from time to time in partial payments” as under current law.
- Amends the definition of “caretaker,” which current law defines as a parent or relative acting in the parent’s place, to add any other responsible adult who has care of the child and, if not for being in that adult’s care, the child would be homeless or likely homeless.

## **Emergency clause**

- Declares an emergency.

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## DETAILED ANALYSIS

### Blended learning for the 2021-2022 school year

For the 2021-2022 school year only, the bill permits a school district, community school with approval of its sponsor, STEM school, or chartered nonpublic school to submit to the Department of Education, by April 30, 2022, a declaration to implement or discontinue use of a blended learning model during that school year.<sup>1</sup> The bill specifically states that the decision to implement or rescind use of a blended learning model is not subject to approval by the Department. It also requires the Department to post a list of districts and schools that have submitted a blended learning model declaration during the 2021-2022 school year on its website.<sup>2</sup>

Otherwise, under continuing law, if a school is operated using a blended learning model or decides to cease operating using a blended learning model, the district or school must notify the Department of that fact by July 1 of the school year for which the change would be effective.<sup>3</sup>

### Blended learning requirements for the 2021-2022 school year

For the 2021-2022 school year, the bill requires a district or school that implements a blended learning model, for any portion of that school year, to do all of the following:<sup>4</sup>

1. Ensure that students have access to the internet and to devices students may use to participate in online learning. If a district or school determines that a student does not have appropriate access to the internet or a device, the district or school must provide it at no cost to the student. Districts and schools also must provide a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use.
2. Monitor and assess student achievement and progress and provide additional services if necessary to improve student achievement;
3. Periodically communicate with parents or guardians regarding student progress;
4. Report quarterly to the Department the number of students participating in blended learning and the duration of their participation;
5. By May 15, 2022, report to the Department both of the following:

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<sup>1</sup> Section 3(B).

<sup>2</sup> Section 3(C).

<sup>3</sup> R.C. 3302.41, not in the bill.

<sup>4</sup> Section 3(D).

- a. The total number of students engaged in blended learning during the 2021-2022 school year by grade level; and
  - b. The total number of students with disabilities engaged in blended learning during the 2021-2022 school year.
6. Comply with operating standards for blended learning as otherwise prescribed under continuing law by the State Board of Education.<sup>5</sup>

### **Additional provisions for community schools**

For the 2021-2022 school year, the bill specifies that a community school that implements a blended learning model for any portion of that school year must be considered as having met any requirements to receive state funds as otherwise prescribed under continuing law.<sup>6</sup> For example, current law, effective September 30, 2021, requires any school using a blended learning model to have an instructional calendar of at least 910 hours, but continuing law also specifies that a community school must offer at least 920 hours of learning opportunities and its full-time equivalency for funding purposes is the actual number of learning opportunities it offers.<sup>7</sup> Presumably, the bill permits full funding for any community school student in a blended learning program as long as the student participates in 910 hours of instruction.

The bill also requires a community school, by June 30, 2022, to complete any revisions to the contract with its sponsor to implement or discontinue blended learning.<sup>8</sup> It further requires that, by April 30, 2022, a community school adopt or make any other necessary revisions to its policies.<sup>9</sup>

### **Definition of blended learning**

The bill revises the permanent law definition of blended learning to add “noncomputer-based learning opportunities.” Current law defines it as “the delivery of instruction in a combination of time primarily in a supervised physical location away from home and online delivery whereby the student has some element of control over time, place, path, or pace of learning.”<sup>10</sup>

### **Remote learning for the 2021-2022 school year**

For the 2021-2022 school year only, the bill permits a school district, community school with approval of its sponsor, STEM school, or chartered nonpublic school to adopt a resolution

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<sup>5</sup> See R.C. 3302.41(B), not in the bill.

<sup>6</sup> Section 3(E)(1).

<sup>7</sup> R.C. 3302.41(B)(4) and 3314.08(H), neither in the bill.

<sup>8</sup> Section 3(E)(2).

<sup>9</sup> Section 3(E)(3).

<sup>10</sup> R.C. 3301.079(J).

to continue to provide instruction using the school's remote learning plan submitted under H.B. 164 of the 133<sup>rd</sup> General Assembly to only those students whose parents or guardians submit a written request to the principal of the school building to which the students are assigned.<sup>11</sup> The bill specifically prohibits a district or school that is operating as an online learning school, as otherwise permitted under continuing law, from adopting a resolution as described just above.

The bill requires a district or school that adopts a resolution, by December 15, 2021, to notify the Department of that decision. The bill specifically states that the decision to continue to offer remote instruction is not subject to approval by the Department.<sup>12</sup> It also requires the Department to post a list of districts and schools continuing to operate a remote learning plan for the 2021-2022 school year on its website.<sup>13</sup>

H.B. 164 of the 133<sup>rd</sup> General Assembly permitted certain public schools that had not otherwise been approved to use a blended learning model under continuing law for the 2020-2021 school year to adopt a plan to provide instruction using a remote learning model for that year. Under that act, a school was required to submit its plan to the Department by July 31, 2020.<sup>14</sup>

The bill also specifies, for the 2021-2022 school year, that a community school that continues to provide instruction under a remote learning plan must be considered as having met any requirements to receive state funds as otherwise prescribed under continuing law.<sup>15</sup>

The bill defines "remote learning" as synchronous and asynchronous instruction and educational activities that take place when the students and the teachers are not physically present in a traditional classroom environment.<sup>16</sup>

### **Remote learning requirements for the 2021-2022 school year**

For the 2021-2022 school year, the bill requires a school or district that continues to offer remote instruction to update its remote learning plan as follows:<sup>17</sup>

1. Meet all minimum school year requirements prescribed under continuing law;
2. Ensure that students have access to the internet and to devices students may use to participate in online learning. If a district or school determines that a student does not have appropriate access to the internet or a device, the district or school must provide it

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<sup>11</sup> Section 4(B)(1).

<sup>12</sup> Section 4(B)(2).

<sup>13</sup> Section 4(C).

<sup>14</sup> Section 16 of H.B. 164 of the 133<sup>rd</sup> General Assembly, not in the bill.

<sup>15</sup> Section 4(F).

<sup>16</sup> Section 4(A)(5).

<sup>17</sup> Section 4(D).

at no cost to the student. Additionally, districts and schools must provide a filtering device or install filtering software that protects against internet access to materials that are obscene or harmful to juveniles on each computer provided to students for instructional use.

3. Track and document all student remote learning participation, including online and offline activities;
4. Report student attendance based on student participation;
5. Monitor and assess student achievement and progress and provide additional services if necessary to improve student achievement;
6. Periodically communicate with parents or guardians regarding student progress;
7. Develop a statement describing the school's approach to addressing nonattendance and its compliance with truancy procedures and requirements;
8. Report to the Department both of the following:
  - a. The total number of students engaged in remote learning by grade level; and
  - b. The total number of students with disabilities engaged in remote learning.

The bill requires that each school or district that continues to offer remote instruction make its updated remote learning plan publicly available on its website and submit a copy to the Department.<sup>18</sup>

## **COVID remediation plans**

Within 30 days after the bill's effective date, the bill requires the Department to develop standards and a template for district and school remediation plans. The plans must require at least both of the following: (1) timelines and programs that the district or school is implementing to address loss of learning due to the COVID pandemic, (2) the length of time remediation programs will be implemented, and (3) the method by which the district or school intends to pay for the remediation programs.<sup>19</sup>

Not later than 90 days after the bill's effective date, it requires each school district, STEM school, and community school to complete and submit to the Department a remediation plan to address the loss of learning and post the remediation plan on its website. However, this requirement is satisfied if a district or school submitted to the Department either (1) an Extended Learning Plan prior to April 1, 2021, as requested by the Governor or (2) a Local Use of Funds Plan prior to August 21, 2021, as a condition of receiving federal American Rescue Plan

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<sup>18</sup> Section 4(E).

<sup>19</sup> Section 3(F)(1)(a).



Elementary and Secondary School Emergency Relief Funds, is considered to have satisfied this requirement.<sup>20</sup>

The bill further requires that the Department, not later than 165 days after the bill's effective date, to compile the remediation plans and submit a report to the General Assembly.<sup>21</sup>

## **Provisions related to state report cards**

### **State report card review committee membership**

The bill adds two school district superintendents, a school principal, and a community school representative, appointed by the Superintendent of Public Instruction, to the state report card review committee.<sup>22</sup> It also specifies that the majority party members appointed from the House and the Senate (see below) must serve as committee co-chairpersons.<sup>23</sup>

H.B. 82 of the 134<sup>th</sup> General Assembly established a state report card review committee beginning on July 1, 2023. The primary responsibility of the committee is to conduct a study of state report cards issued for the 2022-2023 school year and prior schools years and, based on that study, make recommendations for improvements, corrections, and clarifications to the report card. The committee otherwise consists of the following members:

1. Two members of the House of Representatives appointed by the Speaker of House who are not of the same political party. The House Minority Leader may recommend a member of the Minority Leader's political party to the Speaker.
2. Two members of the Senate appointed by the Senate President who are not of the same political party. The Senate Minority Leader may recommend a member of the Minority Leader's political party to the President.
3. The Superintendent of Public Instruction, or the state Superintendent's designee;
4. The following members appointed by the state Superintendent:
  - a. An elementary school teacher;
  - b. A high school teacher;
  - c. An individual with experience providing services to gifted students;
  - d. An individual with experience providing special education and related services to children with disabilities;
  - e. A chartered nonpublic school representative;

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<sup>20</sup> Section 3(F)(2).

<sup>21</sup> Section 3(F)(1)(b).

<sup>22</sup> R.C. 3302.039(B)(4)(h).

<sup>23</sup> R.C. 3302.039(B)(5).

- f. A business community representative; and
- g. The parent of a child enrolled in any of grades K-12.

### **Chronic absenteeism measure**

For the 2021-2022 school year, the bill prohibits the Department from considering performance on the chronic absenteeism measure on the state report card for any school district or school. Specifically, that measure may not be used to determine whether a district or school is subject to any penalty or sanction otherwise prescribed by continuing law.<sup>24</sup> Further, it prohibits the Department from including the chronic absenteeism indicator in assigning performance ratings for the gap closing component for the 2021-2022 school year for districts and schools. The bill also specifically requires the Department to re-weight the other component measures accordingly, which includes: Achievement, Progress, Graduation, Early Literacy, and College, Career, Workforce, and Military Readiness.<sup>25</sup>

The new report card system enacted in H.B. 82 of the 134<sup>th</sup> General Assembly, effective September 30, 2021, prescribes a chronic absenteeism measure to be determined by the Department of Education as one of its gap closing measures.<sup>26</sup>

### **Four-year adjusted cohort graduation rate**

The bill requires the Department to include on a district's or building's state report card, as reported data not factored into the component performance rating, the four-year adjusted cohort graduation rate for only those students who were *continuously* enrolled in the same district or building for grades 9-12.<sup>27</sup>

The bill further requires the Department, by September 15, 2022, to calculate and publish the four-year adjusted cohort graduation rate as described just above and the total number of students in each cohort for all districts and buildings for the 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 school years as reported-only data on state report cards issued for the 2021-2022 school year.<sup>28</sup>

Under law unchanged by the bill, the Department is required to report on a district's or building's report card certain data as reported data not factored into the component performance rating, i.e., as a "report only" measure. One such measure is the percentage of students in the 4- and 5-year adjusted cohort graduation rates of a district or school who completed all of grades 9-12 in the district or school.<sup>29</sup>

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<sup>24</sup> Section 3(G).

<sup>25</sup> See R.C. 3302.03(D)(3)(b) to (f).

<sup>26</sup> R.C. 3302.03(A)(3), (D)(1)(b) and (D)(3)(a).

<sup>27</sup> R.C. 3302.03(D)(2)(j)(ii).

<sup>28</sup> Section 5.

<sup>29</sup> R.C. 3302.03(D)(2)(j)(i).

## **Online services for special needs students**

Between July 1, 2021, and June 30, 2022, the bill permits an individual who holds a valid license issued by a licensing board, upon request from a student's parent or guardian, to provide services within the scope of practice authorized under the license by electronic delivery method or telehealth communication to special needs students. The bill applies to any student participating in the Autism or the Jon Peterson Special Needs Scholarship programs or to any student who was enrolled in a public or chartered nonpublic school and was receiving those types of services, regardless of the method of delivery, prior to the bill's effective date. It also prohibits a licensing board from taking any disciplinary action against a license holder solely because the license holder provided such services to a student.<sup>30</sup>

## **Provisions related to quarantined students**

### **Online learning school option**

For the 2021-2022 school year only, the bill permits a school or district that is operating as an online learning school to allow a student who is in quarantine due to possible exposure to a contagious disease to participate in the online learning school for the duration of that student's quarantine period. The bill further states that if a quarantined student is allowed to participate in the online learning school, the student is not considered to be enrolled in the online learning school. Instead, that student is considered to be enrolled in the school the student would otherwise attend.<sup>31</sup>

Under the bill, once a student is in quarantine the district or school must notify the student's parents or guardians of available learning options for the duration of the student's quarantine.<sup>32</sup>

### **Monthly report of students in quarantine**

For the 2021-2022 school year, the bill requires that a school district, community school, STEM school, and chartered nonpublic school to report monthly to the Department, in a manner as determined by the Department, the number of students quarantined and the duration of the quarantine due to exposure to a contagious disease.<sup>33</sup>

## **Withdrawal of certain students for failure to take assessments**

The bill amends two provisions of law that were effective September 30, 2021, and that created a new starting point for withdrawal determinations made by internet- or computer-based community schools (e-schools) and district-operated internet- or computer-based schools upon a student's failure to complete the spring administration of any required state

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<sup>30</sup> Section 3(H).

<sup>31</sup> Section 6(A).

<sup>32</sup> Section 6(B).

<sup>33</sup> Section 7.

assessment for two consecutive school years.<sup>34</sup> Current law states that no student's failure to take those tests prior to the 2020-2021 school year may subject the student to automatic withdrawal. The bill amends those laws so that the new starting point for considering two years of failure to take the tests is the 2021-2022 school year. Thus, under the bill, no student's failure to take the tests prior to the 2021-2022 school year may subject the student to withdrawal.

Under continuing law, e-schools and district-operated internet- or computer-based schools are required to automatically withdraw any student who has not participated in the spring administration of any required state assessment for two consecutive years and who was not otherwise excused from taking that assessment. A school may not receive any state funds for any student who is subject to automatic withdrawal under this provision but may permit the student to continue to attend the school's program only if the student's parent pays tuition.<sup>35</sup>

### **Financial literacy instruction**

The bill requires public and chartered nonpublic schools to integrate the study of economics and financial literacy into one or more existing social studies credits, or into the content of another class, for students who enter the ninth grade on or after July 1, 2010, but prior to July 1, 2022 (Classes of 2014 through 2025).<sup>36</sup>

Current law prescribes a similar requirement for students beginning with the Class of 2014, but that requirement was eliminated in S.B. 1 of the 134<sup>th</sup> General Assembly, effective January 27, 2022.<sup>37</sup> (That act prescribes a half-unit (60 hours) of financial literacy instruction for the class of 2026 and beyond.)<sup>38</sup>

### **Third Grade Reading Guarantee exemption**

The bill exempts public and chartered nonpublic schools from retaining a student under the Third Grade Reading Guarantee based solely on the student's academic performance in reading. However, students may be retained if the student's principal and reading teacher, in consultation with the student's parent or guardian, agree that the student is not reading at grade level and is not prepared for fourth grade. Conversely, the bill requires a third-grade student reading below grade level to be promoted to the fourth grade if the student's principal and reading teacher agree that the student is prepared to be promoted.

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<sup>34</sup> R.C. 3313.6412 and 3314.262.

<sup>35</sup> R.C. 3313.6410 and 3314.26, neither in the bill.

<sup>36</sup> R.C. 3313.6027, 3314.03(A)(11)(f), 3326.15, and 3328.22; Section 9.

<sup>37</sup> See R.C. 3316.603 (C)(7), not in the bill.

<sup>38</sup> See R.C. 3313.603(C)(3), (8), and (9), as enacted by S.B. 1, not in the bill.

The bill further requires each school to notify the parent or guardian of a student who does not attain a proficient reading score and describe the school's remediation plan to improve the student's academic performance in reading.<sup>39</sup>

### **Online learning school exemption from emergency management plan requirement**

The bill exempts an online learning school from the requirement that school administrators develop an emergency management plan for each building under their control, unless students participate in in-person instruction or assessments at a location that is not covered in a district's or school's existing emergency management plan as of the bill's effective date.<sup>40</sup>

### **Educational service center state operating subsidies**

The bill specifies that for FY 2022 and FY 2023 the "funding base" used to determine direct state payments to an educational service center (ESC) must equal the amount the ESC would have received for FY 2020 using the student counts of the school districts with which the ESC has service agreements for the fiscal year for which payments are being made. Under current law, "funding base" is the amount paid to an ESC for FY 2020.<sup>41</sup>

### **Educational Choice and Pilot Project scholarship payments**

The bill requires the Department, in the case of a student who is not living with the student's parent, to make Educational Choice (Ed Choice) and Pilot Project (Cleveland) scholarship program payments to the student's guardian, legal custodian, kinship caregiver, foster caregiver, or caretaker.

The bill also requires the Department to make monthly partial payments for the Cleveland Scholarship Program, rather than "from time to time" as under current law. Payments for the Ed Choice Scholarship Program are distributed in monthly partial payments under continuing law.

For purposes of the Ed Choice and Cleveland scholarship programs, the definition of "caretaker" also is amended to include any other responsible adult who has care of the child and, if not for being in that adult's care, the child would be homeless or likely homeless. The definition under current law applies only to a parent or relative acting in the parent's place.

Continuing law allows the Department to request any individual applying for an Ed Choice scholarship on behalf of a qualifying student to provide appropriate documentation that

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<sup>39</sup> Section 8.

<sup>40</sup> R.C. 5502.262(H).

<sup>41</sup> R.C. 3317.11(A)(2).

the student meets the eligibility qualifications for Ed Choice. Such documentation must be provided by the student's parent, guardian, or caretaker.<sup>42</sup>

## HISTORY

Action	Date
Introduced	09-14-21
Reported, S. Primary & Secondary Education	10-20-21
Passed Senate (30-0)	10-20-21
Reported, H. Primary & Secondary Education	11-16-21

S0229-RH-134

<sup>42</sup> R.C. 3310.033(A)(5) and (D) and 3317.022(E) and (F).