



The Legislative Force- preventing legislation from going to the dark side

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OSBA leads the way to educational excellence by serving Ohio's public school board members and the diverse districts they represent through superior service, unwavering advocacy and creative solutions.



Legislative Context

- Second Half of the 131st General Assembly
 - Year 1- Biennial Budget
 - Year 2- Capital Budget
 - Budget Corrections
 - Mid-biennial budget review
- Lame Duck Session
- Election Year

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Election Year

- Primary Elections- March 15
 - All 99 seats in Ohio House
 - 16 of the 33 Ohio Senate seats
 - No statewide offices
 - 68 school levies/ bond issues
- Presidential Primary
- General Election- November 8
 - 7 State Board of Education seats
 - 16 seats in Congress

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Impact of Election Season

- Fewer days in active session/ longer breaks for campaign purposes
- Governor's attention is split- no education MBR?
- More political agenda- no focus on "hot topics"
- Positioning for 2018 statewide elections

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Ohio Constitutional Modernization Commission

- “Thorough and efficient” standard
- Role of the State Board of Education
 - Appointed, elected, size, etc.
- Redistricting

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Joint Education Oversight Committee (JEOC)

- Created in HB 64 (biennial budget)
- Modeled after Joint Medicaid Commission, similar to ORSC
- Held first meeting earlier this month
- Planning on “road trips”
- Looking to do more collaborative bipartisan study of educational policies

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JEOC Membership

- Senate
 - Senator Cliff Hite (R-Findlay)
 - Senator Randy Gardner (R-Bowling Green)
 - Senator Peggy Lehner (R-Kettering)
 - Senator Tom Sawyer (D-Akron)
 - Senator Sandra Williams (D-Cleveland)
- House
 - Representative Andy Brenner (R-Powell)
 - Representative Bob Cupp (R-Lima)
 - Representative Ryan Smith (R- Bidwell)
 - Representative Teresa Fedor (D-Toledo)
 - Representative John Patterson (D-Jefferson)

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JEOC Topics

- Achievement gap and how it is impacted by poverty
- Transportation
- Testing
- Charter school accountability
- Educator preparation
- Role of the State Board of Education
- Report card content
- ESSA state plan

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Every Student Succeeds Act

- Replaces No Child Left Behind (NCLB)
- Effective Date
 - Current waiver in effect until August 1, 2016
 - ESSA changes become effective in the 17-18 school year
 - New state plan by February 2017

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ESSA Features

- Restores state and local governance
- Provides more flexibility to locals
- Moves away from the more punitive aspects of NCLB
- Places restrictions on the USDOE
- Requires “challenging” standards to prepare students for higher learning or employment
- AYP, HQT and federal requirements for teacher evaluation are eliminated

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ESSA Features

- Districts must provide comprehensive support and improvement plans for low-performing schools
 - Those in the lowest 5% of schools statewide
 - Those with graduation rates below 67%
 - Those with underperforming subgroups
- States must notify annually and provide exit criteria



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ESSA Features

- Accountability is still required via statewide testing
 - At least 95% of students
 - English language arts, science and math
 - No AYP, but subgroup data analysis required
 - Can select nationally accepted measures



Senate Bill 3

- Education Deregulation
 - For “qualified districts”- high performing schools
 - Teacher evaluation components
 - Ease licensing requirements
 - Competitive bidding threshold
 - Limitations on assessment- time/ uses
- Charter School Recommendations
 - Delay sponsor evaluation
 - Similar student measure
 - Relax attendance reporting
 - Pay for “offering” instruction wit no accountability required to show that students actually attend

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HB 410

- Truancy
 - Prohibits suspension/ expulsion due to unexcused absence
 - Requires school intervention teams to determine root causes of absences
 - Requires court to consider an alternative to adjudication

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College Credit Plus

- How to weight CCP courses vs. AP, IP, etc.
- Textbooks- who pays?
- Who decides where the course is to be taken- on campus, online, at the high school, etc.
- Parents/ student have no “skin” in the game- need means testing
- How can communication between IHE and the high school/ middle school and with the parents be improved?
- Costs? Eliminate funding floor?

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College Credit Plus

- Need uniform readiness standards
- School districts need a role in that determination
- Rigor- how does one measure the level of rigor?
- HB 445 seeks to address some of these concerns- introduced as a result of feedback from NE Ohio districts

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Medicaid

- Issue with professionals qualified to order, refer or prescribe eligible services in the MSP.
 - Department of Medicaid is seeking a waiver
- Social security numbers of board members are not needed on MSP forms
- House Bill 89

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Lease-Purchase Agreements

- OSFC study/ results
- OSFC resolutions
 - Explicitly allowing lease-purchase agreements
 - Moratorium on new arrangements until law changes

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Other Education Legislation

- HB 113- AED and CPR Training
- HB 212- Education Standards/ Assessment
- HB 383- Financial Literacy
- HB 401- Private School Data
- HB 420- Student Testing Opt-outs
- HB 425- Religious Expression

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Other Education Legislation

- HB 441 Student Activities
- HB 459- ESC Performance Audits
- HB 487- Seal of Biliteracy
- Senate- Pay to Participate?
- SB 246- CAUV Changes
- SB 298- Community school contracts/ operation of online schools

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Questions?



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STATE LEGISLATIVE CONFERENCE

March 16, 2016
Renaissance Columbus

Agenda

- 8:30 a.m.** **Registration**
- 9 a.m.—10 a.m.** **Lobbyists' briefing on key issues**
Tom Ash, Buckeye Association of School Administrators
Barbara Shaner, Ohio Association of School Business
Officials
Damon Asbury, Jay Smith, Jennifer Hogue, Ohio School
Boards Association
- 10 a.m.—11 a.m.** **Legislative leadership perspectives**
Sen. Keith Faber, Senate president
Rep. Cliff Rosenberger, Speaker of the House
Rep. Fred Strahorn, House minority leader
- 11 a.m.—11:45 a.m.** **Education leadership perspectives**
Rep. Andy Brenner, Chair of House Education Committee
Sen. Peggy Lehner, Chair of Senate Education Committee
- 11:45 a.m.—1 p.m.** **Lunch with your legislators**
- 1 p.m.—4 p.m.** **Personal meetings with your legislators**

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Talking Points

COLLEGE CREDIT PLUS

The current school year is the first for the implementation of the new College Credit Plus (CCP) program. CCP replaced the former Post Secondary Enrollment Options program and the locally generated Dual Enrollment programs. Our organizations began hearing concerns from members early in the school year about problems they were encountering with CCP. We subsequently formed a working group of volunteers from school districts around the state to research the issues and develop recommended changes. After meeting with state leaders, gathering information from school districts and deliberating on possible solutions, a writing team compiled a set of recommendations complete with background information and rationale. The following was drawn from this work:

Organization Concerns:

There appears to be a “disconnect” between the education organizations’ understanding of the purpose behind the new CCP program and the realities districts are experiencing. We understood the purpose was to:

1. Eliminate barriers for students with little to no opportunity for advanced standing courses.
2. Provide more opportunities for college credit (rigorous college level courses) for those students who have already demonstrated a readiness for college while still in secondary school.
3. Allow more students to leave high school having earned college credit and thereby reduce the overall cost of a college degree.

We believe the realities of the new CCP for school districts do not match our understanding of the intent and in fact, students may be harmed as a result of these realities. Unfortunately, it is the view of many school district leaders that CCP takes a step backwards in reaching the three goals outlined above (see “CCP Background and Rationale for Recommendations” below, which also includes a summary of proposed HB 445). ***We urge state policy makers to make changes to improve the program.***

The following are recommendations for changes to the program:

- ***Set a uniform standard for determining college readiness (students’ qualified to participate in CCP). School districts must play a role in determining a student’s readiness for college level courses.***
- ***Develop metrics for comparisons between college level courses that qualify for CCP and courses available at the high school level. College courses qualifying for CCP must be as rigorous or more rigorous than the courses students can take at the high school. Otherwise, more should be done to assure that high school level courses can result in college credit.***
- ***Create a statewide textbook policy that reduces the burden for school districts if they are to be the sole provider of textbooks for CCP courses. A more structured state policy should be adopted to ensure a more uniform practice statewide for the purchase and use of textbooks for CCP courses.***
- ***Eliminate the “floor” for school districts where school district faculty is conducting the CCP Course on the school district campus and instead***

allow flexibility at the local level for financial agreements between school districts and Institutions of Higher Education (IHE)s. (Perhaps the colleges could receive state aid to cover the cost of providing college credit to the student, etc., meanwhile school districts are already covering the costs for high school credit).

- ***Establish a level of financial responsibility for parents (based on a means-tested formula as with other state policies) in order to create accountability for the student and family rather than CCP being an entitlement regardless of student's performance or outcome in the college course.***
- ***Create a commission or committee that includes all stakeholders for the decision making and rule setting for CCP (IHE and ODE as well as local district personnel).***
- ***Increase the availability of high school teachers qualified to be adjunct instructors permitted to teach CCP courses. School districts currently do not have any authority for the approval of qualified instructors, and there is no statewide consistency in who is selected to teach. Qualified high school instructors sometimes are not selected by IHEs, which may elect to use their own faculty members.***

Background and Rationale for Recommendations:

Barriers — Successful Dual Enrollment courses/agreements were very much in existence prior to CCP. In some rural areas of the state, there may have been fewer of these agreements; however, the agreements did exist for some time before CCP and were very successful:

- Most school districts were able to negotiate agreements with (IHE) that resulted in either no cost or low cost to students and to the district.
- Many school districts utilized a means-tested policy for determining whether or not, or how much, students would pay for college tuition (where a cost was incurred by the school district).
- Many school districts and IHEs agreed that the IHE would provide the textbooks.
 - Under CCP, textbooks have become a huge expense for school districts with little to no control over their purchase.

Opportunities — It appears that more students are taking advantage of college courses through the new CCP program. However, there is no uniform or clear determination as to whether or not a student is “college ready.”

- School districts are reporting that students are choosing to substitute less rigorous college courses for more challenging courses at the high school level (i.e., AP, IB, and other advanced level courses).
 - Districts are being forced to eliminate some more rigorous high school courses since fewer students are enrolling.
 - Class ranking may be affected, thereby creating an uneven playing field for those choosing more rigorous coursework
- Likewise, many students who have not performed well in traditional high school courses are enrolling in CCP courses.
 - Anecdotally, there appears to be a significant number of students failing CCP courses, which could adversely affect their college GPA.
 - Students who drop CCP courses may not have time to pick up the credit required for graduation if they have withdrawn after a deadline date.

- Are the traditional districts responsible for making credit opportunities available when a student drops a course midway through the semester?
- In some instances, school districts are able to host CCP courses on their own campus with school district staff teaching the courses.
 - However, districts are paying tens of thousands of dollars to the IHEs for courses taught by their own teachers in their own buildings.

Communication — Communication between IHEs and school districts is insufficient to ensure success.

- School districts have reported having no information from the IHE about which students have been accepted until late into the semester.
- Grades and progress by the student are not communicated in a timely manner to the school district.
 - Districts that have GPA requirements for participating in sports and other extracurricular activities may not have the information they need from the IHE to make an appropriate determination.

Textbook Practices — IHEs have complete control over which textbooks will be required for a CCP course, even though the school district must bear the cost.

- Previously, local agreements with IHEs may have included the cost of the textbooks (covered by the IHE).
- No uniform practice has been followed among IHEs for the purchase of textbooks.
 - Some IHEs have provided textbooks to the students and subsequently billed the district, with the district having no idea what the cost will be.
 - Some IHEs have sold textbooks to individual students requiring that the student get reimbursement from the school district.
 - Many IHEs have offered to buy back the textbooks (sometimes unused by the course instructor) for a price that is pennies on the dollar compared to the original price the district paid.

HOUSE BILL 445 — CURRENT PROPOSAL TO CHANGE COLLEGE CREDIT PLUS

House Bill 445 was introduced on February 3 to address some of the issues with the CCP, some of which have been articulated in this document. The legislation, which is currently in the House Education Committee, had its first hearing on February 16.

Our organizations are generally supportive of the proposed changes contained in HB 445. However, there is not clear agreement by our membership on the provision that would change the amount of high school credit that would be awarded to a student for a CCP course (see the next to the last provision listed here). We believe the provision needs more discussion among stakeholders.

HB 445 contains, among other provisions, the following:

- Any textbook purchased for a CCP course is the property of the entity that paid for the textbook. A CCP student is required to return any textbook to the entity that paid for the textbook.
- We believe these provisions are currently required by administrative rule; however, some districts have reported experiences that do not align with the rule.
- A school's policy for awarding grades and calculating class standing for CCP

- courses must be equivalent to the school's policy for comparable courses taken under another Advanced Standing program or for comparable honors courses. (However, it is not clear who determines which courses are comparable.)
- Schools are prohibited from applying a weighted grade or enhancing a student's class standing for a CCP course that is not comparable to an Advanced Standing or honors course.
 - High school credit for CCP courses is to be awarded at a ratio of one unit of high school credit for every four credit hours of college credit (rather than three). This last point creates an interesting dilemma:
 - On the one hand, it addresses the issue of having one semester of a college course being equal to a year-long high school course.
 - On the other hand, this could force students to take additional CCP courses in order to meet Ohio's graduation requirements (with additional cost to the school district).
 - The bill specifies that if a CCP course is offered and delivered on the campus of a student's high school, that student cannot enroll in a comparable CCP course that is delivered on the college's campus, at another location operated by the college, or online.
 - While this provision solves an issue raised by members about students choosing to attend courses at the college rather than attend a CCP course offered at the high school, it could be punitive for a student attending other courses on the college campus.
 - If CCP courses were to be required to meet standards of rigor equal to the high school course already offered (as suggested in the recommendations included in this document) this provision might not be necessary.

PROPOSED ELIMINATION OF PUBLIC UTILITY TANGIBLE PERSONAL PROPERTY TAX ON ELECTRIC GENERATION OF PROPERTY

No bill has been introduced on this issue during the 131st General Assembly EXCEPT that a provision to eliminate the Public Utility Tangible Personal Property (PUTPP) tax on electric generation property was included by the legislature in HB 64, the biennial budget bill. However, Governor Kasich vetoed the provision. After the veto, representatives from the large, investor-owned utility companies approached the local government organizations (including BASA, OASBO and OSBA) about the proposal. They were interested in finding a compromise that would allow the governor to support the elimination of the PUTPP tax on electric generation property. While the utility companies agreed to a permanent hold harmless provision for schools and local governments, we remain concerned about the proposal. After consulting with the experts from the Ohio Education Policy Institute (OEPI) and the school districts affected by the proposal, we prepared information for legislators about the issue (see the Background and Concerns below) and urged the following:

It is our recommendation that the proposal to eliminate the public utility property tax on electric power generation be delayed until such time the effects of any Power Purchase Agreement (PPA) for one or more utility companies can be determined. The two proposals are intertwined and the legislative proposal should take the final PPA into account, if it is deemed appropriate for adoption.

Background: The communities which house electric power generation facilities deserve

special consideration under the state's tax policy because of the harmful impact these units may have on the community. The current tax revenues within the jurisdictions where generation facilities are located help to defray direct and indirect costs ("externalities") the facilities impose on the residents of these communities. In some cases, the existence of a facility may also be an economic development deterrent, preventing the community from otherwise growing its tax base. In many cases, this has led to major dependence on the tax valuation of generation property.

Whether from a plant closing or from state policy changes, the effects of losing the value of the generation property on many of the affected local governments and school districts may be devastating. In some cases, this property may represent nearly half of the property wealth for an entity. Unfortunately, the real impact will be on the other taxpayers within the jurisdictions of the affected schools and local governments. The elimination of the value of the generation property represents a shift in the responsibility to homeowners, other businesses, and farmers for funding these local entities.

Concerns about proposed PUTPP elimination for generation property:

- Affected school districts will lose a significant amount of value from their tax base for future levies.
- Even though the proposal contains a "hold harmless" provision for schools and local governments:
 - Nothing would prohibit future legislatures (and administrations) from taking action to end replacement payments (as we have seen with previous hold harmless provisions).
 - Freezing payments based on Tax Year (TY) 2015 may create winners and losers as some currently experience regular increases from new investment in the generation property.
 - Freezing payments at TY 15 will not keep up with increases in service provision needs and operating costs. The result will be a shift in tax burden to other taxpayers over time.
- Districts that have already locked in a state share percentage for Ohio Facilities Construction Commission (OFCC) projects will be penalized for future bond issues for those projects.
- Some of the districts affected by this proposal are already experiencing a phase-out of payments from previous reductions in PUTPP tax assessment rates.
- Several districts have reported that values for these properties are already under appeal; districts may never recover losses for valuations not settled before TY 15.
- Utility companies have separately requested generous riders on electricity bills for purposes of subsidizing the operating costs and raising capital for new investment in Ohio facilities through a PPA, (pending approval by the PUCO).
 - New investments initiated due to the PPA riders would never generate new revenue for the local taxing jurisdictions; meanwhile, the value of the assets will go up for the utilities.
 - No re-evaluation will occur at any point in the future that would take the PPA rider into account.
 - Again, districts and local governments would be held at 2015 revenue levels.
 - School districts and local governments would be subject to the new rider (if approved).

- The utilities have argued that there are plants closing, and new investment isn't occurring because of the onerous PUTPP tax. Yet there are new generation facilities cropping up around the state** within the current tax structure -- this includes authority for local governments to grant tax abatements or "Payments In Lieu of Taxes" for those projects determined to have sufficient public benefit, temporarily foregoing a portion of local tax revenue (a local decision based on local circumstances).
- The very nature of the PPA will cause utilities to invest more and increase the likelihood they will be operating at the end of the 15-year period contained in the bill while still remaining subject to the current property tax.
- Further, recently revised generation capacity rates on the PJM will potentially inject hundreds of millions of dollars into Ohio generation facilities beginning in June of 2016. This represents another financial windfall to Ohio generators.

** The Ohio Power Citing Board has approved projects for the expansion of generation capacity by at least 1300 megawatts within the past three years.

HOUSE BILL 410 — TRUANCY

- Changes the threshold for "habitual truancy" from a specified number of days to a specified number of hours (30 consecutive hours of unexcused absence, 42 in one month, or 72 in one year).
- Prohibits a school district or school from suspending or expelling a student or otherwise prohibiting attendance solely on the basis of a student's unexcused absences and removes "excessive truancy" from the specifications for a school district's zero tolerance policy for violent, disruptive, or inappropriate behavior.
- Modifies the components of the required policy addressing and ameliorating student absences and requires the establishment of an absence intervention team for each student who is absent from school for a number of days that exceeds the threshold for an habitual truant.
- Requires the attendance officer to notify a student's parent, guardian, or custodian in the event the student is absent with or without legitimate excuse for 38 or more hours in one school month or 65 hours in a school year.
- Requires each school district and school to report to the Ohio Department of Education (ODE) the occurrence of certain triggering events with respect to a student's absences, including whenever a child has received enough unexcused absences that the child is considered an habitual truant.
- Specifies that only after a child refuses to take part in or fails to complete the juvenile court diversion program (if offered) and the absence intervention plan, must a complaint be filed in juvenile court to adjudicate that child an unruly child for being an habitual truant.
- Requires the juvenile court to hold in abeyance a complaint that a child is unruly based on the child's habitual truancy pending the child's completion of or failure to comply with a diversion program and requires the court or agency appointed by the court to develop that diversion program.
- Requires the juvenile court to provide notice of any adjudication of an unruly child for being an habitual truant or adjudication of a delinquent child to the school district and school in which the child was enrolled at the time of filing the complaint.

- Requires the juvenile court, when submitting its annual report, to specify the number of children placed in diversion programs, the number who successfully complete those programs, and the number who fail to complete those programs and were therefore adjudicated unruly.
- Requires the State Board of Education to develop a model policy for violent, disruptive, or inappropriate behavior, including excessive absences, that stresses preventative strategies and alternatives to suspension or expulsion, for use by schools in complying with the modified requirements.
- Clarifies that the parent, guardian, or custodian of an adjudicated truant child must provide a surety bond in the sum of up to \$500 as required by the court.
- Specifies that an act that tends to cause a child to be a chronic truant and that contributes to an adjudication of that child as a delinquent child because of that truancy is a first-degree misdemeanor.

Members are encouraged to share information about their experiences in reducing both excused and unexcused absences. (For example, does your district have its own full-time attendance officer? What is the district's relationship with the Juvenile Court?)

We support the concept of "absence intervention" in order to address the root causes of absenteeism. However, we question whether all school districts have the capacity to form the absence intervention teams and to produce the plans within thirty days. This includes not only smaller school districts with limited administrative support but also urban centers with extremely high absence rates.

The bill would also require that the attendance officer of a public school notify a child's parent, guardian, or custodian if the child is absent with or without legitimate excuse from the public school the child is supposed to attend for 38 or more hours in one school month, or 65 or more hours in a school year. That notice must be made, in writing, within seven days after the date of the absence that triggered the notice requirement. There is no funding in the bill for either attendance officers or administrative support for those officers.

Districts have no method of requiring a child's parent or guardian to participate in the development of the absence intervention plan.

Reporting requirements to ODE are excessive as there are four different "triggers" to require a report to be filed with the department. In essence, one student could generate four different required reports to ODE.

PAY TO PARTICIPATE

Pay To Participate is not yet a part of any pending legislation. However, Senator Cliff Hite (R-Findlay) said in a recent statement that there will be legislation to address the issue in two years if schools and districts do not take appropriate action to eliminate those fees.

Senator Hite has joined with Secretary of State Jon Husted in decrying the fees since they feel that such fees discourage many students from participating.

We agree that participation in extracurricular activities is positive for our students. It encourages cooperation, team and school spirit, positive behavior, good sportsmanship, and healthy competition.

We are also concerned that the elimination of the fees could result in even less participation if districts found it necessary to cancel those activities which are not self-supporting.

Moreover, if districts did cancel certain activities that exist in adjacent or nearby districts, it could lead to increased inter-district open enrollment to the district offering the activity.

We believe that the elimination of the fees is also in many ways not equitable. After all, many fewer activities exist for students below the seventh grade. In addition, districts with adequate resources could continue to offer activities that would be beyond the means of less wealthy districts.

The proposal should provide a dedicated revenue stream for all extracurricular activities to all districts to offset the cost of these programs or, at the minimum, provide for some type of means testing whereby families with the ability to pay would contribute to the costs.

HOUSE BILL 441 — INTERSCHOLASTIC ACTIVITIES

- Permits a student enrolled in a nonpublic school to participate in an interscholastic activity at a school district that is not the student's resident district if superintendent of the student's resident district and the superintendent of the district in which the student is seeking to participate in an extracurricular activity mutually agree to allow the student to participate in that activity. (The bill would continue the current requirement that the student is of the appropriate age and grade level and fulfills the same academic, nonacademic, and financial requirements as any other participant.)
- Prohibits a public or nonpublic school student who participates in the CCP program from being denied the opportunity to participate in interscholastic athletics offered by the student's school, solely due to the student's participation in the program. (Unlike the provisions in the preceding and following paragraphs, there is no requirement that the CCP student in a public or nonpublic school fulfill the same academic, nonacademic, and financial requirements as any other participant.)
- Applies the same prohibition from being denied the opportunity to participate in interscholastic athletics that are offered by the district school to which the student would have been assigned, if the CCP student is enrolled in a community school, Science, Technology, Engineering and Math (STEM) school, or nonpublic school or is home-instructed, provided the student is of the appropriate age and grade level and fulfills the same academic, nonacademic, and financial requirements as any other participant.

Note: Similar language on participation by CCP students appears in HB 445 except that the requirement there is not to prohibit such students from participating "in an extracurricular activity" rather than "in interscholastic athletics."

Current law permits a nonpublic school student to participate in an extracurricular activity in a non-resident district if the nonpublic school does not offer the activity and if the activity is not competitive (thus eliminating interscholastic athletics, forensics, music contests, etc.). The bill would eliminate the exclusion of competitive activities.

While we still believe that the nonpublic school student should participate in the district of residence and we recognize that both superintendents would need to agree to such participation, we also believe that the eligible non-resident school district should be significantly restricted. (For example, it could be limited to the non-resident district in which the nonpublic school is located. Or, it could be limited to the nonresident district school offering the activity and closest to the nonpublic school.) Otherwise, this could lead to recruiting issues.

We believe that public and nonpublic school CCP students participating in extracurricular activities should be required to fulfill the same academic, nonacademic, and financial requirements as any other participant.

SENATE BILL 3 — COMMUNITY SCHOOLS/ELECTRONIC SCHOOLS

The passage of Am. Sub. HB 2 in October 2015 promised much-needed transparency and accountability for the sponsors and operators of charter/community schools. The bill was passed on October 27, 2015, signed by the Governor on November 1, 2015 and became effective on February 1, 2016. Yet less than two months from its effective date, supporters of on-line electronic schools are already seeking amendments to some of the new provisions. Specifically, we have learned of changes being advanced by e-school lobbyists seeking to water down some of the important accountability provisions contained in HB 2. Among the revisions of greatest concern to us are:

- Delays in implementing the new sponsor evaluation process
- Removing report card data from the sponsor evaluation process
- Loosening attendance reporting requirements
- Payment credit based on just offering 900 hours of instruction, but with no required documentation of student time on task
- Substituting a weaker accountability measure for charters instead of the value-added method currently in place. (Similar Students measure)

The proposed changes, if supported by the majority caucus, are likely to be offered as amendments to Sub. SB 3 – Education Laws Deregulation. The bill was introduced by Senate President Keith Faber (R-Celina) and Senator Cliff Hite (R-Findlay) in February 2015 and it passed the Senate in March 2015.

We oppose proposed changes to weaken charter school accountability. Ongoing media reports attest to the need for even closer monitoring and reporting of the attendance and performance of electronic school students. We would recommend even more thorough reporting of the true financial costs of on-line schools in order to better determine how taxpayer dollars are being expended and how local school districts are impacted by the transfer of state and local resources to support these failing schools.

With respect to the Similar Students Measure (SSM), an academic accountability methodology developed by the California Association of Charter Schools, HB 2 called for a study to be completed prior to implementing any aspect of the method. Even the developers of the method stress that it should not be used as a means of comparing charters and traditional schools. Further, some experts have indicated that Ohio's current academic accountability methodology is already superior to the SSM model.

BASA, OASBO and OSBA support the regulatory relief offered in the current version of SB 3 and have offered testimony in both the Senate and House. However, it is our position that all the regulatory relief provisions in SB 3 should be available to every district, regardless of their current performance status.

If the goal is to allow districts more flexibility in order to better address the needs of students, districts that are struggling academically could benefit greatly from the provisions in the bill.

Some of the regulatory changes in the Senate-approved version include:

- Modifications to the teacher evaluation process, by increasing the teacher performance component to 50%, decreasing the student academic growth measure to 35% and permitting districts and schools to use a combination of other components, including student surveys for the remainder of the evaluation.
- Proposed changes to potential assessments for participants in the Ohio Teacher Residency Program to allow districts to use the teacher's annual evaluation.
- Exempts qualifying districts from several requirements of current law related to teacher qualifications under the Third Grade Reading Guarantee, teacher licensing, mentoring under the Teacher Residency program, and class size restrictions.
- "Qualifying" requires that (1) the district received at least 85% of the total possible points on the performance index, (2) an "A" for performance indicators met, and (3) 93% and 95% for the four-year and five-year adjusted cohort graduation rates.
- Provides opportunity for an alternative resident educator license to be issued to an individual who has not completed coursework in the subject area for which the individual is applying to teach.
- Increases the competitive bidding threshold for school building and repair contracts to from \$25,000 to \$50,000.
- Several items addressing concerns about state and district-wide assessments (later included in HB 64).

Our organizations have also requested that the items below be added as amendments to SB 3:

- Districts which had significant tangible personal property tax values and which completed Expedited Local Partnership (ELP) programs with the Ohio School Facilities Commission are at a definite disadvantage. The local share does not reflect what could actually be collected if voters approved a bond issue now. We propose that this exemption apply only for ELP districts with tangible personal property making up at least 18% of total property value in tax year 2005.
- House Bill 87 of the 130th General Assembly, made significant changes in

- eligibility for young people to take the tests of general educational development (GED) without requiring approval from any school district official. Students passing the GED should not count as dropouts since the school had prepared them for success on the assessment.
- Funding for preschool children with disabilities should be based on actual Full Time Equivalent (FTE) and not universally set at 0.5 FTE. The funding should reflect the child's needs rather than a uniform Average Daily Membership (ADM).
 - While SB 287 was meant to "modernize" Ohio's depository laws (a concept supported by our three organizations), one particular provision takes a step backward. Under previous law, school districts were permitted to invest interim funds in commercial paper issuances, limited to 25% of total interim funds. This gave districts the opportunity to manage cash flow while earning some interest on the funds needed for expenses throughout the year. A provision in SB 287 contains more stringent requirements by limiting commercial paper issuers to 5% of interim funds. This limits the number of options available for interim investments. The education organizations are concerned with the 5% limitation and request that the 5% limit be raised to 10 or 15% (15% preferred) for school districts.
 - We request that ORC 5705.212 be amended to allow incremental levies to be used for PI. Under current law, incremental levies can only be used for current expense (operating) levies.
 - Under Ohio law, a State Teacher Retirement System (STRS) member can purchase service credit for approved leaves of absence at any time during or after the leave. While the employee is responsible for any interest for leaves purchased more than two years after the leave, the school district is still responsible for the employer share even though the purchased service credit occurs years after the actual leave, and that STRS member may no longer even work in the district responsible for payment. A deadline for initiating the purchase of such service credit should be established.
 - When a court of competent jurisdiction (usually a juvenile court) assigns a student to a Department of Youth Services or private residential facility, the school district of residence is responsible for tuition (the per pupil share of local taxes collected). Since the school district is not involved in the assignment of the student to the facility, the responsibility for the tuition should fall to the court or the State of Ohio.
 - If a school district or educational service center hires a nonteaching staff member and then re-employs that person for the next year, that staff member then enjoys continuing contract status (or tenure). Consequently, many such employers non-renew those staff members at the end of each year (and then re-employ them a month or so later) in order to avoid the tenure issue. Interestingly, the Education Opportunity Act increased the length of service required for teachers seeking tenure to seven years. Lengthening the number of years for nonteaching employees to achieve tenure would reduce the need for the non-renewals and the accompanying cost of unemployment compensation.
 - Regional Councils of Government (RCOGs) should be permitted to designate themselves as Educational Energy Councils (EECs) if they are composed exclusively of school districts, and have engaged in acquiring energy supplies for school districts. The EECs should be authorized to issue debt in the form of revenue bonds, bond anticipation notes, and refunding obligations to pay the costs of energy acquisition for school districts and establish provisions governing

all aspects relating to issuance, status, holder or owner rights, maturation, and retirement of the debt. By allowing these EECs to issue tax exempt obligations, this would reduce the interest on the debt and result in more savings on energy costs for the participating school districts.

SENATE BILL 250 — ADVERTISING BY COMMUNITY SCHOOLS

SB 250, introduced by Senate Minority Leader Joe Schiavoni prohibits the use of state moneys to pay for advertising, recruiting or promotional materials. ***We support this proposed legislation.***

EVERY STUDENT SUCCEEDS ACT (ESSA)

- Passed and signed into law in December 2015
- Implementation begins in the 2017-18 school year.

Standards —

- Requires challenging standards in English language arts and mathematics that are aligned to credit-bearing, remediation-free coursework at state colleges and universities.
- Prohibits the U.S. Department of Education from mandating or incentivizing states adopt a specific set of standards.

Assessments —

- Keeps the current testing requirements
 - mathematics and English language arts in grades 3-8 and once in high school
 - science once each in the elementary, middle and high school grades
- Continues to require disaggregation of test results by student subgroups
- Allows for the use of nationally standardized test such as ACT or SAT for high school assessments
- Maintains the requirement that 95 percent of students take the state assessments and requires states to factor participation in their report cards

Accountability/ Report Cards —

- Requires report cards to contain at least four measures including achievement, graduation and at least one other measure
- Replaces adequate yearly progress (AYP) with state-defined measures
- Requires at least one non-academic measure of school quality disaggregated by subgroup
- Academic measures must be weighted more heavily than nonacademic measures
- Requires short- and long-term goals to close achievement and graduation gaps

English Language Learners —

- Requires a growth measure for English language learner students in year two in the U.S. and beyond
- Beginning with the third year in the U.S., English language learner students' scores are treated the same as other students
- States are required to establish standardized, statewide entrance and exit procedures for English language learner identification and services

School Improvement – State —

- Requires states to identify schools for “comprehensive support and improvement” and annually notify districts which schools require “targeted support and improvement”
- At a minimum, requires states to identify schools in the lowest five percent of performance, high schools with graduation rates below 67 percent and those schools with persistently poor performance by subgroups at least every three years
- School Improvement Grants are eliminated; states are allowed to set aside seven percent of their Title I, Part A funding for school improvement
- Eliminates all federally mandated interventions

School Improvement- Districts —

- Requires districts to develop comprehensive support and improvement plans for identified schools; plans must be approved by the school, district and state
- Requires engagement of stakeholders in the planning process
- Requires support and improvement plans that are evidenced-based, based on school-level needs assessments and address resource inequalities
- Districts may be subject to more rigorous, state-determined actions if their schools do not show significant improvement after a period of time (not to exceed four years)

Teacher Quality —

- Eliminates the requirement for teacher and principal Highly Qualified Teacher status
- Eliminates the federal requirement for educator evaluations; however, states are required to implement equity plans to ensure economically disadvantaged and minority students are not disproportionately served by ineffective, out-of-field or inexperienced teachers, principals and other school leaders
- Requires districts to notify parents of their rights to request and receive information regarding the professional qualifications of their children’s classroom teachers

Other Provisions —

- Includes provisions designed to address barriers to achievement for students in foster care
- Maintains the requirement that federal funds be used to “supplement, not supplant”
- Continues the “maintenance of effort” requirement

The work on federal rulemaking and the drafting of Ohio’s state plan is underway. As both the U.S. Department of Education and ODE move forward, it is imperative that they receive input from local boards of education and school officials. We believe that the ODE needs to take time to thoughtfully craft a plan that does not just fill in the blanks required by the new law, but thinks creatively and comprehensively about Ohio’s state plan. Ohio has the perfect opportunity to step back and explore our system and design what will work best for Ohio given the new parameters and flexibilities provided under ESSA.

MEDICAID SCHOOL PROGRAM

Background — The Medicaid School Program (MSP) is administered by the Ohio Department of Medicaid (ODM) and ODE and reimburses schools for services provided to children with an Individualized Education Plan (IEP). ODE is required to administer aspects of the MSP pursuant to an interagency agreement with ODM. Currently schools in Ohio are able to claim federal funds totaling an estimated 46.5 million over the biennium according to ODM.

Currently there are 580 school systems that participate in the MSP. These school systems enroll approximately 61,000 Medicaid-eligible students. Currently in Ohio we have over 231,000 students identified with a disability representing about 15% of Ohio's student population. The MSP allows local school districts to submit claims to ODM for certain allowable services covered under the MSP. The services currently allowed under the MSP are enumerated within the Ohio Administrative Code (AOC) and include; occupational therapy services; physical therapy services; speech-language pathology services; audiology services; nursing services; mental health services; assessments and evaluations; specialized medical transportation services; targeted case management; and medical supplies and equipment.

Once claims for these services are submitted to ODM on behalf of the school districts, ODM then submits them to the Centers for Medicare & Medicaid Services (CMS) in order to receive the Federal Financial Participation (FFP). Once ODM receives the FFP, it distributes the funds back to the local school districts that provided the services.

The federal government shares in the states' cost of Medicaid at a matching rate known as the Federal Medical Assistance Percentage (FMAP). The FMAP is calculated for each state based upon the state's per capita income for the last three years relative to the entire nation. The FMAP for Ohio for fiscal year 2015 is 62.64%. This results in about 63 cents for every one dollar Ohio spends on Medicaid.

Ohio Department of Medicaid Announcement — On January 27, 2016 the Ohio Department of Medicaid (ODM) announced that Ohio's Medicaid School Program (MSP) is out of compliance with the federal requirement for Ordering, Referring and Prescribing (ORP) providers. Compliance to these requirements is now required in order to receive Federal Medicaid reimbursement for MSP services. This requirement is a component of the federal Patient Protection and Affordable Care Act (ACA "Obamacare"), Section 6401, in accordance with 42CFR 455.510, "enrollment and screening of providers", and 42 CFR 455.440, National Provider Identifier (NPI). The ORP requirement was implemented across the state of Ohio in all other areas of the Medicaid Program in January 2015, but the Ohio Medicaid agency waived the requirement for the school community for the 2014-2015 school year.

After ODM consulted with the federal Medicaid Agency "Centers for Medicare & Medicaid Services" (CMS) in July 2015, CMS issued a response dated October 23, 2015 that MSP could not be waived from the ORP requirement and must come into compliance by August 1, 2016. In addition, CMS expressed concerns about the following language that was removed from Ohio's State Plan Amendment (SPA) in January 2014.

"A prescription by a Medicaid authorized prescriber will not be required as a condition for Medicaid reimbursement for services delivered by a Medicaid School Program (MSP) provider, as defined in Ohio Administrative Code, if the

services are authorized by a licensed practitioner of the healing arts and indicated in an individualized education plan (IEP) developed in accordance with the Individuals with Disabilities Education Act (IDEA). All other reimbursement principles detailed below apply to MSP providers in the same manner they apply to community providers.”

It is our understanding that ODM has the sole authority to determine how the requirement can be implemented within Ohio’s program, as long as federal requirements are met. Based on these changes and on ODM’s agency policy to comply with the ORP requirement, the MSP is severely limited in the provider types that are permitted to now serve in this capacity. Specifically, ODM has only specified, within it’s policy, that Physicians, Physician Assistants or Advanced Practice Nurses can order, refer, or prescribe for the MSP eligible services.

The following are some of the concerns raised by school districts about the stated change:

- The additional cost for compliance with the new requirement will be significant. The services of a physician, advance practice (AP) nurse, or physician’s assistant (PA) will come at a price, one that is not currently embedded in districts’ costs.
 - Districts do not typically employ these individuals. Even if this is the practice in some other states, we think the added cost to Ohio school districts is unjustified and unnecessary.
 - Other states whose SPA require a physician’s participation do not receive the same level of reimbursement for some of the services which typically make up the majority of Medicaid claims by Ohio districts. In other words, Ohio districts may see reduced claims because of the new restrictions.
 - It is our understanding that Ohio’s MSP program was specifically re-designed in 2009 to allow for “licensed practitioners of the healing arts” to include the school based therapists who work independently of physicians. Since they have independent practice authority and do not require prescriptions or referrals in accordance with their Ohio licensure and practice acts, the process is a better fit for the school delivery model.
- The stated new requirement places a significant responsibility on school districts to find appropriate practitioners, with no perceived value-added to the program.
 - The Ohio Administrative Code (OAC) defines practitioners more broadly than the new requirement allows, which would indicate other options than those described in recent communications from ODM. The OAC definition would include practitioners that are regularly employed by school districts.
- If the goal in implementing this new layer of bureaucracy is to limit opportunities for fraud, waste and abuse, we disagree that it is needed. Currently, no individual within a school district benefits when orders are written for medical services to fulfill a student’s IEP. Unlike with the traditional medical model for Medicaid, opportunities for fraud, abuse, and waste do not currently exist in the school delivery model.
- Small, low wealth school districts, those which need the Medicaid reimbursement the most, will find it difficult to comply with the new requirement, forcing them to drop from the program.

- It is the position of the schools that it will be virtually impossible to fulfill the need for Ordering/Referring/Prescribing (ORP) authorization for approximately 61,000 students in the short term and difficult at best in the long term. (Some school districts will have tens of thousands of ORPs to obtain.)
- The October 23, 2015 letter from CMS regarding the ORP issue indicates that Ohio's own action in removing certain language from its SPA was a complicating factor in the CMS conclusion that Ohio was not in compliance with ORP requirements.
- While districts have been concerned about the requirement that every IEP service provider register with the Ohio Department of Medicaid (ODM) as an ORP provider, this apparent alternative has negative effects that are far worse in comparison.
- According to ODM policy, enrollment or reenrollment now requires School Board member's social security numbers (before it was only the Treasurer and or/Superintendent). This is in conflict with OAC where the definition states "an officer or director of a provider that is organized as a corporation or non-profit". Government elected officials (School Board Members) are not included in this definition.

Districts must provide the services necessary to comply with a student's IEP regardless of whether or not there is a partial reimbursement through the MSP. Adding the additional "hoops" districts must jump through for only those students who are Medicaid eligible is unreasonable, particularly when the district is unaware of which students may be eligible (or become eligible) at various points in time.

Therefore, school management associations are requesting information from ODM about why the specific language relevant to this issue was removed from the state's SPA in 2014 as the CMS letter indicates. We are also interested in understanding the ODM's interpretation of the October CMS letter related to the state's ability to determine which licensed practitioners of the healing arts qualify for the ORP process. It appears to us that Ohio has the authority to make the determination of which practitioners are qualified and that the OAC definition includes a broader range of professionals than just physicians, AP nurses, and PA's. Occupational Therapists (OT), Physical Therapists (PT), Speech Therapists and Psychologists would also be included.

Based on our understanding of the issues, we are urging ODM to revisit the determination that physicians, AP nurses and PA's are the only professionals qualified to order, refer or prescribe eligible services in the MSP.

It is our intention to work toward a positive solution to the issues raised here. We would like to ensure that more federal dollars come to Ohio school districts through the MSP. We fear this latest change will mean fewer dollars for Ohio schools and consequently higher costs.

HOUSE BILL 89 — MEDICAID SCHOOL PROGRAM (MSP)

House Bill 89 was introduced on February 25, 2015 by Rep. Anthony DeVitis (R-Uniontown) and subsequently amended and passed by the House Health and Aging Committee on January 20 of this year. The bill revises the law governing the Medicaid

School Program (MSP). The following are provisions currently included in Substitute HB 89 as passed by the House Health and Aging Committee:

- Provides for ODE to receive at least 2.5% of the federal matching funds the state receives for the MSP.
- Requires the ODM and ODE to jointly prepare procedural guidelines for, and other informational materials about, the MSP that give school providers clear instructions for participating in the MSP.
- Requires each MSP school provider to submit to ODE an annual report containing certain information about the provider's students.
- Requires ODE to use an MSP school provider's report to determine the provider's individualized education program rate and Medicaid eligible rate.
- Eliminates a requirement that an MSP service be provided in a school.
- Specifies conditions under which an MSP claim is to be rejected.
- Requires each MSP school provider to submit to ODM annually all claims data
- ODM needs for the provider's MSP claims.
- Permits ODM to make to MSP school providers interim payments of the federal funds ODM receives for MSP claims.
- Requires each MSP school provider to submit to ODM annually a cost report documenting the provider's actual costs incurred in providing MSP services to Medicaid recipients.
- Requires ODM to reconcile interim payments made to an MSP school provider for a fiscal year with the provider's cost report for that fiscal year.
- Requires that the MSP cover delegated nursing services provided by an unlicensed adult employed by or under contract with an MSP school provider.
- Requires the MSP to cover personal care services under certain circumstances.

At this time, OSBA, BASA and OASBO have not formally taken a position on Sub. HB 89. We are actively working with interested parties and would like to hear member feedback on these proposed changes. The following are some of the arguments mentioned during hearings before the House Health and Aging Committee.

Proponents of the legislation claim the legislation lends clarity and direction to the change implemented recently by CMS, and how it affects our state's schools. Advocates for HB 89 believe this is a responsible, organized approach to Medicaid-eligible services in school settings, and these guidelines will help the school programs to run efficiently and benefit the students participating.

Proponents include:

- ***Ohio State Medical Association***
- ***MSB Consulting (Represents 105 Ohio school districts and based out of Texas)***
- ***Ohio Alliance for Medicaid in Education (OAME), Bryan Williams, Interested party alliance***
- ***Putnam County Educational Service Center Sup. Dr. Jan Osborn***

Opponents of the legislation fear the Medicaid School Program would be placed in jeopardy for similar reasons that caused the program to be closed in 2005 (at the time it was known as the Community Alternative Funding System (CAFS))

program). In addition opponents fear that any changes made to the program would require reopening the state plan. Once the plan is reopened, currently negotiated items may be lost. Opponents do not object to the expansion of Medicaid eligible services but are weary of reports by proponents on how much additional money could be captured by this proposed expansion.

Opponents include:

- Healthcare Process Consulting (HPC), Inc., Karen Bresky,(Represents 125 school districts)***
- Healthcare Billing Services (HBS), Daniel Thomas, (Represents 350 school districts)***

In addition, John McCarthy, Director of the Ohio Department of Medicaid (ODM), has expressed concerns with this legislative proposal both publicly and in meetings with our associations. We have also heard from several district treasurers who also share concerns with expanding the program through HB 89.

Although we support the expansion of Medicaid eligible services, the question remains on how fast it can and should be done. It is our understanding that ODM is working to expand the program but they are urging caution before proceeding too quickly.

BILL STATUS
(Report created on March 14, 2016)

- HB2** **CHARTER SCHOOL SPONSORSHIP** (DOVILLA M, ROEGNER K) With regard to sponsorship and management of community schools.
Current Status: 11/1/2015 - **SIGNED BY GOVERNOR**; eff. 2/1/2016
- HB89** **MEDICAID SCHOOL PROGRAM** (DEVITIS A) Regarding the Medicaid School Program.
Current Status: 1/20/2016 - **SUBSTITUTE BILL ACCEPTED & REPORTED OUT**, House Health and Aging, (Sixth Hearing)
- HB410** **TRUANCY** (REZABEK J, HAYES B) With regard to habitual and chronic truancy and compulsory school attendance.
Current Status: 2/23/2016 - House Education, (Third Hearing)
- HB441** **INTERSCHOLASTIC ACTIVITIES** (MCCOLLEY R) To permit a student enrolled in a nonpublic school to participate in interscholastic activities at a school district that is not the student's resident district under certain circumstances and to prohibit a student who participates in the College Credit Plus program from being denied the opportunity to participate in interscholastic athletics solely due to participation in the program.
Current Status: 2/23/2016 - House Education, (First Hearing)
- HB445** **COLLEGE CREDIT PLUS-EXTRACURRICULARS** (DOVILLA M, ANIELSKI M) To make changes to the College Credit Plus program and to specify that students participating in the program shall not be denied the opportunity to participate in extracurricular activities based solely upon participation in the CCP program.
Current Status: 2/16/2016 - House Education, (First Hearing)
- SB3** **HIGH PERFORMING SCHOOL DISTRICT EXEMPTION** (HITE C, FABER K) To exempt high-performing school districts from certain laws; to revise the law regarding the administration of state primary and secondary education assessments; to permit school districts to contract with hospitals, health care professionals, and educational service centers for school health services; to revise the competitive bidding threshold for school building and repair contracts; and to require the School Facilities Commission to develop a legislative proposal assisting high-performing school districts in purchasing technology, building expansion, and physical alterations to improve school safety or security.
Current Status: 1/27/2016 - House Education, (Fourth Hearing)

SB250

CHARTER SCHOOLS-STATE MONEY (SCHIAVONI J) To prohibit community schools from using state moneys to pay for advertising, recruiting, or promotional materials.

Current Status: 1/20/2016 - Referred to Committee Senate Education

Important Legislative Websites

Buckeye Association of School Administrators (BASA)

8050 N. High St., Suite 150, Columbus, OH 43235-6486 (614) 846-4080

Website: www.basa-ohio.org

Ohio Association of School Business Officials (OASBO)

8050 N. High St., Suite 170, Columbus, OH 43235-6487 (614) 431-9137

Website: www.oasbo-ohio.org

Ohio School Boards Association (OSBA)

8050 N. High St. Suite 100, Columbus, OH 43235-6481 (614) 540-4000

Website: www.ohioschoolboards.org

Ohio House of Representatives

Website: www.ohiohouse.gov

Ohio Senate

Website: www.ohiosenate.gov