

AN ACT

To amend sections 3345.01, 3354.09, 3355.06, and 3357.09 and to enact section 3333.32 of the Revised Code and to amend Section 7.01 of Am. Sub. H.B. 282 of the 123rd General Assembly, as subsequently amended, to grant in-state tuition rates and subsidies at certain public institutions of higher education to residents of contiguous states who are employed in Ohio and whose employers contract to pay their tuition and fees.

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

SECTION 1. That sections 3345.01, 3354.09, 3355.06, and 3357.09 be amended and section 3333.32 of the Revised Code be enacted to read as follows:

Sec. 3333.32. For purposes of state subsidy and tuition and fee surcharges, a student attending a state university listed in section 3345.011 of the Revised Code, a community college, a technical college, a university branch, or a state community college has resident status if all of the following conditions apply:

(A) The student resides in a contiguous state.

(B) The student is employed in Ohio by a business, organization, or government agency located in Ohio.

(C) The employer enters into a contract with the institution of higher education under which the employer pays all of the student's tuition and fees directly to the institution and agrees not to charge or seek reimbursement from the student in any manner for any part of the tuition and fees.

Sec. 3345.01. Except as provided in ~~section~~ sections 3333.17 and 3333.32 of the Revised Code, the board of trustees of a state university or college, as defined in section 3345.12 of the Revised Code, may charge reasonable tuition for the attendance of pupils who are nonresidents of Ohio.

Sec. 3354.09. The board of trustees of a community college district may:

(A) Own and operate a community college, pursuant to an official plan

prepared and approved in accordance with section 3354.07 of the Revised Code, or enter into a contract with a generally accredited public university or college for operation of such community college by such university or college pursuant to an official plan prepared and approved in accordance with section 3354.07 of the Revised Code;

(B) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease, use, and sell real and personal property as is necessary for the conduct of the program of the community college on whatever terms and for whatever consideration may be appropriate for the purpose of the college;

(C) Accept gifts, grants, bequests, and devises absolutely or in trust for support of the college during the existence of the college;

(D) Appoint the administrative officers, faculty, and staff, necessary and proper for such community college, and fix their compensation except in instances in which the board of trustees has delegated such powers to a college or university operating such community college pursuant to a contract entered into by the board of trustees of the district;

(E) Provide for a community college necessary lands, buildings or other structures, equipment, means, and appliances;

(F) Develop and adopt, pursuant to the official plan, the curricular programs identified in section 3354.01 of the Revised Code as arts and sciences programs and technical programs, or either. Such programs may include adult-education programs.

(G) Except as provided in ~~section~~ sections 3333.17 and 3333.32 of the Revised Code, establish schedules of fees and tuition for students who are residents of the district, residents of Ohio but not of the district, and students who are nonresidents of Ohio. The establishment of rules governing the determination of residence shall be subject to approval of the Ohio board of regents. Students who are nonresidents of Ohio shall be required to pay higher rates of fees and tuition than the rates required of students who are residents of Ohio but not of the district, and students who are residents of the district shall pay a smaller tuition and fee rate than the rate for either category of nonresident students.

(H) Authorize, approve, ratify, or confirm any agreement relating to any such community college with the United States government, acting through any agency of such government designated or created to aid in the financing of such projects, or with any person or agency offering grants in aid in financing such educational facilities or the operation of such facilities except as prohibited in division (K) of this section.

Such agreement may include a provision for repayment of advances,

rants, or loans made to any community college district from funds which may become available to it.

When the United States government or its agent makes a grant of money to any community college district to aid in paying the cost of any projects of such district, or enters into an agreement with the community college district for the making of any such grant of money, the amount thereof is deemed appropriated for such purpose by the community college district and is deemed in process of collection within the meaning of section 5705.41 of the Revised Code.

(I) Grant appropriate certificates of achievement to students successfully completing the community college programs;

(J) Prescribe rules for the effective operation of a community college and exercise such other powers as are necessary for the efficient management of such college;

(K) Receive and expend gifts or grants from the state for the payment of operating costs, for the acquisition, construction, or improvement of buildings or other structures, or for the acquisition or use of land. In no event shall state gifts or grants be expended for the support of adult-education programs. Gifts or grants from the state for operating costs shall not in any biennium exceed the amount recommended by the Ohio board of regents to the governor as provided in Chapter 3333. of the Revised Code. Such gifts or grants shall be distributed to such districts in equal quarter-annual payments, unless otherwise provided or authorized in any act appropriating moneys for such purposes, on or before the last day of February, May, August, and November in each year.

(L) Retain consultants in the fields of education, planning, architecture, law, engineering, or other fields of professional skill;

(M) Purchase:

(1) A policy or policies of insurance insuring the district against loss of or damage to property, whether real, personal, or mixed, which is owned by the district or leased by it as lessee or which is in the process of construction by or for the district;

(2) A policy or policies of fidelity insurance in such amounts and covering such trustees, officers, and employees of the district as it considers necessary or desirable;

(3) A policy or policies of liability insurance from an insurer or insurers licensed to do business in this state insuring its members, officers, and employees against all civil liability arising from an act or omission by the member, officer, or employee when the member, officer, or employee is not acting manifestly outside the scope of employment or official

responsibilities with the institution, with malicious purpose or bad faith, or in a wanton or reckless manner, or may otherwise provide for the indemnification of such persons against such liability. All or any portion of the cost, premium, or charge for such a policy or policies or indemnification payment may be paid from any funds under the institution's control. The policy or policies of liability insurance or the indemnification policy of the institution may cover any risks including, but not limited to, damages resulting from injury to property or person, professional liability, and other special risks, including legal fees and expenses incurred in the defense or settlement of claims for such damages.

(4) A policy or policies of insurance insuring the district against any liabilities to which it may be subject on account of damage or injury to persons or property, including liability for wrongful death.

(N) Designate one or more employees of the institution as state university law enforcement officers, to serve and have duties as prescribed in section 3345.04 of the Revised Code.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 3355.06. The managing authority of the university branch district shall adopt its own rules governing proceedings, designate the permanent place of business of the district, and keep a record of all its proceedings. Such record shall be open for public inspection during regular business hours at the permanent place of business of the district.

The managing authority may:

(A) Enter into a contract for a period of not less than four nor more than ten years with a state or municipal university for the operation of a university branch by such university on the campus provided in accordance with sections 3355.01 to 3355.14 of the Revised Code. Except as provided in ~~section~~ sections 3333.17 and 3333.32 of the Revised Code, the contract shall establish schedules of fees and tuition for: students who are residents of the district; residents of Ohio but not of the district; and students who are nonresidents of Ohio. Students who are nonresidents of Ohio shall be required to pay higher rates of fees and tuition than the rates required of students who are residents of Ohio but not of the district, and students who are residents of the district shall pay a smaller tuition and fee rate than the rate for either category of nonresident students.

(B) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease, use, and sell real and personal property as is necessary for the creation and maintenance of the university branch

ampus, on whatever terms and for whatever consideration may be appropriate for the purposes of the facility;

(C) Accept gifts, grants, bequests, and devises absolutely or in trust for support of the university branch campus during the existence of said branch;

(D) Receive an appropriation from any municipality or county that is a part of the university branch district for the purpose of providing funds for support of the university branch campus;

(E) Receive and expend gifts or grants from the state for the payment of operating costs, for the acquisition, construction, or improvement of buildings or other structures, or for the acquisition or use of land;

(F) Prescribe rules for the effective operation of a university branch district college and exercise such other powers as are necessary for the efficient management of such university and are not in conflict with any contract entered into under division (A) of this section.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

Sec. 3357.09. The board of trustees of a technical college district may:

(A) Own and operate a technical college, pursuant to an official plan prepared and approved in accordance with section 3357.07 of the Revised Code;

(B) Hold, encumber, control, acquire by donation, purchase, or condemnation, construct, own, lease, use, and sell, real and personal property as necessary for the conduct of the program of the technical college on whatever terms and for whatever consideration may be appropriate for the purposes of the institution;

(C) Accept gifts, grants, bequests, and devises absolutely or in trust for support of the technical college;

(D) Appoint the president, faculty, and such other employees as necessary and proper for such technical college, and fix their compensation;

(E) Provide for a technical college necessary lands, buildings or other structures, equipment, means, and appliances;

(F) Develop and adopt, pursuant to the official plan, any one or more of the curricular programs identified in section 3357.01 of the Revised Code as technical-college programs, or adult-education technical programs;

(G) Except as provided in ~~section~~ sections 3333.17 and 3333.32 of the Revised Code, establish schedules of fees and tuition for: students who are residents of the district; students who are residents of Ohio but not of the district; students who are nonresidents of Ohio. The establishment of rules governing the determination of residence shall be subject to approval of the

Ohio board of regents. Students who are nonresidents of Ohio shall be required to pay higher rates of fees and tuition than the rates required of students who are residents of Ohio but not of the district, and students who are residents of the district shall pay smaller tuition and fee rates than the rates for either of the above categories of nonresident students, except that students who are residents of Ohio but not of the district shall be required to pay higher fees and tuition than students who are residents of the district only when a district tax levy has been adopted and is in effect under the authority of section 3357.11, 5705.19, or 5705.191 of the Revised Code.

(H) Authorize, approve, ratify, or confirm, with approval of the Ohio board of regents, any agreement with the United States government, acting through any agency designated to aid in the financing of technical college projects, or with any person, organization, or agency offering grants-in-aid for technical college facilities or operation;

(I) Receive assistance for the cost of equipment and for the operation of such technical colleges from moneys appropriated for technical education or for matching of Title VIII of the "National Defense Education Act," 72 Stat. 1597 (1958), 20 U.S.C.A. 15a-15e. Moneys shall be distributed by the Ohio board of regents in accordance with rules which the board shall establish governing its allocations to technical colleges chartered under section 3357.07 of the Revised Code.

(J) Grant appropriate associate degrees to students successfully completing the technical college programs and certificates of achievement to those students who complete other programs;

(K) Prescribe rules for the effective operation of a technical college, and exercise such other powers as are necessary for the efficient management of such college;

(L) Enter into contracts and conduct technical college programs or technical courses outside the technical college district;

(M) Enter into contracts with the board of education of any local, exempted village, or city school district or the governing board of any educational service center to permit the school district or service center to use the facilities of the technical college district;

(N) Designate one or more employees of the institution as state university law enforcement officers, to serve and have duties as prescribed in section 3345.04 of the Revised Code;

(O) Subject to the approval of the Ohio board of regents, offer technical college programs or technical courses for credit at locations outside the technical college district. For purposes of computing state aid, students enrolled in such courses shall be deemed to be students enrolled in programs

and courses at off-campus locations in the district.

(P) Purchase a policy or policies of liability insurance from an insurer or insurers licensed to do business in this state insuring its members, officers, and employees against all civil liability arising from an act or omission by the member, officer, or employee, when the member, officer, or employee is not acting manifestly outside the scope of the member's, officer's, or employee's employment or official responsibilities with the institution, with malicious purpose or bad faith, or in a wanton or reckless manner, or may otherwise provide for the indemnification of such persons against such liability. All or any portion of the cost, premium, or charge for such a policy or policies or indemnification payment may be paid from any funds under the institution's control. The policy or policies of liability insurance or the indemnification policy of the institution may cover any risks including, but not limited to, damages resulting from injury to property or person, professional liability, and other special risks, including legal fees and expenses incurred in the defense or settlement of claims for such damages.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

SECTION 2. That existing sections 3345.01, 3354.09, 3355.06, and 3357.09 of the Revised Code are hereby repealed.

SECTION 3. That Section 7.01 of Am. Sub. H.B. 282 of the 123rd General Assembly, as amended by Sub. S.B. 245 of the 123rd General Assembly, be amended to read as follows:

" Sec. 7.01. Instructional Subsidy Formula

As soon as practicable during each fiscal year of the 1999-2001 biennium in accordance with instructions of the Ohio Board of Regents, each state-assisted institution of higher education shall report its actual enrollment to the Ohio Board of Regents.

The Ohio Board of Regents shall establish procedures required by the system of formulas set out below and for the assignment of individual institutions to categories described in the formulas. The system of formulas establishes the manner in which aggregate expenditure requirements shall be determined for each of the three components of institutional operations. In addition to other adjustments and calculations described below, the subsidy entitlement of an institution shall be determined by subtracting from the institution's aggregate expenditure requirements income to be derived from

the local contributions assumed in calculating the subsidy entitlements. The local contributions for purposes of determining subsidy support shall not limit the authority of the individual boards of trustees to establish fee levels.

The General Studies and Technical models shall be adjusted by the Board of Regents so that the share of state subsidy earned by those models is not altered by changes in the overall local share. A lower-division fee differential shall be used to maintain the relationship that would have occurred between these models and the Baccalaureate models had an assumed share of thirty-seven per cent been funded.

In defining the number of full-time equivalent students for state subsidy purposes, the Ohio Board of Regents shall exclude all undergraduate students who are not residents of Ohio, except those charged in-state fees in accordance with reciprocity agreements made pursuant to section 3333.17 or employer contracts entered into pursuant to section 3333.32 of the Revised Code.

(A) Aggregate Expenditure Per Full-Time Equivalent Student

(1) Instruction and Support Services

<u>Model</u>	<u>FY 2000</u>	<u>FY 2001</u>
General Studies I	\$ 3,680	\$ 3,762
General Studies II	\$ 4,060	\$ 4,305
General Studies III	\$ 5,141	\$ 5,259
Technical I	\$ 4,702	\$ 5,012
Technical III	\$ 8,088	\$ 8,477
Baccalaureate I	\$ 6,301	\$ 6,611
Baccalaureate II	\$ 7,287	\$ 7,582
Baccalaureate III	\$ 10,417	\$ 10,574
Masters and Professional I	\$ 11,788	\$ 12,300
Masters and Professional II	\$ 17,020	\$ 17,558
Masters and Professional III	\$ 22,976	\$ 23,214
Doctoral I	\$ 19,495	\$ 19,647
Doctoral II	\$ 25,066	\$ 25,840
Medical I	\$ 27,250	\$ 27,709
Medical II	\$ 38,309	\$ 39,323

(2) Student Services

For this purpose full-time equivalent counts shall be weighted to reflect differences among institutions in the numbers of students enrolled on a part-time basis.

	<u>FY 2000</u>	<u>FY 2001</u>
All Expenditure Models	\$ 556	\$ 594

(B) Plant Operation and Maintenance (POM)

(1) Determination of the Square-Foot Based POM Subsidy

Space undergoing renovation shall be funded at the rate allowed for storage space.

In the calculation of square footage for each campus, square footage shall be weighted to reflect differences in space utilization.

The space inventories for each campus shall be those determined in the fiscal year 1997 instructional subsidy, adjusted for changes attributable to the construction or renovation of facilities for which state appropriations were made or local commitments were made prior to January 1, 1995.

Only fifty per cent of the space permanently taken out of operation in fiscal year 2000 or fiscal year 2001 that is not otherwise replaced by a campus shall be deleted from the fiscal year 1997 inventory.

The square-foot based plant operation and maintenance subsidy for each campus shall be determined as follows:

(a) For each standard room type category shown below, the subsidy-eligible net assignable square feet (NASF) for each campus shall be multiplied by the following rates, and the amounts summed for each campus to determine the total gross square-foot based POM expenditure requirement:

	<u>FY 2000</u>	<u>FY 2001</u>
Classrooms	\$5.18	\$5.33
Laboratories	\$6.45	\$6.64
Offices	\$5.18	\$5.33
Audio Visual Data Processing	\$6.45	\$6.64
Storage	\$2.30	\$2.36
Circulation	\$6.53	\$6.72
Other	\$5.18	\$5.33

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to full-time equivalent (FTE) enrollments as reported in enrollment data for all models except Doctoral I and Doctoral II.

(c) The amounts allocated to models in division (B)(1)(b) above shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures to produce the total square-foot based POM subsidy.

(2) Determination of the Activity-Based POM Subsidy

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year.

	<u>FY 2000</u>	<u>FY 2001</u>
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General Studies I	\$ 488	\$ 488
General Studies II	\$ 563	\$ 584
General Studies III	\$1,237	\$1,217
Technical I	\$ 555	\$ 553
Technical II	\$1,128	\$1,175
Baccalaureate I	\$ 641	\$ 655
Baccalaureate II	\$1,067	\$1,109
Baccalaureate III	\$1,578	\$1,598
Masters and Professional I	\$ 995	\$1,022
Masters and Professional II	\$1,742	\$1,895
Masters and Professional III	\$2,620	\$2,614
Doctoral I	\$1,433	\$1,382
Doctoral II	\$2,502	\$2,613
Medical I	\$2,389	\$2,485
Medical II	\$3,458	\$3,362

(b) The sum of the products for each campus determined in division (B)(2)(a) for all models except Doctoral I and Doctoral II for each fiscal year shall be weighted by a factor to reflect sponsored research activity and job-training related public services expenditures to determine the total activity-based POM subsidy.

(C) Calculation of Core Subsidy Entitlements and Adjustments

(1) Calculation of Core Subsidy Entitlements

The calculation of the core subsidy entitlement shall consist of the following components:

(a) For each campus and for each fiscal year, the core subsidy entitlement shall be determined by multiplying the amounts listed above in divisions (A)(1) and (2) and (B)(2) less assumed local contributions, by (i) average subsidy-eligible full-time equivalents for the two-year period ending in the prior year for all models except Doctoral I and Doctoral II; and (ii) average subsidy-eligible full-time equivalents for the five-year period ending in the prior year for all models except Doctoral I and Doctoral II.

(b) In calculating the core subsidy entitlements for Medical II models only, the board shall use the following count of full-time equivalent students in place of the two-year average and five-year average of subsidy-eligible students.

(i) For those medical schools whose current year enrollment is below the base enrollment, the Medical II full-time equivalent enrollment shall equal: 65 per cent of the base enrollment plus 35 per cent of the current year enrollment, where the base enrollment is:

The Ohio State University

1010

University of Cincinnati	833
Medical College of Ohio at Toledo	650
Wright State University	433
Ohio University	433
Northeastern Ohio Universities College of Medicine	433

(ii) For those medical schools whose current year enrollment is equal to or greater than the base enrollment, the Medical II full-time equivalent enrollment shall equal the current enrollment.

(c) For all FTE-based subsidy calculations involving all-terms FTE data, FTE-based allowances shall be converted from annualized to annual rates to ensure equity and consistency of subsidy determination.

(d) The Board of Regents shall compute the sum of the two calculations listed in division (C)(1)(a) above and use the greater sum as the core subsidy entitlement.

The POM subsidy for each campus shall equal the greater of the square-foot-based subsidy or the activity-based POM subsidy component of the core subsidy entitlement, except that the total activity-based POM subsidy shall not exceed 161 per cent of the square-foot based POM subsidy in fiscal year 2000 and shall not exceed 177 per cent of the square-foot-based subsidy in fiscal year 2001.

(e) In fiscal year 2000, no more than 10.94 per cent of the total instructional subsidy shall be reserved to implement the recommendations of the Graduate Funding Commission. In fiscal year 2001, no more than 10.75 per cent of the total instructional subsidy shall be reserved for this same purpose. It is the intent of the General Assembly that the doctoral reserve be reduced 0.25 percentage points each year thereafter until no more than 10.0 per cent of the total instructional subsidy is reserved to implement the recommendations of the Graduate Funding Commission. In fiscal year 2001, the Board of Regents shall reallocate 2 per cent of the reserve among the state-assisted universities on the basis of a quality review as specified in the recommendations of the Graduate Funding Commission.

The amount so reserved shall be allocated to universities in proportion to their share of the total number of Doctoral I equivalent FTEs as calculated on an institutional basis using the greater of the two-year or five-year FTEs for the period fiscal year 1994 through fiscal year 1998 with annualized FTEs for fiscal years 1994 through 1997 and all-term FTEs for fiscal year 1998 as adjusted to reflect the effects of doctoral review. For the purposes of this calculation, Doctoral I equivalent FTEs shall equal the sum of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs. No university shall

receive less for doctoral subsidy in fiscal year 2000 than it received for doctoral subsidy in fiscal year 1999.

(2) Annual Guaranteed Funding Increase

For the purposes of this section, for each year and for each campus "Challenge subsidies" shall equal the sum of the following allocations:

- (a) Access Challenge, less amounts attributed to tuition restraint;
- (b) Research Challenge;
- (c) Priorities in Graduate Education;
- (d) Success Challenge;

(e) Jobs Challenge, less amounts earmarked for "strategically related industries."

In addition to and after the other adjustments noted above, in fiscal year 2000 each campus shall have its subsidy adjusted to the extent necessary to provide an amount from the instructional subsidy and Challenge subsidies that is not less than 103 per cent of the sum of the instructional subsidy and the Challenge subsidies received by the campus in fiscal year 1999. In fiscal year 2001 each campus shall have its subsidy adjusted to the extent necessary to provide an amount from the instructional subsidy and Challenge subsidies that is not less than 101 per cent of the sum of the instructional subsidy and the Challenge subsidies received by the campus in fiscal year 2000.

(3) Capital Component Deduction

After all other adjustments have been made, instructional subsidy earnings shall be reduced for each campus by the amount, if any, by which debt service charged in Am. H.B. No. 748 of the 121st General Assembly and Am. Sub. H.B. No. 850 of the 122nd General Assembly for that campus exceeds that campus' capital component earnings.

(D) Reductions in Earnings

If total systemwide instructional subsidy earnings in any fiscal year exceed total appropriations available for such purposes, the Board of Regents shall proportionately reduce the instructional subsidy earnings for all campuses by a uniform percentage so that the systemwide sum equals available appropriations.

(E) Exceptional Circumstances

Adjustments may be made to instructional subsidy payments and other subsidies distributed by the Ohio Board of Regents to state-assisted colleges and universities for exceptional circumstances. No adjustments for exceptional circumstances may be made without the recommendation of the chancellor and the approval of the Controlling Board.

Distribution of Instructional Subsidy

The instructional subsidy payments to the institutions shall be in substantially equal monthly amounts during the fiscal year, unless otherwise determined by the Director of Budget and Management pursuant to the provisions of section 126.09 of the Revised Code. Payments during the first six months of the fiscal year shall be based upon the instructional subsidy appropriation estimates made for the various institutions of higher education according to the Ohio Board of Regents enrollment estimates. Payments during the last six months of the fiscal year shall be distributed after approval of the Controlling Board upon the request of the Ohio Board of Regents.

Law School Subsidy

The instructional subsidy to state supported universities for students enrolled in law schools in fiscal year 2000 and fiscal year 2001 shall be calculated by using the number of subsidy eligible full-time equivalent law school students funded by state subsidy in fiscal year 1995 or the actual number of subsidy eligible full-time equivalent law school students at the institution in the fiscal year, whichever is less."

SECTION 4. That existing Section 7.01 of Am. Sub. H.B. 282 of the 123rd General Assembly, as amended by Sub. S.B. 245 of the 123rd General Assembly, is hereby repealed.

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 _____