
OHIO BOARD OF REGENTS (BOR)

Term of the Chancellor

- Changes the Chancellor's term of office from five years to the term of the appointing Governor.
- Changes removal of the Chancellor to the pleasure of the Governor, instead of by the Governor only for specific reasons.

Residency status for in-state tuition

- Grants residency status, for purposes of in-state college tuition, to Ohio high school graduates who enroll in a state institution of higher education and re-establish domicile in Ohio, regardless of residence prior to enrollment.
- Refuses residency status, for purposes of in-state college tuition, to any person who is not a U.S. citizen or U.S. national unless the person has been granted the right either (1) to live in the U.S. permanently and without work restrictions or (2) to reside temporarily in the U.S.

College costs

- Limits annual increases in in-state undergraduate tuition for fiscal years 2012 and 2013 to (1) 3.5%, in the case of state universities, university branches, and the Northeast Ohio Medical University and (2) \$200, in the case of community colleges, state community colleges, and technical colleges.
- Requires each state institution of higher education to submit to the Chancellor, by December 31, 2011, a plan to reduce the cost to students of textbooks and other educational resource materials.

Charter universities

- Requires the Chancellor to develop a plan for designating public institutions of higher education as charter universities, allowing qualifying institutions increased flexibility in managing their finances and operations.
- Requires the Chancellor to report, by August 15, 2011, recommendations for changes in policy, statute, and administrative rules, and states the General Assembly's intent to take actions necessary for implementation of the plan to commence July 1, 2012.



- Prohibits formation of charter universities, and adoption, amendment, or rescission of rules designating charter universities by the Chancellor, until the General Assembly enacts legislation establishing a procedure to designate charter universities.

Three-year baccalaureate degrees

- Requires all state institutions of higher education that offer baccalaureate degrees to issue a statement describing a method of earning those degrees in three years, and sets a timeline by which institutions must complete the statements for 10% and 60% of majors offered, not including programs that qualify as cooperative education programs.

College remediation

- Requires the presidents of the state institutions of higher education jointly to establish by December 31, 2012, uniform statewide standards in math, science, reading, and writing for a student to be considered as having a "remediation-free" status.
- Requires the state institutions annually to report (1) their remediation costs, both in the aggregate and disaggregated according to the school districts from which the students graduated and (2) any other information with respect to remedial courses that the Chancellor considers appropriate.
- Requires the Chancellor and the Superintendent of Public Instruction to issue an annual report recommending policies and strategies for reducing the need for college remedial courses at state institutions.

Distance and digital learning

- Requires that the distance learning clearinghouse be located, during the 2011-2013 biennium, in the Ohio Resource Center for Mathematics, Science, and Reading administered by the College of Education and Human Ecology at Ohio State University.
- Requires that each school district, community school, and STEM school (1) encourage and assist students to take advantage of distance learning offered through the clearinghouse and (2) award credit for successfully completed courses equal to credit that would be awarded for similar courses offered by the district or school.



- Establishes "guiding principles" for the clearinghouse for students in grades K to 12, including that students may earn unlimited academic credit through distance learning, may utilize distance learning for all or any portion of their curriculum requirements, and may take distance learning courses throughout the calendar year.
- Establishes the Ohio Digital Learning Task Force to make recommendations, by March 1, 2012, to the Governor and General Assembly on the expansion of digital learning opportunities.
- Requires the Chancellor to take steps to (1) facilitate full implementation of digital textbook pilot programs planned at state institutions of higher education and (2) ensure that those pilot programs examine cost savings, efficiencies, and academic benefits of digital content.

Other provisions

- Allows colleges and universities to propose Choose Ohio First initiatives that award scholarships for a STEMM teacher education master's program to students who establish domicile in Ohio and commit to teach for at least three years in a hard-to-staff Ohio school district.
- Expands the definition of products that employees of public colleges or universities may hold equity in, under rules adopted by the institution's board of trustees, to include "intellectual property."
- Prohibits state institutions of higher education from denying benefits to a religious student group based on the group's requirement that its leaders and members adhere to its sincerely held religious beliefs or standards of conduct.
- Permits a state institution of higher education to enter into an agreement to convey auxiliary facilities to a conduit entity, which will enter into a lease-leaseback agreement with an independent funding source.
- Authorizes state institutions of higher education and university housing commissions to enter into lease agreements with nonpublic vendors to provide campus housing facilities.
- Eliminates the Ohio State University Highway and Transportation Research Fund and requires the cash balance in the fund be paid to the Ohio State University.

Term of office of the Chancellor

(R.C. 121.03 and 3333.03; Section 630.12)

The act changes the term of the Chancellor of the Board of Regents and broadens the Governor's authority to remove the Chancellor from office. Under prior law, the Chancellor was appointed by the Governor, with the advice and consent of the Senate, for a five-year term, and could be removed by the Governor only for (1) inefficiency or dereliction of duty, (2) a violation of the Ethics Law, (3) failure to file a financial disclosure statement with the Ohio Ethics Commission or filing a false one, or (4) corruption.

Under the act, the Chancellor's term of office is the same as that of the appointing Governor, and the Chancellor may be removed at the pleasure of the Governor. (The act retains the requirement for the Senate's advice and consent in the Chancellor's appointment.) These changes essentially make the Chancellor's appointment, term, and removal the same as for other members of the Governor's cabinet.

Finally, the act adjusts the term of the Chancellor in office on the act's effective date so that it coincides with that of the Governor. Under prior law, the Chancellor's current term would have expired in 2012.

Residency status for in-state tuition; tuition for non-citizens

(R.C. 3333.31)

The act grants residency status to Ohio high school graduates who re-establish domicile in the state. This provision pertains to graduates who move out of state after high school graduation, since those who remain in Ohio retain their residency status. Specifically, if a student graduates from an Ohio high school, and was eligible for in-state tuition at the time of high school graduation, the graduate may re-establish domicile in Ohio *at any time* to qualify for in-state tuition.

However the act excludes from residency status any person who is not a U.S. citizen or U.S. national unless the U.S. Bureau of Citizenship and Immigration Services has granted that person either: (1) the right to reside permanently in, and to work without restrictions in, the U.S. or (2) the right to reside temporarily in the U.S.

Cap on undergraduate tuition increases

(Section 371.20.70)

For fiscal years 2012 and 2013 (the 2011-2012 and 2012-2013 academic years), the act requires state institutions of higher education to limit increases in in-state



undergraduate instructional and general fees. The maximum increase allowed for each of those years is:

(1) 3.5% over the previous year, in the case of state universities, university branches, and the Northeast Ohio Medical University; and

(2) \$200 over the previous year, in the case of community colleges, state community colleges, and technical colleges.

As in previous biennia when the General Assembly capped tuition increases, this cap does not apply to increases required to comply with institutional covenants related to an institution's obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the act's effective date, such as bond obligations. Further, the Chancellor may modify the cap, with Controlling Board approval, to respond to exceptional circumstances as the Chancellor identifies.

Textbook and materials costs

(Section 371.60.50)

The act requires each state institution of higher education to submit to the Chancellor a plan to reduce the cost to students of textbooks and other educational resource materials. The plans are due December 31, 2011.

Charter universities

(R.C. 3345.81)

The act requires the Chancellor to develop a plan for designating some state institutions of higher education as charter universities, having increased flexibility in managing their finances and operations. But the act prohibits institutions from being designated as charter universities until the General Assembly, after considering the Chancellor's plan, has enacted legislation establishing a procedure for making such a designation. The act further prohibits the Chancellor from adopting, amending, or rescinding rules with respect to designating institutions as charter universities until legislation is enacted.

Initial recommendations; statement of legislative intent to take action

By August 15, 2011, the Chancellor must submit to the General Assembly and the Governor findings and recommendations for use in developing changes to policy, statute, and administrative rules necessary to implement the plan. The act states that "the General Assembly intends that the General Assembly, Governor, and Chancellor



will take actions necessary for the plan for charter universities to commence July 1, 2012."

Development of the plan

In developing the plan, the Chancellor must:

(1) Study the administrative and financial relationships between the state and its public institutions of higher education, to determine the extent to which they can manage their operations more effectively when accorded flexibility through selected delegation of authority;

(2) Examine legal and other issues, and the feasibility and practicability, related to restructuring the relationship between the state and its public institutions of higher education; and

(3) Consult with the presidents of the institutions.

Contents of the plan

The plan must specify:

(1) The manner in which an institution may become eligible, and performance measures and criteria to determine eligibility. The measures and criteria must address an institution's ability to manage its administrative and financial operations without jeopardizing its financial integrity and stability.

(2) Specific areas of financial and operational authority that are subject to increased flexibility; and

(3) The nature and term of the management agreement between the state and an institution.

Assistance to the Chancellor

The Office of Budget and Management, the Department of Administrative Services, and each state institution of higher education must provide the Chancellor, upon the Chancellor's request, with research assistance, fiscal and policy analysis, and other services during the Chancellor's development of the plan. Any other state agency also must provide any other assistance requested by the Chancellor.

Three-year baccalaureate degrees

(R.C. 3333.43)

The act requires the Chancellor to require all state institutions of higher education (state universities, community colleges, technical colleges, state community colleges, and university branches) that offer baccalaureate degrees to submit a statement describing how each major for which the school offers a baccalaureate degree may be completed within three academic years. The statement must include a chronology starting in the fall semester of a student's first year. Schools that fail to comply stand to lose authorization from the Chancellor to offer such programs. However, the act specifies that institutions are not required to take any action that would violate the requirements of any independent association that accredits baccalaureate degree programs.

Each institution must provide statements for 10% of all baccalaureate degree programs offered by the institution not later than October 15, 2012. Not later than June 30, 2014, institutions must provide statements for 60% of all baccalaureate degrees.

Co-op programs exempted

However, the act specifies that these requirements do not apply to baccalaureate degree programs that qualify as cooperative education programs. A cooperative education program is a program that (1) combines periods of academic study and work experience in appropriate fields, (2) provides students with academic credit from the institution of higher education and wages from the employer, (3) evaluates each student's performance in the cooperative position from the perspective of both the institution of higher education and the employer, and (4) is part of a degree or certificate program for which a percentage of the total program acceptable to the Chancellor involves cooperative education.²³⁵

Publication and contents

Each institution must post its three-year option statements on its website and provide that information to the Department of Education, which, in turn, must distribute it to the superintendent, high school principal, and guidance counselor, or the equivalents, of each school district, community ("charter") school, and STEM school in the state.

The statement may include any of the following methods to contribute to earning a degree in three years:

²³⁵ R.C. 3333.71, not in the act.



- (1) Advanced placement credit;
- (2) International baccalaureate program credit;
- (3) A waiver of degree and credit-hour requirements earned by completion of college courses through community colleges, on-line courses from state or private, nonprofit institutions of higher education, or the Post-Secondary Enrollment Options program;
- (4) Completion of coursework during summer sessions; or
- (5) A foreign language requirement waiver based on a proficiency examination specified by the institution.

College remediation

(R.C. 3345.061)

The act requires the presidents, or their designees, of all state institutions of higher education (state universities, community colleges, state community colleges, university branches, and technical colleges) jointly to establish uniform statewide standards in math, science, reading, and writing for a student to be considered as having a "remediation-free" status. These standards must be adopted by December 31, 2012. The presidents also must establish any assessments they find necessary to assess student knowledge in those fields. Each institution must assess the needs of its enrolled students in the manner adopted by the presidents, and each board of trustees must adopt the agreed-upon standards and any related assessments into the institution's policies. The Chancellor must assist in coordinating the presidents' work.

The act also requires each state institution of higher education to report to the Governor, General Assembly, Chancellor, and Superintendent of Public Instruction annually, on a date established by the Chancellor, all of the following information: (1) the institution's aggregate costs for providing academic remedial or developmental courses, (2) the amount of those costs disaggregated according to the city, local, or exempted village school districts from which the students taking those courses received their high school diplomas, and (3) any other information concerning academic remedial and developmental courses that the Chancellor considers appropriate.

Finally, the act requires the Chancellor and Superintendent of Public Instruction to issue an annual report recommending policies and strategies for reducing the need for academic remediation and developmental courses at state institutions of higher education. The first report is due December 31, 2011, with subsequent reports due on December 31 each year thereafter.



Distance learning clearinghouse

(R.C. 3333.81 to 3333.85 and 3333.87; Section 371.60.70; conforming change in R.C. 3313.603)

Background

The Chancellor is required under continuing law to establish and maintain a distance learning clearinghouse. Under that program, school districts, community schools, STEM schools, public and private colleges and universities, and other nonprofit and for-profit course providers may offer on-line or other distance learning courses through the clearinghouse for sharing with other school districts, community schools, STEM schools, public and private colleges and universities, and individuals. In operating the clearinghouse, the Chancellor must use a "common statewide platform" to support the delivery of courses, but the provider is solely responsible for the course content. The Chancellor has maintained the clearinghouse as the "OhioLearns! Gateway," including an online searchable database of both primary-secondary and higher education courses offered through the program (see <http://www.ohiolearns.org/>).

Relocation of clearinghouse to OSU College of Education

The act specifies, in an uncodified and temporary section, that the distance learning clearinghouse must be located at the Ohio Resource Center for Mathematics, Science, and Reading administered by the College of Education and Human Ecology at Ohio State University.²³⁶ Presumably, this means that the Chancellor is required to relocate the clearinghouse to the College by contracting with the College to operate the program. But the act also eliminates some of the language of prior, permanent law that specifically permitted the Chancellor to contract out the clearinghouse.²³⁷ At the very least, it appears that the College is required to operate the clearinghouse under the auspices of the Chancellor, in lieu of the Chancellor's operating it directly, for the 2011-2013 fiscal biennium.

The act requires the College to provide access to its online repository of educational content to offer courses from multiple providers at competitive prices for Ohio students in grades K to 12. It does not indicate whether the College is required to also to maintain the prior offerings of the clearinghouse, including those offered for higher education students.

²³⁶ Section 371.60.70.

²³⁷ R.C. 3333.82(F).



Under the act, the College must review the content of each course offered to assess the course's alignment with the state academic content standards adopted by the State Board of Education, and to publish its determination about the degree of that alignment. Presumably, this requirement applies only to the courses offered for credit in a primary or secondary school. It therefore appears that the College in administering the program must take some responsibility for course content. Conversely, however, continuing permanent law specifies that the Chancellor bears no responsibility for the content of the course offered through the clearinghouse.²³⁸

The College also must indicate for each course offered the academic credit that a student "may reasonably expect to earn upon successful completion of the course." Although the temporary provision stipulates that a student's school district or school retains "full authority to determine the credit awarded to the student," the permanent provisions require a student's district or school to award credit for a successfully completed course (see "**Participation by primary and secondary schools**" below).²³⁹

The College is specifically permitted to establish policies to protect the proprietary interest in or intellectual property of the educational content and courses offered through the clearinghouse. The College may require users to agree to the terms of any such policies prior to accessing the repository.²⁴⁰

As under continuing permanent law, the act's temporary provision specifies that the fee charged for a course offered through the clearinghouse, as it is operated by the College, is set by the course provider. But the act permits the College to retain a percentage of the fee to offset the cost of maintaining the clearinghouse. The Chancellor is also permitted under continuing permanent law to retain a percentage of a provider's fee.²⁴¹ Thus, it appears that both the Chancellor and the College might be able to retain amounts from the fee for a single course if necessary to offset their respective costs.

Participation by primary and secondary schools

The act eliminates a restrictive provision that permitted a primary and secondary student to enroll in a course through the clearinghouse only if the student's district or school approved it and agreed to accept for credit the grade assigned by the course provider. Instead, the act requires each school district, community school, and STEM school to encourage students to take advantage of the distance learning opportunities

²³⁸ R.C. 3333.82(A); Section 371.60.70(B).

²³⁹ R.C. 3333.85(B); Section 371.60.70(C).

²⁴⁰ Section 371.60.70(E).

²⁴¹ R.C. 3333.84(C); Section 371.60.70(D).



offered through the clearinghouse and to assist them in selecting and scheduling courses that both satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans. It also requires districts and schools to award credit for successfully completed courses that is equivalent to the credit that would be awarded for similar courses offered at the students' districts or schools. Moreover, districts and schools are prohibited from denying or limiting access to or participation in courses offered through the clearinghouse and from refusing to recognize courses that fulfill the minimum high school curriculum.²⁴²

However, the act also states that a school district, community school, or STEM school is not required to pay the fee charged for a course taken by a student. Under continuing permanent law, not changed by the act, the Chancellor is responsible for prescribing the manner in which the fee for a course "shall be collected or deducted from the school district, school, college or university, or individual subscribing to the course and in which manner the fee shall be paid to the course provider."²⁴³ Presumably, a district or school is free to pay the fee on behalf of a student but cannot be compelled to do so. Still, it is not clear whether a district or school can require a student to take a course through the clearinghouse if it cannot offer the course directly unless it pays for the course on behalf of the student.

Distribution of information by eTech

The act requires the eTech Ohio Commission, in consultation with the Chancellor and the State Board of Education, to distribute information to students and parents describing the clearinghouse. The information must be provided in an easily understandable format.²⁴⁴

Guiding principles

The act prescribes "principles" for how the clearinghouse is to be administered for K-12 students. They are as follows.

"(1) All Ohio students shall have access to high quality distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using distance learning courses offered through the clearinghouse and no student shall be denied access to any course in the clearinghouse in which the student is eligible to enroll.

²⁴² R.C. 3333.83 and 3333.85. See also R.C. 3313.603(C).

²⁴³ R.C. 3333.84(A) and (D).

²⁴⁴ R.C. 3333.82(F).



(3) Students may take distance learning courses for all or any portion of their curriculum requirements and may utilize a combination of distance learning courses and courses taught in a traditional classroom setting.

(4) Students may earn an unlimited number of academic credits through distance learning courses.

(5) Students may take distance learning courses at any time of the calendar year.

(6) Student advancement to higher coursework shall be based on a demonstration of subject area competency instead of completion of any particular number of hours of instruction."²⁴⁵

Rules for implementation of the clearinghouse

Prior law required the Chancellor to adopt rules in accordance with the Administrative Procedure Act prescribing procedures for implementation of the clearinghouse. The act prescribes instead that the Chancellor and the State Board of Education, jointly, must adopt such rules. And the Chancellor and State Board must consult with the Director of the Governor's Office of 21st Century Education in adopting those rules.²⁴⁶

The Ohio Digital Learning Task Force

(Section 371.60.80)

The act establishes the Ohio Digital Learning Task Force "to develop a strategy for the expansion of digital learning that enables students to customize their education, produces cost savings, and meets the needs of Ohio's economy."

The Task Force consists of the following members:

(1) The Chancellor or the Chancellor's designee;

(2) The Superintendent of Public Instruction or the Superintendent's designee;

(3) The Director of the Governor's Office of 21st Century Education or the Director's designee;

²⁴⁵ R.C. 3333.82(A).

²⁴⁶ R.C. 3333.87.



(4) Up to six members appointed by the Governor, who must be representatives of school districts or community schools that are "high performing of their type" and have demonstrated the ability to incorporate technology into the classroom successfully; and

(5) One member each appointed by the Senate President and the Speaker of the House. The act does not state whether those two members must or may be members of the General Assembly or the public.

All members must be appointed within 60 days after the act's (immediate) effective date. The Governor must designate the chairperson of the Task Force. Meetings of the Task Force are held at the call of the chairperson.

Issues for study

The act specifically requires the Task Force to do all of the following:

(1) Request information from textbook publishers about digital textbooks and digital content distribution methods and examine that information;

(2) Examine potential cost savings of using digital textbooks and digital content distribution in primary and secondary schools and in higher education institutions;

(3) Examine the academic benefits of using digital textbooks and digital content distribution, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments; and

(4) Examine current digital content pilot programs and state-level initiatives operating in Ohio.

Recommendations

The Task Force must issue a report, by March 1, 2012, to the Governor, President of the Senate, and Speaker of the House with recommendations regarding all of the following:

(1) The "creation of high quality digital content and instruction" for free access by public and nonpublic schools and students receiving home instruction;

(2) "High quality professional development for teachers and principals providing online instruction or blended learning programs";

(3) Funding strategies;



- (4) Student assessment and accountability;
- (5) Infrastructure to support digital learning;
- (6) Mobile learning and mobile learning applications;
- (7) The distance learning clearinghouse (see above);
- (8) "Ways to align the resources and digital learning initiatives of state agencies and offices";
- (9) Methods for removing redundancy and inefficiency in, and for providing coordination of, all digital learning programs, including the provision of free online instruction to public and nonpublic schools statewide; and
- (10) Methods of addressing future changes in technology and learning.

Upon issuing its report, the Task Force will cease to exist.

Electronic textbook programs at state higher education institutions

(Section 371.60.90)

The act requires the Chancellor, by December 29, 2011, to do both of the following:

- (1) Facilitate full implementation of digital textbook and content pilot programs currently planned at state institutions of higher education; and
- (2) Ensure that those pilot programs examine cost savings, efficiencies, and academic benefits of digital content, including, but not limited to, the ability to individualize content to specific student learning styles, accessibility for individuals with disabilities, and the integration of formative and other online assessments.

Choose Ohio First scholarship to recruit STEMM teachers

(R.C. 3333.66)

The law authorizing the Choose Ohio First scholarship program generally contemplates that the program will award money for scholarships to undergraduate students in the STEMM fields (science, technology, engineering, math, or medicine) or in STEMM education. But it also directs the Chancellor to encourage colleges and universities to submit proposals to attract Ohio residents attending college elsewhere to return to Ohio for *graduate-level* study in a STEMM field or in STEMM education.



The act directs the Chancellor to encourage a second type of proposal for graduate students, to retain students already in Ohio to take a master's teacher education program in a STEMM field and teach in a hard-to-staff Ohio school district. Specifically, it directs the Chancellor to encourage proposals to award scholarships to STEMM graduates (or undergraduates who will graduate in time to participate in the proposed program by the subsequent school year) from an Ohio college or university to participate in a teacher education masters program in a STEMM field. To qualify for approval, a proposal must require that a participant establish domicile in Ohio and commit to teach for a minimum of three years in a hard-to-staff school district, as defined by the Department of Education, after completing the master's degree program. (The act does not elaborate how the three-year teaching obligation might be enforced; presumably, through contractual obligation.) Moreover, the Chancellor may require a proposing college or university to give priority to qualified candidates who graduated from an Ohio high school.

Financial interests in intellectual property

(R.C. 3345.14)

Under continuing law, the board of trustees of a state college or university may adopt rules under which an employee may solicit or accept, or a person may give or promise to an employee, a financial interest in any entity (firm, corporation, or other association) to which the board has given (assigned, licensed, or transferred) or sold the university's interests in the employee's discoveries, inventions, or patents. The act broadens the potential products that a board could allow an employee to hold a financial interest in to include any "intellectual property." Thus, under the act, an employee of a state college or university may, if permitted under the rules adopted by the institution's board of trustees, hold equity in any intellectual property created by the employee that the college or university has transferred or sold to another entity.

Religious student groups

(R.C. 3345.023)

The act prohibits a state institution of higher education from denying a religious student group any benefit that any other student group would receive, based on the fact that the religious student group requires its leaders or members to adhere to its sincerely held religious beliefs or standards of conduct.

The act specifies that benefits to which such religious groups must have equal access include recognition by the institution and registration of that group. Institutions must also provide these religious student groups access to the institution's channels of communication and funding sources available to any other student group. Finally,



these groups must also be able to use the institution's facilities for speaking purposes, but this requirement is subject to the institution's authority to deny use of facilities to advocates for or members of organizations that advocate the overthrow of the U.S. government by force, or persons "whose presence is not conducive to high ethical or moral standards or the primary educational purposes and orderly conduct of the functions of the institution."²⁴⁷

Leasing campus auxiliary facilities

(R.C. 3345.54)

The act authorizes the board of trustees of a state institution of higher education, subject to approval by the Chancellor and the Controlling Board, to enter into a financing agreement with a conduit entity and an independent funding source and convey to the conduit entity title to any auxiliary facilities owned by the state institution. The conduit entity and independent funding source must be selected either through a competitive selection process or by direct negotiations. For purposes of the act, "**auxiliary facilities**" means buildings, structures, and other improvements, and equipment, real estate, and interests in such real estate, to be used for or in connection with student activity or service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, parking facilities, bookstores, athletic and recreational facilities, faculty centers, auditoriums, assembly and exhibition halls, hospitals, infirmaries and other medical and health facilities, research, and continuing education facilities. "**Conduit entity**" means an organization described in Section 501(c)(3) of the Internal Revenue Code that qualifies as a public charity under Section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, whose corporate purpose allows it to perform the functions and obligations of a conduit entity prescribed in a financing agreement under the act. "**Independent funding source**" means a private entity that enters into a financing agreement with a conduit entity and a state institution.

The financing agreement envisioned by the act is a contract between a state institution of higher education, a conduit entity, and an independent funding source that provides for all of the following:

- (1) The conveyance of auxiliary facilities owned by a state institution of higher education to the conduit entity for consideration deemed adequate by the institution.
- (2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed 99 years.

²⁴⁷ R.C. 3345.021, not in the act.



(3) Such other terms and conditions negotiated and agreed upon by the parties, including terms regarding:

(a) Payment to the institution by the conduit entity of revenues received from the conveyed property in excess of the payments it is required to make to the independent funding source;

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property; and

(c) Reverter or conveyance of title to the conveyed property to the institution when the property is no longer subject to a lease with the independent funding source.

(4) Terms and conditions required by the Chancellor or the Controlling Board as a condition of approval of the financing agreement.

The institution and the conduit entity may enter into agreements or contracts under which the institution may maintain or administer the conveyed property and may collect and disburse revenues on behalf of the conduit entity.

The parties also may modify or extend the financing agreement subject to approval by the Chancellor and the Controlling Board.

The property that is conveyed pursuant to a financing agreement retains its exemption from property taxes and assessments, as though title to the conveyed property were held by the institution during any part of a tax year that title was held by the institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement between the conduit entity and the independent funding source. The conduit entity, however, must apply for continued exemption of the conveyed property as provided by law after the conveyed property is transferred to it and during the term of the lease-leaseback arrangement.

Finally, the act provides that nothing in this provision is intended to abrogate, amend, limit, or replace any existing authority that state institutions of higher education may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities.

Leasing campus housing facilities

(R.C. 3345.55)

In addition to the authority for leasing campus auxiliary facilities (see "**Leasing campus auxiliary facilities**" above), the act authorizes a university (defined to include state institutions of higher education and university housing commissions) to enter into



a lease agreement with a nonpublic vendor to provide housing services in campus housing facilities to students of the university. The lease agreement may require the vendor to construct new campus housing facilities to serve students. The lease agreement must be for a term of at least 20 but no more than 30 years and include the following requirements:

- (1) The vendor must be responsible for the operation and maintenance of the housing facilities;
- (2) The vendor must lease housing units to students of the university;
- (3) The vendor is bound by and must enforce any university housing policies.

The act provides that a university may revoke the lease and regain operational control over dormitories if the vendors violate the terms of the lease agreement.

OSU Highway and Transportation Research Fund

(Repealed R.C. 3335.45; Section 371.70.10)

The act eliminates the Ohio State University Highway and Transportation Research Fund and requires the cash balance in the fund be paid to Ohio State University.

