

AN ACT

To amend sections 3334.01, 3334.02, 3334.08, 3334.10, 3334.11, 3334.12, 3334.15, 3366.01, 3366.03, 3366.04, and 5747.01 and to enact sections 3333.37, 3333.371, 3333.372, 3333.373, 3333.374, 3333.375, 3334.18, 3334.19, 3334.20, 3334.21, and 5747.70 of the Revised Code to require the Ohio tuition trust authority to establish a variable college savings program, to make other changes in the Ohio College Savings Program, to expand the scope of education loans eligible to be financed by obligations issued by the Treasurer of State, to authorize the "Ohio Outstanding Scholarship" and "Ohio Priority Needs Fellowship" Programs to be administered by the Ohio Board of Regents, and to maintain the provisions of this act on and after July 1, 2000, by amending the version of section 5747.01 of the Revised Code that takes effect on that date.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 3334.01, 3334.02, 3334.08, 3334.10, 3334.11, 3334.12, 3334.15, 3366.01, 3366.03, 3366.04, and 5747.01 be amended and sections 3333.37, 3333.371, 3333.372, 3333.373, 3333.374, 3333.375, 3334.18, 3334.19, 3334.20, 3334.21, and 5747.70 of the Revised Code be enacted to read as follows:

Sec. 3333.37. As used in sections 3333.37 to 3333.375 of the Revised Code, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Cost of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and

expenses.

(B) "Eligible institution" means either of the following:

(1) A state-assisted post-secondary educational institution within the state;

(2) A nonprofit institution of higher education within the state that holds a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, that is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls, is authorized to grant a bachelor's degree or higher, and satisfies other conditions as set forth in the policy guidelines.

(C) "Eligible student" means either of the following:

(1) An undergraduate student who meets all of the following:

(a) Is a resident of this state;

(b) Has graduated from any Ohio secondary school for which the state board of education prescribes minimum standards in accordance with section 3301.07 of the Revised Code;

(c) Is attending and in good standing, or has been accepted for attendance, at any eligible institution as a full-time student to pursue a bachelor's degree.

(2) A graduate student who is a resident of this state, and is attending and in good standing, or has been accepted for attendance, at any eligible institution.

(D) "Fellowship" or "fellowship program" means the Ohio priority needs fellowship created by sections 3333.37 to 3333.375 of the Revised Code.

(E) "Full-time student" has the meaning as defined by rule of the Ohio board of regents.

(F) "Ohio outstanding scholar" means a student who is the recipient of a scholarship under sections 3333.37 to 3333.375 of the Revised Code.

(G) "Policy guidelines" means the rules adopted by the Ohio board of regents pursuant to section 3333.374 of the Revised Code.

(H) "Priority needs fellow" means a student who is the recipient of a fellowship under sections 3333.37 to 3333.375 of the Revised Code.

(I) "Priority needs field of study" means those academic majors and disciplines as determined by the Ohio board of regents that support the purposes and intent of sections 3333.37 to 3333.375 of the Revised Code as described in section 3333.371 of the Revised Code.

(J) "Scholarship" or "scholarship program" means the Ohio outstanding scholarship created by sections 3333.37 to 3333.375 of the Revised Code.

Sec. 3333.371. The purposes of sections 3333.37 to 3333.375 of the

Revised Code are to create both of the following:

(A) A scholarship program for undergraduate students who are residents of this state and are pursuing a baccalaureate degree in any field of study to encourage the retention of Ohio outstanding students;

(B) A fellowship program for graduate students who are residents of this state for attendance at Ohio institutions of higher education to encourage such students to pursue fields of study that are determined to be a priority for the state in advancing its economic, technological, and academic interests.

Sec. 3333.372. (A) There is hereby authorized the "Ohio outstanding scholarship" and the "Ohio priority needs fellowship" programs, which shall be established and administered by the Ohio board of regents for eligible students. The programs shall provide scholarships to eligible undergraduate students and fellowships to eligible graduate students, equal to the annual cost of attendance at eligible institutions, to pursue baccalaureate degrees and post-baccalaureate degrees in priority needs field of study consistent with section 3333.371 of the Revised Code.

(B) The scholarship and fellowship programs created under sections 3333.37 to 3333.375 of the Revised Code and any necessary administrative expenses shall be funded solely from the Ohio outstanding scholarship and the Ohio priority needs fellowship programs payment funds established pursuant to section 3333.375 of the Revised Code.

(C) The scholarships shall be renewable for each of three additional years for undergraduate study, and the fellowships shall be renewable for each of two additional years for graduate study, provided the Ohio outstanding scholar or priority needs fellow remains an eligible student at an eligible institution.

Sec. 3333.373. (A) The board of regents shall establish the rules advisory committee, which shall consist of the chancellor of the Ohio board of regents or the chancellor's designee, the treasurer of state or the treasurer of state's designee, the director of development or the director's designee, one state senator appointed by the president of the senate, one state representative appointed by the speaker of the house of representatives, and two public members appointed by the chancellor representing the interests of the state-assisted eligible institutions and private nonprofit eligible institutions, respectively.

(B) The committee, within one hundred twenty days after the effective date of this section, shall provide recommendations to the Ohio board of regents as to such rules, criteria, and guidelines as are necessary and appropriate to implement the scholarship and fellowship programs created

y sections 3333.37 to 3333.375 of the Revised Code.

(C) The committee shall meet at least annually to review the scholarship and fellowship programs guidelines; make recommendations to amend, rescind, or modify the policy guidelines; and approve scholarship and fellowship awards to eligible students.

(D) Section 101.84 of the Revised Code does not apply to this section.

Sec. 3333.374. (A) After receipt of recommendations from the rules advisory committee or if no recommendations are received, the Ohio board of regents, not later than one hundred eighty days after the effective date of this section and with the approval of the treasurer of state, shall adopt rules, in accordance with Chapter 119. of the Revised Code, establishing such policy guidelines as the board considers necessary and appropriate to provide for the implementation of the scholarship and fellowship programs.

(B) Nothing in this section or section 3333.373 of the Revised Code shall prevent the board, with the approval of the treasurer of state, from amending or rescinding rules adopted pursuant to division (A) of this section, or from adopting new rules, in accordance with Chapter 119. of the Revised Code, from time to time as are necessary to further the purposes of sections 3333.37 to 3333.375 of the Revised Code.

Sec. 3333.375. (A)(1) There is hereby created the Ohio outstanding scholarship and the Ohio priority needs fellowship programs payment funds, which shall be in the custody of the treasurer of state, but shall not be a part of the state treasury.

(2) The payment funds shall consist solely of all moneys returned to the treasurer of state, as issuer of certain tax-exempt student loan revenue bonds, from all indentures of trust, both presently existing and future, created as a result of tax-exempt student loan revenue bonds issued under Chapter 3366. of the Revised Code, and any moneys earned from allowable investments of the payment funds under division (B) of this section.

(3) The payment funds shall be used solely for scholarship and fellowships awarded under sections 3333.37 to 3333.375 of the Revised Code by the Ohio board of regents and for any necessary administrative expenses incurred by the board in administering the scholarship and fellowship programs.

(B) The treasurer of state may invest any moneys in the payment funds not currently needed for scholarship and fellowship payments in any kind of investments in which moneys of the public employees retirement system may be invested under Chapter 145. of the Revised Code.

(C)(1) The instruments of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of

state as provided in section 135.18 of the Revised Code.

(2) The treasurer of state shall collect both principal and investment earnings on all investments as they become due and pay them into the payment funds.

(3) All deposits to the payment funds shall be made in public depositories of this state and secured as provided in section 135.18 of the Revised Code.

(D) On or before March 1, 2001, and on or before the first day of March in each subsequent year, the treasurer of state shall provide to the chancellor of the Ohio board of regents a statement indicating the moneys in the Ohio outstanding scholarship and the Ohio priority needs fellowship programs payment funds that are available for the upcoming academic year to award scholarships and fellowships under sections 3333.37 to 3333.375 of the Revised Code.

Sec. 3334.01. As used in this chapter:

(A) "Aggregate original principal amount" means the aggregate of the initial offering prices to the public of college savings bonds, exclusive of accrued interest, if any. "Aggregate original principal amount" does not mean the aggregate accreted amount payable at maturity or redemption of such bonds.

(B) "Beneficiary" means ~~an~~:

(1) An individual designated by the purchaser under a tuition payment contract or through a scholarship program as the individual on whose behalf tuition credits purchased under the contract or awarded through the scholarship program will be applied toward the payment of undergraduate, graduate, or professional tuition; or

(2) An individual designated by the contributor under a variable college savings program contract as the individual whose tuition and other higher education expenses will be paid from a variable college savings program account.

(C) "Capital appreciation bond" means a bond for which the following is true:

(1) The principal amount is less than the amount payable at maturity or early redemption; and

(2) No interest is payable on a current basis.

(D) "Tuition credit" means a credit of the Ohio tuition trust authority purchased under section 3334.09 of the Revised Code.

(E) "College savings bonds" means revenue and other obligations issued on behalf of the state or any agency or issuing authority thereof as a zero-coupon or capital appreciation bond, and designated as college savings

bonds as provided in this chapter. "College savings bond issue" means any issue of bonds of which any part has been designated as college savings bonds.

(F) "Institution of higher education" means a state institution of higher education, a private college, university, or other postsecondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code, or an accredited college, university, or other postsecondary institution located outside this state that is accredited by an accrediting organization or professional association recognized by the authority. To be considered an institution of higher education, an institution shall meet the definition of an eligible educational institution under section 529 of the Internal Revenue Code.

(G) "Issuing authority" means any authority, commission, body, agency, or individual empowered by the Ohio Constitution or the Revised Code to issue bonds or any other debt obligation of the state or any agency or department thereof. "Issuer" means the issuing authority or, if so designated under division (B) of section 3334.04 of the Revised Code, the treasurer of state.

(H) "Tuition" means the charges imposed to attend an institution of higher education as an undergraduate, graduate, or professional student and all fees required as a condition of enrollment, as determined by the Ohio tuition trust authority. "Tuition" does not include ~~fees charged to out-of-state residents by state institutions of higher education~~, laboratory fees, room and board, or other similar fees and charges.

(I) "Weighted average tuition" means the tuition cost resulting from the following calculation:

(1) Add the products of the annual undergraduate tuition charged to Ohio residents at each four-year state university multiplied by that institution's total number of undergraduate fiscal year equated students; and

(2) Divide the gross total of the products from division ~~(I)~~(1) of this section by the total number of undergraduate fiscal year equated students attending four-year state universities.

(J) "Zero-coupon bond" means a bond which has a stated interest rate of zero per cent and on which no interest is payable until the maturity or early redemption of the bond, and is offered at a substantial discount from its original stated principal amount.

(K) "State institution of higher education" includes the state universities listed in section 3345.011 of the Revised Code, community colleges created

pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, state community colleges created pursuant to Chapter 3358. of the Revised Code, the medical college of Ohio at Toledo, and the northeastern Ohio universities college of medicine.

(L) "Four-year state university" means those state universities listed in section 3345.011 of the Revised Code.

(M) "Principal amount" refers to the initial offering price to the public of an obligation, exclusive of the accrued interest, if any. "Principal amount" does not refer to the aggregate accreted amount payable at maturity or redemption of an obligation.

(N) "Scholarship program" means a program registered with the Ohio tuition trust authority pursuant to section ~~3334.18~~ 3334.17 of the Revised Code.

(O) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended.

(P) "Other higher education expenses" means room and board and books, supplies, equipment, and nontuition-related fees associated with the cost of attendance of a beneficiary at an institution of higher education, but only to the extent that such expenses meet the definition of "qualified higher education expenses" under section 529 of the Internal Revenue Code. "Other higher education expenses" does not include tuition as defined in division (H) of this section.

(Q) "Purchaser" means the person signing the tuition payment contract, who controls the account and acquires tuition credits for an account under the terms and conditions of the contract.

(R) "Contributor" means a person who signs a variable college savings program contract with the Ohio tuition trust authority and contributes to and owns the account created under the contract.

Sec. 3334.02. (A) In order to help make higher education affordable and accessible to all citizens of Ohio, to maintain state institutions of higher education by helping to provide a stable financial base to these institutions, to provide the citizens of Ohio with financing assistance for higher education and protection against rising tuition costs, to encourage saving to enhance the ability of citizens of Ohio to obtain financial access to institutions of higher education, to encourage elementary and secondary students in this state to achieve academic excellence, and to promote a well-educated and financially secure population to the ultimate benefit of all citizens of the state of Ohio, there is hereby created the Ohio college savings

program. The program shall consist of the issuance of college savings bonds and the sale of tuition credits and, if offered, supplemental credits.

(B) The provisions of Chapter 1707. of the Revised Code shall not apply to tuition credits or any agreement or transaction related thereto.

(C) To provide the citizens of Ohio with a choice of tax-advantaged college savings programs and the opportunity to participate in more than one type of college savings program at a time, the Ohio tuition trust authority shall establish and administer a variable college savings program as a qualified state tuition program under section 529 of the Internal Revenue Code. The program shall allow contributors to make cash contributions to variable college savings program accounts created for the purpose of paying future tuition and other higher education expenses and providing variable rates of return on contributions.

(D) A person may participate simultaneously in both the Ohio college savings program and the variable college savings program.

Sec. 3334.08. (A) ~~It~~ Subject to division (B) of this section, in addition to any other powers conferred by this chapter, the Ohio tuition trust authority may do any of the following:

(1) Impose reasonable residency requirements for beneficiaries of tuition credits;

(2) Impose reasonable limits on the number of tuition credit participants;

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition credits;

(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;

(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;

(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;

(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of the Revised Code;

(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;

(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system.

(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition credits pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition credits pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;

(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental program;

(16) Impose limits on the number of credits which may be purchased on behalf of or assigned or awarded to any beneficiary and on the total amount of contributions that may be made on behalf of a beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary under the Ohio college savings program;

(18) Impose a limit on the age of a beneficiary, above which tuition

dits may not be purchased on behalf of that beneficiary;

(19) Enter into a cooperative agreement with the treasurer of state to provide for the direct disbursement of payments under tuition payment or variable college savings program contracts;

(20) Determine the other higher education expenses for which tuition credits or contributions may be used;

(21) Terminate any ~~prepaid~~ tuition payment or variable college savings program contract if no purchases or contributions are made for a period of three years or more and there are fewer than a total of five tuition units or tuition credits or less than a dollar amount set by rule on account, provided that notice of a possible termination shall be provided in advance, explaining any options to prevent termination, and a reasonable amount of time shall be provided within which to act to prevent a termination;

(22) Maintain a separate account for each tuition payment or variable college savings program contract;

(23) Perform all acts necessary and proper to carry out the duties and responsibilities of the authority pursuant to this chapter.

(B) The authority shall adopt rules under section 111.15 of the Revised Code for the implementation and administration of the variable college savings program. The rules shall provide taxpayers with the maximum tax advantages and flexibility consistent with section 529 of the Internal Revenue Code and regulations adopted thereunder with regard to disposition of contributions and earnings, designation of beneficiaries, and rollover of account assets to other programs.

(C) Except as otherwise specified in this chapter, the provisions of Chapters 123., 125., and 4117. of the Revised Code shall not apply to the authority. The department of administrative services shall, upon the request of the authority, act as the authority's agent for the purchase of equipment, supplies, insurance, or services, or the performance of administrative services pursuant to Chapter 125. of the Revised Code.

Sec. 3334.10. Divisions (A) ~~and~~, (B), (C), and (D) of this section do not apply to scholarship programs established under section 3334.17 of the Revised Code.

(A) Unless otherwise provided for in the contract, a tuition payment contract may be terminated by the purchaser under any of the following circumstances upon the written request of the purchaser to the authority:

(1) Upon the death or permanent disability of the beneficiary;

(2) Upon notification to the Ohio tuition trust authority in writing that the beneficiary is age eighteen or older, has decided not to attend an institution of higher education, and requests that the ~~tuition payment~~

contract be terminated;

(3) Upon the beneficiary's completion of the degree requirements at an institution of higher education;

(4) Upon the rollover of all ~~contributions to~~ amounts in a tuition credit account to ~~the prepaid tuition plan of~~ an equivalent account in another state;

(5) Upon the occurrence of other circumstances determined by the authority to be grounds for termination.

(B) The authority shall determine the method and schedule for payment of refunds upon termination of a tuition payment contract.

(1) In cases described by division (A)(2) or (3) of this section, the amount of the refund shall be equal to ~~ninety-nine one-hundredths of~~ not less than one per cent of the weighted average tuition in the academic year the contract refund is terminated paid, multiplied by the number of tuition credits purchased and not used, minus any reasonable charges and fees provided for by the authority, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code.

(2) In cases described by division (A)(1) of this section, the amount of the refund shall be equal to the greater of the following:

(a) One per cent of the weighted average tuition in the academic year the contract refund is terminated paid, multiplied by the number of tuition credits purchased and not used;

(b) The total purchase price of all tuition credits purchased for the beneficiary and not used.

(3) In cases described by division (A)(5) of this section, the amount of the refund shall be either of the following as determined by the authority:

(a) The refund provided by division (B)(1) of this section;

(b) The refund provided by division (B)(2) of this section, or such other lesser sum as shall be determined by the authority but only to the extent that such a lesser sum is necessary to meet the refund penalty requirements for qualified state tuition programs under section 529 of the Internal Revenue Code.

(C) Unless otherwise provided for in the contract, a variable college savings program account may be terminated by the contributor for any reason upon the written request of the contributor to the authority. Termination of a variable college savings program account shall occur no earlier than a maturity period set by the authority after the first contribution is made to the account.

(D) The authority shall determine the method and schedule for payment

of refunds upon termination of a variable savings program account.

(1) The contributor under a variable savings program contract may receive a refund of the balance in an account, less any administrative fees, if the account is terminated upon the death or permanent disability of the beneficiary or, to the extent allowed under rules of the authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.

(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.

(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.

(E) In the case of a scholarship program, a refund of tuition credits in the program's account may be made only for just cause with the approval of the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.

~~(D)~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar subvention that the authority determines cannot be converted into money by the beneficiary, the authority shall, during each academic term that the beneficiary furnishes the authority such information about the scholarship, waiver, or similar subvention as the authority requires, refund to the person designated in the contract, or, in the case of a beneficiary under a scholarship program, to the beneficiary an amount equal to the value that the tuition credits or the amounts in the variable college savings program account that are not needed on account of the scholarship, waiver, or similar subvention would otherwise have to the beneficiary that term at the institution of higher education where the beneficiary is enrolled. The authority may, at its sole option, designate the institution of higher education at which the beneficiary is enrolled as the agent of the authority for purposes of refunds pursuant to this division.

~~(E)~~(G) If, in any academic term for which tuition credits or any amounts in a variable college savings program account have been used to pay all or

part of a beneficiary's tuition, the beneficiary withdraws from the institution of higher education at which the beneficiary is enrolled prior to the end of the academic term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.

(H) The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract.

Sec. 3334.11. (A) The assets of the Ohio tuition trust authority reserved for payment of the obligations of the authority pursuant to tuition payment contracts shall be placed in a fund, which is hereby created and shall be known as the Ohio tuition trust fund. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition credits under tuition payment contracts that the authority determines is actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, all interest and investment income earned by the fund, and all other receipts of the authority from any other source that the authority determines appropriate, shall be deposited in the fund. No purchaser or beneficiary of tuition credits shall have any claim against the funds of any state institution of higher education. All investment fees and other costs incurred in connection with the exercise of the investment powers of the authority pursuant to divisions (D) and (E) of this section shall be paid from the assets of the fund.

(B) Unless otherwise provided by the authority, the assets of the Ohio tuition trust fund shall be expended in the following order:

(1) To make payments to beneficiaries, or institutions of higher education on behalf of beneficiaries, under division (B) of section 3334.09 of the Revised Code;

(2) To make refunds as provided in divisions (B), ~~(C)~~(E), and ~~(D)~~(F) of section 3334.10 of the Revised Code;

(3) To pay the investment fees and other costs of administering the fund.

(C)(1) Except as may be provided in an agreement under division (A)(19) of section 3334.08 of the Revised Code, all disbursements from the Ohio tuition trust fund shall be made by the treasurer of state on order of a designee of the authority.

(2) The treasurer of state shall deposit any portion of the Ohio tuition trust fund not needed for immediate use in the same manner as state funds are deposited.

(D) The authority is the trustee of the Ohio tuition trust fund. The authority shall have full power to invest the assets of the fund and in exercising this power shall be subject to the limitations and requirements contained in divisions (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. The evidences of title of all investments shall be delivered to the treasurer of state or to a qualified trustee designated by the treasurer of state as provided in section 135.18 of the Revised Code. Assets of the fund shall be administered by the authority in a manner designed to be actuarially sound so that the assets of the fund will be sufficient to satisfy the obligations of the authority pursuant to tuition payment contracts and defray the reasonable expenses of administering the fund.

(E) The public employees retirement board shall, with the approval of the authority, exercise the investment powers of the authority as set forth in division (D) of this section until the authority determines that assumption and exercise by the authority of the investment powers is financially and administratively feasible. The investment powers shall be exercised by the public employees retirement board in a manner agreed upon by the authority that maximizes the return on investment and minimizes the administrative expenses.

(F)(1) The authority shall maintain a separate account for each tuition payment contract entered into pursuant to division (A) of section 3334.09 of the Revised Code for the purchase of tuition credits on behalf of a beneficiary or beneficiaries showing the beneficiary or beneficiaries of that contract and the number of tuition credits purchased pursuant to that contract. Upon request of any beneficiary or person who has entered into a tuition payment contract, the authority shall provide a statement indicating, in the case of a beneficiary, the number of tuition credits purchased on behalf of the beneficiary, or in the case of a person who has entered into a tuition payment contract, the number of tuition credits purchased, used, or

refunded pursuant to that contract. A beneficiary and person that have entered into a tuition payment contract each may file only one request under this division in any year.

(2) The authority shall maintain an account for each scholarship program showing the number of tuition credits that have been purchased for or donated to the program and the number of tuition credits that have been used. Upon the request of the entity that established the scholarship program, the authority shall provide a statement indicating these numbers.

(G) In addition to the Ohio tuition trust fund, there is hereby established a reserve fund that shall be in the custody of the treasurer of state but shall not be part of the state treasury, and shall be known as the Ohio tuition trust reserve fund, and an operating fund that shall be part of the state treasury, and shall be known as the Ohio tuition trust operating fund. That portion of payments received by the authority or the treasurer of state from persons purchasing tuition credits under tuition payment contracts that the authority determines is not actuarially necessary for the payment of obligations of the authority pursuant to tuition payment contracts, any interest and investment income earned by the reserve fund, any administrative charges and fees imposed by the authority on transactions under this chapter or on purchasers or beneficiaries of tuition credits, and all other receipts from any other source that the authority determines appropriate, shall be deposited in the reserve fund to pay the operating expenses of the authority and the costs of administering the program. The assets of the reserve fund may be invested in the same manner and subject to the same limitations set forth in divisions (D), (E), and (K) to (M) of this section and sections 145.112 and 145.113 of the Revised Code. All investment fees and other costs incurred in connection with the exercise of the investment powers shall be paid from the assets of the reserve fund. Except as otherwise provided for in this chapter, all operating expenses of the authority and costs of administering the program shall be paid from the operating fund. The treasurer shall, upon request of the authority, transfer funds from the reserve fund to the operating fund as the authority determines appropriate to pay those current operating expenses of the authority and costs of administering the program as the authority designates. Any interest or investment income earned on the assets of the operating fund shall be deposited in the operating fund.

(H) In January of each year the authority shall report to each person who received any payments or refunds from the authority during the preceding year information relative to the value of the payments or refunds to assist in determining that person's tax liability.

(I) The authority shall report to the tax commissioner any information,

and at the times, as the tax commissioner requires to determine any tax liability that a person may have incurred during the preceding year as a result of having received any payments or refunds from the authority.

(J) All records of the authority indicating the identity of purchasers and beneficiaries of tuition credits or college savings bonds, the number of tuition credits purchased, used, or refunded under a tuition payment contract, and the number of college savings bonds purchased, held, or redeemed are not public records within the meaning of section 149.43 of the Revised Code.

(K) The authority and other fiduciaries shall discharge their duties with respect to the funds with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the assets of the funds so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

To facilitate investment of the funds, the authority may establish a partnership, trust, limited liability company, corporation, including a corporation exempt from taxation under the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as amended, or any other legal entity authorized to transact business in this state.

(L) In exercising its fiduciary responsibility with respect to the investment of the assets of the funds, it shall be the intent of the authority to give consideration to investments that enhance the general welfare of the state and its citizens where the investments offer quality, return, and safety comparable to other investments currently available to the authority. In fulfilling this intent, equal consideration shall also be given to investments otherwise qualifying under this section that involve minority owned and controlled firms and firms owned and controlled by women, either alone or in joint venture with other firms.

The authority shall adopt, in regular meeting, policies, objectives, or criteria for the operation of the investment program that include asset allocation targets and ranges, risk factors, asset class benchmarks, time horizons, total return objectives, and performance evaluation guidelines. In adopting policies and criteria for the selection of agents with whom the authority may contract for the administration of the assets of the funds, the authority shall give equal consideration to minority owned and controlled firms, firms owned and controlled by women, and ventures involving minority owned and controlled firms and firms owned and controlled by women that otherwise meet the policies and criteria established by the

authority. Amendments and additions to the policies and criteria shall be adopted in regular meeting. The authority shall publish its policies, objectives, and criteria under this provision no less often than annually and shall make copies available to interested parties.

When reporting on the performance of investments, the authority shall comply with the performance presentation standards established by the association for investment management and research.

(M) All investments shall be purchased at current market prices and the evidences of title of the investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof, or in the hands of the treasurer of state's authorized agent. The treasurer of state or the agent shall collect the principal, dividends, distributions, and interest thereon as they become due and payable and place them when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by the authority on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the purchase and pending receipt of the evidence of title of the investment by the treasurer of state or the treasurer of state's authorized agent. The authority may sell investments held by the authority, and the treasurer of state or the treasurer of state's authorized agent shall accept payment from the purchaser and deliver evidence of title of the investment to the purchaser on receipt of written or electronic instructions from the authority or the authority's designated agent authorizing the sale, and pending receipt of the moneys for the investments. The amount received shall be placed in the custodial funds. The authority and the treasurer of state may enter into agreements to establish procedures for the purchase and sale of investments under this division and the custody of the investments.

No purchase or sale of any investment shall be made under this section except as authorized by the authority.

Any statement of financial position distributed by the authority shall include fair value, as of the statement date, of all investments held by the authority under this section.

Sec. 3334.12. Notwithstanding anything to the contrary in sections 3334.07 and 3334.09 of the Revised Code:

(A) Annually, the Ohio tuition trust authority shall have the actuarial soundness of the Ohio tuition trust fund evaluated by a nationally recognized actuary and shall determine whether additional assets are necessary to defray the obligations of the authority. If, after the authority sets the price for tuition credits, circumstances arise that the executive

director determines necessitate an additional evaluation of the actuarial soundness of the fund, the executive director shall have a nationally recognized actuary conduct the necessary evaluation. If the assets of the fund are insufficient to ensure the actuarial soundness of the fund, the authority shall adjust the price of subsequent purchases of tuition credits.

(B) Upon termination of the program or liquidation of the Ohio tuition trust fund, the Ohio tuition trust reserve fund, and the Ohio tuition trust operating fund, any remaining assets of the funds after all obligations of the funds have been satisfied pursuant to division (B) of section 3334.11 of the Revised Code shall be transferred to the general revenue fund of the state.

(C) The authority shall prepare and cause to have audited an annual financial report on all financial activity of the Ohio tuition trust authority within ninety days of the end of the fiscal year. The authority shall transmit a copy of the audited financial report to the governor, the president of the senate, the speaker of the house of representatives, and the minority leaders of the senate and the house of representatives. Copies of the audited financial report also shall be made available, upon request, to the persons entering into contracts with the authority and to prospective purchasers of tuition credits and prospective contributors to variable college savings program accounts.

Sec. 3334.15. (A) The right of a person to a tuition credit or a payment under section 3334.09 of the Revised Code pursuant to a tuition credit contract or, a scholarship program, or a variable college savings program account shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other process of law.

(B) The right of a person to a tuition credit or a payment under section 3334.09 of the Revised Code pursuant to a tuition credit contract, a scholarship program, or a variable college savings program account shall not be used as security or collateral for a loan.

Sec. 3334.18. (A) A variable college savings program established by the Ohio tuition trust authority shall include provisions for a contract to be entered into between a contributor and the authority that will authorize the contributor to open an account for a beneficiary and authorize the contributor to substitute a new beneficiary for one originally named in the contract, TO THE EXTENT PERMITTED BY SECTION 529 OF THE INTERNAL REVENUE CODE.

(B) The authority shall provide adequate safeguards to prevent total contributions to a variable college savings program account or purchases of tuition credits, either separately or combined, that are made on behalf of a beneficiary from exceeding the amount necessary to provide for the tuition

and other higher education expenses of the beneficiary, CONSISTENT WITH THE MAXIMUM CONTRIBUTIONS PERMITTED BY SECTION 529 OF THE INTERNAL REVENUE CODE. However, in no event shall contributions or purchases exceed the allowable limit for a qualified state tuition program under section 529 of the Internal Revenue Code.

(C)(1) Participation in the variable college savings program does not guarantee that contributions and the investment return on contributions, if any, will be adequate to cover future tuition and other higher education expenses or that a beneficiary will be admitted to or permitted to continue to attend an institution of higher education.

(2) Returns on contributors' investments in the variable college savings program are not guaranteed by the state and the contributors to the variable college savings program assume all investment risk, including the potential loss of principal and liability for penalties such as those levied for noneducational withdrawals.

(3) The state shall have no debt or obligation to any contributor, beneficiary, or any other person as a result of the establishment of the program, and the state assumes no risk or liability for funds invested in the variable college savings program.

(4) Informational materials about the variable college savings program prepared by the authority or its agents and provided to prospective contributors shall state clearly the information set forth in division (C) of this section.

Sec. 3334.19. (A) The Ohio tuition trust authority shall adopt an investment plan that sets forth investment policies and guidelines to be utilized in administering the variable college savings program. Except as provided in section 3334.20 of the Revised Code, the authority shall contract with one or more insurance companies, banks, or other financial institutions to act as its investment agents and to provide such services as the authority considers appropriate to the investment plan, including:

(1) Purchase, control, and safekeeping of assets;

(2) Record keeping and accounting for individual accounts and for the program as a whole;

(3) Provision of consolidated statements of account.

(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.

(C) The authority or its agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.

(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion as required under section 529 of the Internal Revenue Code.

(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.

(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or any agency or instrumentality of the state. Unless otherwise specified by the authority, assets of the program shall be expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college savings program contracts;

(3) To pay the costs of program administration and operations.

(G) No records of the authority indicating the identity of contributors and beneficiaries under the program or amounts contributed to, earned by, or distributed from program accounts are public records within the meaning of section 149.43 of the Revised Code.

Sec. 3334.20. (A) AS USED IN THIS SECTION, "STATE AGENCY" MEANS EVERY DEPARTMENT, BUREAU, BOARD, COMMISSION, OFFICE, OR OTHER ORGANIZED BODY ESTABLISHED BY THE CONSTITUTION OR LAWS OF THIS STATE FOR THE EXERCISE OF STATE GOVERNMENT.

(B) If a condition arises concerning the investment of funds received under the variable college savings program and REQUIRING an interim period for investment of program funds, which condition is determined pursuant to division (D) of this section, the Ohio tuition trust Authority shall choose the treasurer of state, a state agency having investment authority, or an investment agent under contract with the authority to invest program funds pursuant to the investment plan established under division (A) of

section 3334.19 of the Revised Code. The treasurer of state, state agency, OR INVESTMENT AGENT chosen by the authority pursuant to this division shall be subject to the requirements and conditions that apply to investment agents specified in section 3334.19 of the Revised Code.

(C) The authority shall be the trustee of the program. DURING THE INTERIM PERIOD, the authority shall receive and hold all payments, deposits, and contributions, as well as gifts, bequests, endowments, and federal, state, or local grants and any funds from any other source, public or private, and all earnings, until disbursed to pay tuition or other higher education expenses or refunds pursuant to college savings plans contracts. The authority shall keep such funds segregated from all other assets of the authority.

(D) The authority shall adopt rules under section 111.15 of the Revised Code defining the conditions under which an interim investment period is required and this section applies. The rules shall include any condition requiring THE TERMINATION OF THE INTERIM PERIOD AND the authority to contract with alternative investment agents pursuant to section 3334.19 of the Revised Code and any other requirements that apply during the interim investment period.

(E) When the interim period for investment of program funds terminates, the investment agents selected pursuant to section 3334.19 of the Revised Code for the investment of program funds SHALL HAVE THE SOLE AUTHORITY TO INVEST PROGRAM FUNDS PURSUANT TO THE INVESTMENT PLAN ESTABLISHED UNDER DIVISION (A) OF THAT SECTION AND SHALL BE SUBJECT to that section.

Sec. 3334.21. The variable college savings program may be terminated by statute or upon the determination of the Ohio tuition trust authority that the program is not financially feasible. Upon termination, all amounts held in program accounts shall be returned to account owners, to the extent possible, and any unclaimed assets in the program shall be transferred to the unclaimed funds trust fund and disposed of in accordance with section 169.05 of the Revised Code.

Sec. 3366.01. As used in this chapter, the following words and terms have the following meanings unless the context indicates a different meaning or intent:

(A) "Bond proceedings" means the order, trust, agreement, indenture and other agreements, or amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing or providing for the terms and conditions applicable to, or providing for the issuance, security, or liquidity of, obligations and the provisions contained in such obligations.

(B) "Bond service charges" means principal, including mandatory sinking fund requirements for retirement of obligations, and interest, and redemption premium, if any, required to be paid on obligations.

(C) "Bond service fund" means the applicable fund and accounts therein created in the bond proceedings for and pledged to the payment of bond service charges, including all moneys and investments, and earnings from investments, credited and to be credited thereto.

(D) "Costs of attendance" means all costs of a student incurred in connection with a program of study at an eligible institution, as determined by the institution, including tuition; instructional fees; room and board; books, computers, and supplies; and other related fees, charges, and expenses.

(E) "Designated ~~nonprofit corporation~~ administrator" means, with respect to all obligations issued prior to september 1, 1999, and to all nonfederal education loans, the nonprofit corporation designated on November 10, 1992, under division (D) of section 3351.07 of the Revised Code to operate exclusively for charitable and educational purposes by expanding access to higher education financing programs for students and families in need of student financial aid. For all other purposes, "designated administrator" means the Ohio corporation that is a subsidiary of the nonprofit corporation designated under division (D) of section 3351.07 of the Revised Code and that has agreed to enter into an administration agreement with the issuing authority and the director of development, or any other person that enters into an administration agreement with the issuing authority and the director of development.

(F) "Education loan" means a loan made by an eligible lender pursuant to the policy guidelines to or for the benefit of a student for the purpose of financing part or all of the student's costs of attendance.

(G) "Eligible borrower" means any of the following:

(1) Individuals who are residents of the state, and who are attending and are in good standing in, or who have been accepted for attendance at, any eligible institution located in this state or elsewhere, on a part-time or full-time basis, to pursue an associate, baccalaureate, or advanced degree or a nursing diploma;

(2) Individuals who reside outside the state and who have been accepted for attendance at, or who are attending and are in good standing in, any eligible institution located in this state, on a part-time or full-time basis, to pursue an associate, baccalaureate, or advanced degree or a nursing diploma;

(3) Individuals who are parents or legal guardians of, or other persons,

as set forth in the policy guidelines, borrowing under an education loan for the benefit of individuals meeting requirements set forth in division (G)(1) or (2) of this section, in order to assist them in paying costs of attendance.

(H)(1) "Eligible institution" means an institution described in any of divisions (H)(1)(a), (b), or (c) of this section that satisfies all of the requirements set forth in divisions (H)(2), (3), and (4) of this section.

(a) The institution is a state-assisted post-secondary educational institution within this state.

(b) The institution is a nonprofit institution within this state having a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code.

(c) The institution is a post-secondary educational institution similar to one described in division (H)(1)(a) or (b) of this section that is located outside this state and that is similarly approved by the appropriate agency of that state.

(2) The institution is accredited by the appropriate regional and, when appropriate, professional accrediting associations within whose jurisdiction it falls.

(3) The institution satisfies the eligibility requirements for participation in the federal family education loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended, as long as that program remains in existence.

(4) The institution satisfies the other conditions set forth in the policy guidelines.

(I) "Eligible lender" means, with respect to lenders making nonfederal education loans, a bank, national banking association, savings bank, savings and loan association, or credit union having an office in this state that satisfies the criteria for eligible lenders established pursuant to the policy guidelines. With respect to lenders making federal education loans, "eligible lender" means any person that is permitted to make loans under the federal family education loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended; that has an office in this state; and that satisfies the criteria for eligible lenders established pursuant to the policy guidelines.

(J) "Federal education loan" means an education loan that is originated in compliance with the federal family education loan program authorized under Title IV, Part B, of the "Higher Education Act of 1965," 20 U.S.C.A. 1071 et seq., as amended.

~~(J)~~(K) "Governmental agency" means the state and any state department, division, commission, institution, or authority; the United States

or any agency thereof; or any agency, commission, or authority established pursuant to an interstate compact or agreement; or any combination of the foregoing.

~~(K)~~(L) "Issuing authority" means the treasurer of state, or the officer who by law performs the functions of the treasurer of state.

~~(L)~~(M) "Nonfederal education loan" means any education loan that is not a federal education loan.

(N) "Obligations" means the bonds, notes, or securities of this state issued by the issuing authority pursuant to this chapter.

~~(M)~~(O) "Person" means any individual, corporation, business trust, estate, trust, partnership, or association, any federal, state, interstate, regional, or local governmental agency, any subdivision of the state, or any combination of these.

~~(N)~~(P) "Pledged receipts" means, to the extent the following are pledged by the bond proceedings for the payment of bond service charges: all receipts representing moneys accruing from or in connection with the repayment of education loans, including interest and payments from any guarantee or insurance in respect to such education loans; accrued interest received from the sale of obligations; the balances in the special funds; income from the investment of the special funds; all right, title, ~~or interest of the state in any education loans and any guarantees or insurance in respect thereof; all right, title,~~ and interest of the state and the designated nonprofit corporation administrator in the education loans and any guarantees or insurance in respect thereof, and any money representing the proceeds of obligations or any income from or interest on those proceeds; or any other gifts, grants, donations, and pledges and any income and receipts therefrom, available and pledged for the payment of bond service charges.

~~(O)~~(Q) "Policy guidelines" means the rules adopted pursuant to division (A) of section 3366.03 of the Revised Code.

~~(P)~~(R) "Proceeds loan" means the transfer, pursuant to a loan agreement or agency agreement, of the proceeds of the obligations, or the deposit of the proceeds of the obligations with a trustee in trust under a trust agreement, indenture, or other trust document under the bond proceedings pending their disbursement for the purposes authorized by this chapter.

~~(Q)~~(S) "Resident" means any student who would qualify as a resident of this state for state subsidy and tuition surcharge purposes under rules adopted by the Ohio board of regents under section 3333.31 of the Revised Code.

~~(R)~~(T) "Special funds" or "funds" means the bond service fund and any other funds, including reserve funds, created under the bond proceedings,

including all moneys and investments, and earnings from investment, credited and to be credited thereto.

~~(S)~~(U) "Student" means an individual described in division (G)(1) or (2) of this section who meets requirements established under the policy guidelines. "Student" includes dependent and independent undergraduate, graduate, and professional students.

~~(T)~~(V) "Subdivision" has the same meaning as in division (MM) of section 133.01 of the Revised Code.

Sec. 3366.03. (A) In furtherance of the public policy and purpose set forth in section 3366.02 of the Revised Code and to implement that purpose, the director of development, with the approval of the issuing authority, shall adopt, amend, or rescind rules, pursuant to Chapter 119. of the Revised Code, establishing such policy guidelines as the director considers necessary or appropriate to provide for creating a secondary market for education loans as authorized by this chapter. The policy guidelines shall include such provisions as the director considers appropriate to further the public policy and purpose set forth in section 3366.02 of the Revised Code.

(B) The director of development or the issuing authority or both may:

(1) Enter into agreements with ~~the any designated nonprofit corporation~~ administrator to provide for the proceeds loan for the purchase of education loans on the secondary market;

(2) Enter into agreements with ~~the any designated nonprofit corporation~~ administrator to provide for stimulating the making of education loans through the the acquisition of such loans, in accordance with the policy guidelines; and

(3) Do all other acts and enter into contracts and execute all instruments necessary or appropriate to carry out the provisions of this chapter.

(C) All expenses and obligations incurred by the issuing authority or the director of development in carrying out duties and in exercising powers under this chapter shall be payable solely from, as appropriate, pledged receipts, moneys from the sale of obligations, or any amounts contributed by the designated ~~nonprofit corporation~~ administrator. This chapter does not authorize the issuing authority to incur debt or bonded indebtedness of the state, or to obligate or pledge any moneys other than pledged receipts for the payment of any obligations.

(D) The designated ~~nonprofit corporation~~ administrator, subject to the applicable provisions of this chapter, shall purchase education loans from eligible lenders directly or indirectly, with moneys loaned or otherwise provided to it under this chapter from the proceeds of obligations, which education loans are used by and for students for paying costs of attendance

t eligible institutions.

(E) In accordance with the policy guidelines, the designated ~~nonprofit corporation~~ administrator shall do all of the following:

(1) Specify the terms of and procedures for making, selling, purchasing, servicing, and collecting those education loans eligible for purchase under the guidelines;

(2) Take such actions as may be necessary or appropriate to establish the terms of, purchase, service or otherwise administer, and collect any education loan;

(3) With respect to those loans acquired pursuant to this chapter, establish the fees including, without limitation, origination and loan fees; charges; rates of interest; times of payment of interest and principal; late charges; aggregate amounts of education loans to be issued per year and in total; eligibility and credit criteria of eligible borrowers; refinancing or consolidation provisions; criteria for participation by eligible lenders; criteria for allocating the distribution of education loans among students attending or planning to attend different eligible institutions; terms of sales and purchases of education loans; and other terms, conditions, and provisions of and security for education loans.

The designated ~~nonprofit corporation~~ administrator shall not purchase any education loan unless the loan conforms to the policy guidelines.

(F) If the director of development determines that education loans are not being made in the amount or manner anticipated, the designated ~~nonprofit corporation~~ administrator, with the consent of the director, may enter into special arrangements with certain eligible lenders pursuant to guidelines adopted under this chapter to stimulate the provision of education loans.

(G) The designated ~~nonprofit corporation~~ administrator may establish additional procedures and set other terms and conditions not inconsistent with the policy guidelines as may be necessary or appropriate in connection with the program authorized under this chapter.

(H) At least annually by a date specified by the director of development, the designated ~~nonprofit corporation~~ administrator shall provide to the issuing authority and the director of development reports on the use of the proceeds of obligations.

(I) For purposes of this chapter, any designated administrator other than the nonprofit corporation designated under division (D) of section 3351.07 of the Revised Code shall be a person that maintains its principal place of business in the state and that has as its principal business the making, purchasing, holding, or selling of loans made to finance individuals' cost of

post-secondary education.

Sec. 3366.04. (A) The issuing authority may issue obligations under this section to provide money to make proceeds loans to the designated ~~nonprofit corporation~~ administrator for the purpose of acquiring education loans, or needed for capitalized interest, for funding reserves, and for paying costs and expenses incurred in connection with the issuance, carrying, securing, paying, redeeming, or retirement of the obligations or any obligations refunded thereby, including payment of costs and expenses relating to letters of credit, lines of credit, insurance, put agreements, standby purchase agreements, indexing, marketing, remarketing and administrative arrangements, interest swap or hedging agreements, and any other credit enhancement facility as defined in division (H) of section 133.01 of the Revised Code, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section. The proceeds thereof shall, as provided in the bond proceedings, be loaned, or otherwise made available as a proceeds loan, to the designated ~~nonprofit corporation~~ administrator. The issuing authority may appoint trustees, paying agents, and transfer agents and may retain the services of financial advisors, accounting experts, and attorneys, and retain or contract for the services of marketing, remarketing, indexing, and administrative agents, other consultants, and independent contractors, including printing services, as are necessary to carry out the provisions of this section. The costs of such services are allowable costs payable from the proceeds of such obligations.

(B) The holders or owners of obligations shall have no right to have taxes levied by the general assembly, or any moneys other than pledged receipts obligated or pledged, and any moneys other than pledged receipts shall not be obligated or pledged, for the payment of bond service charges. The obligations are not debts of the state, bond service charges are payable solely from the revenues and funds pledged as pledged receipts for their payment, and the right of such holders and owners to payment of bond service charges is limited to pledged receipts as provided in the bond proceedings, and each such obligation shall bear on its face a statement to that effect. No money, including money from the general revenue fund, shall be appropriated, obligated, or used to pay bond service charges or the costs incurred in the administration of this chapter, other than pledged receipts.

(C) Obligations shall be authorized by order of the issuing authority at the request of the designated ~~nonprofit corporation~~ administrator and with the approval of the director of development, and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner for determining the principal

maturity or maturities, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest thereon, their denomination, and the establishment within or outside this state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code apply to obligations issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose to be served. The bond proceedings shall also provide, subject to the provisions of any other applicable bond proceedings, for the pledge of, and the granting of a security interest in, all, or such part as the issuing authority may determine, of the pledged receipts to the payment of bond service charges, which pledge may be made and security interest granted, subject to the provisions of any applicable prior bond proceedings, either prior to or on a parity with or subordinate to other expenses, claims, or payments, and may be made or granted to secure obligations senior or subordinate to, or on a parity with, obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts so pledged or subject to a security interest and thereafter received by the issuing authority or the designated ~~nonprofit corporation~~ administrator on behalf of the issuing authority or otherwise received are immediately subject to such pledge and security interest without any physical delivery thereof or further act, and such pledge and security interest are valid, binding, and enforceable against all parties having claims of any kind against the state or any governmental agency, or against the designated ~~nonprofit corporation~~ administrator, whether or not such parties have notice thereof, and shall create a perfected security interest for all purposes of Chapter 1309. of the Revised Code, without the necessity for separation or delivery or possession of the pledged receipts, or for the filing or recording of the bond proceedings by which such pledge and security interest are created or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and the security interest are effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation. Every pledge made and security interest granted, and every covenant and agreement made with respect thereto in the bond proceedings may therein be extended to the benefit of the owners and holders of obligations authorized by this section, and to any trustee therefor, for the further security of the payment of the bond service charges.

(D) The bond proceedings may contain additional provisions as to:

(1) The redemption of obligations prior to maturity at such price or prices and under such terms and conditions as are provided in the bond

proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued;

(5) The investment of the proceeds of obligations and amounts on deposit in the special funds;

(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision;

(7) Any provision that may be made in a trust agreement or indenture;

(8) Provisions for the use of the proceeds of repayment of education loans to acquire additional education loans;

(9) Any other or additional agreements with the holders of the obligations, the trustee therefor, or the designated ~~nonprofit corporation~~ administrator, relating to the obligations or the security therefor, including the assignment of security obtained or to be obtained for education loans.

(E) The obligations and any coupons pertaining to obligations shall be in the form specified in the bond proceedings and shall be signed by or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or coupon ceases to be the issuing authority before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if that official had remained the issuing authority until such delivery.

(F) All obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. The obligations may be issued in coupon or in registered form, or both, as the issuing authority determines. Provision may be made for the registration of any obligations with coupons attached thereto as to principal alone or as to both principal and interest, their exchange for obligations so registered, and for the conversion or reconversion into obligations with coupons attached thereto of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion.

(G) Obligations may be sold at public sale or at private sale, as

determined by the issuing authority in the bond proceedings.

(H) Pending preparation of definitive obligations, the issuing authority may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) In the discretion of the issuing authority, obligations may be secured additionally by a trust agreement or indenture between the issuing authority and a corporate trustee and, if so provided for in the bond proceedings, any other necessary or appropriate party. Any such trustee shall be a trust company, bank, or national banking association authorized to exercise trust powers within the state. Any such agreement or indenture may contain the order authorizing the issuance of the obligations, any provisions that may be contained in any bond proceedings, and other provisions which are customary or appropriate in an agreement or indenture of such type, including, but not limited to:

(1) Maintenance of each pledge, security interest, and trust agreement, indenture, or other instrument comprising part of the bond proceedings until the bond service charges on the obligations secured thereby have been fully paid, or provision therefor has been made in accordance with the bond proceedings;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the issuing authority made as a part of the contract under which the obligations were issued, enforcement of such payments or agreement by mandamus, the appointment of a receiver, suit in equity, action at law, or any combination of the foregoing;

(3) The rights and remedies of the holders of obligations and of the trustee, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

(4) The replacement of any obligations that become mutilated or are destroyed, lost, or stolen;

(5) Such other provisions as the trustee and the issuing authority agree upon, including limitations, conditions, or qualifications relating to the education loans that may be made or acquired pursuant to the trust agreement or indenture.

(J) Any holder of obligations or a trustee under the bond proceedings, except to the extent that rights are restricted by the bond proceedings, may by any suitable form of legal proceedings, protect and enforce any rights under the laws of this state or granted by such bond proceedings. Such rights include the right to compel the performance of all duties of the issuing authority or the director of development required by this chapter or the bond proceedings; to enjoin unlawful activities; and, in the event of default with

respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority or the director of development in the bond proceedings, to apply to a court having jurisdiction to appoint a receiver to receive and administer the pledged receipts pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay and to provide for payment of bond service charges on such obligations and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge revenues or receipts or other income or moneys, other than pledged receipts, and excluding any power to take possession of, or cause the sale or otherwise dispose of, any property other than the pledged receipts.

Each duty of the issuing authority, of each governmental agency including the director of development, of the designated ~~nonprofit corporation~~ administrator, and of any of the officers, members, or employees of any of the foregoing, undertaken pursuant to the bond proceedings or any agreement made under authority of this chapter, and each duty in every agreement by or with the issuing authority under this chapter, each governmental agency including the director of development, and the designated ~~nonprofit corporation~~ administrator, is hereby established as a duty of the issuing authority, the governmental agency, or the designated ~~nonprofit corporation~~ administrator, respectively, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority or the director of development, or the officers or employees of either of them, are not liable in their personal capacities on any obligations or any agreements of or with the issuing authority or the director of development.

(K) The issuing authority may issue obligations for the refunding, including funding and retirement, and advance refunding with or without payment or redemption prior to maturity, of any obligations previously issued. Such obligations may be issued in amounts sufficient for payment of the principal amount of the prior obligations, any redemption premiums thereon, principal maturities of any such obligations maturing prior to the redemption of the remaining obligations on a parity therewith, interest accrued or to accrue to the maturity dates or dates of redemption of such obligations, and expenses incurred or to be incurred in connection with such issuance and such refunding, funding, and retirement. Subject to the bond proceedings therefor, the portion of proceeds of the sale of obligations

sued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate account held by the trustee for such prior or new obligations or to the appropriate account in the bond service fund for such obligations. Obligations authorized under this division shall be deemed to be issued for those purposes for which such prior obligations were issued and are subject to the provisions of this section pertaining to other obligations, except as otherwise provided in this section.

(L) The authority to issue obligations under this section includes authority to issue obligations in the form of bond anticipation notes and to renew the same from time to time by the issuance of new notes. The holders of such notes or interest coupons pertaining thereto shall have a right to be paid solely from the pledged receipts and special funds that may be pledged to the payment of the bonds anticipated, or from the proceeds of such anticipated bonds or renewal notes, or both, as the issuing authority provides in the order authorizing such notes. Such notes may be additionally secured by covenants of the issuing authority and the director of development to the effect that the issuing authority and the director of development will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amounts, and apply the proceeds thereof to the extent necessary, to make full payment of the principal of and interest on such notes at the time or times contemplated, as provided in such order. For ~~such~~ this purpose, the issuing authority shall issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide funds to pay, when required, the principal of and interest and any premium on such notes. Subject to this division, all provisions for and references to obligations in this section are applicable to notes authorized under this division.

The issuing authority in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for such bonds an estimated interest rate and a schedule of principal payments for such bonds and the annual maturity dates thereof, but this provision does not modify any authority in this section to pledge receipts to, to grant a security interest in those receipts for the purpose of securing, and to covenant to issue bonds to fund, the payment of principal of and interest and any premium on such notes, or to provide in the bond proceedings authorizing the issuance of the anticipated bonds interest rates and a schedule of principal payments for such bonds and the annual maturity dates thereof which differ from the estimates in the bond proceedings authorizing the issuance of such bond anticipation notes.

(M) Obligations issued under this section are lawful investments for banks; savings banks; savings and loan associations; credit union share

guarantee corporations; trust companies; trustees; fiduciaries; insurance companies, including domestic for life and domestic not for life; trustees or other officers having charge of sinking and bond retirement or other special funds of the state and of subdivisions and taxing districts of the state; the commissioners of the sinking fund of the state; the administrator of workers' compensation, subject to the approval of the workers' compensation board; the state teachers retirement system; the public employees retirement system; the school employees retirement system; and the Ohio police and fire pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant to those provisions by any agency of the state with respect to investments by them, and are also eligible as security for the repayment of the deposit of public moneys.

(N) Provision may be made in the applicable bond proceedings for the establishment of separate accounts in the bond service fund and for the application of such accounts only to the specified bond service charges on obligations pertinent to such accounts and bond service fund and for other accounts therein within the general purposes of such fund. Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the several special funds established pursuant to this section shall be invested and disbursed as provided in the bond proceedings.

(O) The issuing authority shall pledge and grant a security interest in all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, and make other provisions therein with respect to pledged receipts as authorized by this chapter, which provisions are controlling notwithstanding any other provisions of law pertaining thereto.

(P) The obligations, the transfer thereof, and the interest, accreted amount, and other income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation, direct or indirect, within this state.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means adjusted gross income as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) Add, in the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange,

or other disposition of public obligations to the extent included in federal adjusted gross income.

~~(10) Regarding tuition credits purchased under Chapter 3334. of the Revised Code:~~

~~(a) Deduct the following:~~

~~(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of income related to the credits, to the extent included in federal adjusted gross income;~~

~~(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the total purchase price of the tuition credits refunded over the amount of refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income.~~

~~(b) Add the following:~~

~~(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of loss related to the credits, to the extent the amount of the loss was deducted in determining federal adjusted gross income;~~

~~(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the amount of refund over the purchase price of each tuition credit refunded, to the extent not included in federal adjusted gross income Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to Chapter 3334. of the Revised Code.~~

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for

which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction

allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of human services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction

ay not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(B) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from tangible and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes

declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" applies to estates only and means taxable income as defined and used in the Internal Revenue Code adjusted as follows:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities;

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States that are exempt from state taxes under the laws of the United States;

(5) Deduct the amount of wages and salaries, if any, not otherwise

owable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect;

(6) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent included in federal taxable income;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining either federal adjusted gross income or federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's

academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

This is an interim section effective until July 1, 2000.

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed to a contributor for the amount contributed during the taxable year to a variable college savings program account and to a purchaser of tuition credits under the Ohio college savings program created by Chapter 3334. of the Revised Code to the extent that the amounts of such contributions and purchases were not deducted in determining the contributor's or purchaser's federal adjusted gross income for the taxable year. The combined amount of contributions and purchases deducted in any taxable year by a taxpayer or the taxpayer and the taxpayer's spouse, regardless of whether the taxpayer and the taxpayer's spouse file separate returns or a joint return, is limited to two thousand dollars for each beneficiary for whom contributions or purchases are made. If the combined annual contributions and purchases for a beneficiary exceed two thousand dollars, the excess may be carried forward and deducted in future taxable years until the contributions and purchases have been fully deducted.

(B) In computing Ohio adjusted gross income, a deduction from federal adjusted gross income is allowed for:

(1) Income related to tuition credits and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such income is included in federal adjusted gross income.

(2) The excess of the total purchase price of tuition credits refunded during the taxable year pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code over the amount of the refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income. division (B)(2) of this section applies only to credits for which no deduction was allowable under division (A) of this section.

(C) In computing Ohio adjusted gross income, there shall be added to federal adjusted gross income the amount of loss related to tuition credits

and contributions that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract or variable college savings program account under section 3334.10 of the Revised Code, to the extent that such loss was deducted in determining federal adjusted gross income.

(D) For taxable years in which distributions or refunds are made under a tuition payment or variable college savings program contract for any reason other than payment of tuition or other higher education expenses, or the beneficiary's death, disability, or receipt of a scholarship as described in section 3334.10 of the Revised Code:

(1) If the distribution or refund is paid to the purchaser or contributor or beneficiary, any portion of the distribution or refund not included in the recipient's federal adjusted gross income shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income, except that the amount added shall not exceed amounts previously deducted under division (A) of this section less any amounts added under division (D)(1) of this section in a prior taxable year.

(2) If amounts paid by a purchaser or contributor on or after January 1, 2000, are distributed or refunded to someone other than the purchaser or contributor or beneficiary, the amount of the payment not included in the recipient's federal adjusted gross income, less any amounts added under division (D) of this section in a prior taxable year, shall be added to the recipient's federal adjusted gross income in determining the recipient's Ohio adjusted gross income.

SECTION 2. That existing sections 3334.01, 3334.02, 3334.08, 3334.10, 3334.11, 3334.12, 3334.15, 3366.01, 3366.03, 3366.04, and 5747.01 of the Revised Code are hereby repealed.

SECTION 3. That section 5747.01 of the Revised Code, as amended by H.B. 471 of the 123rd General Assembly, be amended to read as follows:

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter has the same meaning as when used in a comparable context in the Internal Revenue Code, and all other statutes of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means adjusted gross income as defined and used in the Internal Revenue Code,

adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) Add, in the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent included in federal adjusted gross income.

~~(10) Regarding tuition credits purchased under Chapter 3334. of the Revised Code:~~

~~(a) Deduct the following:~~

~~(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of income related to the credits, to the extent included in federal adjusted gross income;~~

~~(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the total purchase price of the tuition credits refunded over the amount of refund, to the extent the amount of the excess was not deducted in determining federal adjusted gross income.~~

~~(b) Add the following:~~

~~(i) For credits that as of the end of the taxable year have not been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the amount of loss related to the credits, to the extent the amount of the loss was deducted in determining federal adjusted gross income;~~

~~(ii) For credits that during the taxable year have been refunded pursuant to the termination of a tuition payment contract under section 3334.10 of the Revised Code, the excess of the amount of refund over the purchase price of each tuition credit refunded, to the extent not included in federal adjusted gross income Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition credits purchased pursuant to chapter 3334. of the Revised Code.~~

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division

11)(a) of this section, "subsidized health plan" means a health plan for which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702(B)(b) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year,

in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any

taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(B) "Business income" means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from tangible and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

(H) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended.

(I) "Resident" means:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed

pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" applies to estates only and means taxable income as defined and used in the Internal Revenue Code adjusted as follows:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities;

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States that are exempt from federal income taxes but not from state income taxes;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States that are exempt from state taxes under the laws of the United States;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect;

(6) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent included in federal taxable income;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining either federal adjusted gross income or federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the

taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of proprietary school registration under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic

fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB) Any term used in this chapter that is not otherwise defined in this section and that is not used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes has the same meaning as in section 5733.40 of the Revised Code.

SECTION 4. That all existing versions of section 5747.01 of the Revised Code are hereby repealed.

SECTION 5. Sections 3 and 4 of this act shall take effect July 1, 2000.

SECTION 6. Section 5747.01 of the Revised Code, as amended by this act, and section 5747.70 of the Revised Code, as enacted by this act, apply to tax years beginning on and after January 1, 2000.

SECTION 7. Section 5747.01 of the Revised Code is presented in Section 1 of this act as a composite of the section as amended by both Am. Sub. H.B. 4 and Am. Sub. H.B. 282 of the 123rd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____