

IN THE SUPREME COURT OF OHIO

The Electronic Classroom of Tomorrow,	:	
	:	Case No. 2017-0913
Plaintiff-Appellant,	:	
	:	On appeal from the
vs.	:	Franklin County Court
	:	of Appeals, Tenth District
Ohio Department of Education,	:	
	:	Court of Appeals
Defendant-Appellee.	:	Case No. 16AP-863

**BRIEF OF AMICI CURIAE
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INTRODUCTION

The fundamental constitutional principle of separation of powers holds that the legislative power of the State of Ohio is vested in, and solely exercised by, the General Assembly. See Ohio Constitution, Article II, Section 1. The Ohio constitution “vests in the General Assembly the plenary power to enact any law except those that conflict with the Ohio or United States constitutions.” *Arbino v. Johnson & Johnson*, 116 Ohio St.3d 468, 2007-Ohio-6948, 880 N.E.2d 420, ¶¶ 127-28. Through this constitutional lawmaking process, it is the General Assembly—and *only* the General Assembly—that is charged with establishing and enacting the public policies of the state. *Id.* ¶ 127.

The importance of this doctrine is nowhere more apparent than in the context of the state’s constitutionally mandated system of public education. As stated in Article VI, Section 3, of the Ohio Constitution, “[p]rovision shall be made by law for the organization, administration and control of the public school system of the state supported by public funds” It follows, then, that “[t]he General Assembly is the branch of state government charged by the Ohio Constitution with making educational policy choices for the education of our state’s children.” *State ex rel. Ohio Congress of Parents & Teachers v. State Bd. of Edn.*, 111 Ohio St.3d 568, 2006-Ohio-5512, 857 N.E.2d 1148, ¶ 4. Such policy choices specifically include matters pertaining to school funding. *Id.* ¶ 59.

On the other hand, administrative agencies—like the Ohio Department of Education (“ODE”)—are charged with implementing and enforcing the public policies enacted by the General Assembly. Such agencies are constrained to enforce and implement the law (and the policies embodied therein) as written by the General Assembly. Agencies may not engage in conduct that usurps the legislative function,

including making their own policy determinations and/or exercising powers not expressly delegated to them by the General Assembly. See *Matz v. J.L. Cartage Co.*, 132 Ohio St. 271, 279, 7 N.E.2d 220 (1937) (“the lawmaking prerogative is a sovereign power conferred by the people upon the legislative branch of the government ... and cannot be delegated to other officers, board or commission, or branch of government”). Yet, that is precisely what ODE has done here, and the department’s violation of its constitutional and statutory authority must be remedied by this Court.

As described below, the Amici Curiae consist of former legislators who served as sponsors, co-sponsors, or who were otherwise involved in enacting critical community-school funding legislation passed by the General Assembly (the “Legislators”). The Legislators submit this Brief in support of the position of Appellant the Electronic Classroom of Tomorrow (“ECOT”) to address ODE’s violation and abuse of its delegated authority, and thus, clear legislative intent, through its efforts, beginning in the middle of the 2015-16 school year, to implement an attendance or durational-based standard as the basis for funding electronic community schools, or “eschools.”

Specifically, ODE’s implementation of such a standard violates the express legislative intent, embodied in the community-school funding statute—R.C. 3314.08—that all community schools, including eschools, are to be funded based on enrollment; not attendance or participation time. While the Legislators submit that this intent is clear (and was clear to ODE, based on its conduct for many years) from the express statutory language, they write separately to make clear that in enacting each of the key provisions of current R.C. 3314.08(H) over time, as evidenced by the language of the legislation and its sequencing, was to ensure that community schools, including

eschools, continue to receive enrollment-based funding. ODE's unilateral effort to switch to a different funding model, and to single out eschools (which, like ECOT, frequently serve a disproportionate number of "at-risk" students) for the same, contravenes this legislative intent and must be rejected.

STATEMENT OF FACTS

A. Interest Of Amici.

As noted above, the Legislators are former members of the General Assembly who were directly involved in the drafting and enactment of key legislation ultimately leading to the current version of R.C. 3314.08. As public servants, they are interested in ensuring that an administrative agency, like ODE, does not frustrate clear legislative intent and codified public policy by imposing a new school-funding standard based on its own administrative policy determinations.

By way of background, the Legislators are:

- William G. Batchelder, a former Speaker of the Ohio House of Representatives. He is the second longest-serving member of the General Assembly in Ohio history, with 38 years in the House representing Medina County. First elected in 1968, he served 30 years through the end of 1998, at which time he left to become a judge on the Medina County Court of Common Pleas and then on the Ninth District Court of Appeals. He returned to the House in 2007 and served until term limits forced his retirement in 2014. Speaker Batchelder practiced law for 31 years at the Williams and Batchelder Law Firm in Medina. He was a long-serving member of the House when the General Assembly first enacted Ohio's community-school funding statute, via H.B. 215, 1997 Ohio Laws File 37, enacted in 1997 ("HB 215") [APP-1].
- Charles E. "Chuck" Calvert served in the Ohio House from 1999 to 2006, representing Medina County. He served as Chairman of the House Committee on Finance and Appropriations and also was a member of the House Ways and Means Committee. In addition, he served on the House Education Committee, and he was a member of then-Governor Bob Taft's Blue Ribbon Commission on Financing Student Success, which was formed to propose financing solutions in response to the Ohio Supreme

Court's decisions in the *DeRolph* school-funding litigation. Previously, he served on local school boards in Medina County. Mr. Calvert was a co-sponsor of H.B. 364, 2002 Ohio Laws File 237 ("HB 364"). He was also a sponsor of H.B. 66, 2005 Ohio Laws File 28, which became effective in 2005 ("H.B. 66") [APP-28.] That bill made additional, pertinent *revisions to Section 3314.08*.

- Mike Gilb represented the 76th District (in the Findlay area) in the Ohio House from 2001 through 2006. He was a co-sponsor of HB 364.
- James P. Trakas served in the Ohio House from 1999 through 2006, representing Cuyahoga County. He is currently Chief Executive Officer of American Online Learning Center, a behavioral corrective educational firm providing services in conjunction with courts and other institutions. He was Chairman of the Board of the Frederick Douglass Reclamation Academy and George v. Voinovich Reclamation Academy, which are dropout recovery charter schools in Cleveland. Mr. Trakas was involved in the passage of both HB 364 and HB 66.
- Bryan C. Williams served in the Ohio House from 1997 to 2004, representing Summit County. He is also a former member of the Ohio State Board of Education. After his House service ended due to term limits, Mr. Williams served on the Summit County Board of Elections for six years until 2010, when he assumed his current position as Director of Government Affairs for the Associated Builders and Contractors of Ohio. Mr. Williams was involved in the passage of HB 364.

B. Incorporation Of ECOT's Factual Statement.

As to the specific factual backdrop for ECOT's instant appeal, the Legislators adopt and incorporate the Statement of Facts contained in ECOT's Merit Brief.

ARGUMENT

Proposition of Law: In enacting and amending the community school funding statute, R.C. 3314.08, the Ohio legislature specifically intended that all community schools—including eschools—would be funded based on an enrollment methodology. The Ohio Department of Education has violated this clear legislative intent, and exceeded its delegated authority by unilaterally imposing an attendance- or participation-based standard in evaluating and determining the appropriate amount of state funding for eschools.

A. Overview Of School Choice And *Enrollment-Based* Community-School Funding.

In an effort to promote quality public education through the availability of school choice, the General Assembly in 1997 enacted the Ohio Community Schools Act (the “OCSA”), codified in Chapter 3314 of the Revised Code. *State ex rel. Ohio Congress of Parents & Teachers v. State Bd. of Edn.*, 111 Ohio St.3d 568, 2006-Ohio-5512, 857 N.E.2d 1148, ¶ 5. The OCSA established a system of “independently governed public schools that are funded from state revenues ...” for the express purpose of “providing parents a choice of academic environments for their children and providing the education community with the opportunity to establish limited experimental educational programs in a targeted setting.” *Id.* The “expressed legislative intent is to provide a chance of educational success for students who may be better served in their educational needs in alternative settings.” *Id.* ¶ 32.

Because they are public schools, community schools receive funding from the State of Ohio—consistent with the Ohio constitution. This funding structure, through which the General Assembly delegated its constitutional funding authority to the ODE, was established via R.C. 3314.08. Beginning with the enactment of the OCSA, the legislative intent was to ensure that all forms of community schools (including eschools) were funded based on student enrollment.

1997's HB 215 clearly and unequivocally established an enrollment-based funding methodology for all community schools whereby state dollars (although not local levy dollars, which have never been available to community schools) would follow a student to the school in which he or she actually enrolled. As enacted, HB 215 made clear that, as to students who elected to enroll in a community school, the state funding that would have been provided to the student's home district, based on "enroll[ment]," would be subtracted and provided (with certain, potential enhancements), to the community school in which the student chose to enroll. See HB 215, Section 3314.08(C) [APP-1.]

Subsection (D) of the original funding statute left no doubt that enrollment was the basis for community school funding—noting that ODE "shall pay" amounts to community schools based on the "number of students enrolled in the school" *Id.* [APP-1 (emphasis added).] Further, Subsection (L) made clear that any adjustments to community school funding were to be solely based on changes in enrollment caused by students' transferring their enrollment from one school to another during a school year:

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. [APP-1 (emphasis added).]

This type of enrollment-based funding methodology had historically been applied to all public schools, in lieu of an actual attendance or participation-based approach, and it was important for the General Assembly to extend that methodology to community schools. That is because community schools, like traditional districts, are required to make services available to all enrolled students whether or not they actually

take advantage of the same. Indeed, experience has shown that schools often spend significant funds on efforts to engage enrolled students who have not achieved an engagement level commensurate with academic success.

Thus, in enacting the OCSA, the legislature specifically determined that enrollment-based funding is necessary to establish predictability, both from an educational programming and budgeting perspective. The stability and predictability of an enrollment-based funding approach allows for community schools—like traditional districts—to accurately predict and budget for academic staffing and programming needs on a prospective basis. It also insures that schools have sufficient funding to engage in efforts to improve attendance and participation for students struggling with the same. The need for certainty and predictability is particularly acute in the context of eschools, which serve a large percentage of at-risk students.

On the other hand, an attendance or participation-time approach like that implemented by ODE solely as to eschools fosters uncertainty and presents substantial challenges from a budgeting and programming standpoint—as eschools’ funding would be (and presently is) subject to daily fluctuations in attendance and engagement, and can ultimately be cut retroactively despite such schools’ expenditure of substantial funds in an attempt to promote additional student engagement. That is not what the legislature intended in establishing the funding methodology for traditional public schools, and it is not what the legislature intended in funding community schools—including eschools—via enactment of the OCSA.

B. Subsequent Amendments To Section 3314.08 Were Consistent With And Reinforced The Legislature's Intent To Fund All Community Schools Based On Enrollment.

1. HB 364 Added More Specificity To The Intended, Enrollment-Based Methodology For Funding All Community Schools.

The legislative intent that all community schools be funded based on enrollment continued, and was reflected in subsequently enacted amendments to, Section 3314.08. For example, in 2003, HB 364 added more specificity as to how a student's enrollment in a community school was to be calculated for funding purposes. Specifically, in conjunction with the continuing but expressly limited authority of ODE to reduce funding to a community school solely based on enrollment, this bill added a definition of enrollment, which remains substantially unchanged today. It provided:

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect *any enrollment of students in community schools for less than the equivalent of a full school year*. The state board of education within ninety days after the effective date of this amendment shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section. For purposes of this section:

* * *

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time between the date on which the school both has received documentation of the student's enrollment from a parent and has commenced participation in learning opportunities as defined in the contract with the sponsor. For purposes of applying this division to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-

classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur.

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter. [Emphasis added.]

Consistent with the plain language of this provision, the legislature intended that community schools, including eschools, are to receive funding for the entire period of a student's enrollment. The reference to the establishment of criteria and documentation requirements for student "participation" in then Subsection (L) (now Subsection (H)) was added as a means by which ODE, community schools, and their sponsors could define the various modes of participation by which students could "commence" participating—the critical step for determining a student's enrollment date. It was never the legislature's intent to overhaul the enrollment-based funding methodology established by the original OCSA—let alone to create a brand new system, applicable only to eschools, that would such schools' funding on attendance or participation time.

HB 364 also added a definition of full-time equivalency that hammered home the enrollment-based nature of the funding methodology delegated to ODE. Specifically added was new Section 3314.08(L)(3). It stated that:

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours.

[APP16 (emphasis added).]

In enacting this provision, the General Assembly meant what it said: The full-time equivalent enrollment of a community school student was to be calculated, for funding purposes, based on the amount of learning opportunities offered by the school to a particular student divided by the total, minimum number of hours that a school must offer to a student who is enrolled for the entire school year.

This calculation was, likewise, not intended to encompass an attendance or participation element. Rather, new subsection (L)(3) merely simplified the requisite enrollment-based funding calculation by providing an equation for determining the actual fraction of a full-school year during which a particular student was enrolled.¹ It also made it easier for ODE to conduct periodic FTE reviews, which as HB 364 made clear, are to focus solely on enrollment:

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days

¹ In attempting to support its untenable and incorrect construction of the funding statute, the Tenth District Court of Appeals misconstrued the purpose and intent of this provision—which today is found in Section 3314.08(H)(3). Specifically, the Tenth District concluded that if “offered” does not contain a participation component, then every student enrolled in an eschool would necessarily be offered the “minimum 920 hours of learning opportunities” [See Tenth District Decision, at 10.] That is untrue. Applying the provision as written and as intended by the legislature, an eschool receives funding only for the portion of a school year during which a student is actually enrolled. There is nothing automatic about this enrollment-based calculation.

This FTE review provision added by HB 364, and the related appeal and claw back provisions [APP-16], also remain substantially unchanged in the OCSA today.

2. HB 66 Enacted Certain Limitations As To The Calculation Of Eschools' Funding, But Did Not Change The Enrollment-Based Focus Of The Statute.

In enacting certain revisions to Section 3314.08 in 2005 via HB 66, the legislature acknowledged that certain changes were necessary in the funding of eschools. Those changes stemmed from the unique nature of eschools, which do not maintain physical school buildings (and, thus, do not incur associated costs), and whose academic content is available and accessible to students 24 hours per day. The changes implemented by HB 66 did not, however, replace the fundamental, enrollment-based methodology used to fund eschools since the inception of the OCSA. Nor did the legislature intend for them to do so.

Rather, in pertinent part, HB 66 was crafted: (1) to prevent eschools from receiving certain types of funding deducted from traditional districts and previously paid to all community schools; and (2) to close a potential loophole in the enrollment-based FTE calculation for eschools, based on the 24-hour availability of their content. First, HB 66 amended Sections 3314.08(C) and (D) to make clear that eschools would no longer be eligible for certain categories of poverty-based funding. [APP-28 (amended Sections 3314.08(C) and (D)(1)).] On their face, these changes had nothing to do with attendance or participation.

Second, HB 66 added a sentence to then-Section 3314.08(L)(3) that was specifically designed to prevent eschools from taking advantage of their 24-hour

availability as a means of avoiding the funding cap imposed by a student's actual enrollment period. This amended subsection stated:

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours.

The plain and actual purpose of the highlighted addition (commonly described as the "ten-hour rule") was to ensure that eschools did not try to use a participation measure to claim a full FTE for a student who reaches 920 hours without being enrolled for the equivalent of a full calendar school year. In other words, it prevents eschools from attempting to cram the equivalent of an entire school year into a short period of time.

Thus, the ten-hour rule serves as a check on eschools' ability to avoid the enrollment-based nature of FTE funding under the OCSA. Such rule, however, was never intended to replace enrollment with participation time as the baseline for eschools' FTE funding. To the contrary, it was intended to reinforce and preserve the OCSA's long-standing, enrollment-based funding approach.

3. No Legislative Action Since HB 66 Has Substantively Impacted The Clear Legislative Intent To Base Funding For All Community Schools On Enrollment.

It is important to note that, since HB 66 added the ten-hour rule in 2005, no other material changes were made to the funding statute's specific, enrollment-based funding provisions prior to ODE's unilateral implementation of a participation-based standard in 2016. For example, 2007's H.B. 119, 2007 Ohio Laws File 15 [APP-43], changed the

denominator in what is now Section 3314.08(H)(3), to reflect that 920 is the minimum number of hours community schools must offer to their students, while recognizing that some schools might offer more than 920 hours, based on their respective school calendars. It also simply clarified that the above-described definition of “learning opportunities”—which refers to the mode by which a student may participate —applied to all of then subsection 3314.08(L), now subsection 3314.08(H).

However, no further material revisions were made to the provisions: (1) stating that funding is to be based on enrollment (current R.C. 3314.08(B) & (C); (2) limiting ODE’s ability to adjust community school funding to enrollment discrepancies (current R.C. 3314.08(H); (3) defining enrollment as beginning with, *inter alia*, a student’s commencement of participation in learning opportunities and ending with one of three specified occurrences (current R.C. 3314.08(H)(2)); and (4) defining full-time equivalency as the amount of learning opportunity hours “offered” to a student divided by the number of such hours offered to a student who is in attendance (i.e., enrolled) for the entire school year (current R.C. 3314.08(H)(3)). Thus, the legislative intent embodied in those provisions—i.e., that all community schools, including eschools, are to be funded based on enrollment—has remained constant throughout the entire period at issue in this appeal.

CONCLUSION

It cannot be credibly disputed that the OCSA, as enacted in 1997, made expressly clear that all community schools’ FTE funding was to be based on enrollment. Thus, one would think that if, as ODE has argued before the courts below, HB 364’s addition of language defining learning opportunities with a reference to “participation”

truly changed the basic funding methodology, then ODE would have begun implementing a durational standard in 2003 as to all community schools (since the pertinent 2003 language was not limited to eschools). Similarly, if as ODE has argued, HB 66's addition of the ten-hour rule meant that eschools were to be prospectively funded based on participation time, then one would expect ODE to have shifted its funding focus to actual participation in 2005.

But, ODE did not do so. Instead, it waited until 2016, without any pertinent statutory changes, to begin implementing its new, eschool-specific standard. Such conduct by ODE was not authorized by the legislature via the funding statute. Instead, it was contrary to the clear legislative intent embodied in the statute. This Court should give effect to the legislative intent and reject ODE's attempt to make new policy via its implementation of funding standard contrary to the one expressly established by the General Assembly.

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CERTIFICATE OF SERVICE

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Brian K. Murphy (0070654)

AN ACT

To amend sections 3.17, 3.24, 9.06, 101.23, 101.27, 101.35, 102.02, 103.143, 103.21, 105.41, 107.30, 107.40, 111.15, 111.16, 111.18, 117.44, 119.01, 120.04, 120.33, 121.04, 121.08, 121.37, 121.38, 121.40, 121.52, 122.15, 122.151, 122.152, 122.153, 122.154, 122.17, 122.18, 122.29, 122.89, 124.136, 124.15, 124.152, 124.18, 124.181, 124.34, 124.382, 124.383, 124.385, 124.391, 125.04, 125.05, 125.13, 125.15, 125.22, 125.28, 125.42, 125.83, 125.831, 125.87, 126.07, 126.12, 126.21, 126.26, 127.16, 131.35, 131.44, 135.142, 145.73, 149.303, 164.08, 164.09, 169.02, 169.03, 169.05, 169.08, 171.05, 173.02, 175.21, 181.52, 307.86, 321.46, 329.04, 341.25, 715.691, 718.01, 924.10, 991.03, 1309.32, 1309.39, 1309.40, 1309.41, 1309.42, 1309.43, 1310.37, 1503.05, 1503.141, 1506.21, 1506.22, 1506.23, 1513.29, 1513.30, 1515.09, 1517.11, 1557.06, 1703.03, 1703.05, 1703.07, 1703.12, 1703.22, 1703.26, 1703.27, 1707.041, 1707.44, 1731.07, 1785.01, 1901.06, 1907.13, 2151.23, 2151.355, 2151.421, 2744.01, 2744.02, 2744.03, 2744.05, 2941.51, 3113.33, 3301.075, 3301.0711, 3301.0714, 3301.0719, 3301.80, 3307.01, 3309.01, 3311.053, 3311.056, 3313.172, 3313.372, 3313.843, 3313.871, 3313.975, 3316.03, 3316.04, 3317.01, 3317.02, 3317.022, 3317.023, 3317.0212, 3317.0213, 3317.03, 3317.08, 3317.10, 3317.11, 3318.02, 3318.03, 3318.041, 3319.17, 3332.07, 3333.04, 3333.12, 3333.20, 3333.27, 3334.01, 3334.03, 3334.08, 3334.09, 3334.10, 3334.11, 3334.17, 3343.08, 3345.11, 3345.12, 3345.50, 3345.51, 3365.01, 3365.02,

A termination shall be effective only at the conclusion of a school year.

(2) At least sixty days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. the notice shall include the reasons for the proposed action in detail and that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing.

(3) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The decision by the state board pertaining to an appeal under this division is final.

(C) A child attending a community school whose contract has been terminated or nonrenewed or that closes for any reason shall be admitted to the schools of the district in which the child is entitled to attend under section 3313.64 or 3313.65 of the Revised Code. Any deadlines established for the purpose of admitting students under section 3313.97 or 3313.98 shall be waived for students to whom this division pertains.

(D) A sponsor of a community school and the officers, directors, or employees of such a sponsor are not liable in damages in a tort or other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

(E) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in division (E) of section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program defined by division (E) of section 3323.01 of the Revised Code.

(4) "ACTUAL COST" MEANS THE ACTUAL COST OF PROVIDING SPECIAL EDUCATION AND RELATED SERVICES TO A SPECIAL EDUCATION STUDENT PURSUANT TO AN IEP IN THE

SCHOOL DISTRICT WHERE THAT STUDENT IS ENTITLED TO ATTEND SCHOOL PURSUANT TO SECTIONS 3313.64 AND 3313.65 OF THE REVISED CODE, AS CALCULATED IN A MANNER ACCEPTABLE TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION.

(5) "DPia reduction factor" means the percentage figure, if any, specified for reducing the per pupil amount of disadvantaged pupil impact aid a community school is to receive in any year as specified IN the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school established under this chapter and for each child the community school in which the child is enrolled. IN ADDITION, FOR EACH SUCH CHILD RECEIVING SPECIAL EDUCATION AND RELATED SERVICES IN A COMMUNITY SCHOOL PURSUANT TO AN IEP THE BOARD SHALL REPORT THE ACTUAL COST FOR SUCH CHILD and, if the district receives disadvantaged pupil impact aid pursuant to section 3317.023 of the Revised Code, it shall report the amount received for each such child.

(2) The governing authority of each community school established under this chapter to annually report the number of students enrolled in the school who are not receiving special education and related services pursuant to an IEP, THE NUMBER OF ENROLLED STUDENTS WHO ARE receiving special education and related services pursuant to an IEP and the number of such students COUNTED IN A UNIT APPROVED BY THE STATE BOARD OF EDUCATION AND FUNDED UNDER DIVISION (N) OF SECTION 3317.024 OF THE REVISED CODE, the community school's base formula amount, and the city, exempted village, or local school district in which the school is located. Each governing authority shall also report any DPIA reduction factor that applies to a school year.

(C) From the payments made to a city, exempted village, or local school district under Chapter 3317. and, if necessary, sections 321.14 and 323.156 of the Revised Code, the department of education shall annually subtract all of the following:

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of

the district's students reported under division (B)(2) of this section who are enrolled in that community school and are not receiving special education and related services pursuant to an IEP is multiplied by the base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor.

(2) the sum of the actual costs for all district students reported under division (B)(2) of this section who are to be receiving special education and related services pursuant to an IEP in their respective community schools, less the sum of the prorated share for each such student of any amounts received from state or federal funds to provide special education and related services to students in the respective community schools. this prorated share of state or federal funds received for each such student shall be determined on the basis of all such funds received by a community school for students receiving similar services, as calculated in a manner acceptable to the superintendent of public instruction.

(3) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school and residing in the district in a family receiving assistance under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended is multiplied by the per pupil amount of disadvantaged pupil impact aid the school district receives that year, as adjusted by any DPIA reduction factor of that community school.

(D) The department shall annually pay to a community school established under this chapter all of the following:

(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in the school as reported under division (B)(2) of this section WHO ARE NOT receiving special education and related services pursuant to an IEP is multiplied by the community school's base formula amount, as adjusted by the cost-of-doing-business factor of the school district in which the school is located;

(2) FOR EACH STUDENT ENROLLED IN THE SCHOOL receiving special education and related services pursuant to an IEP, an amount equal to the actual cost for such student, less a prorated share for the student of any amount received from state or federal funds to provide special education and related services to students in the community school. This prorated share shall be determined as described under division (C)(2) of this section.

(3) An amount equal to the number of students enrolled in the community school and residing in the school district in a family receiving assistance under Title IV-A of the "Social Security Act" is multiplied by the

per pupil amount of disadvantaged pupil impact aid that school district receives that year, as adjusted by any DPIA reduction factor of the community school.

(E) Each city, exempted village, and local school district shall count in its ADM certified under division (A)(1) of section 3317.03 of the Revised Code, any student entitled to attend school in the district enrolled in a community school, except that a school district may instead count a student enrolled in a community school in its ADM certified under division (A)(3) of that section if the district had counted the student under division (A)(3) of that section immediately prior to the student's enrollment in the community school.

(F) A community school may apply to the department of education for unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J) A COMMUNITY SCHOOL MAY BORROW MONEY TO PAY ANY NECESSARY AND ACTUAL EXPENSES OF THE SCHOOL IN ANTICIPATION OF THE RECEIPT OF ANY PORTION OF THE PAYMENTS TO BE RECEIVED BY THE SCHOOL PURSUANT TO DIVISION (D) OF THIS SECTION. THE SCHOOL MAY ISSUE NOTES TO EVIDENCE SUCH BORROWING TO MATURE NO LATER THAN THE END OF THE FISCAL YEAR IN WHICH SUCH MONEY WAS BORROWED. THE PROCEEDS OF THE NOTES SHALL BE USED

ONLY FOR THE PURPOSES FOR WHICH THE ANTICIPATED RECEIPTS MAY BE LAWFULLY EXPENDED BY THE SCHOOL.

(K) For purposes of determining the number of students for which division (D)(3) of this section applies in any school year, a community school may submit to the state department of human services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. Upon receipt of a list under this division, the department of human services shall determine the number of students residing in that school district in a family receiving assistance pursuant to Title IV-A of the "Social Security Act." The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in the school district in a family receiving assistance under Title IV-A of the "Social Security Act." In complying with this division, the department of human services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year.

Sec. 3314.09. The board of education of the city, local, or exempted village school district in which a community school is located shall provide transportation to students enrolled in the community school, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy.

Sec. 3314.10. (A)(1) The governing authority of any community school established under this chapter may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract.

(2) Except as provided under division (A)(3) of this section, employees hired under this section may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section shall be considered an appropriate unit. As applicable, employment under this section is subject to

either chapter 3307. or 3309. of the Revised Code.

(3) At the time a community school is created by converting all or part of an existing public school into the community school, the employees of the community school shall remain part of any collective bargaining unit in which they were included immediately prior to the conversion and shall remain subject to any collective bargaining agreement for that unit in effect on the first day of July of the year in which the community school initially begins operation and shall be subject to any subsequent collective bargaining agreement for that unit, unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees. Any new employees of the community school shall also be included in the unit to which they would have been assigned had not the conversion taken place and shall be subject to the collective bargaining agreement for that unit unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees.

Notwithstanding division (B) of section 4117.01 of the Revised Code, the board of education of a school district and not the governing authority of a community school shall be regarded, for purposes of Chapter 4117. of the Revised Code, as the "public employer" of the employees of the community school subject to a collective bargaining agreement pursuant to division (A)(3) of this section unless a petition is certified under division (A)(6) of this section with regard to those employees. Only on and after the effective date of a petition certified as sufficient under division (A)(6) of this section shall division (A)(2) of this section apply to those employees of that community school and only on and after the effective date of that petition shall Chapter 4117. of the Revised Code apply to the governing authority of that community school with regard to those employees.

(4) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division and shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the state employment relations board as a

new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(b) That the employee organization certified as the exclusive representative of the employees of the bargaining unit from which the employees are to be removed be certified as the exclusive representative of the new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(5) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division, shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, and shall cease to be represented by any exclusive representative of that collective bargaining unit, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement;

(b) That any employee organization certified as the exclusive representative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(6) upon receipt of a petition under division (a)(4) or (5) of this section, The state employment relations board shall check the sufficiency of the signatures on the petition. If the signatures are found sufficient, the board shall certify the sufficiency of the petition and so notify the parties involved, including the board of education, the governing authority of the community school, and any exclusive representative of the bargaining unit. The changes requested in a certified petition shall take effect on the first day of the month immediately following the date on which the sufficiency of the petition is certified under division (A)(6) of this section.

(B)(1) The board of education of each city, local, and exempted village school district sponsoring a community school and the governing board of each educational service center in which a community school is located shall adopt a policy that provides a leave of absence of at least three years to each teacher or nonteaching employee of the district or service center who is employed by a community school located in the district or center for the period during which the teacher or employee is continuously employed by the community school. The policy shall also provide that any teacher or nonteaching employee may return to employment by the district or service center if the teacher or employee leaves or is discharged from employment with the community school for any reason. Upon termination of such a leave of absence, any seniority that is applicable to the person shall be calculated to include all of the following: all employment by the district or service center prior to the leave of absence; all employment by the community school during the leave of absence; and all employment by the district or service center after the leave of absence. The policy shall also provide that if any teacher holding valid certification returns to employment by the district or service center upon termination of such a leave of absence, the teacher shall be restored to the previous position and salary or to a position and salary similar thereto. If, as a result of teachers returning to employment upon termination of such leaves of absence, a school district or educational service center reduces the number of teachers it employs, it shall make such reductions in accordance with section 3319.17 of the Revised Code.

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a community school pursuant to division (A)(3) of this section, an employee on a leave of absence pursuant to this division shall remain eligible for any benefits that are in addition to benefits under Chapter 3307. or 3309. of the Revised Code provided by the district or service center to its employees provided the employee pays the entire cost associated with such benefits, except that personal leave and vacation leave cannot be accrued for use as an employee of a school district or service center while in the employ of a community school unless the district or service center board adopts a policy expressly permitting this accrual.

(2) WHILE ON A LEAVE OF ABSENCE PURSUANT TO DIVISION (B)(1) OF THIS SECTION, A COMMUNITY SCHOOL SHALL PERMIT A TEACHER TO USE SICK LEAVE ACCRUED WHILE IN THE EMPLOY OF THE SCHOOL DISTRICT FROM WHICH THE LEAVE OF ABSENCE WAS TAKEN AND PRIOR TO COMMENCING SUCH LEAVE. IF A TEACHER WHO IS ON SUCH A LEAVE OF ABSENCE USES SICK LEAVE SO ACCRUED, THE COST OF ANY SALARY

PAID BY THE COMMUNITY SCHOOL TO THE TEACHER FOR THAT TIME SHALL BE REPORTED TO THE DEPARTMENT OF EDUCATION. THE COST OF EMPLOYING A SUBSTITUTE TEACHER FOR THAT TIME SHALL BE PAID BY THE COMMUNITY SCHOOL. THE DEPARTMENT OF EDUCATION SHALL ADD AMOUNTS TO THE PAYMENTS MADE TO A COMMUNITY SCHOOL UNDER THIS CHAPTER AS NECESSARY TO COVER THE COST OF SALARY REPORTED BY A COMMUNITY SCHOOL AS PAID TO A TEACHER USING SICK LEAVE SO ACCRUED PURSUANT TO THIS SECTION. The department shall subtract the amounts of any payments made to community schools under this division from payments made to such sponsoring school district under Chapter 3317. of the Revised Code.

A school district providing a leave of absence and employee benefits to a person pursuant to this division is not liable for any action of that person while the person is on such leave and employed by a community school.

Sec. 3316.03. (A) The auditor of state shall declare a school district to be in a state of fiscal watch if the auditor of state determines that ~~at~~either division (A)(1) or (2) of this section applies to the school district:

(1) All of the following conditions are satisfied with respect to the school district:

~~(1)(a)~~(a) An operating deficit has been certified for the current fiscal year by the auditor of state under section 3313.483 of the Revised Code, and the certified operating deficit exceeds eight per cent of the school district's general fund revenue for the preceding fiscal year;

~~(2)(b)~~(b) The unencumbered cash balance in the school district's general fund at the close of the preceding fiscal year, less any advances of property taxes, was less than eight per cent of the expenditures made from the general fund for the preceding fiscal year;

~~(3)(c)~~(c) A majority of the voting electors have not voted in favor of levying a tax under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code that the auditor of state expects will raise enough additional revenue in the next succeeding fiscal year that divisions (A)(1)(a) and ~~(2)(b)~~ of this section will not apply to the district in such next succeeding fiscal year.

(2) The school district has outstanding securities issued under division (A)(4) of section 3316.06 of the Revised Code and its financial planning and supervision commission has been terminated under section 3316.16 of the Revised Code.

(B) The auditor of state, after consulting with the superintendent of

public instruction, shall issue an order declaring a school district to be in a state of fiscal emergency if the school district board fails, pursuant to section 3316.04 of the Revised Code, to submit a plan acceptable to the state superintendent of public instruction within one hundred twenty days of the auditor's declaration pursuant to division (A) of this section; if a declaration of fiscal emergency is required by division (D) of section 3316.04 of the Revised Code; or if the auditor of state determines that all of the following conditions are satisfied with respect to the school district:

(1) The board of education of the school district is not able to demonstrate, to the auditor of state's satisfaction, the district's ability to repay outstanding loans received pursuant to section 3313.483 of the Revised Code or to repay securities issued pursuant to section 133.301 of the Revised Code in accordance with applicable repayment schedules unless the board requests additional loans under section 3313.483 and section 133.301 of the Revised Code in an aggregate principal amount exceeding fifty per cent of the sum of the following:

(a) The aggregate original principal amount of loans received in the preceding fiscal year under section 3313.483 of the Revised Code;

(b) The aggregate amount borrowed by the district under section 133.301 of the Revised Code, excluding any additional amount borrowed as authorized under division (C) of that section.

(2) An operating deficit has been certified for the current fiscal year by the auditor of state under section 3313.483 of the Revised Code, and the certified operating deficit exceeds fifteen per cent of the school district's general fund revenue for the preceding fiscal year. In determining the amount of an operating deficit under division (B)(2) of this section, the auditor of state shall credit toward the amount of that deficit only the amount that may be borrowed from the spending reserve balance as determined under section 133.301 and division (G) of section 5705.29 of the Revised Code;

(3) A majority of the voting electors have not voted in favor of levying a tax under section 5705.194 or 5705.21 or Chapter 5748. of the Revised Code that the auditor of state expects will raise enough additional revenue in the next succeeding fiscal year that divisions (A)(1)(a) and ~~(2)(b)~~ of this section will not apply to the district in such next succeeding fiscal year.

(4) The school district is one that, at the time of the auditor of state's determination under this section, had an average daily membership of more than ten thousand students as most recently reported to the department of education pursuant to division (A) of section 3317.03 of the Revised Code.

(C) In making the determinations under this section, the auditor of state

may use financial reports required under section 117.43 of the Revised Code; tax budgets, certificates of estimated resources and amendments thereof, annual appropriating measures and spending plans, and any other documents or information prepared pursuant to Chapter 5705. of the Revised Code; and any other documents, records, or information available to the auditor of state that indicate the conditions described in divisions (A) and (B) of this section.

(D) The auditor of state shall certify the action taken under division (A) or (B) of this section to the board of education of the school district, the director of budget and management, the mayor or county auditor who could be required to act pursuant to division (B)(1) of section 3316.05 of the Revised Code, and to the superintendent of public instruction.

(E) A determination by the auditor of state under this section that a fiscal emergency condition does not exist is final and conclusive and not appealable. A determination by the auditor of state under this section that a fiscal emergency exists is final, except that the board of education of the school district affected by such a determination may appeal the determination of the existence of a fiscal emergency condition to the court of appeals having territorial jurisdiction over the school district. The appeal shall be heard expeditiously by the court of appeals and for good cause shown shall take precedence over all other civil matters except earlier matters of the same character. Notice of such appeal must be filed with the auditor of state and such court within thirty days after certification by the auditor of state to the board of education of the school district provided for in division (D) of this section. In such appeal, determinations of the auditor of state shall be presumed to be valid and the board of education shall have the burden of proving, by clear and convincing evidence, that each of the determinations made by the auditor of state as to the existence of a fiscal emergency condition under this section was in error. If the board of education fails, upon presentation of its case, to prove by clear and convincing evidence that each such determination by the auditor of state was in error, the court shall dismiss the appeal. The board of education and the auditor of state may introduce any evidence relevant to the existence or nonexistence of such fiscal emergency conditions. The pendency of any such appeal shall not affect or impede the operations of this chapter; no restraining order, temporary injunction, or other similar restraint upon actions consistent with this chapter shall be imposed by the court or any court pending determination of such appeal; and all things may be done under this chapter that may be done regardless of the pendency of any such appeal. Any action taken or contract executed pursuant to this chapter

during the pendency of such appeal is valid and enforceable among all parties, notwithstanding the decision in such appeal. If the court of appeals reverses the determination of the existence of a fiscal emergency condition by the auditor of state, the determination no longer has any effect, and any procedures undertaken as a result of the determination shall be terminated.

Sec. 3316.04. (A) Within sixty days of the auditor's declaration under division (A) of section 3316.03 of the Revised Code, the board of education of the school district shall prepare and submit to the superintendent of public instruction a financial plan delineating the steps the board will take to eliminate the district's current operating deficit and avoid incurring operating deficits in ensuing years, including the implementation of spending reductions. The superintendent of public instruction shall evaluate the initial financial plan, and either approve or disapprove it within thirty calendar days from the date of its submission. If the initial financial plan is disapproved, the state superintendent shall recommend modifications that will render the financial plan acceptable. No school district board shall implement a financial plan submitted to the superintendent of public instruction under this section unless the superintendent has approved the plan.

(B) Upon request of the board of education of a school district declared to be in a state of fiscal watch, the auditor of state and superintendent of public instruction shall provide technical assistance to the board in resolving the fiscal problems that gave rise to the declaration, including assistance in drafting the board's financial plan.

(C) A financial plan adopted under this section may be amended at any time with the approval of the superintendent. The board of education of the school district shall submit an updated financial plan to the superintendent, for the superintendent's approval, every year that the district is in a state of fiscal watch. The updated plan shall be submitted in a form acceptable to the superintendent. The superintendent shall approve or disapprove each updated plan no later than the anniversary of the date on which the first such plan was approved.

(D) A school district that has restructured or refinanced a loan under section 3316.041 of the Revised code shall be declared to be in a state of fiscal emergency if any of the following occurs:

(1) An operating deficit is certified for the district under section 3313.483 of the Revised Code for any year prior to the repayment of the restructured or refinanced loan;

(2) The superintendent determines, in consultation with the Auditor of State, that the school district is not satisfactorily complying with the terms

of the financial plan required by this section:

(3) the board of education of the school district fails to submit an updated plan that is acceptable to the superintendent under division (C) of this section.

Sec. 3316.041. (A) Notwithstanding any provision of chapter 133, or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following requirements are met:

(1) The operating deficit certified for the school district for the current or preceding fiscal year under section 3313.483 of the Revised Code exceeds fifteen per cent of the district's general revenue fund for the fiscal year preceding the year for which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, or 5748.02 of the Revised Code that is not a renewal or replacement levy and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under sections 3317.022 to 3317.025 of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in ANY subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

AN ACT

To amend sections 2901.01, 2925.01, 3301.0714, 3302.03, 3309.51, 3313.375, 3314.011, 3314.013, 3314.02, 3314.03, 3314.05, 3314.06, 3314.07, 3314.072, 3314.08, 3314.09, 3314.091, 3314.11, 3314.13, 3317.029, 3317.03, 3318.50, 3327.01, 3327.02, 3331.01, 3365.08, and 4117.101; to enact sections 3313.648, 3314.015, 3314.022, 3314.023, 3314.024, 3314.031, 3314.032, 3314.041, 3314.073, 3314.074, 3314.081, 3314.082, 3314.111, 3314.17, 3314.30, and 3314.31; to repeal section 3314.021 of the Revised Code; and to amend Sections 44.05 and 189 of Am. Sub. H.B. 94 of the 124th General Assembly to expand the sponsorship of community schools, to add "academic watch" school districts to those districts in which start-up community schools may be established, to make changes in the oversight and management of community schools, to establish the Community School Revolving Loan Fund and the Community School Security Fund, and to make other changes in the community school law; to clarify that certain crimes carry enhanced penalties when committed on community school property or at community school activities; to prohibit school districts and community schools from offering certain monetary incentives for students to enroll in their schools; to require the Legislative Office of Education Oversight to study the cost of E-schools; to permit a local school district superintendent to designate the superintendent of the educational service center to which the district

any time finds that the governing authority is no longer able or willing to remedy those conditions to the satisfaction of the sponsor.

Sec. 3314.074. Divisions (A) and (B) of this section apply only to the extent permitted under Chapter 1702. of the Revised Code.

(A) If any community school established under this chapter permanently closes and ceases its operation as a community school, the assets of that school shall be distributed first to the retirement funds of employees of the school, employees of the school, and private creditors who are owed compensation and then any remaining funds shall be paid to the state treasury to the credit of the general revenue fund.

(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the Ohio SchoolNet commission, such hardware or software shall be returned to the commission, and the commission shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs operated and administered by the commission.

(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(5) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the DPIA student count" of a school district if the student is entitled to attend school in the district and:

(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.

(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.

(8) "DPIA reduction factor" means the percentage figure, if any, for reducing the per pupil amount of disadvantaged pupil impact aid a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) One-fourth of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;

~~(f)~~(g) The community school's base formula amount;

~~(g)~~(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

~~(h)~~(i) Any DPIA reduction factor that applies to a school year.

(C) From the payments made to a city, exempted village, or local school district under Chapter 3317. of the Revised Code and, if necessary, sections 321.14 and 323.156 of the Revised Code, the department of education shall annually subtract all of the following:

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a) ~~and~~, (b), ~~and~~ (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of

this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's DPIA student count is multiplied by the per pupil amount of disadvantaged pupil impact aid the school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of that community school. If the district receives disadvantaged pupil impact aid under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the district's DPIA student count, as defined in that section. If the district receives disadvantaged pupil impact aid under division (C) of section 3317.029 of the Revised Code, the per pupil amount of that aid is the per pupil dollar amount prescribed for the district in division (C)(1) or (2) of that section.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(D) The department shall annually pay to a community school established under this chapter all of the following:

(1) An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a) ~~and~~, (b), ~~and~~ (e) of this section who are not receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code is multiplied by the community school's base formula amount, as adjusted by the cost-of-doing-business factor of the school district in which the student is entitled to attend school;

(2) The greater of the following:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:

(the community school's base formula amount

X the cost-of-doing-business factor
of the district where the student
is entitled to attend school) +

(the applicable special education weight X
the community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes

eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's DPIA student count is multiplied by the per pupil amount of disadvantaged pupil impact aid that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any DPIA reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an

amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool handicapped or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing ~~to mature no later than the end of the fiscal year in which such money was borrowed~~. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

~~(2)(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities, as described in division (B) of section 3318.50 of the Revised Code.~~

(2) Except for any amount guaranteed under section 3318.50 of the

Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after the effective date of this amendment shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section. For purposes of this section, ~~a:~~

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time between the date on which the school both has received documentation of the student's enrollment from a parent and has commenced participation in learning opportunities as defined in the contract with the sponsor. For purposes of applying this division to a

community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

(N) ~~Beginning with the school year that starts on July 1, 2001, in No~~ student shall be considered enrolled in any internet- or computer-based community school unless the student possesses or has been provided with all required hardware and software materials and all such materials are fully operational and the school is in compliance with division (A)(1) or (2) of section 3314.032 of the Revised Code, relative to such student. In accordance with policies adopted jointly by the superintendent of public instruction; and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any ~~internet~~ internet- or computer-based community school that includes in its program the provision of computer hardware and software materials to each student, if such hardware and software materials have not been delivered, installed, and activated for all students in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction; and the auditor of state; shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make

recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such ~~internet~~ internet- or computer-based schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

Sec. 3314.081. To the extent permitted by federal law, the department of education shall include community schools established under this chapter in its annual allocation of federal moneys under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301, et seq.

Sec. 3314.082. It is the intent of the general assembly that no state moneys paid to a community school under section 3314.08 of the Revised Code be used by the school to pay any taxes the school might owe on its own behalf, including, but not limited to, local, state, and federal income

taxes, sales taxes, and personal and real property taxes. This intent does not apply to any moneys withheld from an employee of the community school that are payable by the school to a government entity as taxes on behalf of the employee.

Sec. 3314.09. (A) As used in this section and section 3314.091 of the Revised Code, "native student" means a student entitled to attend school in the school district under section 3313.64 or 3313.65 of the Revised Code.

(B) Except as provided in section 3314.091 of the Revised Code, the board of education of each city, local, and exempted village school district shall provide transportation to and from school for its district's native students ~~enrolled in a community school located in that district or another district on the same basis that it provides transportation for its native students enrolled in schools to which they are assigned by the board of education at the same grade level and who live the same distance from school except when, in the judgment of the board, confirmed by the state board of education, the transportation is unnecessary or unreasonable. A board shall not be required to transport nonhandicapped students to and from a community school located in another school district if the transportation would require more than thirty minutes of direct travel time as measured by school bus from the collection point designated by the district's coordinator of school transportation in accordance with section 3327.01 of the Revised Code.~~

~~(C) Where it is impractical to transport a pupil to and from a community school by school conveyance, a board may, in lieu of providing the transportation, pay a parent, guardian, or other person in charge of the child. The amount paid per pupil shall in no event exceed the average transportation cost per pupil, which shall be based on the cost of transportation of children by all boards of education in this state during the next preceding year.~~

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met ~~both~~ all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) It specifies qualifications, such as residing a minimum distance from

AN ACT

To amend sections 9.24, 9.981, 101.68, 102.02, 102.06, 108.05, 109.54, 109.57, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.07, 124.321, 124.328, 125.041, 125.05, 125.11, 125.831, 125.832, 126.25, 127.16, 131.02, 131.23, 133.08, 133.081, 133.09, 140.01, 141.011, 141.04, 145.01, 145.33, 147.05, 147.10, 147.11, 147.12, 147.371, 149.30, 150.07, 150.10, 154.11, 173.26, 173.40, 173.99, 181.251, 181.51, 181.52, 181.54, 181.55, 181.56, 183.28, 184.02, 305.171, 307.37, 307.695, 307.86, 307.88, 317.08, 317.36, 319.20, 319.302, 321.24, 323.01, 323.152, 325.31, 329.04, 329.051, 339.72, 339.88, 340.03, 340.16, 351.01, 351.021, 351.06, 351.141, 351.16, 718.09, 718.10, 731.14, 731.141, 742.59, 901.43, 903.05, 905.32, 905.33, 905.331, 905.36, 905.37, 905.38, 905.381, 905.50, 905.501, 905.66, 907.16, 913.02, 913.23, 915.02, 915.16, 915.24, 921.02, 921.16, 923.44, 923.45, 923.46, 926.01, 927.69, 1111.04, 1327.511, 1502.02, 1509.06, 1509.072, 1509.31, 1515.14, 1517.02, 1521.062, 1531.27, 1533.10, 1533.11, 1533.111, 1533.112, 1533.12, 1533.32, 1541.03, 1548.06, 1707.01, 1707.17, 1707.19, 1707.20, 1707.22, 1707.23, 1707.25, 1707.261, 1707.431, 1707.44, 1707.46, 1711.52, 1711.53, 1713.03, 1751.03, 1751.04, 1751.05, 1901.26, 1901.31, 1907.24, 2113.041, 2117.061, 2151.352, 2151.416,

school, employees of the school, and private creditors who are owed compensation and then any remaining funds shall be paid to the state treasury to the credit of the general revenue fund.

(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the former Ohio SchoolNet commission or the eTech Ohio commission, such hardware or software shall be returned to the eTech Ohio commission, and the eTech Ohio commission shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs operated and administered by the eTech Ohio commission.

(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.

(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.

(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.

(5) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(7) A community school student is "included in the ~~DPIA~~ poverty student count" of a school district if the student is entitled to attend school in the district and:

~~(a) For school years prior to fiscal year 2004,~~ the student's family

receives assistance under the Ohio works first program.

~~(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.~~

(8) "DPIA Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) of section 3317.024, and sections 3317.029, ~~3317.0212, 3317.0213,~~ 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and (M), (N), and (O)~~ of section 3317.023, and division (C) of section 3317.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this

section receiving special education and related services pursuant to an IEP for a handicap described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool handicapped students receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any ~~DPIA~~ poverty-based assistance reduction factor that applies to a school year.

(C) From the SF-3 payment made to a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to ~~(6)(9)~~ of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the greater of the

following:

(a) The fiscal year 2005 base formula amount of that community school as adjusted by the school district's fiscal year 2005 cost-of-doing-business factor;

(b) The sum of (the current base formula amount of that community school times the school district's current cost-of-doing-business factor) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's ~~DPIA poverty~~ student count is multiplied by the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance the school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA poverty-based assistance~~ reduction factor of that community school. If the district receives ~~disadvantaged pupil impact aid~~ poverty-based assistance under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the district's ~~DPIA poverty~~ student count, as defined in that section. If the district receives ~~disadvantaged pupil impact aid~~ poverty-based assistance under division (C) of section 3317.029 of the Revised Code, the per pupil amount of that aid is ~~the per pupil dollar amount prescribed for the district in division (C)(1) or (2) of that section~~ shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

The district's per pupil amount under division (F) of section 3317.029 of the Revised Code is the amount calculated under division (F)(1) or (2) of that section, times a multiple of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029

of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17, times a multiple of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to ~~(7)~~(10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4), ~~(5), (6), and (7) to (10)~~ of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's SF-3 payment and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) ~~An~~ Subject to section 3314.085 of the Revised Code, an amount

equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code is multiplied by the greater of the following:

(a) The community school's fiscal year 2005 base formula amount, as adjusted by the fiscal year 2005 cost-of-doing-business factor of the school district in which the student is entitled to attend school;

(b) The sum of (the community school's current base formula amount times the current cost-of-doing-business factor of the school district in which the student is entitled to attend school) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(2) Prior to fiscal year 2007, the greater of the following amount calculated under division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, the following amount:

the greater of (the community school's fiscal year 2005 base formula amount

X the fiscal year 2005 cost-of-doing-business factor
of the district where the student

is entitled to attend school) or [(the school's current base formula amount times the current cost-of-doing-business factor of the school district where the student is entitled to attend school) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code] +

(the applicable special education weight X
the community school's base formula amount);

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services

pursuant to an IEP for a handicap described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's ~~DPIA~~ poverty student count is multiplied by the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance that school district receives that year pursuant to division (B) or (C) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special

education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

The district's per pupil amount under division (F) of section 3317.029 of the Revised Code shall be determined as described in division (C)(6) of this section.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool handicapped or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either

as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school

year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section. For purposes of this section:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time ~~between~~ beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) A student's percentage of full-time equivalency shall be considered to be the percentage the hours of learning opportunity offered to that student is of nine hundred and twenty hours. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours.

(M) The department of education shall reduce the amounts paid under

division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A)(1) or (2) of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any ~~internet- or computer-based~~ community school that includes in its program the provision of computer hardware and software materials to ~~each~~ any student, if such hardware and software materials have not been delivered, installed, and activated for ~~all students~~ each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such ~~internet- or computer-based~~ schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

Sec. 3314.084. (A) As used in this section:

(1) "Formula ADM" has the same meaning as in section 3317.03 of the Revised Code.

(2) "Home" has the same meaning as in section 3313.64 of the Revised Code.

(3) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code; however, a community school established under this chapter is not a "school district of residence" for purposes of this section.

(B) Notwithstanding anything to the contrary in section 3314.08 or 3317.03 of the Revised Code, all of the following apply in the case of a child who is enrolled in a community school and is also living in a home:

(1) For purposes of the report required under division (B)(1) of section 3314.08 of the Revised Code, the child's school district of residence, and not the school district in which the home that the child is living in is located, shall be considered to be the school district in which the child is entitled to attend school. That school district of residence, therefore, shall make the report required under division (B)(1) of section 3314.08 of the Revised Code with respect to the child.

(2) For purposes of the report required under division (B)(2) of section 3314.08 of the Revised Code, the community school shall report the name

AN ACT

To amend sections 9.821, 9.822, 9.823, 9.83, 107.12, 107.40, 109.57, 109.572, 109.93, 111.18, 117.11, 119.07, 120.33, 121.48, 121.51, 122.17, 122.171, 122.602, 122.652, 124.152, 125.04, 125.45, 125.93, 125.96, 125.97, 125.98, 126.07, 126.08, 126.16, 126.21, 126.22, 127.16, 131.44, 133.01, 133.081, 149.311, 151.08, 151.40, 156.02, 164.03, 164.08, 164.09, 166.08, 167.04, 173.04, 173.35, 173.71, 173.85, 173.86, 174.03, 174.06, 183.01, 183.021, 183.17, 183.33, 183.34, 183.35, 305.31, 307.672, 307.695, 307.98, 307.981, 308.04, 317.08, 319.202, 319.54, 322.01, 323.131, 323.151, 323.152, 323.153, 323.154, 325.31, 329.04, 329.05, 329.14, 340.03, 505.37, 505.376, 505.705, 517.08, 709.01, 711.001, 711.05, 711.10, 711.131, 718.01, 718.03, 718.13, 901.171, 1503.05, 1504.02, 1506.01, 1506.99, 1513.08, 1513.18, 1514.081, 1514.40, 1521.01, 1521.20, 1521.21, 1521.22, 1521.23, 1521.24, 1521.25, 1521.26, 1521.27, 1521.28, 1521.29, 1521.99, 1531.06, 1531.35, 1555.08, 1557.03, 1901.34, 2113.041, 2117.061, 2117.25, 2151.362, 2305.2341, 2744.02, 2913.40, 2921.42, 2927.023, 2935.03, 3109.04, 3109.041, 3119.022, 3119.023, 3119.05, 3119.27, 3119.29, 3119.30, 3119.32, 3125.12, 3301.011, 3301.07, 3301.0711, 3301.0714, 3301.0718, 3301.12, 3301.311, 3301.53, 3302.03, 3302.10, 3307.01, 3307.31, 3309.01, 3309.51, 3310.41, 3311.24, 3311.51, 3311.521, 3313.532, 3313.537, 3313.603, 3313.615, 3313.64, 3313.646, 3313.66, 3313.661, 3313.841, 3313.843, 3313.97, 3313.974, 3313.977, 3313.978,

(A) If any community school established under this chapter permanently closes and ceases its operation as a community school, the assets of that school shall be distributed first to the retirement funds of employees of the school, employees of the school, and private creditors who are owed compensation, and then any remaining funds shall be paid to the ~~state treasury to the credit of the general revenue fund~~ department of education for redistribution to the school districts in which the students who were enrolled in the school at the time it ceased operation were entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. The amount distributed to each school district shall be proportional to the district's share of the total enrollment in the community school.

(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the former Ohio SchoolNet commission or the eTech Ohio commission, such hardware or software shall be returned to the eTech Ohio commission, and the eTech Ohio commission shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs operated and administered by the eTech Ohio commission.

(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.

Sec. 3314.08. (A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) ~~"Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.~~

(3) ~~"IEP" means an individualized education program as defined~~ has the same meaning as in section 3323.01 of the Revised Code.

(4)(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a ~~handicap~~ disability described in that section.

(5)(4) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes

described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

~~(6)~~(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

~~(7)~~(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.

~~(8)~~(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) ~~and (6)~~ to (9) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

~~(9)~~(8) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

~~(10) "SF 3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (G), (L), and (N) of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after making the adjustments required by sections 3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), (M), (N), and (O) of section 3317.023, and division (C) of section 3317.20 (9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.~~

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a ~~handicap~~ disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district;

(f) The number of enrolled preschool ~~handicapped students~~ children with disabilities receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any poverty-based assistance reduction factor that applies to a school year.

(C) From the ~~SF-3 payment made to~~ state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's ~~SF-3 payment~~ state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of

the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the ~~greater of the following:~~

~~(a) The fiscal year 2005 base formula amount of that community school as adjusted by the school district's fiscal year 2005 cost of doing business factor;~~

~~(b) The sum of (the ~~current~~ base formula amount of that community school times the school district's ~~current cost of doing business factor~~) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a handicap disability described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance the school district receives that year pursuant to division ~~(B) or~~ (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school. ~~If the district receives poverty-based assistance under division (B) of that section, the per pupil amount of that aid is the quotient of the amount the district received under that division divided by the district's poverty student count, as defined in that section. If the district receives poverty-based assistance under division (C) of section 3317.029 of the Revised Code, the~~

The per pupil amount of that aid for the district shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17; ~~times a multiple of 0.40~~

~~in fiscal year 2006 and 0.70 in fiscal year 2007.~~

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's ~~SF-3 payment~~ state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions for the students entitled to attend school in a particular school district exceeds the sum of that district's ~~SF-3 payment~~ state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) Subject to section 3314.085 of the Revised Code, an amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the

school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a handicap disability described in section 3317.013 of the Revised Code is multiplied by the ~~greater of the following:~~

~~(a) The community school's fiscal year 2005 base formula amount, as adjusted by the fiscal year 2005 cost of doing business factor of the school district in which the student is entitled to attend school;~~

~~(b) The sum of (the community school's ~~current~~ base formula amount times the ~~current~~ cost of doing business factor of the school district in which the student is entitled to attend school) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.~~

(2) Prior to fiscal year 2007, the greater of the amount calculated under division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:

(a) The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;

(b) The sum of the amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:

(i) For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a handicap disability described in section 3317.013 of the Revised Code, the following amount:

~~the greater of (the community school's fiscal year 2005
base formula amount X the fiscal year 2005
cost of doing business factor of the district
where the student is entitled to attend school)~~

~~or [(the school's ~~current~~ base formula amount times
the ~~current~~ cost of doing business factor of the school district
where the student is entitled to attend school) plus
the per pupil amount of the base funding supplements specified in
divisions (C)(1) to (4) of section 3317.012 of the Revised Code}]
+ (the applicable special education weight X the
community school's base formula amount);~~

(ii) For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a handicap disability described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula

prescribed in division (D)(2)(b)(i) of this section.

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance that school district receives that year pursuant to division ~~(B)~~ or (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division

(C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number

of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a ~~handicap~~ disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool ~~handicapped~~ children with disabilities or gifted unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division (D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section and section 3314.13 of the Revised Code including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district

accounts as provided under divisions (C) and (D) of this section and section 3314.13 of the Revised Code. For purposes of this section and section 3314.13 of the Revised Code:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school during a school year for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and division (L)(3) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

(3) A The department shall determine each community school student's percentage of full-time equivalency shall be considered to be based on the percentage the hours of learning opportunity offered opportunities offered by the community school to that student, reported either as number of hours or number of days, is of nine hundred and twenty hours the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred

twenty hours of learning opportunities during the school year.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(O)(1) The department shall not withhold payments to a community school based on a challenge brought by a school district concerning the community school's enrollment and student residency reports submitted to the department without first providing the governing authority of the community school written notice stating the specific grounds for the challenge and requiring the school district to submit evidence supporting its claim that a particular student should not be included in the community school's enrollment or that payment for that student otherwise should be denied. The department also shall permit the governing authority to submit

documentation the governing authority believes confirms or corrects its earlier reports that are subject to challenge. The school district bears the burden of proof. The department shall set a reasonable deadline for the school district and community school to submit documentation regarding the challenge. The department shall not withhold payments pending that deadline. The department immediately shall dismiss any challenge regarding a particular student if the department finds that the school district has not timely submitted evidence as required under this division or otherwise has not met its burden of proof or that the documentation submitted by the governing authority confirms or corrects its earlier reports regarding that student.

(2) If the department finds that the school district has timely submitted evidence and has met its burden of proof and, accordingly, that the particular student for which the district brought the challenge should not be included in the community school's enrollment or that payment otherwise should be denied for that student, the department shall withhold payments to the community school for that student.

If the governing authority of the community school subsequently submits documentation that the department finds confirms or corrects the earlier reports regarding that student, the department shall resume payments to the community school for that student and, if appropriate, shall include payment for the prior months that were withheld.

(3) The department shall not withhold any other payments from a community school without first providing to the governing authority of the community school written notice stating the amount to be withheld, reasons for withholding, and offering an opportunity for a hearing in accordance with division (P)(2) of this section.

(P) (1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes

moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

~~(P)~~(Q) The department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the test and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a

school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for that veteran.

Sec. 3314.083. If the department of education pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a ~~handicapped~~ student with a disability who is enrolled in a community school, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the amount calculated for payment to the community school under section 3314.08 of the Revised Code.

Sec. 3314.086. If the department of education is required to pay an amount under section 3353.25 of the Revised Code to a school district delivering a course included in the clearinghouse established under section 3353.21 of the Revised Code for a student enrolled in a community school established under this chapter, the department shall deduct the amount of that payment from the amount calculated for payment to the community school under section 3314.08 of the Revised Code.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means vocational programs or classes described in division (A) or (B) of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one or two vocational education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted village, or local school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) Notwithstanding anything to the contrary in this chapter or Chapter 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the student's resident school district. On an FTE basis, the student's resident school district shall count the student in the category one or two vocational education ADM for the proportion of the time the student is enrolled in the district's career-technical program and, accordingly, the department of education shall calculate funds under Chapter 3317. for the district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends