(122nd General Assembly)
(House Bill Number 215)

AN ACT

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

3365.021, 3365.03, 3365.06, 3383.01, 3383.08, 3501.10, 3501.11, 3501.17, 3501.28, 3701.14, 3701.261, 3701.502, 3701.74, 3702.30, 3702.511, 3702.68, 3705.24, 3719.02, 3719.021, 3729.40, 3734.18, 3734.57, 3734.82, 3734.904, 3734.907, 3737.02, 3743.01, 3743.02, 3743.03, 3743.04, 3743.05, 3743.06, 3743.07, 3743.08, 3743.15, 3743.16, 3743.17, 3743.18, 3743.19, 3743.20, 3743.21, 3743.40, 3743.44, 3743.45, 3743.50, 3743.51, 3743.52, 3743.53, 3743.54, 3743.58, 3743.59, 3743.60, 3743.61, 3743.64, 3743.65, 3743.66, 3743.68, 3743.80, 3743.99, 3745.11, 3745.21, 3745.25, 3746.121, 3748.05, 3748.07, 3748.12, 3748.13, 3769.088, 3769.10, 3770.01, 3770.02, 3770.06, 3773.43, 3773.56, 3781.061, 3781.182, 3781.21, 3793.10, 3901.17, 3905.30, 3905.34, 3905.35, 3905.36, 3905.37, 3917.01, 3918.01, 3918.02, 3921.30, 3960.03, 4111.01, 4117.01, 4117.02, 4117.06, 4121.39, 4123.31, 4123.418, 4301.10, 4301.12, 4301.17, 4301.19, 4301.24, 4301.30, 4301.43, 4305.13, 4305.131, 4509.101, 4511.102, 4511.191, 4511.83, 4513.263, 4701.20, 4703.16, 4703.50, 4709.05, 4709.06, 4709.12, 4713.19, 4715.06, 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, 4715.27, 4715.35, 4717.06, 4717.07, 4717.09, 4717.18, 4723.08, 4723.24, 4723.28, 4723.31, 4723.46, 4723.56, 4723.59, 4725.06, 4725.45, 4729.15, 4729.29, 4729.51, 4729.52, 4729.54, 4729.55, 4729.65, 4731.09, 4731.10, 4731.14, 4731.15, 4731.17, 4731.22, 4731.24, 4731.26, 4731.281, 4731.291, 4731.38, 4731.40, 4731.53, 4731.56, 4732.04, 4732.141, 4733.08, 4734.07, 4734.16, 4735.01, 4735.05, 4736.06, 4740.03, 4741.03, 4741.17, 4741.25, 4743.05, 4747.03, 4749.02, 4751.06, 4751.07, 4753.04, 4755.10, 4755.12, 4755.40, 4755.41, 4755.43, 4755.47, 4755.48, 4755.49, 4755.60, 4755.61, 4755.62, 4755.64, 4755.65, 4755.99,

4757.22, 4757.23, 4757.31, 4759.08, 4763.01, 4767.01, 4901.10, 4901.19, 4903.10, 4903.11, 4903.23, 4905.10, 4905.21, 4905.26, 4905.66, 4905.69, 4905.80, 4905.81, 4911.18, 4923.12, 4937.02, 4937.05, 4981.033, 4981.09, 5101.02, 5101.06, 5101.07, 5101.14, 5101.141, 5101.58, 5104.02, 5111.01, 5111.011, 5111.11, 5111.111, 5111.17, 5111.18, 5112.04, 5112.18, 5112.21, 5115.01, 5119.02, 5119.03, 5119.47, 5119.53, 5120.03, 5120.09, 5120.16, 5120.38, 5121.04, 5122.43, 5123.05, 5123.122, 5123.18, 5123.19, 5123.34, 5126.022, 5126.08, 5126.356, 5139.01, 5139.03, 5139.04, 5139.07, 5139.34, 5139.36, 5139.42, 5139.43, 5139.86, 5153.16, 5153.161, 5153.162, 5531.10, 5701.01, 5701.05, 5703.21, 5705.412, 5709.62, 5709.63, 5709.632, 5709.66, 5711.22, 5711.32, 5725.01, 5725.18, 5727.111, 5727.12, 5728.09, 5728.10, 5729.03, 5733.01, 5733.02, 5733.022, 5733.03, 5733.031, 5733.04, 5733.042, 5733.05, 5733.051, 5733.052, 5733.053, 5733.055, 5733.06, 5733.061, 5733.065, 5733.066, 5733.067, 5733.068, 5733.069, 5733.09, 5733.11, 5733.12, 5733.121, 5733.26, 5733.31, 5733.311, 5733.32, 5733.33, 5733.34, 5733.98, 5735.11, 5735.12, 5735.121, 5739.01, 5739.02, 5739.024, 5739.033, 5739.07, 5739.072, 5739.13, 5739.132, 5739.133, 5739.15, 5739.17, 5741.10, 5741.101, 5741.14, 5743.081, 5743.082, 5743.52, 5743.56, 5747.01, 5747.02, 5747.025, 5747.03, 5747.054, 5747.057, 5747.062, 5747.07, 5747.072, 5747.08, 5747.11, 5747.12, 5747.13, 5747.14, 5747.15, 5747.18, 5747.20, 5747.21, 5747.22, 5747.26, 5747.261, 5747.30, 5747.31, 5747.32, 5747.98, 5749.06, 5749.07, 5749.10, 5902.01, 5910.04, 6109.21, and 6121.02; to amend and renumber as indicated in parentheses section 122.19 (122.16) as it results from

Sub. H.B. 441 of the 121st General Assembly; to enact new sections 901.41, 901.42, 1703.08, and 3905.33 and sections 111.25, 113.21, 121.371, 126.14, 131.38, 131.41, 175.041, 177.011, 901.54, 1506.24, 1515.091, 1555.09, 1751.68, 2151.422, 2151.55, 3113.40, 3301.134, 3301.801, 3311.057, 3313.535, 3313.613, 3313.844, 3314.01 to 3314.10, 3316.041, 3317.015, 3317.026, 3317.51, 3319.283, 3323.012, 3329.16, 3333.29, 3345.122, 3345.182, 3345.70, 3701.031, 3702.31, 3702.5211, 3702.5212, 3743.25, 3743.56, 3743.70, 3793.21, 4117.101, 4121.446, 4123.402, 4141.131, 4707.011, 4723.561, 5101.142, 5101.143, 5101.144, 5103.12, 5104.381, 5111.172, 5123.194, 5126.081, 5126.082, 5126.121, 5155.311, 5501.38, 5512.08, 5725.181, 5729.031, 5733.056, 5733.057, 5733.0611, 5733.111, 5733.36, 5733.37, 5733.38, 5733.40, 5733.41, 5735.143, 5747.059, 5747.131, 5747.211, 5747.231, 5747.34, 5747.35, 5747.36, 5747.40, 5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.452, and 5747.453; to repeal sections 125.94, 164.13, 173.07, 901.41, 901.42, 1703.08, 1703.09, 1703.10, 1703.11, 1703.14, 2503.14, 2503.15, 2503.16, 2503.18, 3318.33, 3905.33, 3921.32, 4743.04, 5111.171, 5111.85, 5119.25, 5119.28, 5123.06, 5123.32, and 5153.164; to repeal section 1751.68, effective July 1, 1999; to repeal section 3319.223, effective January 1, 2002; to repeal section 5725.181, effective January 1, 2003; and to repeal sections 5753.01, 5753.02, 5753.03, 5753.04, 5753.05, 5753.06, 5753.07, 5753.08, 5753.09, 5753.10, 5753.11, 5753.12, 5753.13, 5753.14, 5753.15, 5753.16, and 5753.99 of the Revised Code, effective January 1, 1999; and to amend Section 4 of Am. Sub. H.B. 478 of the

119th General Assembly, as subsequently amended; to amend Section 162 of Am. Sub. H.B. 298 of the 119th General Assembly; to amend Section 33 of Am. S.B. 206 of the 119th General Assembly, as subsequently amended; to amend Section 184 of Am. Sub. H.B. 152 of the 120th General Assembly, as subsequently amended; to amend Section 3 of Am. Sub. S.B. 20 of the 120th General Assembly; to amend Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly; to amend Section 5 of Sub. S.B. 223 of the 121st General Assembly; to amend Sections 5.01, 5.05, 15.02, and 19 of Am. Sub. S.B. 264 of the 121st General Assembly; to amend Sections 45.32, 153, and 178 of Am. Sub. H.B. 117 of the 121st General Assembly; to amend Section 3 of Sub. H.B. 441 of the 121st General Assembly; to amend Section 4 of Sub. H.B. 167 of the 121st General Assembly, as subsequently amended; to amend Section 13 of Am. Sub. H.B. 60 of the 121st General Assembly; to amend Sections 4, 42, 47, and 48 of Am. H.B. 748 of the 121st General Assembly; to amend Sections 13, 35, 39, 40, 51.03, 51.04, 51.06, and 52 of Am. H.B. 748 of the 121st General Assembly, as subsequently amended; to amend Sections 5 and 6 of Am. Sub. S.B. 102 of the 122nd General Assembly; to repeal Section 12 of Am. Sub. S.B. 259 of the 121st General Assembly; to repeal Sections 40, 41, 42, and 43 of Am. Sub. S.B. 310 of the 121st General Assembly; to repeal Section 166 of Am. Sub. H.B. 117 of the 121st General Assembly; to repeal Section 201 of Am. Sub. H.B. 117 of the 121st General Assembly, as subsequently amended; to repeal Section 29 of Sub. H.B. 670 of the 121st General Assembly; to repeal Section 5 of Sub. H.B. 870 of the 119th General Assembly; to amend section

29.031 of the Revised Code on July 1, 1999; to maintain certain provisions of this act on and after September 30, 1997, by amending the version of section 2151.355 of the Revised Code that takes effect on that date; and to maintain certain provisions of this act on and after March 4, 1998, by amending the version of section 4301.17 of the Revised Code that takes effect on that date to make operating appropriations for the biennium beginning July 1, 1997, and ending June 30, 1999, and to provide authorization and conditions for the operation of state programs.

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

SECTION 1. That sections 3.17, 3.24, 9.06, 101.23, 101.27, 101.35, 102.02, 103.143, 103.21, 105.41, 107.30, 107.40, 111.15, 111.16, 111.18, 117.44, 119.01, 120.04, 120.33, 121.04, 121.08, 121.37, 121.38, 121.40, 121.52, 122.15, 122.151, 122.152, 122.153, 122.154, 122.17, 122.18, 122.29, 122.89, 124.136, 124.15, 124.152, 124.18, 124.181, 124.34, 124.382, 124.383, 124.385, 124.391, 125.04, 125.05, 125.13, 125.15, 125.22, 125.28, 125.42, 125.83, 125.831, 125.87, 126.07, 126.12, 126.21, 126.26, 127.16, 131.35, 131.44, 135.142, 145.73, 149.303, 164.08, 164.09, 169.02, 169.03, 169.05, 169.08, 171.05, 173.02, 175.21, 181.52, 307.86, 321.46, 329.04, 341.25, 715.691, 718.01, 924.10, 991.03, 1309.32, 1309.39, 1309.40, 1309.41, 1309.42, 1309.43, 1310.37, 1503.05, 1503.141, 1506.21, 1506.22, 1506.23, 1513.29, 1513.30, 1515.09, 1517.11, 1557.06, 1703.03, 1703.05, 1703.07, 1703.12, 1703.22, 1703.26, 1703.27, 1707.041, 1707.44, 1731.07, 1785.01, 1901.06, 1907.13, 2151.23, 2151.355, 2151.421, 2744.01, 2744.02, 2744.03, 2744.05, 2941.51, 3113.33, 3301.075, 3301.0711, 3301.0714, 3301.0719, 3301.80, 3307.01, 3309.01, 3311.053, 3311.056, 3313.172, 3313.372, 3313.843, 3313.871, 3313.975, 3316.03, 3316.04, 3317.01, 3317.02, 3317.022, 3317.023, 3317.0212, 3317.0213, 3317.03, 3317.08, 3317.10, 3317.11, 3318.02, 3318.03, 3318.041, 3319.17, 3332.07, 3333.04, 3333.12, 3333.20, 3333.27, 3334.01, 3334.03, 3334.08, 3334.09, 3334.10, 3334.11, 3334.17, 3343.08, 3345.11, 3345.12, 3345.50, 3345.51, 3365.01, 3365.02, 3365.021, 3365.03, 3365.06, 3383.01, 3383.08, 3501.10, 3501.11, 3501.17, 3501.28, 3701.14, 3701.261, 3701.502, 3701.74, 3702.30,

3702.511, 3702.68, 3705.24, 3719.02, 3719.021, 3729.40, 3734.18, 3734.57, 3734.82, 3734.904, 3734.907, 3737.02, 3743.01, 3743.02, 3743.03, 3743.04, 3743.05, 3743.06, 3743.07, 3743.08, 3743.15, 3743.16, 3743.17, 3743.18, 3743.19, 3743.20, 3743.21, 3743.40, 3743.44, 3743.45, 3743.50, 3743.51, 3743.52, 3743.53, 3743.54, 3743.58, 3743.59, 3743.60, 3743.61, 3743.64, 3743.65, 3743.66, 3743.68, 3743.80, 3743.99, 3745.11, 3745.21, 3745.25, 3746.121, 3748.05, 3748.07, 3748.12, 3748.13, 3769.088, 3769.10, 3770.01, 3770.02, 3770.06, 3773.43, 3773.56, 3781.061, 3781.182, 3781.21, 3793.10, 3901.17, 3905.30, 3905.34, 3905.35, 3905.36, 3905.37, 3917.01, 3918.01, 3918.02, 3921.30, 3960.03, 4111.01, 4117.01, 4117.02, 4117.06, 4121.39, 4123.31, 4123.418, 4301.10, 4301.12, 4301.17, 4301.19, 4301.24, 4301.30, 4301.43, 4305.13, 4305.131, 4509.101, 4511.102, 4511.191, 4511.83, 4513.263, 4701.20, 4703.16, 4703.50, 4709.05, 4709.06, 4709.12, 4713.19, 4715.06, 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, 4715.27, 4715.35, 4717.06, 4717.07, 4717.09, 4717.18, 4723.08, 4723.24, 4723.28, 4723.31, 4723.46, 4723.56, 4723.59, 4725.06, 4725.45, 4729.15, 4729.29, 4729.51, 4729.52, 4729.54, 4729.55, 4729.65, 4731.09, 4731.10, 4731.14, 4731.15, 4731.17, 4731.22, 4731.24, 4731.26, 4731.281, 4731.291, 4731.38, 4731.40, 4731.53, 4731.56, 4732.04, 4732.141, 4733.08, 4734.07, 4734.16, 4735.01, 4735.05, 4736.06, 4740.03, 4741.03, 4741.17, 4741.25, 4743.05, 4747.03, 4749.02, 4751.06, 4751.07, 4753.04, 4755.10, 4755.12, 4755.40, 4755.41, 4755.43, 4755.47, 4755.48, 4755.49, 4755.60, 4755.61, 4755.62, 4755.64, 4755.65, 4755.99, 4757.22, 4757.23, 4757.31, 4759.08, 4763.01, 4767.01, 4901.10, 4901.19, 4903.10, 4903.11, 4903.23, 4905.10, 4905.21, 4905.26, 4905.66, 4905.69, 4905.80, 4905.81, 4911.18, 4923.12, 4937.02, 4937.05, 4981.033, 4981.09, 5101.02, 5101.06, 5101.07, 5101.14, 5101.141, 5101.58, 5104.02, 5111.01, 5111.011, 5111.11, 5111.111, 5111.17, 5111.18, 5112.04, 5112.18, 5112.21, 5115.01, 5119.02, 5119.03, 5119.47, 5119.53, 5120.03, 5120.09, 5120.16, 5120.38, 5121.04, 5122.43, 5123.05, 5123.122, 5123.18, 5123.19, 5123.34, 5126.022, 5126.08, 5126.356, 5139.01, 5139.03, 5139.04, 5139.07, 5139.34, 5139.36, 5139.42, 5139.43, 5139.86, 5153.16, 5153.161, 5153.162, 5531.10, 5701.01, 5701.05, 5703.21, 5705.412, 5709.62, 5709.63, 5709.632, 5709.66, 5711.22, 5711.32, 5725.01, 5725.18, 5727.111, 5727.12, 5728.09, 5728.10, 5729.03, 5733.01, 5733.02, 5733.022, 5733.03, 5733.031, 5733.04, 5733.042, 5733.05, 5733.051, 5733.052, 5733.053, 5733.055, 5733.06, 5733.061, 5733.065, 5733.066, 5733.067, 5733.068, 5733.069, 5733.09, 5733.11, 5733.12, 5733.121, 5733.26, 5733.31, 5733.311, 5733.32, 5733.33, 5733.34, 5733.98, 5735.11, 5735.12, 5735.121, 5739.01, 5739.02, 5739.024, 5739.033, 5739.07, 5739.072, 5739.13, 5739.132, 5739.133, 5739.15, 5739.17, 5741.10, 5741.101, 5741.14, 5743.081, 5743.082,

3.52, 5743.56, 5747.01, 5747.02, 5747.025, 5747.03, 5747.054, 5747.057, 5747.062, 5747.07, 5747.072, 5747.08, 5747.11, 5747.12, 5747.13, 5747.14, 5747.15, 5747.18, 5747.20, 5747.21, 5747.22, 5747.26, 5747.261, 5747.30, 5747.31, 5747.32, 5747.98, 5749.06, 5749.07, 5749.10, 5902.01, 5910.04, 6109.21, and 6121.02 be amended; section 122.19 (122.16) as it results from Sub. H.B. 441 of the 121st General Assembly be amended and renumbered; and new sections 901.41, 901.42, 1703.08, and 3905.33 and sections 111.25, 113.21, 121.371, 126.14, 131.38, 131.41, 175.041, 177.011, 901.54, 1506.24, 1515.091, 1555.09, 1751.68, 2151.422, 2151.55, 3113.40, 3301.134, 3301.801, 3311.057, 3313.535, 3313.613, 3313.844, 3314.01, 3314.02, 3314.03, 3314.04, 3314.05, 3314.06, 3314.07, 3314.08, 3314.09, 3314.10, 3316.041, 3317.015, 3317.026, 3317.51, 3319.283, 3323.012, 3329.16, 3333.29, 3345.122, 3345.182, 3345.70, 3701.031, 3702.31, 3702.5211, 3702.5212, 3743.25, 3743.56, 3743.70, 3793.21, 4117.101, 4121.446, 4123.402, 4141.131, 4707.011, 4723.561, 5101.142, 5101.143, 5101.144, 5103.12, 5104.381, 5111.172, 5123.194, 5126.081, 5126.082, 5126.121, 5155.311, 5501.38, 5512.08, 5725.181, 5729.031, 5733.056, 5733.057, 5733.0611, 5733.111, 5733.36, 5733.37, 5733.38, 5733.40, 5733.41, 5735.143, 5747.059, 5747.131, 5747.211, 5747.231, 5747.34, 5747.35, 5747.36, 5747.40, 5747.41, 5747.42, 5747.43, 5747.44, 5747.45, 5747.451, 5747.452, and 5747.453 of the Revised Code be enacted to read as follows:

Sec. 3.17. ~~(A) Except as otherwise provided in division (C) of this section, any~~Any member of a board, commission, council, board of trustees of an institution of higher education, or other public body of the state, except a member of the general assembly or a judge of any court in the state, who fails to attend at least three-fifths of the regular and special meetings held by that board, commission, council, board of trustees, or public body during any two-year period forfeits ~~his~~ the member's position on that board, commission, council, board of trustees, or public body.

~~(B) The director of budget and management annually shall set a maximum cost per page and a maximum total cost for the printing by any board, commission, council, or other public body of the state of any annual report or any other report that it is required by law to produce. No board, commission, council, or other public body of the state shall expend or incur the expenditure of any amount in excess of these maximum amounts without the prior approval of the director.~~

~~(C) Divisions (A) and (B) of this section do not apply to the general assembly or any court.~~

Sec. 3.24. Every person holding an elected office under the constitution

or laws of this state may administer oaths of office to persons elected or appointed to offices under the constitution or laws of this state if those persons are elected or appointed to offices within the geographical limits of ~~his~~the elected officer's constituency, except that members of the general assembly may administer oaths of office to persons elected or appointed to any office under the constitution or laws of this state. Nothing in this section shall forbid the judge of a court established by the constitution of this state or a notary public commissioned in this state from administering an oath to any person.

When an oath of office is required to be certified in writing, the person taking the oath shall write ~~his~~ the person's signature immediately under the text of the oath. The person administering the oath under authority of this section shall then write ~~his~~ the administering person's signature, the title of the elected office ~~which he~~ that the administering person holds, and the date; and shall affix the seal of ~~his~~ office if a seal is prescribed for, or has been adopted by, ~~his~~ the administering person's office.

Sec. 9.06. (A) The department of rehabilitation and correction, and counties and municipal corporations to the extent authorized in sections 307.93, 341.35, 753.03, and 753.15 of the Revised Code, may contract for the private operation and management of a facility under this section. The contracts shall be for an initial term of no more than two years, with an option to renew for additional periods of two years. Any contractor who applies to operate and manage a facility shall be accredited by the American correctional association and shall, at the time of the application, operate and manage one or more facilities accredited by the American correctional association.

Before a public entity may enter into a contract under this section, the contractor shall convincingly demonstrate to the public entity that it can operate the facility with the inmate capacity required by the public entity and provide the services required in this section and realize at least a five per cent savings over the projected cost to the public entity of providing these same services to operate the facility that is the subject of the contract. No out-of-state prisoners may be housed in any facility that is the subject of a contract entered into under to this section.

(B) Any contract entered into under this section shall include all of the following:

(1) A requirement that the contractor retain ~~his~~ the contractor's accreditation from the American correctional association throughout the contract term;

(2) A requirement that ~~the contractor seek, obtain, and maintain~~

~~ation from the American correctional association for the facility during the term of the contract;~~ all of the following conditions be met:

(a) The contractor begins the process of accrediting the facility with the American correctional association no later than sixty days after the facility receives its first inmate.

(b) The contractor receives accreditation of the facility within twelve months after the date the contractor applies to the American correctional association for accreditation.

(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term.

(d) If the contractor does not comply with divisions (B)(2)(a) to (c) of this section, the contractor is in violation of the contract and the public entity may revoke the contract at its discretion.

(3) A requirement that the contractor comply with all rules promulgated by the department of rehabilitation and correction that apply to the operation and management of correctional facilities, including the minimum standards for jails in Ohio and policies regarding the use of force and the use of deadly force, although the public entity may require more stringent standards, and comply with any applicable laws, rules, or regulations of the federal, state, and local governments, including, but not limited to, sanitation, food service, safety, and health regulations. The contractor shall be required to send copies of reports of inspections completed by the appropriate authorities regarding compliance with rules and regulations to the director of rehabilitation and correction or the director's designee and, if contracting with a local public entity, to the governing authority of that entity.

(4) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies having jurisdiction at the facility, and, for crime committed at a state correctional institution, to the state highway patrol;

(5) A requirement that, if the facility is a state correctional institution, the contractor provide a written report within specified time limits to the director of rehabilitation and correction or the director's designee of all unusual incidents at the facility as defined in rules promulgated by the department of rehabilitation and correction or, if the facility is a local correctional institution, that the contractor provide a written report to the governing authority of the local public entity.

(6) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction, for state correctional institutions, or pursuant to the minimum standards for jails along with any additional standards

established by the local public entity, for local correctional institutions, and that records pertaining to these funds be made available to representatives of the public entity for review or audit;

(7) A requirement that the contractor prepare and distribute to the director of rehabilitation and correction or, if contracting with a local public entity, to the governing authority of the local entity, annual budget income and expenditure statements and funding source financial reports;

(8) A requirement that the public entity appoint and supervise a full-time contract monitor ~~and require~~, that the contractor ~~to~~ provide suitable office space for the contract monitor at the facility~~.~~, and that the contractor allow the contract monitor unrestricted access to all parts of the facility and all records of the facility except the contractor's financial records;

(9) A requirement that if the facility is a state correctional institution, designated department of rehabilitation and correction staff members be allowed access to the facility in accordance with rules promulgated by the department;

(10) A requirement that the contractor provide internal and perimeter security ~~to protect the public, staff members, and inmates~~ as agreed upon in the contract;

~~(10)~~(11) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in a state correctional institution, only in accordance with rules promulgated by the department of rehabilitation and correction;

~~(11)~~(12) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and adequate both to ensure supervision of inmates and maintenance of security within the facility, and to provide for programs, transportation, security, and other operational needs. In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools.

~~(12)~~(13) If the contract is with a local public entity a requirement that the contractor provide the following services and programs, consistent with the minimum standards for jails promulgated by the department of rehabilitation and correction under section 5120.10 of the Revised Code;

~~(13)~~(14) A clear statement that no immunity from liability granted to the state, and no immunity from liability granted to political subdivisions under Chapter 2744. of the Revised Code, shall extend to the contractor or any of ~~his~~ the contractor's employees;

~~(14)~~(15) A statement that all documents and records ~~maintained by the contractor~~ relevant to the facility shall be ~~public records, except for financial~~

~~records and personnel records~~ maintained in the same manner required for, and subject to the same laws, rules, and regulations as apply to, the records of the public entity;

~~(15)~~(16) Authorization for the public entity to impose a fine on the contractor from a schedule of fines included in the contract for the contractor's failure to perform its contractual duties, or to cancel the contract, as the public entity considers appropriate. If a fine is imposed, the public entity may reduce the payment owed to the contractor pursuant to any invoice in the amount of the imposed fine.

~~(16)~~(17) A statement that all services provided or goods produced at the facility shall be subject to the same regulations, and the same distribution limitations, as apply to goods and services produced at other correctional institutions~~.~~;

(18) Authorization for the department to establish one or more prison industries at a facility operated and managed by a contractor for the department.

(C) No contract entered into under this section may require, authorize, or imply a delegation of the authority or responsibility of the public entity to a contractor for any of the following:

(1) Developing or implementing procedures for calculating inmate release and parole eligibility dates and recommending the granting or denying of parole, although the contractor may submit written reports that have been prepared in the ordinary course of business;

(2) Developing or implementing procedures for calculating and awarding good time, approving the type of work inmates may perform and the wage or good time, if any, that may be given to inmates engaging in such work, and granting, denying, or revoking good time;

(3) Classifying an inmate or placing an inmate in a more or a less restrictive custody than the custody ordered by the public entity;

(4) Approving inmates for work release;

(5) Contracting for local or long distance telephone services for inmates or receiving commissions from such services at a facility that is owned by or operated under a contract with the department.

(D) A contractor that has been approved to operate a facility under this section shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named

as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.

The contractor shall indemnify, defend, and hold harmless the state, its officers, agents, and employees, and any local government entity in the state having jurisdiction over the facility or ownership of the facility, from all of the following:

(1) Any claims or losses for services rendered by the contractor or person performing or supplying services in connection with the performance of the contract;

(2) Any failure of the contractor or its officers or employees to adhere to the laws, rules, regulations, or terms agreed to in the contract;

(3) Any constitutional, federal, state, or civil rights claim brought against the state related to the facility operated and managed by the contractor;

(4) Any claims, losses, demands, or causes of action arising out of the contractor's activities in this state;

(5) Any attorney's fees or court costs arising from any habeas corpus actions or other inmate suits that may arise from any event that occurred at the facility or was a result of such an event, or arise over the conditions, management, or operation of the facility, which fees and costs shall include, but not be limited to, attorney's fees for the state's representation and for any court-appointed representation of any inmate, and the costs of any special judge who may be appointed to hear such actions.

(E) Private correctional officers of a private contractor may carry and use firearms in the course of their employment only after being certified as satisfactorily completing an approved training program as described in division (A) of section 109.78 of the Revised Code.

(F) Upon notification by the contractor of an escape from, or of a disturbance at, the facility that is the subject of a contract entered into under this section, the department of rehabilitation and correction and state and local law enforcement agencies shall use all reasonable means to recapture escapees or quell any disturbance. Any cost incurred by the state or its political subdivisions relating to the apprehension of an escapee or the quelling of a disturbance at the facility shall be chargeable to and borne by the contractor. The contractor shall also reimburse the state or its political subdivisions for all reasonable costs incurred relating to the temporary detention of the escapee following recapture.

(G) Any offense that would be a crime if committed at a state correctional institution or jail, workhouse, prison, or other correctional facility shall be a crime if committed by or with regard to inmates at

facilities operated pursuant to a contract entered into under this section.

(H) The contractor shall pay any inmate workers at the facility at the rate approved by the public entity. Inmates working at the facility shall not be considered employees of the contractor.

(I) As used in this section:

(1) "Public entity" means the department of rehabilitation and correction, or a county or municipal corporation or a combination of counties and municipal corporations, that has jurisdiction over a facility that is the subject of a contract entered into under this section.

(2) "Local public entity" means a county or municipal corporation, or a combination of counties and municipal corporations, that has jurisdiction over a jail, workhouse, or other correctional facility used only for misdemeanants that is the subject of a contract entered into under this section.

(3) "Governing authority of a local public entity" means, for a county, the board of county commissioners; for a municipal corporation, the legislative authority; for a combination of counties and municipal corporation, all the boards of county commissioners and municipal legislative authorities that joined to create the facility.

(4) "Contractor" means a person who enters into a contract under this section to operate and manage a jail, workhouse, or other correctional facility.

(5) "Facility" means the specific county, multicounty, municipal, municipal-county, or multicounty-municipal jail, workhouse, prison, or other type of correctional institution or facility used only for misdemeanants, or a state correctional institution, that is the subject of a contract entered into under this section.

Sec. 101.23. The oath of office of senators and representatives, the president and president pro tempore of the senate, the speaker and speaker pro tempore of the house of representatives, and the clerk of the senate, executive secretary and legislative clerk of the house of representatives, and their assistants, and the sergeant at arms, and assistant sergeant at arms of each house, may be administered by a member or by a person authorized to administer oaths.

Sec. 101.27. (A) Every member of the senate, except the members elected president, president pro tempore, assistant president pro tempore, majority whip, minority leader, assistant minority leader, minority whip, and assistant minority whip, shall receive as compensation a salary of thirty thousand one hundred fifty-two dollars a year during ~~his~~ the senator's term of office, and every member of the house of representatives, except the

members elected speaker, speaker pro tempore, majority floor leader, assistant majority floor leader, majority whip, assistant majority whip, minority leader, assistant minority leader, minority whip, and assistant minority whip, shall receive as compensation a salary of thirty thousand one hundred fifty-two dollars a year during ~~his~~ the representative's term of office. Such salaries shall be paid in equal monthly installments during such term. All monthly payments shall be made on or before the fifth day of each month. Upon the death of any member of the general assembly during ~~his~~ the member's term of office, any unpaid salary due such member for the remainder of ~~his~~ the member's term shall be paid to ~~his~~ the member's dependent, surviving spouse, children, mother, or father, in the order in which the relationship is set forth in this section in monthly installments.

Each member shall receive a travel allowance ~~of twenty and one-half cents a~~ per mile each way, at the same mileage rate allowed for the reimbursement of travel expenses of state agents as provided by rule of the director of budget and management pursuant to division (B) of section 126.31 of the Revised Code, for mileage once a week during the session from and to ~~his~~ the member's place of residence, by the most direct highway route of public travel to and from the seat of government, to be paid quarterly on the last day of March, June, September, and December of each year.

Beginning on January 1, 1985, the member of the senate elected president and the member of the house of representatives elected speaker shall each receive as compensation a salary of forty-seven thousand dollars a year during ~~his~~ the president's or speaker's term of office.

The member of the senate elected president pro tempore, the member of the senate elected minority leader, the member of the house of representatives elected speaker pro tempore, and the member of the house of representatives elected minority leader shall each receive as compensation a salary of forty-two thousand eight hundred eighty-three dollars a year during ~~his~~ the member's term of office. The member of the house of representatives elected majority floor leader and the member of the senate elected assistant president pro tempore shall each receive as compensation a salary of forty thousand three hundred ninety-four dollars a year during ~~his~~ the member's term of office. The member of the senate elected assistant minority leader and the member of the house of representatives elected assistant minority leader shall each receive as compensation a salary of thirty-nine thousand one hundred fifty-two dollars a year during ~~his~~ the member's term of office. The member of the senate elected majority whip and the member of the house of representatives elected assistant majority floor leader shall each

eive a salary of thirty-seven thousand nine hundred eight dollars a year during ~~his~~ the member's term of office. The member of the senate elected minority whip, the member of the house of representatives elected majority whip, and the member of the house of representatives elected minority whip shall each receive as compensation a salary of thirty-five thousand four hundred twenty-two dollars a year during ~~his~~ the member's term of office. The member of the house of representatives elected assistant majority whip shall receive as compensation a salary of thirty-two thousand nine hundred thirty-five dollars a year during ~~his~~ the member's term of office. The member of the house of representatives elected assistant minority whip and the member of the senate elected assistant minority whip shall each receive a salary of thirty-one thousand five hundred forty-four dollars a year during ~~his~~ the member's term of office.

The ~~chairman~~ chairperson of the finance committee of each house shall receive an additional sum of seven thousand dollars annually. The ~~chairman~~ chairperson of each standing committee of each house other than the finance committee shall receive an additional sum of five thousand dollars annually. The ~~chairman~~ chairperson of each standing subcommittee of a finance committee shall receive an additional sum of five thousand dollars annually. The ~~vice-chairman~~ vice-chairperson of the finance committee of each house shall receive an additional sum of four thousand dollars annually. The ranking minority member of a finance committee that does not have any standing subcommittees shall receive an additional sum of five thousand dollars annually. The ranking minority member of a finance committee that has one or more standing subcommittees shall receive an additional sum of five thousand dollars. The ranking minority member of each standing subcommittee of a finance committee shall receive an additional sum of three thousand six hundred nine dollars annually. The ~~chairman~~ chairperson of each standing subcommittee of each house other than a standing subcommittee of the finance committee shall receive an additional sum of three thousand six hundred nine dollars annually. The ~~vice-chairman~~ vice-chairperson and ranking minority member of each standing committee of each house other than the finance committee shall each receive an additional sum of three thousand six hundred nine dollars annually. Except for the ranking minority member of each standing subcommittee of a finance committee, the ranking minority member of each standing subcommittee of each house shall receive an additional sum of one thousand eight hundred four dollars annually.

No member may receive more than one additional sum for serving as ~~chairman~~ chairperson, ~~vice-chairman~~ vice-chairperson, or ranking minority

member of a standing committee or standing subcommittee, regardless of the number of standing committees or standing subcommittees on which ~~he~~ the member serves as ~~chairman~~ chairperson, ~~vice-chairman~~ vice-chairperson, or ranking minority member.

If a member is absent without leave, or is not excused on ~~his~~ the member's return, there shall be deducted from ~~his~~ the member's compensation twenty dollars for each day's absence.

(B)(1) During calendar year 1986, the salary of each member and officer of the general assembly shall be one hundred five per cent of those salaries prescribed by division (A) of this section.

(2) During calendar year 1987, the salary of each member and officer of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(1) of this section.

(3) During calendar year 1988, the salary of each member and officer of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(2) of this section.

(4) During calendar year 1989, the salary of each officer and member of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(3) of this section.

(5) During calendar year 1990, the salary of each officer and member of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(4) of this section.

(6) During calendar year 1991, the salary of each officer and member of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(5) of this section.

(7) During calendar year 1992 and thereafter, the salary of each officer and member of the general assembly shall be one hundred five per cent of those salaries prescribed by division (B)(6) of this section.

As used in this section, "finance committee" means the finance committee of the senate and the finance-appropriations committee of the house of representatives.

Sec. 101.35. There is hereby created in the general assembly the joint committee on agency rule review. The committee shall consist of five members of the house of representatives and five members of the senate. Within fifteen days after the commencement of the first regular session of each general assembly, the speaker of the house of representatives shall appoint the members of the committee from the house of representatives, and the president of the senate shall ~~each~~ appoint the members of the committee from ~~his house; not~~ the senate. Not more than three of the members from each house shall be of the same political party. In the first

regular session of a general assembly, the ~~chairman~~ chairperson of the committee shall be appointed by the speaker of the house from among the house members of the committee, and the ~~vice-chairman~~ vice-chairperson shall be appointed by the president of the senate from among the senate members of the committee. In the second regular session of a general assembly, the ~~chairman~~ chairperson shall be appointed by the president of the senate from among the senate members of the committee, and the ~~vice-chairman~~ vice-chairperson shall be appointed by the speaker of the house from among the house members of the committee. The ~~chairman~~ chairperson, ~~vice-chairman~~ vice-chairperson, and members of the committee shall serve until their respective successors are appointed or until they are no longer members of the general assembly. When a vacancy occurs among the officers or members of the committee, it shall be filled in the same manner as the original appointment.

Notwithstanding section 101.26 of the Revised Code, the members, when engaged in their duties as members of the committee on days when there is not a voting session of the members's house of the general asembly, shall be paid at the per diem rate of one hundred fifty dollars, and their necessary traveling expenses, which shall be paid from the funds appropriated for the payment of expenses of legislative committees.

The committee has the same powers as other standing or select committees of the general assembly. Six members constitute a quorum, and the concurrence of six members is required for the recommendation of a concurrent resolution invalidating a proposed or effective rule, amendment, rescission, or part thereof, or for the suspension of a rule, amendment, rescission, or part thereof, under division (I) of section 119.03 or section 119.031 of the Revised Code.

The committee may meet during periods in which the general assembly has adjourned. At meetings of the committee, the committee may request a rule-making agency, as defined in section 119.01 of the Revised Code, to provide information relative to the agency's implementation of its statutory authority.

Sec. 102.02. (A) Except as otherwise provided in division (H) of this section, every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office; all members of the state board of education; the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state; the president or other chief administrative officer of every state institution of higher

ucation as defined in section 3345.011 of the Revised Code; the chief executive officer of each state retirement system; all members of the board of commissioners on grievances and discipline of the supreme court and the ethics commission created under section 102.05 of the Revised Code; every business manager, treasurer, or superintendent of a city, local, exempted village, joint vocational, or cooperative education school district or an educational service center; every person who is elected to or is a candidate for the office of member of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district or of a governing board of an educational service center that has an average daily membership of twelve thousand or more as most recently certified to the state board of education pursuant to division (A) of section 3317.03 of the Revised Code; every public official or employee who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code; and every other public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing:

(1) The name of the person filing the statement and each member of the person's immediate family and all names under which the person or members of the person's immediate family does business;

(2)(a) Subject to divisions (A)(2)(b), and (c) of this section and except as otherwise provided in section 102.022 of the Revised Code, identification of every source of income, other than income from a legislative agent identified in division (A)(2)(b) of this section, received during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. If the person filing the statement is a member of the general assembly, the statement shall identify the amount of every source of income received in accordance with the following ranges of amounts: zero or more but less than one thousand dollars; one thousand dollars or more but less than ten thousand dollars; ten thousand dollars or more but less than twenty-five thousand dollars; twenty-five thousand dollars or more but less than fifty thousand dollars; fifty thousand dollars or more but less than one hundred thousand dollars; and one hundred thousand dollars or more. Division (A)(2)(a) of this section shall not be construed to require a person filing the statement who derives income from a business or profession to disclose the individual items of income that constitute the gross income of that business

or profession, except for those individual items of income that are attributable to the person's or, if the income is shared with the person, the partner's, solicitation of services or goods or performance, arrangement, or facilitation of services or provision of goods on behalf of the business or profession of clients, including corporate clients, who are legislative agents as defined in section 101.70 of the Revised Code. A person who files the statement under this section shall disclose the identity of and the amount of income received from a person whom the public official or employee knows or has reason to know is doing or seeking to do business of any kind with the public official's or employee's agency.

(b) If the person filing the statement is a member of the general assembly, the statement shall identify every source of income and the amount of that income that was received from a legislative agent, as defined in section 101.70 of the Revised Code, during the preceding calendar year, in the person's own name or by any other person for the person's use or benefit, by the person filing the statement, and a brief description of the nature of the services for which the income was received. Division (A)(2)(b) of this section requires the disclosure of clients of attorneys or persons licensed under section 4732.12 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code if those clients or patients are legislative agents. Division (A)(2)(b) of this section requires a person filing the statement who derives income from a business or profession to disclose those individual items of income that constitute the gross income of that business or profession that are received from legislative agents.

(c) Except as otherwise provided in division (A)(2)(c) of this section, division (A)(2)(a) of this section applies to attorneys, physicians, and other persons who engage in the practice of a profession and who, pursuant to a section of the Revised Code, the common law of this state, a code of ethics applicable to the profession, or otherwise, generally are required not to reveal, disclose, or use confidences of clients, patients, or other recipients of professional services except under specified circumstances or generally are required to maintain those types of confidences as privileged communications except under specified circumstances. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose the name, other identity, or address of a client, patient, or other recipient of professional services if the disclosure would threaten the client, patient, or other recipient of professional services, would reveal details of the subject matter for which legal, medical, or professional

advice or other services were sought, or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services. Division (A)(2)(a) of this section does not require an attorney, physician, or other professional subject to a confidentiality requirement as described in division (A)(2)(c) of this section to disclose in the brief description of the nature of services required by division (A)(2)(a) of this section any information pertaining to specific professional services rendered for a client, patient, or other recipient of professional services that would reveal details of the subject matter for which legal, medical, or professional advice was sought or would reveal an otherwise privileged communication involving the client, patient, or other recipient of professional services.

(3) The name of every corporation on file with the secretary of state that is incorporated in Ohio or holds a certificate of compliance authorizing it to do business in this state, trust, business trust, partnership, or association that transacts business in Ohio in which the person filing the statement or any other person for the person's use and benefit had during the preceding calendar year an investment of over one thousand dollars at fair market value as of the thirty-first day of December of the preceding calendar year, or the date of disposition, whichever is earlier, or in which the person holds any office or has a fiduciary relationship, and a description of the nature of the investment, office, or relationship. This division does not require disclosure of the name of any bank, savings and loan association, credit union, or building and loan association with which the person filing the statement has a deposit or a withdrawable share account.

(4) All fee simple and leasehold interests to which the person filing the statement holds legal title to or a beneficial interest in real property located within the state, excluding the person's residence and property used primarily for personal recreation;

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in the person's own name or in the name of any other person, more than one thousand dollars. This division shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of financial institutions shall disclose the names of all state-chartered savings and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in the superintendent's own name or in the name of any other person owes any

money, and that the superintendent and any deputy superintendent of banks shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1109.44 of the Revised Code to whom the superintendent or deputy superintendent owes any money.

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owes more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession.

(7) Except as otherwise provided in section 102.022 of the Revised Code, the source of each gift of over seventy-five dollars, or of each gift of over twenty-five dollars received by a member of the general assembly from a legislative agent, received by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from spouses, parents, grandparents, children, grandchildren, siblings, nephews, nieces, uncles, aunts, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, or any person to whom the person filing the statement stands in loco parentis, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or by an ancestor;

(8) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source and amount of every payment of expenses incurred for travel to destinations inside or outside this state that is received by the person in the person's own name or by any other person for the person's use or benefit and that is incurred in connection with the person's official duties except for expenses for travel to meetings or conventions of a national or state organization to which either house of the general assembly, any legislative agency, a state institution of higher education as defined in section 3345.031 of the Revised Code, any other state agency, or any political subdivision or any office or agency of a political subdivision pays membership dues.

(9) Except as otherwise provided in section 102.022 of the Revised Code, identification of the source of payment of expenses for meals and

other food and beverages, other than for meals and other food and beverages provided at a meeting at which the person participated in a panel, seminar, or speaking engagement or at a meeting or convention of a national or state organization to which either house of the general assembly, any legislative agency, a state institution of higher education as defined in section 3345.031 of the Revised Code, any other state agency, or any political subdivision or any office or agency of a political subdivision pays membership dues, that are incurred in connection with the person's official duties and that exceed one hundred dollars aggregated per calendar year;

(10) If the financial disclosure statement is filed by a public official or employee described in division (B)(2) of section 101.73 of the Revised Code or division (B)(2) of section 121.63 of the Revised Code who receives a statement from a legislative agent, executive agency lobbyist, or employer that contains the information described in division (F)(2) of section 101.73 of the Revised Code or division (G)(2) of section 121.63 of the Revised Code, all of the nondisputed information contained in the statement delivered to that public official or employee by the legislative agent, executive agency lobbyist, or employer under division (F)(2) of section 101.73 or (G)(2) of section 121.63 of the Revised Code. As used in division (A)(10) of this section, "legislative agent," "executive agency lobbyist," and "employer" have the same meanings as in sections 101.70 and 121.60 of the Revised Code.

A person may file a statement required by this section in person or by mail. A person who is a candidate for elective office shall file the statement no later than the thirtieth day before the primary, special, or general election at which such candidacy is to be voted on, whichever election occurs sooner, except a person who is a write-in candidate shall file the statement no later than the twentieth day before the earliest election at which the person's candidacy is to be voted on. A person who holds elective office shall file the statement on or before the fifteenth day of April of each year, unless the person is a candidate for office. A person who is appointed to fill a vacancy for an unexpired term in an elective office shall file the statement within fifteen days after the person qualifies for office. Other persons shall file an annual statement on or before the fifteenth day of April or, if appointed or employed after that date, within ninety days after appointment or employment. No person shall be required to file with the appropriate ethics commission more than one statement or pay more than one filing fee for any one calendar year.

The appropriate ethics commission, for good cause, may extend for a reasonable time the deadline for filing a disclosure statement under this

section.

A statement filed under this section is subject to public inspection at locations designated by the appropriate ethics commission except as otherwise provided in this section.

(B) The Ohio ethics commission, the joint legislative ethics committee, and the board of commissioners on grievances and discipline of the supreme court, using the rule-making procedures of Chapter 119. of the Revised Code, may require any class of public officials or employees under its jurisdiction and not specifically excluded by this section whose positions involve a substantial and material exercise of administrative discretion in the formulation of public policy, expenditure of public funds, enforcement of laws and rules of the state or a county or city, or the execution of other public trusts, to file an annual statement on or before the fifteenth day of April under division (A) of this section. The appropriate ethics commission shall send the public officials or employees written notice of the requirement by the fifteenth day of February of each year the filing is required, unless the public official or employee is appointed after that date, in which case the notice shall be sent within thirty days after appointment, and the filing shall be made not later than ninety days after appointment.

Disclosure statements filed under this division with the Ohio ethics commission by members of boards, commissions, or bureaus of the state for which no compensation is received other than reasonable and necessary expenses shall be kept confidential. Disclosure statements filed with the Ohio ethics commission under division (A) of this section by business managers, treasurers, and superintendents of city, local, exempted village, joint vocational, or cooperative education school districts or educational service centers shall be kept confidential, except that any person conducting an audit of any such school district pursuant to section 115.56 or Chapter 117. of the Revised Code may examine the disclosure statement of any business manager, treasurer, or superintendent of that school district or educational service center. The Ohio ethics commission shall examine each disclosure statement required to be kept confidential to determine whether a potential conflict of interest exists for the person who filed the disclosure statement. A potential conflict of interest exists if the private interests of the person, as indicated by the person's disclosure statement, might interfere with the public interests the person is required to serve in the exercise of the person's authority and duties in the person's office or position of employment. If the commission determines that a potential conflict of interest exists, it shall notify the person who filed the disclosure statement and shall make the portions of the disclosure statement that indicate a

potential conflict of interest subject to public inspection in the same manner as is provided for other disclosure statements. Any portion of the disclosure statement that the commission determines does not indicate a potential conflict of interest shall be kept confidential by the commission and shall not be made subject to public inspection, except as is necessary for the enforcement of Chapters 102. and 2921. of the Revised Code and except as otherwise provided in this paragraph.

(C) No person shall knowingly fail to file, on or before the applicable filing deadline under this section, a statement that is required by this section.

(D) No person shall knowingly file a false statement that is required to be filed under this section.

(E)(1) Except as provided in divisions (E)(2) and (3) of this section, on and after March 2, 1994, the statement required by division (A) or (B) of this section shall be accompanied by a filing fee of twenty-five dollars.

(2) The statement required by division (A) of this section shall be accompanied by a filing fee to be paid by the person who is elected or appointed to or is a candidate for any of the following offices:

For state office, except member of state board of education	$50
For office of member of United States congress or member of general assembly	$25
For county office	$25
<u>For city office</u>	<u>$10</u>
For office of member of state board of education	$10
For office of member of city, local, exempted village, or cooperative education board of education or educational service center governing board	$ 5
For position of business manager, treasurer, or superintendent of city, local, exempted village, joint vocational, or cooperative education school district or educational service center	$ 5

(3) No judge of a court of record or candidate for judge of such a court, and no referee or magistrate serving a court of record, shall be required to pay the fee required under division (E)(1) or (2), or (F) of this section.

(4) For any public official who is appointed to a nonelective office of

the state and for any employee who holds a nonelective position in a public agency of the state, the state agency that is the primary employer of the state official or employee shall pay the fee required under division (E)(1) or (F) of this section.

(F) If a statement required to be filed under this section is not filed by the date on which it is required to be filed, the appropriate ethics commission shall assess the person required to file the statement a late filing fee equal to one-half of the applicable filing fee for each day the statement is not filed, except that the total amount of the late filing fee shall not exceed one hundred dollars.

(G)(1) The appropriate ethics commission other than the Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section into the general revenue fund of the state.

(2) The Ohio ethics commission shall deposit all fees it receives under divisions (E) and (F) of this section and all moneys it receives from settlements under division (G) of section 102.06 of the Revised Code into the Ohio ethics commission fund, which is hereby created in the state treasury. All moneys credited to the fund shall be used solely for expenses related to the operation of the commission.

(H) Division (A) of this section does not apply to a person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code; a presidential elector; a delegate to a national convention; village or township officials and employees; any physician or psychiatrist who is paid a salary or wage in accordance with schedule C of section 124.15 or schedule E-2 of section 124.152 of the Revised Code and whose primary duties do not require the exercise of administrative discretion; or any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in that position.

Sec. 103.143. In addition to its duties under section 103.14 of the Revised Code, the legislative budget office of the legislative service commission shall, in accordance with this section, review all bills assigned to a committee of the general assembly, complete the appropriate local impact statements required by this section, and compile and distribute these statements as required by division (D) of this section.

(A) ~~Whenever~~ subject to division (F) of this section, whenever any bill is introduced into either house of the general assembly and receives second consideration pursuant to the rules of that house, the bill shall be reviewed immediately by the legislative budget officer. Upon completing this review, the legislative budget officer shall determine whether the bill could result in

a net additional cost to school districts, counties, townships, or municipal corporations from any new or expanded program or service that school districts, counties, townships, or municipal corporations would be required to perform or administer under the bill. If ~~he~~ the legislative budget officer determines that it could result in such a cost, the legislative budget office shall prepare a local impact statement in the manner specified in this section. Immediately upon determining the potential for a net additional cost, the legislative budget officer shall notify the sponsor of the bill, the ~~chairman~~ chairperson of the committee to which the bill has been assigned, and the presiding officer and minority leader of the house in which the bill originates of ~~his~~ the legislative budget officer's determination by signing and dating a statement to be delivered to them.

If a local impact statement is required, the legislative budget office shall, as soon as possible but no later than thirty days after the date the bill is scheduled for a first hearing in a committee in the house in which the bill was introduced or no later than thirty days after being requested to do so by the ~~chairman~~ chairperson of such a committee, prepare a statement containing the most accurate estimate possible, in dollars, of the net additional costs, if any, that will be required of school districts, counties, townships, or municipal corporations to perform or administer a new or expanded program or service required under the bill. Copies of this statement shall be sent to the governor, the speaker of the house of representatives, the president of the senate, the sponsor of the bill, the minority leader in both houses, and the ~~chairman~~ chairperson of the committee to which the bill has been assigned.

No bill for which a local impact statement is required by this section shall be voted out of committee until after the committee members have received and considered the statement or, if the bill was amended in committee, the revised statement, unless the bill is voted out of committee by a two-thirds vote of the membership of the committee.

(B) In preparing a local impact statement, the legislative budget office may request any department, division, institution, board, commission, authority, bureau, or other instrumentality or officer of the state, a school district, a county, a municipal corporation, or a township to provide any of the following information:

(1) An estimate, in dollars, of the amount by which the bill would increase or decrease the revenues received or expenditures made by the instrumentality, officer, or entity;

(2) Any other information the legislative budget office considers necessary for it to understand or explain the fiscal effect of the bill.

An instrumentality, officer, or entity shall comply with a request as soon as reasonably possible, but not later than fifteen days, after receiving it. The legislative budget office shall specify the manner of compliance in its request, and if necessary may specify a period of time longer than fifteen days for compliance. The legislative budget office may consider any information provided under division (B)(1) or (2) of this section in preparing a local impact statement.

(C) Any time a bill is amended, the legislative budget office shall, as soon as reasonably possible, revise the local impact statement to reflect changes made by amendment.

(D) The legislative budget office shall annually compile the final local impact statements completed for all laws passed by both houses of the general assembly in the preceding year. It shall send a copy of this compilation as a draft report to the state and local government commission and to associations or nonprofit organizations formed for the improvement of school districts or municipal, township, or county government or for their elected officials by the last day of July of each year. Upon receiving the draft report, the state and local government commission shall solicit comments from these associations and organizations about the actual fiscal impact of bills passed during the year covered by the report. The commission shall review and comment on the draft report before returning it to the legislative budget office, along with the comments of the associations and organizations, by the last day of August. The legislative budget office shall then prepare a final report consisting of the compiled local impact statements and all comments returned by the state and local government commission. The final report shall be completed by the last day of September and copies of the report shall be sent to the governor, the speaker of the house of representatives, and the president of the senate.

(E) As used in this section, "net additional cost" means any cost incurred or anticipated to be incurred by a school district, county, township, or municipal corporation in performing or administering a new or expanded program or service required by a state law other than any of the following:

(1) A cost arising from the exercise of authority granted by a state law rather than from the performance of a duty or obligation imposed by a state law;

(2) New duties or obligations that create only a minimal cost for affected school districts, counties, townships, or municipal corporations. The legislative budget office shall determine what constitutes such a minimal cost. Before making this determination, the legislative budget office shall notify the state organizations that represent school districts,

counties, townships, and municipal corporations regarding the proposed determination and provide a thirty-day period for these organizations and individual school districts, counties, townships, and municipal corporations to comment on it.

(3) A cost arising from a law passed as a result of a federal mandate.

The amounts described in division (E)(2) of this section include only the amounts remaining after subtracting from such costs any revenues received or receivable by the school district, county, township, or municipal corporation on account of the program or service, including the following:

~~(i)~~ (a) Fees charged to the recipients of the program or service;

~~(ii)~~ (b) State or federal aid paid specifically or categorically in connection with the program or service;

~~(iii)~~ (c) Any offsetting savings resulting from the diminution or elimination of any other program or service directly attributable to the performance or administration of the required program or service.

(F) This section does not apply to any of the following:

(1) The main biennial operating appropriations bill;

(2) The biennial operating appropriations bill for state agencies supported by motor fuel tax revenue;

(3) The biennial operating appropriations bill or bills for the bureau of workers' compensation and the industrial commission;

(4) The bill that primarily contains corrections and supplemental appropriations to the biennial operating appropriations bills;

(5) The main biennial capital appropriations bill;

(6) The bill that primarily contains reappropriations from previous capital appropriations bills.

Sec. 103.21. (A) The compensation of the director and all officers and employees of the Ohio legislative service commission, the expenses of the commission, and the expenses of the director and the employees of the commission shall be paid out of appropriations made for that purpose upon vouchers ~~signed~~approved by the director and the ~~chairman~~ chairperson of the commission.

(B) The director of budget and management ~~shall~~, upon the request of the director of the legislative service commission and with the approval of the ~~chairman~~ chairperson and ~~vice-chairman~~ vice-chairperson of the commission, shall make transfers between any appropriations made to the commission.

Sec. 105.41. (A) There is hereby created the capitol square review and advisory board, consisting of nine members as follows:

(1) Two members of the senate, appointed by the president of the

senate, both of whom shall not be members of the same political party;

(2) Two members of the house of representatives, appointed by the speaker of the house of representatives, both of whom shall not be members of the same political party;

(3) Five members appointed by the governor, with the advice and consent of the senate, not more than three of whom shall be members of the same political party, one of whom shall represent the office of the state architect and engineer, one of whom shall represent the Ohio arts council, one of whom shall represent the Ohio historical society, one of whom shall represent the Ohio building authority, and one of whom shall represent the public at large.

(B) Terms of office of each appointed member of the board shall be for three years, except that members of the general assembly appointed to the board shall be members of the board only so long as they are members of the general assembly. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. In case of a vacancy occurring on the board, the president of the senate, the speaker of the house of representatives, or the governor, as the case may be, shall in the same manner prescribed for the regular appointment to the commission, fill the vacancy by appointing a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(C) The board shall hold meetings in a manner and at times prescribed by the rules adopted by the board. A majority of the board constitutes a quorum and no action shall be taken by the board unless approved by at least five voting members. At its first meeting, the board shall adopt rules for the conduct of its business and the election of its officers, and shall organize by selecting a chairperson and other officers as it considers necessary. Board members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(D) The board may:

(1) Employ or hire on a consulting basis professional, technical, and clerical employees as are necessary for the performance of its duties;

(2) Hold public hearings at times and places as determined by the board;

(3) Adopt, amend, or rescind rules necessary to accomplish the duties of

the board as set forth in this section;

(4) Sponsor, conduct, and support such social events as the board may authorize and consider appropriate for the employees of the board, employees and members of the general assembly, employees of persons under contract with the board or otherwise engaged to perform services on the premises of capitol square, or other persons as the board may consider appropriate. Subject to the requirements of Chapter 4303. of the Revised Code, the board may provide beer, wine, and intoxicating liquor, with or without charge, for such events and may use funds only from the sale of goods and services fund to purchase the beer, wine, and intoxicating liquor the board provides.

(E) The board shall:

(1) Have sole authority to coordinate and approve any improvements, additions, and renovations that are made to the capitol square. The improvements shall include but not be limited to the placement of monuments and sculpture on the capitol grounds.

(2) Operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include but not be limited to the casual and recreational use of the capitol square.

(3) Employ, fix the compensation of, and prescribe the duties of the executive director of the board and such other employees as the board considers necessary for the performance of its powers and duties;

(4) Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be placed in the capitol square.

(5) Perform such repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities as the board determines are necessary for the operation and maintenance of the capitol square;

(6) Maintain and preserve the capitol square, in accordance with guidelines issued by the United States secretary of the interior for application of the secretary's standards for rehabilitation adopted in 36 C.F.R. part 67~~;~~.

(F)(1) The capitol square review and advisory board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the authority ancillary to improvement, financing, or leasing of such capital facilities, including but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized

by this section shall be governed by division (D) of section 152.24 of the Revised Code.

(2) Fees, receipts, and revenues received by the capitol square review and advisory board from the state underground parking garage constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to improve or finance capital facilities useful to the board. The authority may, with the consent of the board, provide in the bond proceedings for a pledge of all or such portion of such fees, receipts, and revenues as the authority determines. The authority may provide in the bond proceedings or by separate agreement with the board for the transfer of such fees, receipts, and revenues to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of such fees, receipts, and revenues shall be controlling notwithstanding any other provision of law pertaining to such fees, receipts, and revenues.

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by separate agreement with the board to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by such bond proceedings shall be transferred by the treasurer of state to such fund, whether or not such fund is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings.

(G) All fees, receipts, and revenues received by the capitol square review and advisory board from the state underground parking garage shall be deposited into the state treasury to the credit of the underground parking garage operating fund, which is hereby created, to be used for the purposes specified in division (F) of this section and for the operation and maintenance of the garage. All investment earnings of the fund shall be credited to the fund.

(H) All donations received ~~in support of the renovation of~~ by the capitol square review and advisory board shall be deposited into the state treasury to the credit of the capitol square renovation gift fund, which is hereby created. The fund shall be used by the capitol square review and advisory board ~~to~~ as follows:

(1) To provide part or all of the funding related to construction, goods, or services for the renovation of the capitol square;

(2) To purchase art, antiques, and artifacts for display at the capitol

square;

(3) To award contracts or make grants to organizations for educating the public regarding the historical background and governmental functions of the capitol square. Chapters 125., 127., and 153. and section 3517.13 of the Revised Code do not apply to purchases made exclusively from the fund, notwithstanding anything to the contrary in those chapters or that section. All investment earnings of the fund shall be credited to the fund.

(I) Except as provided in divisions (G), (H), and (J) of this section, all fees, receipts, and revenues received by the capitol square review and advisory board shall be deposited into the state treasury to the credit of the sale of goods and services fund, which is hereby created. Money credited to the fund shall be used solely to pay costs of the board other than those specified in divisions (F) and (G) of this section. All investment earnings of the fund shall be credited to the fund.

(J) There is hereby created in the state treasury the capitol square improvement fund, to be used by the capitol square review and advisory board to pay construction, renovation, and other costs related to the capitol square for which money is not otherwise available to the board. Whenever the board determines that there is a need to incur such costs and that the unencumbered, unobligated balance to the credit of the underground parking garage operating fund exceeds the amount needed for the purposes specified in division (F) of this section and for the operation and maintenance of the garage, the board may request the director of budget and management to transfer from the underground parking garage operating fund to the capitol square improvement fund the amount needed to pay such construction, renovation, or other costs. The director shall thereupon transfer the amount needed from the excess balance of the underground parking garage operating fund.

(K) As the operation and maintenance of the capitol square constitute essential government functions of a public purpose, the board shall not be required to pay taxes or assessments upon the square, or upon any property acquired or used by the board under this section, or upon any income generated by the operation of the square.

(L) As used in this section, "capitol square" means the capitol building, senate building, capitol atrium, capitol grounds, and the state underground parking garage.

(M) The capitol annex shall be known as the senate building.

Sec. 107.30. ~~During each year in which a new governor is elected, the~~ The general assembly shall make an appropriation, in the operating budget for the fiscal year in which a new governor is elected, to the office of budget

and management from ~~unearmarked funds in~~ the general revenue fund for the purchase of supplies ~~and equipment and~~, the payment of salaries for the governor-elect's immediate staff, rental or other charges for office space, the rental or purchase of equipment and furniture, printing and distribution of the inaugural address as required by section 149.04 of the Revised Code, and other reasonable expenses of the governor-elect during the period of transition.

Sec. 107.40. (A) There is hereby created the governor's residence advisory commission. The commission shall provide for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, or otherwise obtained by the state for the governor's residence.

(B) The commission shall be responsible for the care, provision, repair, and placement of furnishings and other objects and accessories of the grounds and public areas of the first story of the governor's residence. In exercising this responsibility, the commission shall preserve and seek to further establish the authentic ambiance and decor of the historic era during which the governor's residence was constructed. These duties shall not affect the obligation of the department of administrative services to provide for the general maintenance and operating expenses of the governor's residence.

(C) The commission shall consist of nine members. One member shall be the director of administrative services or the director's designee, who shall serve during the director's term of office and shall serve as ~~chair~~ chairperson. One member shall be the director of the Ohio historical society or the director's designee, who shall serve during the director's term of office and shall serve as ~~vice-chair~~ vice-chairperson. One member shall represent the Columbus landmarks foundation. One member shall represent the Bexley historical society. The remaining five members shall be appointed by the governor with the advice and consent of the senate. ~~Not more than three of the members appointed by the governor shall be affiliated with the same political party.~~ The five members appointed by the governor shall be persons with knowledge of Ohio history, architecture, decorative arts, or historic preservation.

(D) Of the initial appointees, the representative of the Columbus landmarks foundation shall serve for a term expiring December 31, 1996, and the representative of the Bexley historical society shall serve for a term expiring December 31, 1997. Of the five members appointed by the governor, three shall serve for terms ending December 31, 1998, and two

shall serve for terms ending December 31, 1999. Thereafter, each term shall be for four years, commencing on the first day of January and ending on the last day of December. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of the term until the member's successor takes office.

(E) Five members of the commission constitute a quorum, and the affirmative vote of five members is required for approval of any action by the commission.

(F) After each initial member of the commission has been appointed, the commission shall meet and select one member as secretary and another as treasurer. Organizational meetings of the commission shall be held at the time and place designated by call of the ~~chair~~ chairperson. Meetings of the commission may be held anywhere in the state and shall be in compliance with Chapters 121. and 149. of the Revised Code. The commission may adopt, pursuant to section 111.15 of the Revised Code, rules necessary to carry out the purposes of this section.

(G) Members of the commission shall serve without remuneration but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(H) All expenses incurred in carrying out this section are payable solely from money accrued under this section or appropriated for these purposes by the general assembly, and the commission shall incur no liability or obligation beyond such money.

(I) The commission may accept any donation, gift, bequest, or devise in furtherance of its duties. Any revenue received by the commission shall be deposited into the governor's residence fund, which is hereby established in the state treasury, for use by the commission in accordance with the performance of its duties. All investment earnings of the fund shall be credited to the fund. Title to all property acquired by the commission shall be taken in the name of the state and shall be held for the use and benefit of the commission.

(J) Nothing in this section limits the ability of a person or other entity to purchase decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, or other aesthetic materials for placement in the governor's residence or donation to the commission. No such object, however, shall be placed on the grounds or public areas of the

first story of the governor's residence without the consent of the commission.

Sec. 111.15. (A) As used in this section:

(1) "Rule" includes any rule, regulation, bylaw, or standard having a general and uniform operation adopted by an agency under the authority of the laws governing the agency; any appendix to a rule; and any internal management rule. "Rule" does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code, any order respecting the duties of employees, any finding, any determination of a question of law or fact in a matter presented to an agency, or any rule promulgated pursuant to Chapter 119., section 4141.14, division (C)(1) or (2) of section 5117.02, or section 5703.14 of the Revised Code. "Rule" includes any amendment or rescission of a rule.

(2) "Agency" means any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly or any court.

(3) "Internal management rule" means any rule, regulation, bylaw, or standard governing the day-to-day staff procedures and operations within an agency.

(4) "Substantive revision" has the same meaning as in division (J) of section 119.01 of the Revised Code.

(B)(1) Any rule, other than a rule of an emergency nature, adopted by any agency pursuant to this section shall be effective on the tenth day after the day on which the rule in final form and in compliance with division (B)(3) of this section is filed as follows:

(a) Two certified copies of the rule shall be filed with both the secretary of state and the director of the legislative service commission;

(b) Two certified copies of the rule shall be filed with the joint committee on agency rule review. Division (B)(1)(b) of this section does not apply to any rule to which division (D) of this section does not apply.

An agency that adopts or amends a rule that is subject to division (D) of this section shall assign a review date to the rule that is not later than five years after its effective date. If no review date is assigned to a rule, or if a review date assigned to a rule exceeds the five-year maximum, the review date for the rule is five years after its effective date. A rule with a review date is subject to review under section 119.032 of the Revised Code. This paragraph does not apply to a rule of a state college or university, community college district, technical college district, or state community

college.

If all copies are not filed on the same day, the rule shall be effective on the tenth day after the day on which the latest filing is made. If an agency in adopting a rule designates an effective date that is later than the effective date provided for by division (B)(1) of this section, the rule if filed as required by such division shall become effective on the later date designated by the agency.

Any rule that is required to be filed under division (B)(1) of this section is also subject to division (D) of this section if not exempted by division (D)(1), (2), (3), (4), (5), (6), (7), or (8) of this section.

(2) A rule of an emergency nature necessary for the immediate preservation of the public peace, health, or safety shall state the reasons for the necessity. Copies of the emergency rule, in final form and in compliance with division (B)(3) of this section, shall be filed as follows: two certified copies of the emergency rule shall be filed with both the secretary of state and the director of the legislative service commission, and one certified copy of the emergency rule shall be filed with the joint committee on agency rule review. The emergency rule is effective immediately upon the latest filing, except that if the agency in adopting the emergency rule designates an effective date, or date and time of day, that is later than the effective date and time provided for by division (B)(2) of this section, the emergency rule if filed as required by such division shall become effective at the later date, or later date and time of day, designated by the agency.

An emergency rule becomes invalid at the end of the ninetieth day it is in effect. Prior to that date, the agency may file the emergency rule as a nonemergency rule in compliance with division (B)(1) of this section. The agency may not refile the emergency rule in compliance with division (B)(2) of this section so that, upon the emergency rule becoming invalid under such division, the emergency rule will continue in effect without interruption for another ninety-day period.

(3) An agency shall file a rule under division (B)(1) or (2) of this section in compliance with the following standards and procedures:

(a) The rule shall be numbered in accordance with the numbering system devised by the director for the Ohio administrative code.

(b) The rule shall be prepared and submitted in compliance with the rules of the legislative service commission.

(c) The rule shall clearly state the date on which it is to be effective and the date on which it will expire, if known.

(d) Each rule that amends or rescinds another rule shall clearly refer to the rule that is amended or rescinded. Each amendment shall fully restate the

rule as amended.

If the director of the legislative service commission or the director's designee gives an agency written notice pursuant to section 103.05 of the Revised Code that a rule filed by the agency is not in compliance with the rules of the legislative service commission, the agency shall within thirty days after receipt of the notice conform the rule to the rules of the commission as directed in the notice.

(C) All rules filed pursuant to divisions (B)(1)(a) and (2) of this section shall be recorded by the secretary of state and the director under the title of the agency adopting the rule and shall be numbered according to the numbering system devised by the director. The secretary of state and the director shall preserve the rules in an accessible manner. Each such rule shall be a public record open to public inspection and may be lent to any law publishing company that wishes to reproduce it.

(D) At least sixty days before a board, commission, department, division, or bureau of the government of the state files a rule under division (B)(1) of this section, it shall file two copies of the full text of the proposed rule with the joint committee on agency rule review, and the proposed rule ~~shall be~~ is subject to legislative review and invalidation under division (I) of section 119.03 of the Revised Code. If a state board, commission, department, division, or bureau makes a substantive revision in a proposed rule after it is filed with the joint committee, the state board, commission, department, division, or bureau shall promptly file two copies of the full text of the proposed rule in its revised form with the joint committee. The latest version of a proposed rule as filed with the joint committee supersedes each earlier version of the text of the same proposed rule. Except as provided in division (F) of this section, a state board, commission, department, division, or bureau shall attach one copy of the rule summary and fiscal analysis prepared under section 121.24 or 127.18 of the Revised Code, or both, to each copy of a proposed rule, and to each copy of a proposed rule in revised form, that is filed under this division.

As used in this division, "commission" includes the public utilities commission when adopting rules under a federal or state statute.

This division does not apply to any of the following:

(1) A proposed rule of an emergency nature;

(2) A rule proposed under section 1121.05, 1121.06, 1155.18, 1733.412, 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, or 4123.442 of the Revised Code;

(3) A rule proposed by an agency other than a board, commission, department, division, or bureau of the government of the state;

(4) A proposed internal management rule of a board, commission, department, division, or bureau of the government of the state;

(5) A rule proposed by the Ohio student aid commission~~,~~ that complies with a federal law or rule, so long as the proposed rule contains both of the following:

(a) A statement that it is proposed for the purpose of complying with a federal law or rule;

(b) A citation to the federal law or rule that requires compliance.

(6) Any proposed rule that must be adopted verbatim by an agency pursuant to federal law or rule, to become effective within sixty days of adoption, in order to continue the operation of a federally reimbursed program in this state, so long as the proposed rule contains both of the following:

(a) A statement that it is proposed for the purpose of complying with a federal law or rule;

(b) A citation to the federal law or rule that requires verbatim compliance.

(7) An initial rule proposed by the director of health to impose safety standards, quality-of-care standards, and quality-of-care data reporting requirements with respect to a health service specified in section 3702.11 of the Revised Code, or an initial rule proposed by the director to impose quality standards on a facility listed in division (A)(4) of section 3702.30 of the Revised Code, if section 3702.12 of the Revised Code requires that the rule be adopted under this section;

(8) A rule of the state lottery commission pertaining to instant game rules.

(E) Whenever a state board, commission, department, division, or bureau files a proposed rule or a proposed rule in revised form under division (D) of this section, it shall also file one copy of the full text of the same proposed rule or proposed rule in revised form with the secretary of state and two copies thereof with the director of the legislative service commission. Except as provided in division (F) of this section, a state board, commission, department, division, or bureau shall attach a copy of the rule summary and fiscal analysis prepared under section 121.24 or 127.18 of the Revised Code, or both, to each copy of a proposed rule or proposed rule in revised form that is filed with the secretary of state or the director of the legislative service commission.

(F) Except as otherwise provided in this division, the auditor of state or the auditor of state's designee is not required to attach a rule summary and fiscal analysis to any copy of a proposed rule, or proposed rule in revised

form, that the auditor of state proposes under section 117.12, 117.19, 117.38, or 117.43 of the Revised Code and files under division (D) or (E) of this section. If, however, the auditor of state or the designee prepares a rule summary and fiscal analysis of the original version of such a proposed rule for purposes of complying with section 121.24 of the Revised Code, the auditor of state or designee shall attach a copy of the rule summary and fiscal analysis to each copy of the original version of the proposed rule filed under division (D) or (E) of this section.

Sec. 111.16. The secretary of state shall charge and collect, for the benefit of the state, the following fees:

(A) For filing and recording articles of incorporation of a domestic corporation, including designation of agent:

(1) Wherein the corporation shall not be authorized to issue any shares of capital stock, twenty-five dollars.

(2) Wherein the corporation shall be authorized to issue shares of capital stock, with or without par value:

(a) Ten cents for each share authorized up to and including one thousand shares;

(b) Five cents for each share authorized in excess of one thousand shares up to and including ten thousand shares;

(c) Two cents for each share authorized in excess of ten thousand shares up to and including fifty thousand shares;

(d) One cent for each share authorized in excess of fifty thousand shares up to and including one hundred thousand shares;

(e) One-half cent for each share authorized in excess of one hundred thousand shares up to and including five hundred thousand shares;

(f) One-quarter cent for each share authorized in excess of five hundred thousand shares; provided no fee shall be less than eighty-five dollars or greater than one hundred thousand dollars.

(B) For filing and recording a certificate of amendment to or amended articles of incorporation of a domestic corporation, or for filing and recording a certificate of reorganization, ~~or~~ a certificate of dissolution, or an amendment to a foreign license application:

(1) If the domestic corporation is not authorized to issue any shares of capital stock, twenty-five dollars;

(2) If the domestic corporation is authorized to issue shares of capital stock, thirty-five dollars, and in case of any increase in the number of shares authorized to be issued, a further sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued

by the corporation; provided no fee under division (B)(2) of this section shall be greater than one hundred thousand dollars;

(3) If the foreign corporation is not authorized to issue any shares of capital stock, fifty dollars;

(4) If the foreign corporation is authorized to issue shares of capital stock, fifty dollars.

(C) For filing and recording articles of incorporation of a savings and loan association, one hundred dollars; for filing and recording a certificate of amendment to or amended articles of incorporation that do not involve an increase in the authorized capital stock of such corporation, twenty-five dollars; and for filing and recording a certificate of amendment to or amended articles of incorporation that do involve an increase in the authorized capital stock of such corporation, thirty-five dollars;

(D) For filing and recording a certificate of merger or consolidation, fifty dollars and, in the case of any new corporation resulting from a consolidation or any surviving corporation that has an increased number of shares authorized to be issued resulting from a merger, an additional sum computed in accordance with the schedule set forth in division (A)(2) of this section less a credit computed in the same manner for the number of shares previously authorized to be issued or represented in this state by each of the corporations for which a consolidation or merger is effected by the certificate;

(E) For filing and recording articles of incorporation of a credit union or the American credit union guaranty association, thirty-five dollars, and for filing and recording a certificate of increase in capital stock or any other amendment of the articles of incorporation of a credit union or the association, twenty-five dollars;

(F) For filing and recording articles of organization of a limited liability company or for filing and recording a registration application to become a domestic limited liability partnership or a registered foreign limited liability partnership, eighty-five dollars;

(G) For filing and recording a certificate of limited partnership or an application for registration as a foreign limited partnership the following apply:

(1) If the certificate or application is for a limited partnership or foreign limited partnership described in division (A)(1) of section 1782.63 of the Revised Code, and the partnership has complied with divisions (A)(1)(a) to (e) of that section, no fee;

(2) If the certificate or application is for a limited partnership or foreign limited partnership other than a partnership described in division (G)(1) of

this section, eighty-five dollars.

(H) For filing a copy of papers evidencing the incorporation of a municipal corporation or of annexation of territory by a municipal corporation, five dollars, to be paid by the corporation, the petitioners therefor, or their agent;

(I) For filing and recording any of the following:

(1) A license to transact business in this state by a foreign corporation for profit pursuant to section 1703.04 of the Revised Code, one hundred dollars;

(2) An annual report pursuant to section ~~1703.07 or~~ 1775.63 of the Revised Code, ten dollars;

(3) Any other certificate or paper that is required to be or is permitted by any provision of the Revised Code to be filed and recorded with the secretary of state, ten dollars.

(J) For filing any certificate or paper not required to be recorded, five dollars;

(K) For making copies of any certificate or other paper filed in the office of the secretary of state, the ~~actual~~ cost ~~of duplicating the certificate or other paper,~~ shall not exceed one dollar per page, and for creating and affixing the seal of the office of the secretary of state to any good standing or other certificate, five dollars, except that for copies of certificates or papers required by state officers for official purpose, no charge shall be made;

(L) For a minister's license to solemnize marriages, ten dollars;

(M) For examining documents to be filed at a later date for the purpose of advising as to the acceptability of the proposed filing, ten dollars;

(N) For expedited filing service for filings referred to in divisions (A), (B), (C), (D), (E), (F), and (G) of this section, ten dollars in addition to the fee for filing and recording provided in those divisions.

(O) Fees may be paid by credit card. Any credit card number or the expiration date of any credit card ~~are~~ is not subject to disclosure under Chapter 149. of the Revised Code.

Sec. 111.18. (A) The secretary of state shall keep a record of all fees collected by the secretary of state and, except as otherwise provided in this section and in sections 1309.401 and 1329.68 and division (C)(2) of section 3506.05 of the Revised Code, shall pay them into the state treasury to the credit of the general revenue fund. Twenty-five dollars of each fee collected under divisions (A)(2), (F), (G)(2), and (I)(1) of section 111.16 and division (C) of section 1703.031 of the Revised Code, and all fees collected under divisions (I)(2) and (N) of ~~that~~ section 111.16 of the Revised Code, shall be

paid into the state treasury to the credit of the corporate and uniform commercial code filing fund created in section 1309.401 of the Revised Code.

(B) The secretary of state may implement a credit card payment program permitting payment of any fee charged by the secretary of state by means of a credit card. The secretary of state may open an account outside the state treasury in a financial institution for the purpose of depositing credit card receipts. Within forty-eight hours following the deposit of the receipts, the financial institution shall make available to the secretary of state funds in the amount of the receipts. The secretary of state shall then pay these funds into the state treasury to the credit of the general revenue fund, except as otherwise provided by the Revised Code.

The secretary of state may pay the cost of any service charge required by a financial institution or credit card company in connection with a credit card payment program.

The secretary of state shall adopt rules as necessary to carry out the purposes of this division. The rules shall include standards for determining eligible financial institutions and the manner in which funds shall be made available and shall be consistent with the standards contained in sections 135.03, 135.18, and 135.181 of the Revised Code.

Sec. 111.25. The secretary of state shall prescribe the following forms for persons to use in complying with the requirements of Chapter 1309. of the Revised Code for the filing of financing statements and related documents:

(A) The financing statement described in division (A) of section 1309.39 of the Revised Code;

(B) A form for the amendment of a financing statement described in division (C) of section 1309.39 of the Revised Code;

(C) A continuation statement described in division (C) of section 1309.40 of the Revised Code;

(D) A termination statement described in division (A) of section 1309.41 of the Revised Code;

(E) A form for an assignment of rights under a financing statement described in section 1309.42 of the Revised Code;

(F) A statement of release described in section 1309.43 of the Revised Code.

Sec. 113.21. The treasury education fund is hereby created in the state treasury. The fund shall consist of gifts, grants, and contributions received by the treasurer of state for the purposes of the fund. The fund shall be used to support various education programs, which may include, but are not

limited to, programs on capital project financing, local government investment, linked deposits, and other finance-related topics. The fund shall be administered by the treasurer of state, who shall adopt rules for the distribution of fund moneys. Moneys in the fund shall not replace other moneys expended by local programs for similar purposes.

Sec. 117.44. To enhance local officials' background and working knowledge of government accounting, budgeting and financing, financial report preparation, and the rules adopted by the auditor of state, the auditor of state shall hold training programs for persons elected for the first time as township clerks, city auditors, and village clerks, between the first day of December and the fifteenth day of February immediately following a general election for any of these offices. Similar training may also be provided to any township clerk, city auditor, or village clerk who is appointed to fill a vacancy or who is elected in a special election.

The auditor of state also shall develop and provide an annual training program of continuing education for village clerks.

The auditor of state shall determine the manner, content, and length of the training programs after consultation with appropriate statewide organizations of local governmental officials. The auditor of state shall charge the political subdivisions that the trainees represent a registration fee that will meet actual and necessary expenses of the training, including instructor fees, site acquisition costs, and the cost of course materials. The necessary personal expenses incurred by the officials as a result of attending the training program shall be borne by the political subdivisions they represent.

The auditor of state shall allow any other interested person to attend any of the training programs that the auditor of state holds pursuant to this section; provided, that before attending any such training program the interested person shall pay to the auditor of state the full registration fee that the auditor of state has set for the training program.

There is hereby established in the state treasury the auditor of state training program fund, to be used by the auditor of state for the actual and necessary expenses of any training programs held pursuant to this section or section 321.46 of the Revised Code. All registration fees collected under this section shall be paid into the fund.

Sec. 119.01. As used in sections 119.01 to 119.13 of the Revised Code:

(A) "Agency" means, except as limited by this division, any official, board, or commission having authority to promulgate rules or make adjudications in the bureau of employment services, the civil service commission, the department or, on and after July 1, 1997, the division of

liquor control, the department of taxation, the industrial commission, the bureau of workers' compensation, the functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state specifically made subject to sections 119.01 to 119.13 of the Revised Code, and the licensing functions of any administrative or executive officer, department, division, bureau, board, or commission of the government of the state having the authority or responsibility of issuing, suspending, revoking, or canceling licenses.

~~Sections~~ Except as otherwise provided in division (I) of this section, sections 119.01 to 119.13 of the Revised Code do not apply to the public utilities commission ~~or~~. Sections 119.01 to 119.13 of the Revised Code do not apply to the utility radiological safety board, ~~nor do they apply~~ to actions of the superintendent of financial institutions and the superintendent of insurance in the taking possession of, and rehabilitation or liquidation of, the business and property of banks, savings and loan associations, savings banks, credit unions, insurance companies, associations, reciprocal fraternal benefit societies, and bond investment companies, ~~nor~~ or to any action that may be taken by the superintendent of financial institutions under section 1113.03, 1121.05, 1121.06, 1121.10, 1125.09, 1125.12, 1125.18, 1155.18, 1157.01, 1157.02, 1157.10, 1163.22, 1165.01, 1165.02, 1165.10, 1733.35, 1733.361, 1733.37, 1733.412, or 1761.03 of the Revised Code.

Sections 119.01 to 119.13 of the Revised Code do not apply to actions of the industrial commission or the bureau of workers' compensation under sections 4123.01 to 4123.94 of the Revised Code with respect to all matters of adjudication, and to the actions of the industrial commission and bureau of workers' compensation under division (D) of section 4121.32 and sections 4123.29, 4123.34, 4123.341, 4123.342, 4123.40, 4123.411, 4123.44, 4123.442, and divisions (B), (C), and (E) of section 4131.14 of the Revised Code.

Sections 119.01 to 119.13 of the Revised Code do not apply to actions of the bureau of employment services, except those relating to all of the following:

(1) The adoption, amendment, or rescission of rules;

(2) The issuance, suspension, revocation, or cancellation of licenses;

(3) Any hearing held pursuant to sections 4115.03 to 4115.16 of the Revised Code or Chapter 4109. or 4111. of the Revised Code.

(B) "License" means any license, permit, certificate, commission, or charter issued by any agency. "License" does not include any arrangement whereby a person, institution, or entity furnishes medicaid services under a provider agreement with the department of human services pursuant to Title

XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(C) "Rule" means any rule, regulation, or standard, having a general and uniform operation, adopted, promulgated, and enforced by any agency under the authority of the laws governing such agency, and includes any appendix to a rule. "Rule" does not include any internal management rule of an agency unless the internal management rule affects private rights and does not include any guideline adopted pursuant to section 3301.0714 of the Revised Code.

(D) "Adjudication" means the determination by the highest or ultimate authority of an agency of the rights, duties, privileges, benefits, or legal relationships of a specified person, but does not include the issuance of a license in response to an application with respect to which no question is raised, nor other acts of a ministerial nature.

(E) "Hearing" means a public hearing by any agency in compliance with procedural safeguards afforded by sections 119.01 to 119.13 of the Revised Code.

(F) "Person" means a person, firm, corporation, association, or partnership.

(G) "Party" means the person whose interests are the subject of an adjudication by an agency.

(H) "Appeal" means the procedure by which a person, aggrieved by a finding, decision, order, or adjudication of any agency, invokes the jurisdiction of a court.

(I) "Rule-making agency" means any board, commission, department, division, or bureau of the government of the state that is required to file proposed rules, amendments, or rescissions under division (D) of section 111.15 of the Revised Code and any agency that is required to file proposed rules, amendments, or rescissions under divisions (B) and (H) of section 119.03 of the Revised Code. "Rule-making agency" includes the public utilities commission. "Rule-making agency" does not include any state-supported college or university.

(J) "Substantive revision" means any addition to, elimination from, or other change in a rule, an amendment of a rule, or a rescission of a rule, whether of a substantive or procedural nature, that changes any of the following:

(1) That which the rule, amendment, or rescission permits, authorizes, regulates, requires, prohibits, penalizes, rewards, or otherwise affects;

(2) The scope or application of the rule, amendment, or rescission.

(K) "Internal management rule" means any rule, regulation, or standard

governing the day-to-day staff procedures and operations within an agency.

Sec. 120.04. (A) The state public defender shall serve at the pleasure of the Ohio public defender commission and shall be an attorney with a minimum of four years of experience in the practice of law and be admitted to the practice of law in this state at least one year prior to ~~his~~ appointment.

(B) The state public defender shall do all of the following:

(1) Maintain a central office in Columbus. The central office shall be provided with a library of adequate size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment.

(2) Appoint assistant state public defenders, all of whom shall be attorneys admitted to the practice of law in this state, and other personnel necessary for the operation of the state public defender office. Assistant state public defenders shall be appointed on a full-time basis. The state public defender, assistant state public defenders, and employees appointed by the state public defender shall not engage in the private practice of law.

(3) Supervise the compliance of county public defender offices, joint county public defender offices, and county appointed counsel systems with standards established by rules of the Ohio public defender commission pursuant to division (B) of section 120.03 of the Revised Code;

(4) Keep and maintain financial records of all cases handled and develop records for use in the calculation of direct and indirect costs, in the operation of the office, and report periodically, but not less than annually, to the commission on all relevant data on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, as may be appropriate to improve the criminal justice system;

(5) Collect all moneys due the state for reimbursement for legal services under this chapter and under section 2941.51 of the Revised Code and institute any actions in court on behalf of the state for the collection of such sums that ~~he~~ the state public defender considers advisable. Except as provided otherwise in division (D) of section 120.06 of the Revised Code, all moneys collected by the state public defender under this ~~division~~ chapter and section 2941.51 of the Revised Code shall be deposited in the state treasury to the credit of the ~~public defender reimbursement~~ client payment fund, which is hereby created. All moneys credited to the fund shall be used by the state public defender to appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the operation of the state public defender office, ~~or~~ to reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems pursuant to sections 120.18,

120.28, and 120.33 of the Revised Code, or to provide assistance to counties in the operation of county indigent defense systems.

(6) With respect to funds appropriated to the commission to pay criminal costs, perform the duties imposed by section 2949.19 of the Revised Code;

(7) Establish standards and guidelines for the reimbursement, pursuant to sections 120.18, 120.28, 120.33, 2941.51, and 2949.19 of the Revised Code, of counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems and for other costs related to felony prosecutions;

(8) Establish maximum amounts that the state will reimburse the counties pursuant to sections 120.18, 120.28, 120.33, and 2941.51 of the Revised Code;

(9) Establish maximum amounts that the state will reimburse the counties pursuant to section 120.33 of the Revised Code for each specific type of legal service performed by a county appointed counsel system;

(10) Administer sections 120.18, 120.28, 120.33, 2941.51, and 2949.19 of the Revised Code and make reimbursements pursuant to those sections;

(11) Administer the program established pursuant to sections 120.51 to 120.55 of the Revised Code for the charitable public purpose of providing financial assistance to legal aid societies. Neither the state public defender nor any of ~~his~~ the state public defender's employees who is responsible in any way for the administration of that program and who performs ~~his~~ those administrative responsibilities in good faith is in any manner liable if a legal aid society that is provided financial assistance under the program uses the financial assistance other than in accordance with sections 120.51 to 120.55 of the Revised Code or fails to comply with the requirements of those sections.

(12) Establish an office for the handling of appeal and postconviction matters;

(13) Provide technical aid and assistance to county public defender offices, joint county public defender offices, and other local counsel providing legal representation to indigent persons, including representation and assistance on appeals.

(C) The state public defender may do any of the following:

(1) In providing legal representation, conduct investigations, obtain expert testimony, take depositions, use other discovery methods, order transcripts, and make all other preparations which are appropriate and necessary to an adequate defense or the prosecution of appeals and other legal proceedings;

(2) Seek, solicit, and apply for grants for the operation of programs for the defense of indigent persons from any public or private source, and may receive donations, grants, awards, and similar funds from any lawful source. Such funds shall be deposited in the state treasury to the credit of the public defender gifts and grants fund, which is hereby created.

(3) Make all the necessary arrangements to coordinate the services of the office with any federal, county, or private programs established to provide legal representation to indigent persons and others, and to obtain and provide all funds allowable under any such programs;

(4) Consult and cooperate with professional groups concerned with the causes of criminal conduct, the reduction of crime, the rehabilitation and correction of persons convicted of crime, the administration of criminal justice, and the administration and operation of the state public defender's office;

(5) Accept the services of volunteer workers and consultants at no compensation other than reimbursement for actual and necessary expenses;

(6) Prescribe any forms that are necessary for the uniform operation of this chapter;

(7) Contract with a county public defender commission or a joint county public defender commission to provide all or any part of the services that a county public defender or joint county public defender is required or permitted to provide by this chapter, or contract with a board of county commissioners of a county that is not served by a county public defender commission or a joint county public defender commission for the provision of services in accordance with section 120.33 of the Revised Code. All money received by the state public defender pursuant to such a contract shall be credited to the county representation fund created pursuant to division (D) of section 120.06 of the Revised Code.

(8) Authorize persons employed as criminal investigators to attend the Ohio peace officer training academy or any other peace officer training school for training;

(9) Procure a policy or policies of malpractice insurance that provide coverage for the state public defender and assistant state public defenders in connection with malpractice claims that may arise from their actions or omissions related to responsibilities derived pursuant to this chapter.

(D) No person employed by the state public defender as a criminal investigator shall attend the Ohio peace officer training academy or any other peace officer training school unless authorized to do so by the state public defender.

Sec. 120.33. (A) In lieu of using a county public defender or joint

county public defender to represent indigent persons in the proceedings set forth in division (A) of section 120.16 of the Revised Code, the board of county commissioners of any county may adopt a resolution to pay counsel who are either personally selected by the indigent person or appointed by the court. The resolution shall include those provisions the board of county commissioners considers necessary to provide effective representation of indigent persons in any proceeding for which counsel is provided under this section. The resolution shall include provisions for contracts with any municipal corporation under which the municipal corporation shall reimburse the county for counsel appointed to represent indigent persons charged with violations of the ordinances of the municipal corporation.

(1) In a county that adopts a resolution to pay counsel, an indigent person shall have the right to do either of the following:

(a) To select the person's own personal counsel to represent the person in any proceeding included within the provisions of the resolution;

(b) To request the court to appoint counsel to represent the person in such a proceeding.

(2) The court having jurisdiction over the proceeding in a county that adopts a resolution to pay counsel shall, after determining that the person is indigent and entitled to legal representation under this section, do either of the following:

(a) By signed journal entry recorded on its docket, enter the name of the lawyer selected by the indigent person as counsel of record;

(b) Appoint counsel for the indigent person if the person has requested the court to appoint counsel and, by signed journal entry recorded on its dockets, enter the name of the lawyer appointed for the indigent person as counsel of record.

(3) The board of county commissioners shall establish a schedule of fees by case or on an hourly basis to be paid to counsel for legal services provided pursuant to a resolution adopted under this section. Prior to establishing the schedule, the board of county commissioners shall request the bar association or associations of the county to submit a proposed schedule. The schedule submitted shall be subject to the review, amendment, and approval of the board of county commissioners.

(4) Counsel selected by the indigent person or appointed by the court at the request of an indigent person in a county that adopts a resolution to pay counsel, except for counsel appointed to represent a person charged with any violation of an ordinance of a municipal corporation that has not contracted with the county commissioners for the payment of appointed counsel, shall be paid by the county and shall receive the compensation and

expenses the court approves. Each request for payment shall be accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the state public defender. Compensation and expenses shall not exceed the amounts fixed by the board of county commissioners in the schedule adopted pursuant to division (A)(3) of this section. No court shall approve compensation and expenses that exceed the amount fixed pursuant to division (A)(3) of this section.

The fees and expenses approved by the court shall not be taxed as part of the costs and shall be paid by the county. However, if the person represented has, or may reasonably be expected to have, the means to meet some part of the cost of the services rendered to the person, the person shall ~~reimburse~~ pay the county ~~in~~ an amount that the person reasonably can be expected to pay. ~~The~~ Pursuant to section 120.04 of the Revised Code, the county shall pay to the state public defender a percentage of the ~~reimbursement~~ payment received from ~~such~~ the person in an amount proportionate to the percentage of the costs of the person's case that were paid to the county by the state public defender pursuant to this section. The money paid to the state public defender shall be credited to the ~~public defender reimbursement~~ client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code.

The county auditor shall draw a warrant on the county treasurer for the payment of counsel in the amount fixed by the court, plus the expenses the court fixes and certifies to the auditor. The county auditor shall report periodically, but not less than annually, to the board of county commissioners and to the Ohio public defender commission the amounts paid out pursuant to the approval of the court. The board of county commissioners, after review and approval of the auditor's report, may then certify it to the state public defender for reimbursement. If a request for reimbursement is not accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the state public defender, the state public defender shall not pay the requested reimbursement. If a request for the reimbursement of the cost of counsel in any case is not received by the state public defender within ninety days after the end of the calendar month in which the case is finally disposed of by the court, unless the county has requested and the state public defender has granted an extension of the ninety-day limit, the state public defender shall not pay the requested reimbursement. The state public defender shall also review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B)(7) and (8) of section 120.04 of the Revised Code, prepare a voucher for fifty per cent of the total cost of each county

appointed counsel system in the period of time covered by the certified report and a voucher for fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, or, if the amount of money appropriated by the general assembly to reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems is not sufficient to pay fifty per cent of the total cost of all of the offices and systems other than costs and expenses that are reimbursable under section 120.35 of the Revised Code, for the lesser amount required by section 120.34 of the Revised Code.

(5) If any county appointed counsel system fails to maintain the standards for the conduct of the system established by the rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 or the standards established by the state public defender pursuant to division (B)(7) of section 120.04 of the Revised Code, the Ohio public defender commission shall notify the board of county commissioners of the county that the county appointed counsel system has failed to comply with its rules or the standards of the state public defender. Unless the board of county commissioners corrects the conduct of its appointed counsel system to comply with the rules and standards within ninety days after the date of the notice, the state public defender may deny all or part of the county's reimbursement from the state provided for in division (A)(4) of this section.

(B) In lieu of using a county public defender or joint county public defender to represent indigent persons in the proceedings set forth in division (A) of section 120.16 of the Revised Code, and in lieu of adopting the resolution and following the procedure described in division (A) of this section, the board of county commissioners of any county may contract with the state public defender for the state public defender's legal representation of indigent persons. A contract entered into pursuant to this division may provide for payment for the services provided on a per case, hourly, or fixed contract basis.

(C) If a court appoints an attorney pursuant to this section to represent a petitioner in a postconviction relief proceeding under section 2953.21 of the Revised Code, the petitioner has received a sentence of death, and the proceeding relates to that sentence, the attorney who represents the petitioner in the proceeding pursuant to the appointment shall be certified under Rule 65 of the Rules of Superintendence for Common Pleas Courts to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

Sec. 121.04. Offices are created within the several departments as

follows:

In the department of commerce:

Commissioner of securities;
Superintendent of real estate and professional licensing;
Superintendent of financial institutions;
Fire marshal;
Beginning on July 1, 1997,
Superintendent of liquor control;
Superintendent of industrial compliance.

In the department of administrative services:

State architect and engineer;
Equal employment opportunity coordinator.

In the department of agriculture:

Chiefs of divisions as follows:

Administration;
Animal industry;
Dairy marketing;
Food, dairies, and drugs;
Plant industry;
Markets;
Meat inspections;
Consumer analytical laboratories;
Amusement ride safety;
Enforcement;
Weights and measures.

In the department of natural resources:

Chiefs of divisions as follows:

Water;
Mines and Reclamation;
Forestry;
Natural areas and preserves;
Wildlife;
Geological survey;
Parks and recreation;
Watercraft;
Oil and gas;
Recycling and litter prevention;
Civilian conservation;
Soil and water conservation;

Real estate and land management;
Engineering.

Until July 1, 1997, in the department of liquor control:

Chiefs of divisions as follows:

Accounting and finance;
Store management;
Personnel;
Beer.

In the department of insurance:

Deputy superintendent of insurance;
Assistant superintendent of insurance, technical;
Assistant superintendent of insurance, administrative;
Assistant superintendent of insurance, research.

Sec. 121.08. (A) There is hereby created in the department of commerce the position of deputy director of administration. This officer shall be appointed by the director of commerce, serve under the director's direction, supervision, and control, perform such duties as the director prescribes, and hold office during the director's pleasure. The assistant director of commerce may serve as the deputy director of administration. The deputy director of administration shall perform such duties as are prescribed by the director of commerce in supervising the activities of the division of administration of the department of commerce.

(B) Except as provided in section 121.07 of the Revised Code, the department of commerce shall have all powers and perform all duties vested in the deputy director of administration, the state fire marshal, the superintendent of financial institutions, the superintendent of real estate and professional licensing, the superintendent of liquor control, the superintendent of the division of industrial compliance, and the commissioner of securities, and shall have all powers and perform all duties vested by law in all officers, deputies, and employees of such offices. Except as provided in section 121.07 of the Revised Code, wherever powers are conferred or duties imposed upon any of such officers, such powers and duties shall be construed as vested in the department of commerce.

(C)(1) There is hereby created in the department of commerce a division of financial institutions, which shall have all powers and perform all duties vested by law in the superintendent of financial institutions. Wherever powers are conferred or duties imposed upon the superintendent of financial institutions, such powers and duties shall be construed as vested in the division of financial institutions. The division of financial institutions shall be administered by a superintendent of financial institutions.

(2) All provisions of law governing the superintendent of financial institutions shall apply to and govern the superintendent of financial institutions provided for in this section; all authority vested by law in the superintendent of financial institutions with respect to the management of the division of financial institutions shall be construed as vested in the superintendent of financial institutions created by this section with respect to the division of financial institutions provided for in this section; and all rights, privileges, and emoluments conferred by law upon the superintendent of financial institutions shall be construed as conferred upon the superintendent of financial institutions as head of the division of financial institutions. The director of commerce shall not transfer from the division of financial institutions any of the functions specified in division (C)(2) of this section.

(D) Beginning on July 1, 1997, there is hereby created in the department of commerce a division of liquor control, which shall have all powers and perform all duties vested by law in the superintendent of liquor control. Wherever powers are conferred or duties are imposed upon the superintendent of liquor control, those powers and duties shall be construed as vested in the division of liquor control. The division of liquor control shall be administered by a superintendent of liquor control.

(E) The director of commerce shall not be interested, directly or indirectly, in any firm or corporation which is a dealer in securities as defined in sections 1707.01 and 1707.14 of the Revised Code, or in any firm or corporation licensed under sections 1321.01 to 1321.19 of the Revised Code.

(F) The director of commerce shall not have any official connection with a savings and loan association, a savings bank, a bank, a bank holding company, a savings and loan association holding company, a consumer finance company, or a credit union that is under the supervision of the division of financial institutions, or a subsidiary of any of the preceding entities, or be interested in the business thereof.

(G) There is hereby created in the state treasury the division of administration fund. The fund shall receive assessments on the operating funds of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. All operating expenses of the division of administration shall be paid from the division of administration fund.

(H) There is hereby created in the department of commerce a division of real estate and professional licensing, which shall be under the control and supervision of the director of commerce. The division of real estate and

rofessional licensing shall be administered by a superintendent of real estate and professional licensing. The superintendent of real estate and professional licensing shall exercise the powers and perform the functions and duties delegated to the superintendent under Chapters 4707., 4735., 4749., 4763., and 4767. of the Revised Code.

Sec. 121.37. (A)(1) There is hereby created the Ohio family and children first cabinet council. The council shall be composed of the superintendent of public instruction and the directors of youth services, human services, mental health, health, alcohol and drug addiction services, mental retardation and developmental disabilities, and budget and management. The chairperson of the council shall be the governor or the governor's designee and shall establish procedures for the council's internal control and management.

(2) The purpose of the cabinet council is to help families seeking government services. This section shall not be interpreted or applied to usurp the role of parents, but solely to streamline and coordinate existing government services for families seeking assistance for their children.

In seeking to fulfill its purpose, the council may do any of the following:

(a) Advise and make recommendations to the governor and general assembly regarding the provision of services to children;

(b) Advise and assess local governments on the coordination of service delivery to children;

(c) Hold meetings at such times and places as may be prescribed by the council's procedures and maintain records of the meetings, except that records ~~indentifying~~ identifying individual children are confidential and shall ~~only~~ be disclosed only as provided by law;

(d) Develop programs and projects, including pilot projects, to encourage coordinated efforts at the state and local level to improve the state's social service delivery system;

(e) Enter into contracts with and administer grants to county family and children first councils ~~and local intersystem services for children clusters~~, as well as other county or multicounty organizations to plan and coordinate service delivery between state agencies and local service providers for families and children;

(f) Enter into contracts with and apply for grants from federal agencies or private organizations;

(g) Enter into interagency agreements to encourage coordinated efforts at the state and local level to improve the state's social service delivery system. The agreements may include provisions regarding the receipt,

transfer, and expenditure of funds.

(3) The cabinet council shall ~~do all of~~ provide for the following:

(a) ~~Review~~ Reviews of service and treatment plans for children for which such reviews are requested;

(b) ~~Provide such assistance~~ Assistance as the council determines to be necessary to meet the needs of children referred by county family and children first councils ~~and local intersystem services for children clusters~~;

(c) ~~Monitor~~ Monitoring and ~~supervise~~ supervision of a statewide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Education of the Handicapped Act Amendments of 1986," 100 Stat. 1145 (1986), 20 U.S.C.A. 1471, as amended~~;~~

~~(d) Adopt rules in accordance with Chapter 119. of the Revised Code establishing an administrative review process to address problems that arise concerning the operation of a dispute resolution process developed under a service coordination plan established pursuant to division (E) of this section~~.

~~(C)~~(B)(1) ~~A~~ Each county ~~may~~ shall establish a county family and children first council. A county may invite any local public or private agency or group that funds, advocates, or provides services to children and families to have a representative become a permanent or temporary member of its county council. Each county council ~~shall be composed of~~ must include the following individuals:

(a) At least three individuals whose families are or have received services from an agency represented on the council or another county's council. Where possible, the number of members representing families shall be equal to twenty per cent of the council's membership.

(b) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards~~;~~

~~(b)~~. If a board of alcohol, drug addiction, and mental health services covers more than one county, the director may designate a person to participate on the county's council.

(c) The health commissioner, or the commissioner's designee, of the board of health of each city ~~or~~ and general health district in the county~~, or their designees;~~

~~(c)~~. If the county has two or more health districts, the health commissioner membership may be limited to the commissioners of the two

districts with the largest populations.

(d) The director of the county department of human services;

~~(d)~~(e) The executive director of the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code;

~~(e)~~(f) The superintendent of the county board of mental retardation and developmental disabilities;

~~(f)~~(g) The county's juvenile court judge senior in service or another judge of the juvenile court designated by the administrative judge or, where there is no administrative judge, by the judge senior in service;

~~(g)~~(h) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each county of its determination at least biennially;

~~(h)~~(i) A school superintendent representing all other school districts with territory in the county, as designated at a biennial meeting of the superintendents of those districts;

~~(i)~~(j) A representative of the ~~largest city~~ municipal corporation with the largest population in the county;

~~(j)~~(k) The chair of the board of county commissioners, or an individual designated by the board;

~~(k)~~(l) A representative of the regional office of the department of youth services;

~~(l)~~(m) A representative of the county's head start agencies, as defined in section 3301.31 of the Revised Code;

~~(m)~~(n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986";

~~(n) At least three individuals representing the interests of families in the county. Where possible, the number of members representing families shall be equal to twenty per cent of the council's remaining membership.~~

~~A county family and children first council may invite any other local public or private agency or group that funds, advocates, or provides services to children to have a representative become a permanent or temporary member of the council~~ (o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families.

Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service

coordination ~~plan approved under~~ mechanism implemented pursuant to division (C) of this section.

The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. the appeals process may be accessed only by a majority vote of the council members who are required to serve on the council. Upon appeal, the cabinet council may order that state funds for services to children and families be redirected to a county's board of county commissioners.

(2) A county council shall ~~do all of~~ provide for the following:

(a) ~~Refer~~ Referrals to the cabinet council of those children for whom the county council cannot provide adequate services;

(b) ~~Make periodic reports to the cabinet council regarding the number of children referred to the county council and the progress made in meeting the needs of each child;~~

~~(c) Develop a plan that reviews and adjusts existing programs~~ Development and implementation of a process that annually evaluates and prioritizes services, fills service gaps where possible, ~~or~~ and invents new approaches to achieve better results for families and children;

~~(d) Participate~~ (c) Participation in the development of a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Education of the Handicapped Act Amendments of 1986";

~~(e) Maintain~~ (d) Maintenance of an accountability system to monitor the county council's progress in achieving ~~its purposes~~ results for families and children;

~~(f) Establish~~ (e) Establishment of a mechanism to ensure ongoing input from a broad representation of families who are receiving services within the county system.

(3)(a) Except as provided in division ~~(C)~~(B)(3)(b) of this section, a county council shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council ~~to the extent that~~ whenever the county council performs a function subject to those rules or agreements.

(b) On application of a county council, the cabinet council may grant an exemption from any rules or interagency agreements of a state department participating on the council if an exemption is necessary for the council to implement ~~a~~ an alternative program or approach for service delivery to

families and children. The application shall describe the proposed program or approach and specify the rules or interagency agreements from which an exemption is necessary. The cabinet council shall approve or disapprove the application in accordance with standards and procedures it shall adopt. If an application is approved, the exemption is effective only while the program or approach is being implemented ~~and~~, including a reasonable period during which the program or approach is being evaluated for effectiveness.

(4) ~~A county council may accept and expend donations received from any source.~~ Each county council shall designate an administrative agent for the council from among the following public entities: the board of alcohol, drug addiction, and mental health services, including a board of alcohol and drug addiction or a community mental health board if the county is served by separate boards; the board of county commissioners; any board of health of the county's city and general health districts; the county department of human services; the county agency responsible for the administration of children services pursuant to section 5153.15 of the Revised Code; the county board of mental retardation and developmental disabilities; any of the county's boards of education or governing boards of educational service centers; or the county's juvenile court. Any of the foregoing public entities, other than the board of county commissioners, may decline to serve as the council's administrative agent.

A county council's administrative agent shall serve as the council's appointing authority. The council shall file an annual budget with its administrative agent, with copies filed with the county auditor and with the board of county commissioners, unless the board is serving as the council's administrative agent. The council's administrative agent shall ensure that all expenditures are handled in accordance with policies, procedures, and activities prescribed by state departments in rules or interagency agreements that are applicable to the council's functions.

The administrative agent for a county council may do any of the following on behalf of the council:

(a) Enter into agreements or administer contracts with public or private entities to fulfill specific council business. Such agreements and contracts are exempt from the competitive bidding requirements of section 307.86 of the Revised Code if they have been approved by the county council and they are for the purchase of family and child welfare or child protection services or other social or human services for families and children. The approval of the county council is not required to exempt agreements or contracts entered into under section 5139.34, 5139.41, or 5139.43 of the Revised Code from the competitive bidding requirements of section 307.86 of the Revised

.

(b) As determined by the council, provide financial stipends, reimbursements, or both, to family representatives for expenses related to council activity;

(c) Receive by gift, grant, devise, or bequest any moneys, lands, or other property for the purposes for which the council is established. The agent shall hold, apply, and dispose of the moneys, lands, or other property according to the terms of the gift, grant, devise, or bequest. Any interest or earnings shall be treated in the same manner and are subject to the same terms as the gift, grant, devise, or bequest from which it accrues.

(5) Two or more county councils may enter into an agreement to administer their county councils jointly by creating a regional family and children first council. A regional council possesses the same duties and authority possessed by a county council, except that the duties and authority apply regionally rather than to individual counties. Prior to entering into an agreement to create a regional council, the members of each county council to be part of the regional council shall meet to determine whether all or part of the members of each county council will serve as members of the regional council.

(6) A board of county commissioners ~~served by a county council or represented on a regional council~~ may approve a resolution by a majority vote of the board's members that requires the county ~~or regional~~ council~~,~~ to submit a statement to the board each time ~~it~~ the council proposes to enter into an agreement, adopt a plan, or make a decision, other than a decision pursuant to section 121.38 of the Revised Code, that requires the expenditure of funds for two or more families~~, to submit to the board a~~. The statement ~~describing~~ shall describe the proposed agreement, plan, or decision.

~~No~~ Not later than fifteen days after the board receives the statement, it shall, by resolution approved by a majority of its members, approve or disapprove the agreement, plan, or decision. Failure of the board to pass a resolution during that time period shall be considered approval of the agreement, plan, or decision.

An agreement, plan, or decision for which a statement is required to be submitted to the board shall be implemented only if it is approved ~~pursuant to division (C)(6) of this section~~ by the board.

~~(D)(1) Each county that does not establish a county family and children first council shall establish a local intersystem services to children cluster. The local cluster shall be composed of the following individuals:~~

~~(a) The executive director of the county agency responsible for the~~

~~administration of children services pursuant to section 5153.15 of the Revised Code;~~

~~(b) A representative of the regional office of the department of youth services;~~

~~(c) The superintendent of the county board of mental retardation and developmental disabilities;~~

~~(d) The director of the board of alcohol, drug addiction, and mental health services that serves the county, or, in the case of a county that has a board of alcohol and drug addiction services and a community mental health board, the directors of both boards;~~

~~(e) The health commissioner of the board of health of each city or general health district in the county, or their designees;~~

~~(f) The superintendent of the city, exempted village, or local school district with the largest number of pupils residing in the county, as determined by the department of education, which shall notify each county of its determination at least biennially;~~

~~(g) A school superintendent representing all other school districts with territory in the county, chosen at a biennial meeting of the superintendents of those districts.~~

~~A local cluster may invite any other local public or private agency or group that funds, advocates, or provides services to children to have a representative become a permanent or temporary member of the cluster. The local cluster may also invite parents to become permanent or temporary members of the cluster.~~

~~Notwithstanding any other provision of law, the public members of a local cluster are not prohibited from serving on the cluster and making decisions regarding the duties outlined in the county's service coordination plan approved under this section.~~

~~(2) A local cluster shall do all of the following:~~

~~(a) Refer to the cabinet council those children for whom the local cluster cannot provide adequate services;~~

~~(b) Make periodic reports to the cabinet council regarding the number of children referred to the local cluster and the progress made in meeting the needs of each child;~~

~~(c) Participate in the development of and approve a countywide, comprehensive, coordinated, multi-disciplinary, interagency system for infants and toddlers with developmental disabilities or delays and their families, as established pursuant to federal grants received and administered by the department of health for early intervention services under the "Education of the Handicapped Act Amendments of 1986."~~

~~(3) A local intersystem services for children cluster shall comply with the policies, procedures, and activities prescribed by the rules or interagency agreements of a state department participating on the cabinet council to the extent that the local cluster performs a function subject to those rules or agreements.~~

~~(4) A board of county commissioners served by a local cluster may approve a resolution by a majority vote of the board's members that requires the cluster, each time it proposes to enter into an agreement, adopt a plan, or make a decision, other than a decision pursuant to section 121.38 of the Revised Code, that requires the expenditure of funds for two or more families, to submit to the board a statement describing the agreement, plan, or decision.~~

~~No later than fifteen days after the board receives the statement, it shall, by resolution approved by a majority of its members, approve or disapprove the agreement, plan, or decision. Failure of the board to pass a resolution during that time period shall be considered approval of the agreement, plan, or decision.~~

~~An agreement, plan, or decision for which a statement is required to be submitted to the board shall be implemented only if approved pursuant to division (D)(4) of this section.~~

~~(E)(1)~~(C) Each county shall develop a county service coordination ~~plan~~ mechanism. The ~~plan~~ mechanism shall be developed and approved with the participation of the county entities representing child welfare; mental retardation and developmental disabilities; alcohol, drug addiction, and mental health services; health; juvenile judges; education; the county family and children first council ~~or local intersystem services for children cluster~~; and the county early intervention ~~cluster~~ collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986." ~~Each plan~~ the county shall establish an implementation schedule for the mechanism. The cabinet council may monitor the implementation and administration of each county's service coordination mechanism.

Each mechanism shall include all of the following:

~~(a)~~(1) A procedure for assessing the needs of any child, including a child who is an abused, neglected, dependent, unruly, or delinquent child and under the jurisdiction of the juvenile court or a child whose parent or custodian is voluntarily seeking services;

~~(b)~~(2) A procedure for assessing the service needs of the family of any child, including a child who is an abused, neglected, dependent, unruly, or delinquent child and under the jurisdiction of the juvenile court or a child

whose parent or custodian is voluntarily seeking services;

~~(c)~~(3) A procedure for development of a comprehensive joint service plan designating service responsibilities among the various state and local agencies that provide services to children and their families, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services;

~~(d) An implementation schedule of the county service coordination plan;~~

~~(e)~~(4) A ~~mandatory~~ local dispute resolution process to serve as the process that must be used first to resolve disputes among the agencies represented on the county council ~~or local cluster~~ concerning the provision of services to children, including children who are abused, neglected, dependent, unruly, or delinquent children and under the jurisdiction of the juvenile court and children whose parents or custodians are voluntarily seeking services. The local dispute resolution process shall comply with section 121.38 of the Revised Code. The cabinet council shall adopt rules in accordance with Chapter 119. of the Revised Code establishing an administrative review process to address problems that arise concerning the operation of a local dispute resolution process.

~~(2) On or before March 15, 1996, the county service coordination plan shall be submitted to the cabinet council for approval. The cabinet council shall approve or reject the plan on or before June 1, 1996. The cabinet council's approval shall be made in conjunction with a representative of the Ohio association of juvenile and county court judges.~~

~~If a county fails to submit a plan by March 15, 1996, or if the plan submitted is rejected, the cabinet council shall develop a plan for the county, including a procedure for designating service responsibilities and a process for dispute resolution. The process for dispute resolution shall be consistent with section 121.38 of the Revised Code. Such plans shall be developed on or before July 1, 1996, and shall be developed in conjunction with a representative of the Ohio association of juvenile and county court judges.~~

~~Except in the case of a county plan developed by the cabinet council, each county shall implement its plan on or before July 1, 1996. A county plan developed by the cabinet council shall be implemented by the county on or before August 1, 1996. The cabinet council may monitor the implementation and administration of service coordination plans.~~

Sec. 121.371. There is hereby created the wellness block grant program. The Ohio family and children first cabinet council shall oversee the program and the children's trust fund board, created by section 3109.15 of the Revised Code, shall serve as the program's administrative agent. The board

and the cabinet council shall establish guidelines for operating the wellness block grant program.

The children's trust fund board may accept gifts, donations, grants, or other moneys for the wellness block grant program from any source. The board shall use the funds received to make block grants to county family and children first councils. The amount to be granted to each county council shall be determined by the board and the cabinet council. To cover administrative expenses, the board may use in each state fiscal year an amount not to exceed one per cent of the total amount available for the program in that year.

County councils shall use the funds they receive through wellness block grants to fund community-based programs of prevention services that address issues of broad social concern, as determined by the cabinet council and the board, and to fund state-directed training, evaluation, and education programs pertaining to the issues being addressed. Each county council shall submit to the board a program and fiscal plan that outlines its proposal for expenditure of its block grant.

As requested by the board on behalf of the cabinet council, each county council shall submit program and fiscal accountings regarding the use of its block grant. The board and the cabinet council shall establish criteria for assessing a county council's progress in achieving the goals of the wellness block grant program. If a county council does not operate in accordance with the program guidelines and criteria established by the board and the cabinet council, the board and the cabinet council may revise the allocation of funds that the county council receives.

The board shall prepare an annual report detailing the results of the program. The report shall be submitted to the governor, the president of the senate, and the speaker of the house of representatives.

Sec. 121.38. (A) An agency represented on a county family and children first council ~~or local intersystem services to children cluster~~ that disagrees with the ~~council or cluster's~~ council's decision concerning the services or funding for services a child is to receive from agencies represented on the council ~~or cluster~~ may initiate the local dispute resolution process established in the county service coordination ~~plan~~ mechanism applicable to the council ~~or cluster~~. On completion of the process, the decision maker designated in the ~~service coordination plan~~ mechanism shall issue a written determination that directs one or more agencies represented on the council ~~or cluster~~ to provide services or funding for services to the child. The determination shall include a plan of care governing the manner in which the services or funding are to be provided. The decision maker shall base the

plan of care on the comprehensive joint service plan ~~described in division (E)(1)(c) of section 121.37 of the Revised Code~~ developed as part of the county's service coordination mechanism and on evidence presented during the local dispute resolution process. The decision maker may require an agency to provide services or funding only if the child's condition or needs qualify the child for services under the laws governing the agency.

(B) An agency subject to a determination issued pursuant to a local dispute resolution process shall immediately comply with the determination, unless the agency objects to the determination by doing one of the following not later than seven days after the date the written determination is issued:

(1) If the child has been alleged or adjudicated to be an abused, neglected, dependent, unruly, or delinquent child or a juvenile traffic offender, filing in the juvenile court of the county having jurisdiction over the child's case a motion requesting that the court hold a hearing to determine which agencies are to provide services or funding for services to the child.

(2) If the child is not a child described in division (B)(1) of this section, filing in the juvenile court of the county served by the county council ~~or local cluster~~ a complaint objecting to the determination.

The court shall hold a hearing as soon as possible, but ~~no~~ not later than ninety days after the motion or complaint is filed. ~~No later than~~ At least five days before the date on which the court hearing is to be held, the court shall send each agency subject to the determination written notice by first class mail of the date, time, place, and purpose of the court hearing. In the case of a motion filed under division (B)(1) of this section, the court may conduct the hearing as part of the adjudicatory or dispositional hearing concerning the child, if appropriate, and shall provide notice as required for those hearings.

Except in cases in which the hearing is conducted as part of the adjudicatory or dispositional hearing, a hearing held pursuant to this division shall be limited to a determination of which agencies are to provide services or funding for services to the child. At the conclusion of the hearing, the court shall issue an order directing one or more agencies represented on the county council ~~or local cluster~~ to provide services or funding for services to the child. The order shall include a plan of care governing the manner in which the services or funding are to be provided. The court shall base the plan of care on the comprehensive joint service plan ~~described in division (E)(1)(c) of section 121.37 of the Revised Code~~ developed as part of the county's service coordination plan and on evidence presented during the hearing. An agency required by the order to provide services or funding

shall be a party to any juvenile court proceeding concerning the child. The court may require an agency to provide services or funding for a child only if the child's condition or needs qualify the child for services under the laws governing the agency.

(C) While the local dispute resolution process or court proceedings pursuant to this section are pending, each agency shall provide services and funding as required by the decision made by the county council ~~or cluster~~ before dispute resolution was initiated. If an agency that provides services or funds during the local dispute resolution process or court proceedings is determined through the process or proceedings not to be responsible for providing them, it shall be reimbursed for the costs of providing the services or ~~for the~~ funding by the agencies determined to be responsible for providing them.

~~(D) Each county council or local cluster shall report annually to the Ohio family and children first cabinet council the following information:~~

~~(1) The number of cases resolved by dispute resolution;~~

~~(2) The number of cases resolved by judicial determination;~~

~~(3) The amount of money spent by each agency using dispute resolution or requesting a judicial determination with respect to children being served by the agency.~~

~~A report shall not contain any information that personally identifies any individual. The cabinet council shall specify the date on which the report is to be made.~~

Sec. 121.40. (A) There is hereby created the governor's community service council consisting of twenty-one members including the superintendent of public instruction or the superintendent's designee, the chancellor of the Ohio board of regents or the chancellor's designee, the director of natural resources or the director's designee, the director of youth services or the director's designee, the director of aging or the director's designee, the director of human services or the director's designee, the chairperson of the committee of the house of representatives dealing with education or the chairperson's designee, the chairperson of the committee of the senate dealing with education or the chairperson's designee, and thirteen members who shall be appointed by the governor with the advice and consent of the senate and who shall serve terms of office of three years. The appointees shall include educators, including teachers and administrators; representatives of youth organizations; students and parents; representatives of organizations engaged in volunteer program development and management throughout the state, including youth and conservation programs; and representatives of business, government, nonprofit

organizations, social service agencies, veterans organizations, religious organizations, or philanthropies that support or encourage volunteerism within the state. Members of the council shall receive no compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(B) The council shall appoint an executive director for the council, who shall be in the unclassified civil service. The executive director shall supervise the council's activities and report to the council on the progress of those activities. ~~The department of youth services shall serve as the council's fiscal agent.~~ The executive director shall do all things necessary for the efficient and effective implementation of the duties of the council.

The responsibilities assigned to the executive director do not relieve the members of the council from final responsibility for the proper performance of the requirements of this division.

(C) The council or its designee shall do all of the following:

(1) employ, promote, supervise, and remove all employees as needed in connection with the performance of its duties under THIS section and may assign duties to THOSE employees as necessary to achieve the most EFFICIENT performance oF its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of ANY employee of the council. Personnel employed by the council who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter. Nothing in this chapter shall be construed as eliminating or interfering with Chapter 4117. of the Revised code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Maintain its office in Columbus, and may hold sessions at any place within the state;

(3) ACQUIRE facilities, equipment, and supplies necessary to house the council, its employees, and files and records under its control, and to discharge any duty imposed UPon it by law. the expense OF THESE ACQUISITIONS shall be audited and paid for in the same manner as other state expenses. FOR THAT PURPOSE, the council shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the council and ITS staff in the discharge of any duty imposed UPON the council by law. THE COUNCIL SHALL NOT DELEGATE ANY AUTHORITY TO OBLIGATE FUNDS.

(4) pay its own payroll and other operating expenses from line items designated by the general assembly;

(5) Retain its fiduciary RESPONSIBILITY as appointing authority. Any transaction instructions shall be certified by the appointing authority or its designee.

(6) establish the overall policy and management of the council in accordance with this chapter;

~~(A)~~(7) Assist in coordinating and preparing the state application for funds under sections 101 to 184 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C.A. 12411 to 12544, and amendments thereto, assist in administering and overseeing the "National and Community Service Trust Act of 1993," P.L. 103-82, 107 Stat. 785, and the americorps program in this state, and assist in developing objectives for a comprehensive strategy to encourage and expand community service programs throughout the state;

~~(B)~~(8) Assist the state board of education, school districts, the board of regents, and institutions of higher education in coordinating community service education programs through cooperative efforts between institutions and organizations in the public and private sectors;

~~(C)~~(9) Assist the departments of natural resources, youth services, aging, and human services in coordinating community service programs through cooperative efforts between institutions and organizations in the public and private sectors;

~~(D)~~(10) Suggest individuals and organizations that are available to assist school districts, institutions of higher education, and the departments of natural resources, youth services, aging, and human services in the establishment of community service programs and assist in investigating sources of funding for implementing such programs;

~~(E)~~(11) Assist in evaluating the state's efforts in providing community service programs using standards and methods that are consistent with any statewide objectives for such programs and provide information to the state board of education, school districts, the board of regents, institutions of higher education, and the departments of natural resources, youth services, aging, and human services to guide them in making decisions about these programs;

~~(F)~~(12) Assist the state board of education in complying with section 3301.70 of the Revised Code and the board of regents in complying with division (B)(2) of section 3333.043 of the Revised Code.

(D) THE DEPARTMENT OF AGING SHALL SERVE AS THE COUNCIL'S FISCAL AGENT. BEGINNING ON JULY 1, 1997, WHENEVER REFERENCE IS MADE IN ANY LAW, CONTRACT, OR DOCUMENT TO THE FUNCTIONS OF THE DEPARTMENT OF

YOUTH SERVICES AS FISCAL AGENT TO THE COUNCIL, THE REFERENCE SHALL BE DEEMED TO REFER TO THE DEPARTMENT OF AGING. THE DEPARTMENT OF AGING SHALL HAVE NO RESPONSIBILITY FOR OR OBLIGATION TO THE COUNCIL PRIOR TO JULY 1, 1997. ANY VALIDATION, CURE, RIGHT, PRIVILEGE, REMEDY, OBLIGATION, OR LIABILITY SHALL BE RETAINED BY THE COUNCIL.

AS USED IN THIS SECTION, "FISCAL AGENT" MEANS TECHNICAL SUPPORT AND INCLUDES THE FOLLOWING TECHNICAL SUPPORT SERVICES:

(1) PREPARING AND PROCESSING PAYROLL AND OTHER PERSONNEL DOCUMENTS THAT THE COUNCIL EXECUTES AS THE APPOINTING AUTHORITY. THE DEPARTMENT OF AGING SHALL NOT APPROVE ANY PAYROLL OR OTHER PERSONNEL-RELATED DOCUMENTS.

(2) MAINTAINING LEDGERS OF ACCOUNTS AND REPORTS OF ACCOUNT BALANCES, AND MONITORING BUDGETS AND ALLOTMENT PLANS IN CONSULTATION WITH THE COUNCIL. THE DEPARTMENT SHALL NOT APPROVE ANY BIENNIAL BUDGET, GRANT, EXPENDITURE, AUDIT, OR FISCAL-RELATED DOCUMENT.

(3) PERFORMING OTHER ROUTINE SUPPORT SERVICES THAT THE DIRECTOR OF AGING OR THE DIRECTOR'S DESIGNEE AND THE COUNCIL OR ITS DESIGNEE CONSIDER APPROPRIATE TO ACHIEVE EFFICIENCY.

(E) THE COUNCIL OR ITS DESIGNEE HAS THE FOLLOWING AUTHORITY AND RESPONSIBILITY RELATIVE TO FISCAL MATTERS:

(1) SOLE AUTHORITY TO DRAW FUNDS FOR ANY AND ALL FEDERAL PROGRAMS IN WHICH THE COUNCIL IS AUTHORIZED TO PARTICIPATE;

(2) SOLE AUTHORITY TO EXPEND FUNDS FROM THEIR ACCOUNTS FOR PROGRAMS AND ANY OTHER NECESSARY EXPENSES THE COUNCIL MAY INCUR AND ITS SUBGRANTEES MAY INCUR;

(3) RESPONSIBILITY TO COOPERATE WITH AND INFORM THE DEPARTMENT OF AGING AS FISCAL AGENT TO ENSURE THAT THE DEPARTMENT IS FULLY APPRISED OF ALL FINANCIAL TRANSACTIONS.

THE COUNCIL SHALL FOLLOW ALL STATE PROCUREMENT

REQUIREMENTS.

THE DEPARTMENT OF AGING SHALL DETERMINE FEES TO BE CHARGED TO THE COUNCIL, WHICH SHALL BE IN PROPORTION TO THE SERVICES PERFORMED FOR THE COUNCIL.

THE COUNCIL SHALL PAY FEES OWED TO THE DEPARTMENT OF AGING FROM A GENERAL REVENUE FUND OF THE COUNCIL OR FROM ANY OTHER FUND FROM WHICH THE OPERATING EXPENSES OF THE COUNCIL ARE PAID. ANY AMOUNTS SET ASIDE FOR A FISCAL YEAR FOR THE PAYMENT OF SUCH FEES SHALL BE USED ONLY FOR THE SERVICES PERFORMED FOR THE COUNCIL BY THE DEPARTMENT OF AGING IN THAT FISCAL YEAR.

Sec. 121.52. (A) The women's policy and research commission shall do all of the following:

(1) Establish policies and procedures governing the operation of the women's policy and research center established under section 121.53 of the Revised Code;

(2) Employ an executive director for the center to implement the policies and procedures established under division (A)(1) of this section;

(3) Furnish a written report of its activities for the preceding calendar year not later than the first day of February of each year to the governor, the president of the senate, and the speaker of the house of representatives.

(B) The commission may do any of the following:

(1) Hold public hearings to assess the problems and needs of women in this state;

(2) Create standing or special committees as needed. These standing or special committees shall be chaired by a member of the commission but may include members who are not members of the commission.

(3) Sell publications issued by the commission or the center;

(4) Accept gifts, donations, benefits, and other funds from any public agency or private source to carry out any or all of the commission's or center's powers or duties.

(C) All expenses incurred in carrying out sections 121.51 to 121.53 of the Revised Code are payable solely from the funds of the commission.

(D) There is hereby established in the state treasury~~, in the state special revenue fund group,~~ the women's policy and research commission fund. All proceeds from the sale of publications under division (B)(3) of this section and all gifts, donations, benefits, and other funds received by the commission under division (B)~~(3)~~(4) of this section shall be deposited in the fund.

Sec. 122.15. As used in sections 122.15 to 122.154 of the Revised Code:

(A) "Edison center" means a cooperative research and development facility that receives funding through the Thomas Alva Edison grant program under division (C) of section 122.33 of the Revised Code.

(B) "Ohio entity" means any corporation, limited liability company, or unincorporated business organization, including a general or limited partnership, that has its principal place of business located in this state and has at least fifty per cent of its gross assets ~~or~~ and fifty per cent of its employees located in this state. If a corporation, limited liability company, or unincorporated business organization is a member of an affiliated group, the gross assets ~~or~~ and the number of employees of all of the members of that affiliated group, wherever those assets ~~or~~ and employees are located, shall be included for the purpose of determining the percentage of the corporation's, company's, or organization's gross assets ~~or~~ and employees that are located in this state.

(C) "Qualified trade or business" means any trade or business that primarily involves research and development, technology transfer, bio-technology, or the application of new technology developed through research and development or acquired through technology transfer. "Qualified trade or business" does not include any of the following:

(1) Any trade or business involving the performance of services in the field of ~~health,~~ law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, or brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;

(2) Any banking, insurance, financing, leasing, rental, investing, or similar business;

(3) Any farming business, including the business of raising or harvesting trees;

(4) Any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 611, 613, or 613A of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 611, 613, or 613A;

(5) Any business of operating a hotel, motel, restaurant, or similar business;

(6) Any trade or business involving a hospital, a private office of a licensed health care professional, a group practice of licensed health care professionals, or a nursing home. As used in division (C)(6) of this section:

(a) "Nursing home" has the same meaning as in section 3721.50 of the Revised Code.

(b) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(D) "~~Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section~~ Insider" means an individual who owns, controls, or holds power to vote five per cent or more of the outstanding securities of a business.

(E) "Related to" means being the spouse, parent, child, or sibling of an individual.

(F) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge that may reveal the bases for new or enhanced products, equipment, or processes.

(G) "State tax liability" means any tax liability~~, including any related penalties or interest,~~ incurred under division (D) of section 5707.03, section 5727.38 or 5747.02, or Chapter 5733. of the Revised Code.

(H) "Technology transfer" means the transfer of technology from one sector of the economy to another, including the transfer of military technology to civilian applications, civilian technology to military applications, or technology from public or private research laboratories to military or civilian applications.

(I) "Affiliated group" means two or more persons related in such a way that one of the persons owns or controls the business operations of another of those persons. In the case of a corporation issuing capital stock, one corporation owns or controls the business operations of another corporation if it owns more than fifty per cent of the other corporation's capital stock with voting rights. In the case of a limited liability company, one person owns or controls the business operations of the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is greater than fifty per cent of combined membership interest of all persons owning such interests in the company. In the case of an unincorporated business organization, one person owns or controls the business operations of the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or other distributions greater than fifty per cent of the combined beneficial interests of all persons having such an interest in the organization.

(J) "Money" means United States currency, or a check, draft, or cashier's check for United States currency, payable on demand and drawn on a bank.

Sec. 122.151. (A) An investor who proposes to make an investment of money in an Ohio entity may apply to an Edison center for a tax credit under this section. The Edison center shall prescribe the form of the application and any information that the investor must submit with the application. The investor shall include with the application a fee of two hundred dollars. The center, within three weeks after receiving the application, shall review it, determine whether the investor should be recommended for the tax credit, and send written notice of its initial determination to the industrial technology and enterprise advisory council and to the investor. If the center determines the investor should not be recommended for the tax credit, it shall include in the notice the reasons for the determination. Subject to divisions (C) and (D) of this section, an investor is eligible for a tax credit if all of the following requirements are met:

(1) The investor's investment of money is in an Ohio entity engaged in a qualified trade or business;

(2) The Ohio entity had less than one million dollars of gross revenue during its most recently completed fiscal year~~,~~ or had a net book value of less than one million dollars at the end of that fiscal year;

(3) The investment takes the form of the purchase of common or preferred stock, a membership interest, a partnership interest, or any other ownership interest;

(4) The amount of the investment for which the credit is being claimed does not exceed one hundred fifty thousand dollars;

(5) The money invested is entirely at risk of loss, where repayment depends upon the success of the business operations of the Ohio entity;

(6) If the ~~investment~~ money invested is to be repaid to the investor if the Ohio entity is successful, no repayment, except for dividends or interest, will be made for at least three years from the date the investment is made;

(7) The annual amount of any dividend and interest payments to be made to the investor will not exceed ten per cent of the amount of the investment;

(8) The Ohio entity is not ~~a related member of the investor or~~ an individual related to the investor or the investor is not an insider.

For the purposes of determining the net book value of an Ohio entity under division (A)(1) or (2) of this section, if the entity is a member of an affiliated group, the combined net book values of all of the members of that affiliated group shall be used.

(B) A group of two ~~or~~ but not more than twenty investors, each of whom proposes to make an investment of money in the same Ohio entity, may submit an application for tax credits under division (A) of this section.

The group shall include with the application a fee of eight hundred dollars. The application shall identify each investor in the group and the amount of money each investor proposes to invest in the Ohio entity, and shall name a contact person for the group. The Edison center, within three weeks after receiving the application, shall review it, determine whether each investor of the group should be recommended for a tax credit under the conditions set forth in division (A) of this section, and send written notice of its determination to the industrial technology and enterprise advisory council and to the contact person. The center shall not recommend that a group of investors receive a tax credit unless each investor is eligible under those conditions. The center may disqualify from a group any investor who is not eligible under the conditions and recommend that the remaining group of investors receive the tax credit. If the center determines the group should not be recommended for the tax credit, it shall include in the notice the reasons for the determination.

(C) The industrial technology and enterprise advisory council shall establish from among its members a three-person ~~subcommittee~~ committee. Within ~~two~~ four weeks after the council receives a notice of recommendation from an Edison center, the ~~subcommittee~~ committee shall review the recommendation and issue a final determination of whether the investor or group is eligible for a tax credit under the conditions set forth in division (A) of this section. The ~~subcommittee~~ committee may require the investor or group to submit additional information to support the application. The vote of at least two members of the ~~subcommittee~~ committee is necessary for the issuance of a final determination or any other action of the ~~subcommittee~~ committee. Upon making the final determination, the ~~subcommittee~~ committee shall send written notice of approval or disapproval of the tax credit to the investor or group contact person, ~~to~~ the director of development, and ~~to~~ the Edison center. If the ~~subcommittee~~ committee disapproves the tax credit, it shall include in the notice the reasons for the disapproval.

(D)(1) The industrial technology and enterprise advisory council ~~subcommittee~~ committee shall not approve more than one million dollars of investments in any one Ohio entity. However, if a proposed investment of money in an Ohio entity has been approved but the investor does not actually make the investment, the ~~subcommittee~~ committee may reassign the amount of that investment to another investor, as long as the total amount invested in the entity under this section does not exceed one million dollars.

If the one-million-dollar limit for an Ohio entity has not yet been reached and an application proposes an investment of money that would

exceed the limit for that entity, the ~~subcommittee~~ committee shall send written notice to the investor, ~~or~~, for a group, the contact person, that the investment cannot be approved as requested. Upon receipt of the notice, the investor or group may amend the application to propose an investment of money that does not exceed the limit.

(2) Not more than ten million dollars of tax credits shall be issued under sections 122.15 to 122.154 of the Revised Code.

(E) If an investor makes an approved investment of money in an Ohio entity of less than one hundred fifty thousand dollars, the investor may apply for approval of another investment of money in that entity, as long as the total amount invested in that entity by the investor under this section does not exceed one hundred fifty thousand dollars. An investor who receives approval of an investment of money as part of a group may subsequently apply on an individual basis for approval of an additional investment of money in the Ohio entity.

(F) The industrial technology and enterprise advisory council ~~subcommittee~~ committee shall approve or disapprove tax credit applications under this section in the order in which they are received by the council.

(G) The director of development may disapprove any application recommended by an Edison center and approved by the ~~subcommittee of the~~ industrial technology and enterprise advisory council committee, or may disapprove a credit for which a tax credit certificate has been issued under section 122.152 of the Revised Code, if the director determines that the entity in which the applicant proposes to invest or has invested is not an Ohio entity eligible to receive investments that qualify for the credit. If the director disapproves an application, the director shall certify the action to the investor, the Edison center that recommended the application, the industrial technology and enterprise advisory council, and the tax commissioner, together with a written explanation of the reasons for the disapproval. If the director disapproves a tax credit after a tax credit certificate is issued, the investor shall not claim the credit for the taxable year that includes the day the director disapproves the credit, or for any subsequent taxable year.

The director of development, in accordance with section 111.15 of the Revised Code and with the advice of the industrial technology and enterprise advisory council, may adopt, amend, and rescind rules necessary to implement sections 122.15 to 122.154 of the Revised Code.

(H) ~~All of the Edison centers may designate one of the Edison centers as the center responsible for assuming the duties prescribed for those centers under sections 122.15 to 122.154 of the Revised Code.~~

~~The Edison centers shall designate one person from one of the centers to assist the subcommittee of the industrial technology and enterprise advisory council in the administration of sections 122.15 to 122.154 of the Revised Code.~~

~~(I)~~ An Edison center shall use ~~money from~~ application fees received under this section only for the costs of administering sections 122.15 to 122.154 of the Revised Code.

Sec. 122.152. (A) An investor who receives notice of approval for an investment of money from the industrial technology and enterprise advisory council ~~subcommittee~~ committee under section 122.151 of the Revised Code ~~may~~, not more than thirty days after receiving the notice, may make the investment and apply to the council for a tax credit certificate. If the council is satisfied the investor has made the investment in the proper form, it shall issue to the investor a tax credit certificate indicating that the investor is allowed a tax credit in an amount equal to twenty-five per cent of the investment.

An investor who receives approval of a proposed investment of money through a group application ~~shall~~, after making the investment, shall apply for a tax credit certificate on an individual basis.

(B) An investor who is issued a tax credit certificate under this section may claim a nonrefundable credit equal to the amount indicated on the certificate against any state tax liability. The investor shall claim the credit for the taxable year in which the certificate is issued.

(1) If the credit to which a taxpayer otherwise would be entitled under this section for any taxable year is greater than the tax otherwise due under division (D) of section 5707.03 or section 5727.38 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing fifteen taxable years, but the amount of any excess credit allowed in an ensuing taxable year shall be deducted from the balance carried forward to the next taxable year.

(2) If the credit to which a taxpayer otherwise would be entitled under this section for any taxable year is greater than the tax otherwise due under section 5747.02 or Chapter 5733. of the Revised Code, after allowing for any other credits that precede the credit allowed under this section in the order required under section 5733.98 or 5747.98 of the Revised Code, the excess shall be allowed as a credit in each of the ensuing fifteen taxable years, but the amount of any excess credit allowed in an ensuing taxable year shall be deducted from the balance carried forward to the next taxable year.

(C) Any portion of a credit allowed under this section that is utilized by

an investor to reduce the investor's state tax liability shall not be utilized by any other person.

(D) To claim a tax credit allowed under this section, an investor shall attach to the appropriate return a copy of the certificate issued to the investor under this section.

(E) Nothing in this section shall limit or disallow pass-through treatment of a pass-through entity's income, deductions, or credits, or other amounts necessary to compute a state tax liability.

(F) A tax credit certificate issued to an investor under this section may not be transferred by that investor to any other person.

(G)(1) The industrial technology and enterprise advisory council shall develop the form of the tax credit certificate~~,~~ and shall use that form when issuing a tax credit certificate under this section.

(2) The industrial technology and enterprise advisory council shall report to the tax commissioner any information requested by the commissioner concerning tax credit certificates issued under this section.

Sec. 122.153. If the industrial technology and enterprise advisory council ~~subcommittee~~committee receives information alleging that an investor that was issued a tax credit certificate presented false information to an Edison center or the ~~subcommittee~~ committee in connection with obtaining the certificate, it shall send written notice to the investor that if the allegation is found to be true the investor may be penalized as provided in this section. After giving the investor an opportunity to be heard on the allegation, the ~~subcommittee~~ committee shall determine if the investor presented false information in connection with obtaining a tax credit certificate.

If the ~~subcommittee~~ committee determines the investor submitted false information, it may revoke any remaining tax credit available to the investor. The ~~subcommittee~~ committee shall send written notice of the revocation to the investor and the tax commissioner. The tax commissioner may make an assessment against the investor to recapture any amount of tax credit that the investor already has claimed. The time limitations on assessments under the laws of the particular tax against which the investor claimed the credit do not apply to an assessment under this section.

Sec. 122.154. (A) A business may apply to an Edison center for a determination as to whether the business is an Ohio entity eligible to receive investments of money under section 122.151 of the Revised Code that qualify the investor for a tax credit under section 122.152 of the Revised Code. The business shall include with the application a fee of one hundred fifty dollars and a business plan. The Edison center shall prescribe any other

information the business must submit with the application and the form of the application. The center, within three weeks after receiving the application, shall review it, determine whether the business is an Ohio entity eligible to receive investments of money that qualify for the tax credit, and send written notice to the industrial technology and enterprise advisory council and the business of its initial determination. If the center determines that the business is not an Ohio entity eligible to receive investments of money that qualify for the tax credit, it shall include in the notice the reasons for the determination.

Within four weeks after the council receives a notice of recommendation from an Edison center, the industrial technology and enterprise advisory council committee established under section 122.152 of the Revised Code shall review the recommendation and issue a final determination of whether the business is an Ohio entity eligible to receive investments of money under section 122.151 of the Revised Code that qualify an investor for a tax credit under section 122.152 of the Revised Code. The committee may require the business to submit additional information to support the application. The vote of at least two members of the committee is necessary for the issuance of a final determination. On making the final determination, the committee shall send written notice of approval or disapproval to the business, the director of development, and the Edison center. If the committee determines that the business is not an Ohio entity eligible to receive investments of money that qualify for the tax credit, it shall include in the notice the reasons for the determination.

(B) An Edison center shall maintain a list of the businesses ~~it determines~~ that have been determined to be Ohio entities eligible to receive investments of money that qualify for the tax credit. The center shall furnish copies of the list to the public upon request.

(C) The Edison center may prescribe a schedule under which businesses periodically must submit information to enable the center to maintain the accuracy of the list. At the times required in the schedule, each business on the list shall submit any information the center requires to determine if the business continues to be an Ohio entity eligible to receive investments of money that qualify for the tax credit.

(D) An Edison center shall use fees received under this section only for the costs of administering sections 122.15 to 122.154 of the Revised Code.

(E) The Edison centers and the industrial technology and enterprise advisory council do not assume any responsibility for the accuracy or truthfulness of information furnished by an Ohio entity or its agents.

An investor in an Ohio entity is solely responsible for due diligence in

verifying information submitted by an Ohio entity. An Edison center is not liable for any action resulting from its provision of such information to investors in accordance with sections 122.15 to 122.154 of the Revised Code.

Sec. ~~122.19~~ 122.16. (A) As used in this section:

(1) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county, that meets two of the following criteria:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau.

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line.

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(2) "~~Economically disadvantaged~~ Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(3) "Eligible costs associated with a voluntary action" means costs incurred during the qualifying period in performing a remedy or remedial activities, as defined in section 3746.01 of the Revised Code, and any costs incurred during the qualifying period in performing both a phase I and phase II property assessment, as defined in the rules adopted under section 3746.04 of the Revised Code, provided that the performance of the phase I and phase II property assessment resulted in the implementation of the remedy or remedial activities.

(4) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(5) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(6) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(8) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(9) "Qualifying period" means the period that begins July 1, 1996, and ends June 30, 1999.

(10) "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code;

(11) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer that will adversely affect the economy of the county or municipal corporation. In order for a county or municipal corporation to be designated as a situational distress area, the governing body of the county or municipal corporation shall submit a petition to the director of development in the form prescribed by the director. A county or municipal corporation may be designated as a situational distress area for a period not exceeding thirty-six months.

The petition shall include written documentation that demonstrates all of the following:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the unemployment rate of the county or municipal corporation as measured by the bureau of employment services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(12) "Voluntary action" has the same meaning as in section 3746.01 of the Revised Code.

(13) "Taxpayer" means a corporation subject to the tax imposed ~~under Chapter 5733.~~ by section 5733.06 of the Revised Code or any person subject

to the tax imposed ~~under Chapter 5747.~~ by section 5747.02 of the Revised Code.

(14) "Governing body" means the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation.

(15) "Eligible site" means property for which a covenant not to sue has been issued under section 3746.12 of the Revised Code.

(B)(1) A taxpayer, partnership, or S corporation that has been issued, under section 3746.12 of the Revised Code, a covenant not to sue for a site by the director of environmental protection during the qualifying period may apply to the director of development, in the manner prescribed by the director, to enter into an agreement under which the applicant agrees to economically redevelop the site in a manner that will create employment opportunities and a credit will be granted to the applicant against the tax imposed ~~under Chapter 5733. or 5747.~~ by section 5733.06 or 5747.02 of the Revised Code. The application shall state the eligible costs associated with a voluntary action incurred by the applicant. The application shall be accompanied by proof, in a form prescribed by the director of development, that the covenant not to sue has been issued.

The applicant shall request the certified professional that submitted the no further action letter for the eligible site under section 3746.11 of the ~~revised code~~ Revised Code to submit an affidavit to the director of development verifying the eligible costs associated with the voluntary action at that site.

The director shall review the applications in the order they are received. If the director determines that the applicant meets the requirements of this section, the director may enter into an agreement granting a credit against the tax imposed ~~under Chapter 5733. or 5747.~~ by section 5733.06 or 5747.02 of the Revised Code. In making the determination, the director may consider the extent to which political subdivisions and other units of government will cooperate with the applicant to redevelop the eligible site. The agreement shall state the amount of the tax credit and the reporting requirements described in division (F) of this section.

(2) The maximum annual amount of credits the director of development may grant under such agreements shall be as follows:

1996	$5,000,000
1997	$10,000,000
1998	$10,000,000
1999	$5,000,000

For any year in which the director of development does not grant tax

credits under this section equal to the maximum annual amount, the amount not granted for that year shall be added to the maximum annual amount that may be granted for the following year. However, the director shall not grant any tax credits under this section after June 30, 1999.

(C)(1) If the covenant not to sue was issued in connection with a site that is not located in an ~~economically disadvantaged~~ eligible area, the credit amount is equal to the lesser of five hundred thousand dollars or ten per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(2) If a covenant not to sue was issued in connection with a site that is located in an ~~economically disadvantaged~~ eligible area, the credit amount is equal to the lesser of seven hundred fifty thousand dollars or fifteen per cent of the eligible costs associated with a voluntary action incurred by the taxpayer, partnership, or S corporation.

(3) A taxpayer, partnership, or S corporation that has been issued covenants not to sue under section 3746.12 of the Revised Code for more than one site may apply to the director of development to enter into more than one agreement granting a credit against the tax imposed ~~under Chapter 5733. or 5747.~~ by section 5733.06 or 5747.02 of the Revised Code.

(4) For each year for which a taxpayer, partnership, or S corporation has been granted a credit under an agreement entered into under this section, the director of development shall issue a certificate to the taxpayer, partnership, or S corporation indicating the amount of the credit the taxpayer, the partners of the partnership, or the shareholders of the S corporation may claim for that year, not including any amount that may be carried forward from previous years under section 5733.34 or 5747.32 of the Revised Code.

(D)(1) Each agreement entered into under this section shall incorporate a commitment by the taxpayer, partnership, or S corporation not to permit the use of an eligible site to cause the relocation of employment positions to that site from elsewhere in this state, except as otherwise provided in division (D)(2) of this section. The commitment shall be binding on the taxpayer, partnership, or S corporation for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer, partnership, or S corporation is entitled to claim the tax credit under the agreement.

(2) An eligible site may be the site of employment positions relocated from elsewhere in this state if the director of development determines both of the following:

(a) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion

plans, consolidation plans, or other business considerations affecting the relocating employer;

(b) That the governing body of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the possible relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) A taxpayer, partnership, or S corporation that has entered into an agreement granting a credit against the tax imposed ~~under Chapter 5733. or 5747.~~ by section 5733.06 or 5747.02 of the Revised Code that subsequently recovers in a lawsuit or settlement of a lawsuit at least seventy-five per cent of the eligible costs associated with a voluntary action shall not claim any credit amount remaining, including any amounts carried forward from prior years, beginning with the taxable year in which the judgment in the lawsuit is entered or the settlement is finally agreed to.

Any amount of credit that a taxpayer, partnership, or S corporation may not claim by reason of this division shall not be considered to have been granted for the purpose of determining the total amount of credits that may be issued under division (B)(2) of this section.

(F) Each year for which a taxpayer, partnership, or S corporation claims a credit under section 5733.34 or 5747.32 of the Revised Code, the taxpayer, partnership, or S corporation shall report the following to the director of development:

(1) The status of all cost recovery litigation described in division (E) of this section to which it was a party during the previous year;

(2) Confirmation that the covenant not to sue has not been revoked or has not been voided;

(3) Confirmation that the taxpayer, partnership, or S corporation has not permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of this section;

(4) Any other information the director of development requires to perform the director's duties under this section.

(G) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the ~~economically~~

~~disadvantaged~~ eligible areas for the calendar year that includes that first day of January.

(H) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section, including rules prescribing forms required for administering this section.

Sec. 122.17. (A) As used in this section:

(1) "Full-time employee" means an individual who is employed for consideration for at least thirty-five hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(2) "New employee" means one of the following:

(a) A full-time employee first employed by a taxpayer in the project that is the subject of the agreement after the taxpayer enters into a tax credit agreement with the tax credit authority under this section;

(b) A full-time employee first employed by a taxpayer in the project that is the subject of the tax credit after the tax credit authority approves a project for a tax credit under this section in a public meeting, as long as the taxpayer enters into the tax credit agreement prepared by the department of development after such meeting within sixty days after receiving the agreement from the department. If the taxpayer fails to enter into the agreement within sixty days, "new employee" has the same meaning as under division (A)(2)(a) of this section.

Under division (A)(2)(a) or (b) of this section, if the tax credit authority determines it appropriate, "new employee" also may include an employee re-hired or called back from lay-off to work in a new facility or on a new product or service established or produced by the taxpayer after entering into the agreement under this section or after the tax credit authority approves the tax credit in a public meeting. "New employee" does not include any employee of the taxpayer who was previously employed in this state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the tax credit authority approved the credit in a public meeting, or any employee of the taxpayer for which the taxpayer has been granted a certificate under division (B) of section 5709.66 of the Revised Code. "New employee" also does not include an employee of the taxpayer who is employed in an employment position that was relocated to a project from other operations of the taxpayer in this state or from operations of a related member of the taxpayer in this state. In addition, "new employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an

employee of the taxpayer and who has a direct or indirect ownership interest of at least five per cent in the profits, capital, or value of the taxpayer. Such ownership interest shall be determined in accordance with section 1563 of the Internal Revenue Code and regulations prescribed thereunder.

(3) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the taxpayer during the taxable year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code.

(4) "Related member" has the same meaning as under division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) The tax credit authority may make grants under this section to foster job creation in this state. Such a grant shall take the form of a refundable credit allowed against the tax imposed ~~under Chapter 5733.~~ by section 5733.06 or ~~5747.~~ 5747.02 of the Revised Code. The credit shall be claimed for the taxable years specified in the taxpayer's agreement with the tax credit authority under division (D) of this section. The credit shall be claimed after the allowance of all other credits provided by Chapter 5733. or 5747. of the Revised Code. The amount of the credit equals the new income tax revenue for the taxable year multiplied by the percentage specified in the agreement with the tax credit authority.

(C) A taxpayer or potential taxpayer who proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for a tax credit under this section. The director of development shall prescribe the form of the application. After receipt of an application, the authority may enter into an agreement with the taxpayer for a credit under this section if it determines all of the following:

(1) The taxpayer's project will create new jobs in this state;

(2) The taxpayer's project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;

(3) Receiving the tax credit is a major factor in the taxpayer's decision to go forward with the project.

(D) An agreement under this section shall include all of the following:

(1) A detailed description of the project that is the subject of the agreement;

(2) The term of the tax credit, which shall not exceed ten years, and the first taxable year for which the credit may be claimed;

(3) A requirement that the taxpayer shall maintain operations at the project location for at least twice the number of years as the term of the tax

credit;

(4) The percentage, as determined by the tax credit authority, of new income tax revenue that will be allowed as the amount of the credit for each taxable year;

(5) A specific method for determining how many new employees are employed during a taxable year;

(6) A requirement that the taxpayer annually shall report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform his duties under this section;

(7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified;

(8)(a) A provision requiring that the taxpayer, except as otherwise provided in division (D)(8)(b) of this section, shall not relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement for the lesser of five years from the date the agreement is entered into or the number of years the taxpayer is entitled to claim the tax credit.

(b) The taxpayer may relocate employment positions from elsewhere in this state to the project site that is the subject of the agreement if the director of development determines both of the following:

(i) That the site from which the employment positions would be relocated is inadequate to meet market and industry conditions, expansion plans, consolidation plans, or other business considerations affecting the taxpayer;

(ii) That the legislative authority of the county, township, or municipal corporation from which the employment positions would be relocated has been notified of the relocation.

For purposes of this section, the movement of an employment position from one political subdivision to another political subdivision shall be considered a relocation of an employment position, but the transfer of an individual employee from one political subdivision to another political subdivision shall not be considered a relocation of an employment position as long as the individual's employment position in the first political subdivision is refilled.

(E) If a taxpayer fails to meet or comply with any condition or requirement set forth in a tax credit agreement, the tax credit authority may amend the agreement to reduce the percentage or term of the tax credit. The

reduction of the percentage or term shall take effect in the taxable year immediately following the taxable year in which the authority amends the agreement. If the taxpayer relocates employment positions in violation of the provision required under division (D)(8)(a) of this section, the taxpayer shall not claim the tax credit under section 5733.0610 of the Revised Code for any tax years following the calendar year in which the relocation occurs, or shall not claim the tax credit under section 5747.058 of the Revised Code for the taxable year in which the relocation occurs and any subsequent taxable years.

(F) Projects that consist solely of point-of-final-purchase retail facilities are not eligible for a tax credit under this section. If a project consists of both point-of-final-purchase retail facilities and nonretail facilities, only the portion of the project consisting of the nonretail facilities is eligible for a tax credit and only the new income tax revenue from new employees of the nonretail facilities shall be considered when computing the amount of the tax credit. If a warehouse facility is part of a point-of-final-purchase retail facility and supplies only that facility, the warehouse facility is not eligible for a tax credit. Catalog distribution centers are not considered point-of-final-purchase retail facilities for the purposes of this division, and are eligible for tax credits under this section.

(G) Financial statements and other information submitted to the department of development or the tax credit authority by an applicant or recipient of a tax credit under this section, and any information taken for any purpose from such statements or information, are not public records subject to section 149.43 of the Revised Code. However, the chairperson of the authority may make use of the statements and other information for purposes of issuing public reports or in connection with court proceedings concerning tax credit agreements under this section. Upon the request of the tax commissioner, the chairperson of the authority shall provide to the commissioner any statement or information submitted by an applicant or recipient of a tax credit in connection with the credit. The commissioner shall preserve the confidentiality of the statement or information.

(H) A taxpayer claiming a credit under this section shall submit to the tax commissioner a copy of the director of development's certificate of verification under division (D)(7) of this section for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

(I) The director of development, after consultation with the tax commissioner and in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section. The rules may provide

for recipients of tax credits under this section to be charged fees to cover administrative costs of the tax credit program. At the time the director gives public notice under division (A) of section 119.03 of the Revised Code of the adoption of the rules, the director shall submit copies of the proposed rules to the chairpersons of the standing committees on economic development in the senate and the house of representatives.

(J) For the purposes of this section, a taxpayer may include a partnership, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code, or any other business entity through which income flows as a distributive share to its owners. A credit received under this section by a partnership, S-corporation, or other such business entity shall be apportioned among the persons to whom the income or profit of the partnership, S-corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

(K) If the director of development determines that a taxpayer who has received a credit under this section is not complying with the requirement under division (D)(3) of this section, the director shall notify the tax credit authority of the noncompliance. After receiving such a notice, and after giving the taxpayer an opportunity to explain the noncompliance, the tax credit authority may require the taxpayer to refund to this state a portion of the credit in accordance with the following:

(1) If the taxpayer maintained operations at the project location for at least one and one-half times the number of years of the term of the tax credit, an amount not exceeding twenty-five per cent of the sum of any previously allowed credits under this section;

(2) If the taxpayer maintained operations at the project location for at least the number of years of the term of the tax credit, an amount not exceeding fifty per cent of the sum of any previously allowed credits under this section;

(3) If the taxpayer maintained operations at the project location for less than the number of years of the term of the tax credit, an amount not exceeding one hundred per cent of the sum of any previously allowed credits under this section.

In determining the portion of the tax credit to be refunded to this state, the tax credit authority shall consider the effect of market conditions on the taxpayer's project and whether the taxpayer continues to maintain other operations in this state. After making the determination, the authority shall certify the amount to be refunded to the tax commissioner. The commissioner shall make an assessment for that amount against the taxpayer

under Chapter 5733. or 5747. of the Revised Code. The time limitations on assessments under Chapter 5733. or 5747. of the Revised Code do not apply to an assessment under this division, but the commissioner shall make the assessment within one year after the date the authority certifies to the commissioner the amount to be refunded.

(L) On or before the thirty-first day of March each year, the director of development shall submit a report to the governor, the president of the senate, and the speaker of the house of representatives on the tax credit program under this section. The report shall include information on the number of agreements that were entered into under this section during the preceding calendar year, a description of the project that is the subject of each such agreement, and an update on the status of projects under agreements entered into before the preceding calendar year.

During the fifth year of the tax credit program, the director of development in conjunction with the director of budget and management shall conduct an evaluation of it. The evaluation shall include assessments of the effectiveness of the program in creating new jobs in this state and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director of development shall submit a report on the evaluation to the governor, the president of the senate, and the speaker of the house of representatives on or before January 1, 1998.

(M) There is hereby created the tax credit authority, which consists of the director of development and four other members appointed as follows: the governor, the president of the senate, and the speaker of the house of representatives each shall appoint one member who shall be a specialist in economic development; the governor also shall appoint a member who is a specialist in taxation. Of the initial appointees, the members appointed by the governor shall serve a term of two years; the members appointed by the president of the senate and the speaker of the house of representatives shall serve a term of four years. Thereafter, terms of office shall be for four years. Initial appointments to the authority shall be made within thirty days after January 13, 1993. Each member shall serve on the authority until the end of the term for which the member was appointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of that term. Members may be reappointed to the authority. Members of the authority shall receive their necessary and actual expenses while engaged in the business of the authority. The director of development

shall serve as chairperson of the authority, and the members annually shall elect a vice-chairperson from among themselves. Three members of the authority constitute a quorum to transact and vote on the business of the authority. The majority vote of the membership of the authority is necessary to approve any such business, including the election of the vice-chairperson.

The director of development may appoint a professional employee of the department of development to serve as the director's substitute at a meeting of the authority. The director shall make the appointment in writing. In the absence of the director from a meeting of the authority, the appointed substitute shall serve as chairperson. In the absence of both the director and the director's substitute from a meeting, the vice-chairperson shall serve as chairperson.

Sec. 122.18. (A) As used in this section:

(1) "Facility" means all real property and interests in real property owned by a landlord and leased to a tenant pursuant to a project that is the subject of an agreement under this section;

(2) "Full-time employee" has the same meaning as under section 122.17 of the Revised Code;

(3) "Landlord" means a county or municipal corporation, or a corporate entity that is an instrumentality of a county or municipal corporation and that is not subject to the tax imposed ~~under Chapter 5733.~~ by section 5733.06 or ~~5747.~~ 5747.02 of the Revised Code;

(4) "New employee" means a full-time employee first employed by the tenant in the project that is the subject of the agreement after a landlord enters into an agreement with the tax credit authority under this section;

(5) "New income tax revenue" means the total amount withheld under section 5747.06 of the Revised Code by the tenant at a facility during a year from the compensation of new employees for the tax levied under Chapter 5747. of the Revised Code;

(6) "Tenant" means the United States or any department, agency, or instrumentality thereof.

(B) The tax credit authority may enter into an agreement with a landlord under which an annual payment equal to the new income tax revenue or the amount called for under division (D)(3) or (4) of this section shall be made to the landlord from moneys of this state that were not raised by taxation, and shall be credited by the landlord to the rental owing from the tenant to the landlord for a facility.

(C) A landlord that proposes a project to create new jobs in this state may apply to the tax credit authority to enter into an agreement for annual payments under this section. The director of development shall prescribe the

form of the application. After receipt of an application, the authority may enter into an agreement with the landlord for annual payments under this section if it determines all of the following:

(1) The project will create new jobs in this state;

(2) The project is economically sound and will benefit the people of this state by increasing opportunities for employment and strengthening the economy of this state;

(3) Receiving the annual payments will be a major factor in the decision of the landlord and tenant to go forward with the project.

(D) An agreement with a landlord for annual payments shall include all of the following:

(1) A description of the project that is the subject of the agreement;

(2) The term of the agreement, which shall be the greater of twenty years or until the date on which the bonds or other forms of financing referred to in division (D)(3) of this section are no longer outstanding;

(3) Based on the estimated new income tax revenue to be derived from the facility at the time the agreement is entered into, provision for a guaranteed minimum payment to the landlord commencing with the issuance by the landlord of any bonds or other forms of financing for the construction of the facility and continuing for so long as such bonds or other forms of financing or any bonds or other forms of financing issued to refund such bonds or other forms of financing are outstanding;

(4) Provision for offsets to this state of the annual payment in years in which such annual payment is greater than the guaranteed minimum payment of amounts previously paid by this state to the landlord in excess of the new income tax revenue by reason of the guaranteed minimum payment;

(5) A specific method for determining how many new employees are employed during a year;

(6) A requirement that the landlord annually shall obtain from the tenant and report to the director of development the number of new employees, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform ~~his~~ the director's duties under this section;

(7) A requirement that the director of development annually shall verify the amounts reported under division (D)(6) of this section, and after doing so shall issue a certificate to the landlord stating that the amounts have been verified.

(E) The director of development, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement this section.

Sec. 122.29. (A) There is hereby created the industrial technology and

enterprise advisory council to assist in carrying out programs created pursuant to sections 122.15 to 122.154 and 122.28 to 122.36 of the Revised Code.

(B) The council shall consist of seven members appointed by the governor with the advice and consent of the senate and selected for their knowledge of and experience in industrial research and development, business, higher education, and federal research and development programs with an emphasis on the development of new technology, and use of existing resources in the university and business communities for industrial research, one member of the senate appointed by the president of the senate, and one member of the house of representatives appointed by the speaker of the house of representatives:

(1) No more than four members of the industrial technology and enterprise advisory council appointed by the governor shall be members of the same political party.

(2) The terms of office for the seven members appointed by the governor shall be for seven years commencing on the first day of January and ending on the thirty-first day of December.

(3) Each member shall hold office from the date of appointment until the end of the term for which the member was appointed.

(4) Any member of the council is eligible for reappointment.

(5) As a term of a member of the council appointed by the governor expires, a successor shall be appointed by the governor, with the advice and consent of the senate.

(6) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

(7) Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(8) Before entering upon official duties, each member shall take an oath as provided by Section 7 of Article XV, Ohio Constitution.

(9) The governor may at any time~~,~~ remove any member appointed by the governor pursuant to section 3.04 of the Revised Code.

(10) Members of the industrial technology and enterprise advisory council shall serve without compensation, but shall be reimbursed for their necessary and actual expenses while engaged in the business of the council.

(11) Five members of the council constitute a quorum.

Sec. 122.89. (A) The director of development may execute bonds as surety for minority businesses as principals, on contracts with the state, any

political subdivision or instrumentality thereof, or any person as the obligee. The director as surety may exercise all the rights and powers of a company authorized by the department of insurance to execute bonds as surety but shall not be subject to any requirements of a surety company under Title XXXIX of the Revised Code nor to any rules of the department of insurance.

(B) The director, with the advice of the minority development financing advisory board, shall adopt rules under Chapter 119. of the Revised Code establishing procedures for application for surety bonds by minority businesses and for review and approval of applications. The board shall review each application in accordance with the rules and, based on the bond worthiness of each applicant, shall refer all qualified applicants to the director. Based on the recommendation of the board, the director shall determine whether or not the applicant shall receive bonding.

(C) The rules of the board shall provide that the minority business, in order to make an application for a bond to the director, shall submit documentation, as the director requires, to demonstrate either that a minority business shall have been denied a bond by two surety companies ~~in order to make application for a bond to the director~~ or that the minority business has applied to two surety companies for a bond and, at the expiration of sixty days after making the application, has neither received nor been denied a bond.

(D) The rules of the board shall require the minority business to pay a premium in advance for the bond to be established by the director, with the advice of the board after the director receives advice from the superintendent of insurance regarding the standard market rates for premiums for similar bonds. All premiums paid by minority businesses shall be paid into the minority business bonding program administrative and loss reserve fund.

(E) The penal sum amounts of all outstanding bonds issued by the director shall not exceed the amount of moneys in the minority business bonding fund and available to the fund under division (B) of section 169.05 of the Revised Code.

(F) The superintendent of insurance shall provide such technical and professional assistance as is considered necessary by the director, including providing advice regarding the standard market rates for bond premiums as described under division (D) of this section.

Sec. 124.136. (A)(1) Each permanent full-time and permanent part-time employee paid in accordance with section 124.152 of the Revised Code and each employee listed in division (B)(2) or (4) of section 124.14 of the

vised Code who works thirty or more hours per week, and who meets the requirement of division (A)(2) of this section is eligible, upon the birth or adoption of a child, for a parental leave of absence and parental leave benefits under this section. Parental leave of absence shall begin on the day of the birth of a child or on the day on which custody of a child is taken for adoption placement by the prospective parents.

(2) To be eligible for leave and benefits under this section, an employee must be the biological parent of a newly born child or the legal guardian of and reside in the same household as a newly adopted child. Employees may elect to receive two thousand dollars for adoption expenses in lieu of receiving the paid leave benefit provided under this section. Such payment may be requested upon placement of the child in the employee's home. If the child is already residing in the home, payment may be requested at the time the adoption is approved.

(3) The average number of regular hours worked, which shall include all hours of holiday pay and other types of paid leave, during the three-month period immediately preceding the day parental leave of absence begins shall be used to determine eligibility and benefits under this section for part-time employees, but such benefits shall not exceed forty hours per week. If an employee has not worked for a three-month period, the number of hours for which the employee has been scheduled to work per week during the employee's period of employment shall be used to determine eligibility and benefits under this section.

(B) Parental leave granted under this section shall not exceed six continuous weeks, which shall include four weeks or one hundred sixty hours of paid leave for permanent full-time employees and a prorated number of hours of paid leave for permanent part-time employees. All employees granted parental leave shall serve a waiting period of fourteen days that begins on the day parental leave begins and during which they shall not receive paid leave under this section. Employees may choose to work during the waiting period. During the remaining four weeks of the leave period, employees shall receive paid leave equal to seventy per cent of their base rate of pay. All of the following apply to employees granted parental leave:

(1) They remain eligible to receive all employer-paid benefits and continue to accrue all other forms of paid leave as if they were in active pay status.

(2) They are ineligible to receive overtime pay, and no portion of their parental leave shall be included in calculating their overtime pay.

(3) They are ineligible to receive holiday pay. A holiday occurring

during the leave period shall be counted as one day of parental leave and be paid as such.

(C) Employees receiving parental leave may utilize available sick leave, personal leave, vacation leave, or compensatory time balances in order to be paid during the fourteen-day waiting period and to supplement the seventy per cent of their base rate of pay received during the remaining part of their parental leave period, in an amount sufficient to give them up to one hundred per cent of their pay for time on parental leave.

Use of parental leave does not affect an employee's eligibility for other forms of paid leave granted under this chapter and does not prohibit an employee from taking leave under the "Family and Medical Leave Act of 1993," 107 Stat. 6, 29 U.S.C.A. 2601, except that parental leave shall be included in any leave time provided under that act.

(D) Employees receiving disability leave benefits under section 124.385 of the Revised Code prior to becoming eligible for parental leave shall continue to receive disability leave benefits for the duration of their disabling condition or as otherwise provided under the disability leave benefits program. If an employee is receiving disability leave benefits because of pregnancy and these benefits expire prior to the expiration date of any benefits the employee would have been entitled to receive under this section, the employee shall receive parental leave for such additional time without being required to serve an additional waiting period.

Sec. 124.15. (A) Board and commission members appointed prior to July 1, 1991, shall be paid a salary or wage in accordance with the following schedules of rates:

Schedule B

Pay Ranges and Step Values

Range	Step 1	Step 2	Step 3	Step 4
23 Hourly	5.72	5.91	6.10	6.31
Annually	11897.60	12292.80	12688.00	13124.80
	Step 5	Step 6		
Hourly	6.52	6.75		
Annually	13561.60	14040.00		
	Step 1	Step 2	Step 3	Step 4
24 Hourly	6.00	6.20	6.41	6.63
Annually	12480.00	12896.00	13332.80	13790.40
	Step 5	Step 6		
Hourly	6.87	7.10		
Annually	14289.60	14768.00		
	Step 1	Step 2	Step 3	Step 4

25 Hourly	6.31	6.526.75	6.99
Annually	13124.80	13561.6014040.00	14539.20
	Step 5	Step 6	
Hourly	7.23	7.41	
Annually	15038.40	15412.80	
	Step 1	Step 2Step 3	Step 4
26 Hourly	6.63	6.877.10	7.32
Annually	13790.40	14289.6014768.00	15225.60
	Step 5	Step 6	
Hourly	7.53	7.77	
Annually	15662.40	16161.60	
	Step 1	Step 2Step 3	Step 4
27 Hourly	6.99	7.237.41	7.64
Annually	14534.20	15038.4015412.80	15891.20
	Step 5	Step 6Step 7	
Hourly	7.88	8.158.46	
Annually	16390.40	16952.0017596.80	
	Step 1	Step 2Step 3	Step 4
28 Hourly	7.41	7.647.88	8.15
Annually	15412.80	15891.2016390.40	16952.00
	Step 5	Step 6Step 7	
Hourly	8.46	8.799.15	
Annually	17596.80	18283.2019032.00	
	Step 1	Step 2Step 3	Step 4
29 Hourly	7.88	8.158.46	8.79
Annually	16390.40	16952.0017596.80	18283.20
	Step 5	Step 6Step 7	
Hourly	9.15	9.5810.01	
Annually	19032.00	19926.4020820.80	
	Step 1	Step 2Step 3	Step 4
30 Hourly	8.46	8.799.15	9.58
Annually	17596.80	18283.2019032.00	19926.40
	Step 5	Step 6Step 7	
Hourly	10.01	10.4610.99	
Annually	20820.80	21756.8022859.20	
	Step 1	Step 2Step 3	Step 4
31 Hourly	9.15	9.5810.01	10.46
Annually	19032.00	19962.4020820.80	21756.80
	Step 5	Step 6Step 7	
Hourly	10.99	11.5212.09	

Annually	22859.20	23961.6025147.20	
	Step 1	Step 2Step 3	Step 4
32 Hourly	10.01	10.4610.99	11.52
Annually	20820.80	21756.8022859.20	23961.60
	Step 5	Step 6Step 7	Step 8
Hourly	12.09	12.6813.29	13.94
Annually	25147.20	26374.4027643.20	28995.20
	Step 1	Step 2Step 3	Step 4
33 Hourly	10.99	11.5212.09	12.68
Annually	22859.20	23961.6025147.20	26374.40
	Step 5	Step 6Step 7	Step 8
Hourly	13.29	13.9414.63	15.35
Annually	27643.20	28995.2030430.40	31928.00
	Step 1	Step 2Step 3	Step 4
34 Hourly	12.09	12.6813.29	13.94
Annually	25147.20	26374.4027643.20	28995.20
	Step 5	Step 6Step 7	Step 8
Hourly	14.63	15.3516.11	16.91
Annually	30430.40	31928.0033508.80	35172.80
	Step 1	Step 2Step 3	Step 4
35 Hourly	13.29	13.9414.63	15.35
Annually	27643.20	28995.2030430.40	31928.00
	Step 5	Step 6Step 7	Step 8
Hourly	16.11	16.9117.73	18.62
Annually	33508.80	35172.8036878.40	38729.60
	Step 1	Step 2Step 3	Step 4
36 Hourly	14.63	15.3516.11	16.91
Annually	30430.40	31928.0033508.80	35172.80
	Step 5	Step 6Step 7	Step 8
Hourly	17.73	18.6219.54	20.51
Annually	36878.40	38729.6040643.20	42660.80

Schedule C

Pay Range and Values

Range	Minimum	Maximum
41 Hourly	10.44	15.72
Annually	21715.20	32697.60
42 Hourly	11.51	17.35
Annually	23940.80	36088.00
43 Hourly	12.68	19.12
Annually	26374.40	39769.60

44 Hourly	13.99	20.87
Annually	29099.20	43409.60
45 Hourly	15.44	22.80
Annually	32115.20	47424.00
46 Hourly	17.01	24.90
Annually	35380.80	51792.00
47 Hourly	18.75	27.18
Annually	39000.00	56534.40
48 Hourly	20.67	29.69
Annually	42993.60	61755.20
49 Hourly	22.80	32.06
Annually	47424.00	66684.80

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis.

(C) Part-time employees shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code.

(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee, the actual costs or fair market value thereof shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and such services shall not be considered as a part of the employee's compensation. An appointing authority, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance thereof.

The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover state employees and determine whether certain benefits or payments provided to state employees covered by those agreements should also be provided to "exempt employees" as defined in section 124.152 of the Revised Code. On completing the review, the director of administrative services, with the approval of the director of budget and management, may provide to some or all exempt employees any payment or benefit, except for salary, contained in such a collective bargaining agreement even if a similar payment or benefit is already provided by law to some or all of these exempt

employees. Any payment or benefit so provided shall not exceed the highest level for that payment or benefit specified in such a collective bargaining agreement. The director of administrative services shall not provide, and the director of budget and management shall not approve, any payment or benefit to an exempt employee under this division unless the payment or benefit is provided pursuant to a collective bargaining agreement to a state employee who is in a position with similar duties as, supervised by, or employed by the same appointing authority as, the exempt employee to whom the benefit or payment is to be provided.

As used in this division, a payment or benefit provided by law means bereavement, personal, vacation, administrative, and sick leave, disability benefits, wages, holiday pay, and pay supplements provided to exempt employees under the Revised Code.

(E) New employees paid under schedule B of division (A) of this section or under schedule E-1 of section 124.152 of the Revised Code shall be employed at the minimum rate established for the range unless otherwise provided. Employees with qualifications that are beyond the minimum normally required for the position and that are determined by the director to be exceptional may be employed in, or may be transferred or promoted to, a position at an advanced step of the range. Further, in time of a serious labor market condition when it is relatively impossible to recruit employees at the minimum rate for a particular classification the entrance rate may be set at an advanced step in the range by the director of administrative services. This rate may be limited to geographical regions of the state. Appointments made to an advanced step under the provision regarding exceptional qualifications shall not affect the step assignment of employees already serving. However, anytime the hiring rate of an entire classification is advanced to a higher step all incumbents of that classification being paid at a step lower than that being used for hiring, shall be advanced beginning at the start of the first pay period thereafter to the new hiring rate and any time accrued at the lower step will be used to calculate advancement to a succeeding step. If the hiring rate of a classification is increased for only a geographical region of the state, then only incumbents who work in that geographical region shall be advanced to a higher step. ~~When an employee in the classified service is promoted to a higher class, the employee's salary or wage shall be increased to that of the lowest step in the pay range for the new class that will increase the employee's salary or wage by at least four per cent of the base pay.~~ When an employee in the unclassified service changes from one state position to another, or is appointed to a position in the classified service, or if an employee in the classified service is appointed to a position in the

unclassified service, the employee's salary or wage in the new position shall be determined in the same manner as if the employee were an employee in the classified service. When an employee in the unclassified service who is not eligible for step increases is appointed to a classification in the classified service under which step increases are provided, future step increases shall be based on the date on which the employee last received a pay increase. Future step increases shall be effective on the pay period that is twenty-six pay periods following the employee's last increase. If the employee has not received an increase during the previous year, the date of the appointment to the classified service shall be used to determine the employee's annual step advancement date. In ~~assigning or~~ reassigning any employee to a classification resulting in a pay range increase or to a new pay range as a result of a promotion, an increase pay range adjustment, or other classification change resulting in a pay range increase, the director shall assign such employee to the step in the new pay range that will provide an increase of approximately four per cent if the new pay range can accommodate the increase. When ~~assigning~~ an employee is being assigned to a classification or new pay range as the result of a class plan change, ~~the director shall assign the employee to the lowest step in the new pay range that does not result in a salary decrease. If~~ if the employee has completed a probationary period, the employee shall be placed in a step no lower than step two of the new pay range. If the employee has not completed a probationary period, the employee may be placed in step one of the new pay range. ~~All such pay range adjustments shall be accomplished according to this method, notwithstanding the provisions of Chapter 4117. of the Revised Code or instruments negotiated under Chapter 4117. of the Revised Code and in effect on the effective date of this amendment, except that this section does not prohibit the exclusive representative and employer from negotiating over this subject in collective bargaining agreements that become effective after December 31, 1995.~~ Such new salary or wage shall become effective on such date as the director determines.

(F) If employment conditions and the urgency of the work require such action, the director of administrative services may, upon the application of a department head, authorize payment at any rate established within the range for the class of work, for work of a casual or intermittent nature or on a project basis. Payment at such rates shall not be made to the same individual for more than three calendar months in any one calendar year. Any such action shall be subject to the approval of the director of budget and management as to the availability of funds. This section and sections 124.14 and 124.152 of the Revised Code do not repeal any authority of any

department or public official to contract with or fix the compensation of professional persons who may be employed temporarily for work of a casual nature or for work on a project basis.

(G) Each state employee paid under schedule B of this section or under schedule E-1 of section 124.152 of the Revised Code shall be advanced to succeeding steps in the range for the employee's class according to the schedule established in this division. Beginning on the first day of the pay period within which the employee completes the prescribed probationary period in the employee's classification with the state, each employee shall receive an automatic salary adjustment equivalent to the next higher step within the pay range for the employee's class or grade. The base rate of each employee paid under schedule B of this section or under schedule E-1 of section 124.152 of the Revised Code shall advance at annual intervals thereafter, if the employee has maintained satisfactory performance, to the next higher step until the maximum step is reached. When an employee is promoted or reassigned~~, or receives~~ to a ~~change in~~ higher pay range, ~~other than as a result of a class plan change,~~ the employee's step indicator shall return to "0~~.~~" or be adjusted to account for a probationary period, as appropriate. Step advancement shall not be affected by demotion. A promoted employee shall advance to the next higher step of the pay range on the first day of the pay period in which the required probationary period is completed. Step advancement shall become effective at the beginning of the pay period within which the employee attains the necessary length of service. Time spent on authorized leave of absence shall be counted for this purpose.

If determined to be in the best interest of the state service, the director of administrative services may, either statewide or in selected agencies, adjust the dates on which annual step increases are received by employees paid under schedule E-1 of section 124.152 of the Revised Code.

(H) Employees in appointive managerial or professional positions paid under salary schedule C of this section or under salary schedule E-2 of section 124.152 of the Revised Code may be appointed at any rate within the appropriate pay range. This rate of pay may be adjusted higher or lower within the respective pay range at any time the appointing authority so desires as long as the adjustment is based on the employee's ability to successfully administer those duties assigned to the employee. Salary adjustments shall not be made more frequently than once in any six-month period under this provision to incumbents holding the same position and classification.

(I) When an employee is assigned to duty outside this state, the

employee may be compensated, upon request of the department head and with the approval of the director of administrative services at a rate not to exceed fifty per cent in excess of the employee's current base rate for the period of time spent on such duty.

(J) Unless compensation for members of a board or commission is otherwise specifically provided by law, the director of administrative services shall establish the rate and method of payment for members of boards and commissions pursuant to the pay schedules listed in section 124.152 of the Revised Code.

(K) Regular full-time employees in positions assigned to classes within the instruction and education administration series under the rules of the director of administrative services, except certificated employees on the instructional staff of the state school for the blind or the state school for the deaf, whose positions are scheduled to work on the basis of an academic year rather than a full calendar year, shall be paid according to the pay range assigned by such rules but only during those pay periods included in the academic year of the school where the employee is located.

(1) Part-time or substitute teachers or those whose period of employment is other than the full academic year shall be compensated for the actual time worked at the rate established by this section.

(2) Employees governed by this division are exempt from sections 124.13 and 124.19 of the Revised Code.

(3) Length of service for the purpose of determining eligibility for step increases as provided by division (G) of this section and for the purpose of determining eligibility for longevity pay supplements as provided by division (F) of section 124.181 of the Revised Code shall be computed on the basis of one full year of service for the completion of each academic year.

(L) The superintendent of the state school for the deaf and the superintendent of the state school for the blind shall, subject to the approval of the superintendent of public instruction, carry out both of the following:

(1) Annually, between the first day of April and the last day of June, establish for the ensuing fiscal year a schedule of hourly rates for the compensation of each certificated employee on the instructional staff of that superintendent's respective school constructed as follows:

(a) Determine for each level of training, experience, and other professional qualification for which an hourly rate is set forth in the current schedule, the per cent that rate is of the rate set forth in such schedule for a teacher with a bachelor's degree and no experience. If there is more than one such rate for such a teacher, the lowest rate shall be used to make the

computation.

(b) Determine which six city, local, and exempted village school districts with territory in Franklin county have in effect on, or have adopted by, the first day of April for the school year that begins on the ensuing first day of July, teacher salary schedules with the highest minimum salaries for a teacher with a bachelor's degree and no experience;

(c) Divide the sum of such six highest minimum salaries by ten thousand five hundred sixty;

(d) Multiply each per cent determined in division (L)(1)(a) of this section by the quotient obtained in division (L)(1)(c) of this section;

(e) One hundred five per cent of each product thus obtained shall be the hourly rate for the corresponding level of training, experience, or other professional qualification in the schedule for the ensuing fiscal year.

(2) Annually, assign each certificated employee on the instructional staff of ~~his~~ the superintendent's respective school to an hourly rate on the schedule that is commensurate with the employee's training, experience, and other professional qualifications.

If an employee is employed on the basis of an academic year, the employee's annual salary shall be calculated by multiplying the employee's assigned hourly rate times one thousand seven hundred sixty. If an employee is not employed on the basis of an academic year, the employee's annual salary shall be calculated in accordance with the following formula:

(a) Multiply the number of days the employee is required to work pursuant to the employee's contract by eight;

(b) Multiply the product of division (L)(2)(a) of this section by the employee's assigned hourly rate.

Each employee shall be paid an annual salary in biweekly installments. The amount of each installment shall be calculated by dividing the employee's annual salary by the number of biweekly installments to be paid during the year.

Sections 124.13 and 124.19 of the Revised Code do not apply to an employee who is paid under this division.

As used in this division, "academic year" means the number of days in each school year that the schools are required to be open for instruction with pupils in attendance. Upon completing an academic year, an employee paid under this division shall be deemed to have completed one year of service. An employee paid under this division is eligible to receive a pay supplement under division (L)(1), (2), or (3) of section 124.181 of the Revised Code for which the employee qualifies, but is not eligible to receive a pay supplement under division (L)(4) or (5) of such section. An employee paid under this

division is eligible to receive a pay supplement under division (L)(6) of section 124.181 of the Revised Code for which the employee qualifies, except that the supplement is not limited to a maximum of five per cent of the employee's regular base salary in a calendar year.

(M) Division (A) of this section does not apply to "exempt employees" as defined in section 124.152 of the Revised Code who are paid under that section.

Notwithstanding any other provisions of this chapter, when an employee transfers between bargaining units or transfers out of or into a bargaining unit, the director shall establish the employee's compensation and adjust the maximum leave accrual schedule as ~~he~~ the director deems equitable.

Sec. 124.152. (A) Beginning on the first day of the pay period that includes July 1, ~~1994~~1997, each exempt employee shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

~~Range~~	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~1 Hourly~~	~~7.82~~	~~8.16~~	~~8.50~~	~~8.85~~
~~Annually~~	~~16266~~	~~16973~~	~~17680~~	~~18408~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~2 Hourly~~	~~8.19~~	~~8.55~~	~~8.91~~	~~9.31~~
~~Annually~~	~~17035~~	~~17784~~	~~18533~~	~~19365~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~3 Hourly~~	~~8.59~~	~~8.96~~	~~9.37~~	~~9.79~~
~~Annually~~	~~17867~~	~~18637~~	~~19490~~	~~20363~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~4 Hourly~~	~~9.01~~	~~9.43~~	~~9.86~~	~~10.32~~
~~Annually~~	~~18741~~	~~19614~~	~~20509~~	~~21466~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~5 Hourly~~	~~9.47~~	~~9.88~~	~~10.32~~	~~10.75~~
~~Annually~~	~~19698~~	~~20550~~	~~21466~~	~~22360~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~6 Hourly~~	~~9.97~~	~~10.39~~	~~10.84~~	~~11.29~~
~~Annually~~	~~20738~~	~~21611~~	~~22547~~	~~23483~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~7 Hourly~~	~~10.59~~	~~11.00~~	~~11.42~~	~~11.83~~
~~Annually~~	~~22027~~	~~22880~~	~~23754~~	~~24606~~
	~~Step 5~~			
~~Hourly~~	~~12.29~~			
~~Annually~~	~~25563~~			

	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~8 Hourly~~	~~11.20~~	~~11.68~~	~~12.20~~	~~12.73~~
~~Annually~~	~~23296~~	~~24294~~	~~25376~~	~~26478~~
	~~Step 5~~			
~~Hourly~~	~~13.28~~			
~~Annually~~	~~27622~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~9 Hourly~~	~~11.94~~	~~12.56~~	~~13.18~~	~~13.84~~
~~Annually~~	~~24835~~	~~26125~~	~~27414~~	~~28787~~
	~~Step 5~~			
~~Hourly~~	~~14.54~~			
~~Annually~~	~~30,243~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~10 Hourly~~	~~12.89~~	~~13.59~~	~~14.33~~	~~15.13~~
~~Annually~~	~~26811~~	~~28267~~	~~29806~~	~~31470~~
	~~Step 5~~			
~~Hourly~~	~~15.95~~			
~~Annually~~	~~33176~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~11 Hourly~~	~~14.03~~	~~14.85~~	~~15.71~~	~~16.59~~
~~Annually~~	~~29182~~	~~30888~~	~~32677~~	~~34507~~
	~~Step 5~~			
~~Hourly~~	~~17.53~~			
~~Annually~~	~~36462~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~12 Hourly~~	~~15.48~~	~~16.34~~	~~17.22~~	~~18.17~~
~~Annually~~	~~32198~~	~~33987~~	~~35818~~	~~37794~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~19.18~~	~~20.24~~		
~~Annually~~	~~39894~~	~~42099~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~13 Hourly~~	~~17.06~~	~~17.99~~	~~18.97~~	~~20.01~~
~~Annually~~	~~35485~~	~~37419~~	~~39458~~	~~41621~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~21.12~~	~~22.27~~		
~~Annually~~	~~43930~~	~~46322~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~14 Hourly~~	~~18.76~~	~~19.80~~	~~20.89~~	~~22.03~~
~~Annually~~	~~39021~~	~~41184~~	~~43451~~	~~45822~~
	~~Step 5~~	~~Step 6~~		

Hourly	23.27	24.56		
Annually	48402	51085		
	Step 1	Step 2	Step 3	Step 4
15 Hourly	20.62	21.76	22.99	24.26
Annually	42890	45261	47819	50461
	Step 5	Step 6		
Hourly	25.60	27.02		
Annually	53248	56202		
	Step 1	Step 2	Step 3	Step 4
16 Hourly	22.72	23.98	25.31	26.72
Annually	47258	49878	52645	55578
	Step 5	Step 6		
Hourly	28.19	29.78		
Annually	58635	61942		
	Step 1	Step 2	Step 3	Step 4
17 Hourly	25.04	26.42	27.89	29.44
Annually	52083	54954	58011	61235
	Step 5	Step 6		
Hourly	31.08	32.82		
Annually	64646	68266		
	Step 1	Step 2	Step 3	Step 4
18 Hourly	27.59	29.12	30.74	32.45
Annually	57387	60570	63939	67496
	Step 5	Step 6		
Hourly	34.24	36.15		
Annually	71219	75192		

Schedule E-2

Range	Minimum	Maximum
41 Hourly	15.15	22.80
Annually	31512	47424
42 Hourly	16.70	25.18
Annually	34736	52374
43 Hourly	18.39	27.74
Annually	38251	57699
44 Hourly	20.29	30.29
Annually	42203	63003
45 Hourly	22.41	33.09
Annually	46613	68827
46 Hourly	24.67	36.14
Annually	51314	75171

~~47 Hourly~~	~~27.20~~	~~39.44~~
~~Annually~~	~~56576~~	~~82035~~
~~48 Hourly~~	~~30.00~~	~~43.06~~
~~Annually~~	~~62400~~	~~89565~~
~~49 Hourly~~	~~33.09~~	~~46.49~~
~~Annually~~	~~68827~~	~~96699~~

	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	8.6	9	9	9	10	10
	Annually	17	18	18	19	20	21
2	Hourly	9.0	9	9	10	10	10.27
	Annually	18	18	19	20	21	21362
3	Hourly	9.4	9	9	10	10	10
	Annually	19	19	19	20	21	22464
4	Hourly	9.9	10	10	10	10	10
	Annually	20	20	20	21	22	23670
5	Hourly	10	10	10	11	11	11
	Annually	21	21	21	22	23	24990
6	Hourly	11	11	11	11	11	12
	Annually	22	23	23	23	24	25396
7	Hourly	11	12	12	12	13	13
	Annually	24	24	24	25	26	27484
8	Hourly	12	13	13	13	14	14
	Annually	25	26	26	27	28	29472
9	Hourly	13	13	13	14	14	15
	Annually	27	27	28	28	29	31363
10	Hourly	14	14	14	15	15	16
	Annually	29	29	29	30	31	33608
11	Hourly	15	15	15	16	16	17
	Annually	32	32	32	33	34	35427
12	Hourly	17	17	17	18	18	19
	Annually	35	35	36	37	38	39446
13	Hourly	18	18	19	19	20	21
	Annually	39	39	39	40	42	43406
14	Hourly	20	20	21	21	22	23
	Annually	43	43	43	44	46	47768
15	Hourly	22	22	23	23	24	25
	Annually	47	47	48	49	50	52305
16	Hourly	25	25	25	26	27	28
	Annually	52	52	53	54	56	58349

17	Hourly	27.[illegible]	[illegible]20
	Annually	57[illegible]	[illegible]96
18	Hourly	30.[illegible]	[illegible]89
	Annually	63[illegible]	[illegible]71

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	25.15
	Annually	33758	52312
42	Hourly	17.89	27.79
	Annually	37211	57803
43	Hourly	19.70	30.61
	Annually	40976	63669
44	Hourly	21.73	33.42
	Annually	45198	69514
45	Hourly	24.01	36.50
	Annually	49941	75920
46	Hourly	26.43	39.88
	Annually	54974	82950
47	Hourly	29.14	43.52
	Annually	60611	90522
48	Hourly	32.14	47.50
	Annually	66851	98800
49	Hourly	35.44	51.29
	Annually	73715	106683

(B) Beginning on the first day of the pay period that includes July 1, ~~1995~~ 1998, each exempt employee, other than an exempt employee of the treasurer of state, shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

~~Range~~	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~1 Hourly~~	~~8.13~~	~~8.49~~	~~8.84~~	~~9.20~~
~~Annually~~	~~16910~~	~~17659~~	~~18387~~	~~19136~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~2 Hourly~~	~~8.52~~	~~8.89~~	~~9.27~~	~~9.68~~
~~Annually~~	~~17722~~	~~18491~~	~~19282~~	~~20134~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~3 Hourly~~	~~8.93~~	~~9.32~~	~~9.74~~	~~10.18~~
~~Annually~~	~~18574~~	~~19386~~	~~20259~~	~~21174~~
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~

4 Hourly	9.37	9.81	10.25	10.73
Annually	19490	20405	21320	22318
	Step 1	Step 2	Step 3	Step 4
5 Hourly	9.85	10.28	10.73	11.18
Annually	20488	21382	22318	23254
	Step 1	Step 2	Step 3	Step 4
6 Hourly	10.37	10.81	11.27	11.74
Annually	21570	22485	23442	24419
	Step 1	Step 2	Step 3	Step 4
7 Hourly	11.01	11.44	11.88	12.30
Annually	22901	23795	24710	25584
	Step 5			
Hourly	12.78			
Annually	26582			
	Step 1	Step 2	Step 3	Step 4
8 Hourly	11.65	12.15	12.69	13.24
Annually	24232	25272	26395	27539
	Step 5			
Hourly	13.81			
Annually	28725			
	Step 1	Step 2	Step 3	Step 4
9 Hourly	12.42	13.06	13.71	14.39
Annually	25834	27165	28517	29931
	Step 5			
Hourly	15.12			
Annually	31450			
	Step 1	Step 2	Step 3	Step 4
10 Hourly	13.41	14.13	14.90	15.74
Annually	27893	29390	30992	32739
	Step 5			
Hourly	16.59			
Annually	34507			
	Step 1	Step 2	Step 3	Step 4
11 Hourly	14.59	15.44	16.34	17.25
Annually	30347	32115	33987	35880
	Step 5			
Hourly	18.23			
Annually	37918			
	Step 1	Step 2	Step 3	Step 4
12 Hourly	16.10	16.99	17.91	18.90

Annually	33488	35339	37253	39312
	Step 5	Step 6		
Hourly	19.95	21.05		
Annually	41496	43784		
	Step 1	Step 2	Step 3	Step 4
13 Hourly	17.74	18.71	19.73	20.81
Annually	36899	38917	41038	43285
	Step 5	Step 6		
Hourly	21.96	23.16		
Annually	45677	48173		
	Step 1	Step 2	Step 3	Step 4
14 Hourly	19.51	20.59	21.73	22.91
Annually	40581	42827	45198	47653
	Step 5	Step 6		
Hourly	24.20	25.54		
Annually	50336	53123		
	Step 1	Step 2	Step 3	Step 4
15 Hourly	21.44	22.63	23.91	25.23
Annually	44595	47070	49733	52478
	Step 5	Step 6		
Hourly	26.62	28.10		
Annually	55370	58448		
	Step 1	Step 2	Step 3	Step 4
16 Hourly	23.63	24.94	26.32	27.79
Annually	49150	51875	54746	57803
	Step 5	Step 6		
Hourly	29.32	30.97		
Annually	60986	64418		
	Step 1	Step 2	Step 3	Step 4
17 Hourly	26.04	27.48	29.01	30.62
Annually	54163	57158	60341	63690
	Step 5	Step 6		
Hourly	32.32	34.13		
Annually	67226	70990		
	Step 1	Step 2	Step 3	Step 4
18 Hourly	28.69	30.28	31.97	33.75
Annually	59675	62982	66498	70200
	Step 5	Step 6		
Hourly	35.61	37.60		
Annually	74069	78208		

~~Schedule E-2~~

~~Range~~	~~Minimum~~	~~Maximum~~
~~41 Hourly~~	~~15.76~~	~~23.71~~
~~Annually~~	~~32781~~	~~49317~~
~~42 Hourly~~	~~17.37~~	~~26.19~~
~~Annually~~	~~36130~~	~~54475~~
~~43 Hourly~~	~~19.13~~	~~28.85~~
~~Annually~~	~~39790~~	~~60008~~
~~44 Hourly~~	~~21.10~~	~~31.50~~
~~Annually~~	~~43888~~	~~65520~~
~~45 Hourly~~	~~23.31~~	~~34.41~~
~~Annually~~	~~48485~~	~~71573~~
~~46 Hourly~~	~~25.66~~	~~37.59~~
~~Annually~~	~~53373~~	~~78187~~
~~47 Hourly~~	~~28.29~~	~~41.02~~
~~Annually~~	~~58843~~	~~85322~~
~~48 Hourly~~	~~31.20~~	~~44.78~~
~~Annually~~	~~64896~~	~~93142~~
~~49 Hourly~~	~~34.41~~	~~48.35~~
~~Annually~~	~~71573~~	~~100568~~

	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	8.83	9.27	9.73	10.22	10.73	10.95
	Annually	18368	19286	20250	21262	22325	22772
2	Hourly	9.39	9.86	10.35	10.87	11.41	11.64
	Annually	19531	20507	21532	22608	23739	24214
3	Hourly	9.96	10.46	10.98	11.53	12.11	12.35
	Annually	20717	21753	22841	23983	25182	25686
4	Hourly	10.56	11.09	11.64	12.22	12.83	13.09
	Annually	21972	23070	24224	25435	26707	27241
5	Hourly	11.20	11.76	12.35	12.97	13.62	13.89
	Annually	23302	24467	25690	26975	28323	28890
6	Hourly	11.87	12.47	13.09	13.75	14.44	14.73
	Annually	24700	25935	27232	28593	30023	30623
7	Hourly	12.59	13.22	13.88	14.57	15.30	15.61
	Annually	26182	27491	28866	30309	31824	32460
8	Hourly	13.34	14.01	14.71	15.45	16.22	16.54
	Annually	27753	29141	30598	32128	33734	34409
9	Hourly	14.14	14.85	15.59	16.37	17.19	17.53
	Annually	29418	30889	32433	34055	35758	36473

10	Hourly	14[illegible]13
	Annually	30[illegible]10
11	Hourly	15[illegible]92
	Annually	33[illegible]34
12	Hourly	17[illegible]00
	Annually	36[illegible]40
13	Hourly	19[illegible]31
	Annually	40[illegible]45
14	Hourly	21[illegible]91
	Annually	44[illegible]53
15	Hourly	23[illegible]70
	Annually	48[illegible]56
16	Hourly	25[illegible]85
	Annually	53[illegible]08
17	Hourly	28[illegible]29
	Annually	59[illegible]63
18	Hourly	31[illegible]09
	Annually	65[illegible]67

Schedule E

	Range	Minimum	Maximum
41	Hourly	16.23	25.90
	Annually	33758	53872
42	Hourly	17.89	28.62
	Annually	37211	59537
43	Hourly	19.70	31.53
	Annually	40976	65579
44	Hourly	21.73	34.42
	Annually	45198	71599
45	Hourly	24.01	37.60
	Annually	49941	78198
46	Hourly	26.43	41.08
	Annually	54974	85439
47	Hourly	29.14	44.83
	Annually	60611	93237
48	Hourly	32.14	48.93
	Annually	66851	101764
49	Hourly	35.44	52.83
	Annually	73715	109884

(C) Beginning on the first day of the pay period that includes July 1, ~~1996~~ 1999, each exempt employee, other than an exempt employee of the

treasurer of state, shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

Range	Step 1	Step 2	Step 3	Step 4
1 Hourly	8.37	8.74	9.11	9.48
Annually	17410	18179	18949	19718
	Step 1	Step 2	Step 3	Step 4
2 Hourly	8.78	9.16	9.55	9.97
Annually	18262	19053	19864	20738
	Step 1	Step 2	Step 3	Step 4
3 Hourly	9.20	9.60	10.03	10.49
Annually	19136	19968	20862	21819
	Step 1	Step 2	Step 3	Step 4
4 Hourly	9.65	10.10	10.56	11.05
Annually	20072	21008	21965	22984
	Step 1	Step 2	Step 3	Step 4
5 Hourly	10.15	10.59	11.05	11.52
Annually	21112	22027	22984	23962
	Step 1	Step 2	Step 3	Step 4
6 Hourly	10.68	11.13	11.61	12.09
Annually	22214	23150	24149	25147
	Step 1	Step 2	Step 3	Step 4
7 Hourly	11.34	11.78	12.24	12.67
Annually	23587	24502	25459	26354
	Step 5			
Hourly	13.16			
Annually	27373			
	Step 1	Step 2	Step 3	Step 4
8 Hourly	12.00	12.51	13.07	13.64
Annually	24960	26021	27186	28371
	Step 5			
Hourly	14.22			
Annually	29578			
	Step 1	Step 2	Step 3	Step 4
9 Hourly	12.79	13.45	14.12	14.82
Annually	26603	27976	29370	30826
	Step 5			
Hourly	15.57			
Annually	32386			

	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~10 Hourly~~	~~13.81~~	~~14.55~~	~~15.35~~	~~16.21~~
~~Annually~~	~~28725~~	~~30264~~	~~31928~~	~~33717~~
	~~Step 5~~			
~~Hourly~~	~~17.09~~			
~~Annually~~	~~35547~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~11 Hourly~~	~~15.03~~	~~15.90~~	~~16.83~~	~~17.77~~
~~Annually~~	~~31262~~	~~33072~~	~~35006~~	~~36962~~
	~~Step 5~~			
~~Hourly~~	~~18.78~~			
~~Annually~~	~~39062~~			
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~12 Hourly~~	~~16.58~~	~~17.50~~	~~18.45~~	~~19.47~~
~~Annually~~	~~34486~~	~~36400~~	~~38376~~	~~40498~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~20.55~~	~~21.68~~		
~~Annually~~	~~42744~~	~~45094~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~13 Hourly~~	~~18.27~~	~~19.27~~	~~20.32~~	~~21.43~~
~~Annually~~	~~38002~~	~~40082~~	~~42266~~	~~44574~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~22.62~~	~~23.85~~		
~~Annually~~	~~47050~~	~~49608~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~14 Hourly~~	~~20.10~~	~~21.21~~	~~22.38~~	~~23.60~~
~~Annually~~	~~41808~~	~~44117~~	~~46550~~	~~49088~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~24.93~~	~~26.31~~		
~~Annually~~	~~51854~~	~~54725~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~15 Hourly~~	~~22.08~~	~~23.31~~	~~24.63~~	~~25.99~~
~~Annually~~	~~45926~~	~~48485~~	~~51230~~	~~54059~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~27.42~~	~~28.94~~		
~~Annually~~	~~57034~~	~~60195~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~16 Hourly~~	~~24.34~~	~~25.69~~	~~27.11~~	~~28.62~~
~~Annually~~	~~50627~~	~~53435~~	~~56389~~	~~59530~~
	~~Step 5~~	~~Step 6~~		

~~Hourly~~	~~30.20~~	~~31.90~~		
~~Annually~~	~~62816~~	~~66352~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~17 Hourly~~	~~26.82~~	~~28.30~~	~~29.88~~	~~31.54~~
~~Annually~~	~~55786~~	~~58864~~	~~62150~~	~~65603~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~33.29~~	~~35.15~~		
~~Annually~~	~~69243~~	~~73112~~		
	~~Step 1~~	~~Step 2~~	~~Step 3~~	~~Step 4~~
~~18 Hourly~~	~~29.55~~	~~31.19~~	~~32.93~~	~~34.76~~
~~Annually~~	~~61464~~	~~64875~~	~~68494~~	~~72301~~
	~~Step 5~~	~~Step 6~~		
~~Hourly~~	~~36.68~~	~~38.73~~		
~~Annually~~	~~76294~~	~~80558~~		

~~Schedule E-2~~

~~Range~~	~~Minimum~~	~~Maximum~~
~~41 Hourly~~	~~16.23~~	~~24.42~~
~~Annually~~	~~33758~~	~~50794~~
~~42 Hourly~~	~~17.89~~	~~26.98~~
~~Annually~~	~~37211~~	~~56118~~
~~43 Hourly~~	~~19.70~~	~~29.72~~
~~Annually~~	~~40976~~	~~61818~~
~~44 Hourly~~	~~21.73~~	~~32.45~~
~~Annually~~	~~45198~~	~~67496~~
~~45 Hourly~~	~~24.01~~	~~35.44~~
~~Annually~~	~~49941~~	~~73715~~
~~46 Hourly~~	~~26.43~~	~~38.72~~
~~Annually~~	~~54974~~	~~80538~~
~~47 Hourly~~	~~29.14~~	~~42.25~~
~~Annually~~	~~60611~~	~~87880~~
~~48 Hourly~~	~~32.14~~	~~46.12~~
~~Annually~~	~~66851~~	~~95930~~
~~49 Hourly~~	~~35.44~~	~~49.80~~
~~Annually~~	~~73715~~	~~103584~~

	Range	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
1	Hourly	9.15	9.55	9.95	10.35		
	Annually	19032	19864	20696	21528		
2	Hourly	9.59	10.00	10.42	10.90		
	Annually	19947	20800	21674	22672		

3	Hourly	10[illegible]45
	Annually	20[illegible]16
4	Hourly	10[illegible]07
	Annually	21[illegible]06
5	Hourly	11[illegible]60
	Annually	23[illegible]08
6	Hourly	11[illegible]20
	Annually	24[illegible]56
7	Hourly	12[illegible]38
	Annually	25[illegible]10
8	Hourly	13[illegible]54
	Annually	27[illegible]23
9	Hourly	13[illegible]02
	Annually	29[illegible]02
10	Hourly	15[illegible]67
	Annually	31[illegible]34
11	Hourly	16[illegible]52
	Annually	34[illegible]82
12	Hourly	18[illegible]69
	Annually	37[illegible]75
13	Hourly	19[illegible]07
	Annually	41[illegible]26
14	Hourly	21[illegible]75
	Annually	45[illegible]00
15	Hourly	24[illegible]62
	Annually	50[illegible]70
16	Hourly	26[illegible]87
	Annually	55[illegible]30
17	Hourly	29[illegible]41
	Annually	60[illegible]93
18	Hourly	32[illegible]32
	Annually	67[illegible]26

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	26.68
	Annually	33758	55494
42	Hourly	17.89	29.48
	Annually	37211	61318
43	Hourly	19.70	32.47
	Annually	40976	67538

44	Hourly	21.73	35.46
	Annually	45198	73757
45	Hourly	24.01	38.72
	Annually	49941	80538
46	Hourly	26.43	42.31
	Annually	54974	88005
47	Hourly	29.14	46.17
	Annually	60611	96034
48	Hourly	32.14	50.39
	Annually	66851	104811
49	Hourly	35.44	54.41
	Annually	73715	113173

(D) Beginning on the first day of the pay period that includes July 1, 1998, each exempt employee of the office of the treasurer of state shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
	Range						
1	Hourly	8.8	9	9	9	10	10.00
	Annually	18	18	19	19	20	20800
2	Hourly	9.2	9	9	10	10	10.53
	Annually	19	19	20	20	21	21902
3	Hourly	9.7	10	10	11	11	11.07
	Annually	20	20	21	21	22	23026
4	Hourly	10	10	10	11	11	11.66
	Annually	21	21	21	22	23	24253
5	Hourly	10	10	11	11	12	12.17
	Annually	22	22	23	23	24	25314
6	Hourly	11	11	11	12	12	12.76
	Annually	23	23	24	24	25	26541
7	Hourly	11	11	12	12	13	13.39
	Annually	24	24	25	25	26	27851
8	Hourly	12	12	13	13	14	14.02
	Annually	26	26	27	27	28	29162
9	Hourly	13	13	13	14	14	14.64
	Annually	28	28	28	29	30	30451
10	Hourly	14	14	15	15	16	16.27
	Annually	30	30	31	32	33	33843
11	Hourly	15	16	16	17	17	17.92

	Annually	33	126
12	Hourly	17	89
	Annually	36	611
13	Hourly	19	18
	Annually	40	74
14	Hourly	21	78
	Annually	44	82
15	Hourly	23	56
	Annually	48	65
16	Hourly	25	68
	Annually	53	54
17	Hourly	28	11
	Annually	58	89
18	Hourly	31	89
	Annually	64	51

Schedule E-2

	Range	Minimum	Maximum
41	Hourly	16.23	25.90
	Annually	33758	53872
42	Hourly	17.89	28.62
	Annually	37211	59537
43	Hourly	19.70	31.53
	Annually	40976	65579
44	Hourly	21.73	34.42
	Annually	45198	71599
45	Hourly	24.01	37.60
	Annually	49941	78198
46	Hourly	26.43	41.08
	Annually	54974	85439
47	Hourly	29.14	44.83
	Annually	60611	93237
48	Hourly	32.14	48.93
	Annually	66851	101764
49	Hourly	35.44	52.83
	Annually	73715	109884

(E) Beginning on the first day of the pay period that includes July 1, 1999, each exempt employee of the office of the treasurer of state shall be paid a salary or wage in accordance with the following schedule of rates:

Schedule E-1

Pay Ranges and Step Values

		Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
	Range						
1	Hourly	9.1	9.15	9.2	9.25	9.3	0.30
	Annually	18	19	19	19	19	24
2	Hourly	9.5	9.55	9.6	9.65	9.7	9.85
	Annually	19	19	20	20	20	20
3	Hourly	10	10.1	10.2	10.3	10.4	10.6
	Annually	20	21	21	21	21	22
4	Hourly	10	10.2	10.3	10.4	10.5	10.8
	Annually	21	21	21	21	21	22
5	Hourly	11	11.1	11.2	11.3	11.4	11.7
	Annually	22	23	23	23	23	24
6	Hourly	11	11.2	11.4	11.6	11.8	12.1
	Annually	24	24	24	24	24	25
7	Hourly	12	12.3	12.5	12.7	12.9	13.3
	Annually	25	25	26	26	26	27
8	Hourly	13	13.3	13.6	13.8	14.1	14.5
	Annually	27	27	28	28	29	30
9	Hourly	13	13.4	13.7	14.0	14.3	14.7
	Annually	28	28	28	29	29	30
10	Hourly	15	15.4	15.8	16.2	16.6	17.0
	Annually	31	32	32	33	34	35
11	Hourly	16	16.5	16.9	17.3	17.8	18.2
	Annually	34	34	35	36	37	38
12	Hourly	18	18.5	19.0	19.5	20.0	20.5
	Annually	37	38	39	40	41	42
13	Hourly	19	19.6	20.1	20.6	21.1	21.7
	Annually	41	41	42	43	44	45
14	Hourly	21	21.6	22.2	22.7	23.3	23.9
	Annually	45	45	46	47	48	49
15	Hourly	24	24.6	25.2	25.8	26.4	27.1
	Annually	49	51	52	53	54	56
16	Hourly	26	26.7	27.4	28.1	28.8	29.5
	Annually	55	56	57	58	59	61
17	Hourly	29	30.0	30.7	31.5	32.3	33.1
	Annually	60	62	63	65	67	68
18	Hourly	32	33.0	33.8	34.7	35.6	36.5
	Annually	66	68	70	72	74	76

Schedule E-2

Range	Minimum	Maximum

41	Hourly	16.23	26.68
	Annually	33758	55494
42	Hourly	17.89	29.48
	Annually	37211	61318
43	Hourly	19.70	32.47
	Annually	40976	67538
44	Hourly	21.73	35.46
	Annually	45198	73757
45	Hourly	24.01	38.72
	Annually	49941	80538
46	Hourly	26.43	42.31
	Annually	54974	88005
47	Hourly	29.14	46.17
	Annually	60611	96034
48	Hourly	32.14	50.39
	Annually	66851	104811
49	Hourly	35.44	54.41
	Annually	73715	113173

(F) As used in this section, "exempt employee" means a permanent full-time or permanent part-time employee paid directly by warrant of the auditor of state whose position is included in the job classification plan established under division (A) of section 124.14 of the Revised Code but who is not considered a public employee for the purposes of Chapter 4117. of the Revised Code. As used in this section, "exempt employee" also includes a permanent full-time or permanent part-time employee of the secretary of state, auditor of state, treasurer of state, or attorney general who has not been placed in an appropriate bargaining unit by the state employment relations board.

Sec. 124.18. (A) Forty hours shall be the standard work week for all employees whose salary or wage is paid in whole or in part by the state or by any state-supported college or university. When any employee whose salary or wage is paid in whole or in part by the state or by any state-supported college or university is required by an authorized administrative authority to be in an active pay status more than forty hours in any calendar week, the employee shall be compensated for such time over forty hours, except as otherwise provided in this section, at one and one-half times the employee's regular rate of pay. The use of sick leave shall not be considered to be active pay status for the purposes of earning overtime or compensatory time by employees whose wages are paid directly by warrant of the auditor of state. A flexible hours employee is not entitled to

mpensation for overtime work unless the employee's authorized administrative authority required the employee to be in active pay status for more than forty hours in a calendar week, regardless of the number of hours the employee works on any day in the same calendar week.

The authorized administrative authority shall be designated by the appointing authority to the director of administrative services. Such compensation for overtime work shall be paid no later than at the conclusion of the next succeeding pay period.

If the employee elects to take compensatory time off in lieu of overtime pay, for any overtime worked, such compensatory time shall be granted by the employee's administrative superior, on a time and one-half basis, at a time mutually convenient to the employee and the administrative superior. An employee may accrue compensatory time to a maximum of two hundred forty hours, except that public safety employees and other employees who meet the criteria established in the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended, may accrue a maximum of four hundred eighty hours of compensatory time. An employee shall be paid at the employee's regular rate of pay for any hours of compensatory time accrued in excess of these maximum amounts if the employee has not used the compensatory time within one hundred eighty days after it is granted, if the employee transfers to another agency of the state, or if a change in the employee's status exempts the employee from the payment of overtime compensation. Upon the termination of employment, any employee with accrued but unused compensatory time shall be paid for that time at a rate that is the greater of the employee's final regular rate of pay or the employee's average regular rate of pay during the employee's last three years of employment with the state.

No overtime, as described in this section, can be paid unless it has been authorized by the authorized administrative authority. Employees may be exempted from the payment of compensation as required by this section only under the criteria for exemption from the payment of overtime compensation established in the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended. With the approval of the director of administrative services, the appointing authority may establish a policy to grant compensatory time or to pay compensation to state employees who are exempt from overtime compensation. With the approval of the board of county commissioners, a county human services department may establish a policy to grant compensatory time or to pay compensation to employees of the department who are exempt from overtime compensation.

(B) An employee, whose salary or wage is paid in whole or in part by the state, shall be paid for the holidays declared in section 124.19 of the Revised Code and shall not be required to work on such holidays, unless in the opinion of the employee's responsible administrative authority failure to work on such holidays would impair the public service. An employee shall not be paid for a holiday unless the employee was in active pay status on the scheduled work day immediately preceding the holiday. In the event that any of the holidays declared in section 124.19 of the Revised Code should fall on Saturday, the Friday immediately preceding shall be observed as the holiday. In the event that any of the holidays declared in section 124.19 of the Revised Code should fall on Sunday, the Monday immediately succeeding shall be observed as the holiday. If an employee's work schedule is other than Monday through Friday, the employee shall be entitled to holiday pay for holidays observed on the employee's day off regardless of the day of the week on which they are observed. A full-time permanent employee is entitled to eight hours of pay for each holiday regardless of the employee's work shift and work schedule. A flexible hours employee is entitled to holiday pay for the number of hours for which the employee normally would have been scheduled to work. Part-time permanent employees shall be paid holiday pay for that portion of any holiday for which they would normally have been scheduled to work. When an employee who is eligible for overtime pay under this section is required by the employee's responsible administrative authority to work on the day observed as a holiday, the employee shall be entitled to pay for such time worked at one and one-half times the employee's regular rate of pay in addition to the employee's regular pay, or to be granted compensatory time off at time and one-half thereafter, at the employee's option. Payment at such rate shall be excluded in the calculation of hours in active pay status.

(C) Each appointing authority may designate the number of employees in an agency who are flexible hours employees. The appointing authority may establish for each flexible hours employee a specified minimum number of hours to be worked each day that is consistent with the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 207, 213, as amended.

(D) This section shall be uniformly administered ~~by the director of administrative services~~ for employees as defined in section 124.01 of the Revised Code and by the personnel departments of state-supported colleges and universities for employees of state-supported colleges and universities. If employees are not paid directly by warrant of the auditor of state, the political subdivision shall determine whether the use of sick leave shall be

considered to be active pay status for purposes of those employees earning overtime or compensatory time.

(E) Policies relating to the payment of overtime pay or the granting of compensatory time off shall be adopted by the executive secretary of the house of representatives for employees of the house of representatives, by the clerk of the senate for employees of the senate, and by the director of the legislative service commission for all other legislative employees.

(F) As used in this section, "regular rate of pay" means the base rate of pay an employee receives plus any pay supplements received pursuant to section 124.181 of the Revised Code.

Sec. 124.181. (A) Except as provided in division (M) of this section, any employee paid under schedule B of section 124.15 or under schedule E-1 of section 124.152 of the Revised Code is eligible for the pay supplements provided herein upon application by the appointing authority substantiating the employee's qualifications for the supplement and with the approval of the director of administrative services except as provided in division (E) of this section.

(B) In computing any of the pay supplements provided in this section the classification salary base shall be the minimum hourly rate of the pay range, provided in section 124.15 or 124.152 of the Revised Code, in which the employee is assigned at the time of computation.

(C) The effective date of any pay supplement, unless otherwise provided herein, shall be determined by the director.

(D) The director shall, by rule, establish standards regarding the administration of this section.

(E) Except as otherwise provided in this division, beginning on the first day of the pay period within which the employee completes five years of total service with the state government or any of its political subdivisions, each employee in positions paid under salary schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code shall receive an automatic salary adjustment equivalent to two and one-half per cent of the classification salary base, to the nearest whole cent. Each employee shall receive thereafter an annual adjustment equivalent to one-half of one per cent of the employee's classification salary base, to the nearest whole cent, for each additional year of qualified employment until a maximum of ten per cent of the employee's classification salary base is reached. The granting of longevity adjustments shall not be affected by promotion, demotion, or other changes in classification held by the employee, nor by any change in pay range for the employee's class. Longevity pay adjustments shall become effective at the beginning of the

pay period within which the employee completes the necessary length of service, except that when an employee requests credit for prior service, the effective date of the prior service credit and of any longevity adjustment shall be the first day of the pay period following approval of the credit by the director of administrative services. No employee, other than an employee who submits proof of prior service within ninety days after the date of the employee's hiring, shall receive any longevity adjustment for the period prior to the director's approval of a prior service credit. Time spent on authorized leave of absence shall be counted for this purpose.

An employee who has retired in accordance with the provisions of any retirement system offered by the state and who is employed by the state or any political subdivision of the state on or after June 24, 1987, shall not have prior service with the state or any political subdivision of the state counted for the purpose of determining the amount of the salary adjustment provided under this division.

(F) When an exceptional condition exists that creates a temporary or a permanent hazard for one or more positions in a class paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code, a special hazard salary adjustment may be granted for the time the employee is subjected to the hazardous condition. All special hazard conditions shall be identified for each position and incidence from information submitted to the director on an appropriate form provided by the director and categorized into standard conditions of: some unusual hazard not common to the class; considerable unusual hazard not common to the class; and exceptional hazard not common to the class.

(1) A hazardous salary adjustment of five per cent of the employee's classification salary base may be applied in the case of some unusual hazardous condition not common to the class for those hours worked, or a fraction thereof, while the employee was subject to the unusual hazard condition.

(2) A hazardous salary adjustment of seven and one-half per cent of the employee's classification salary base may be applied in the case of some considerable hazardous condition not common to the class for those hours worked, or a fraction thereof, while the employee was subject to the considerable hazard condition.

(3) A hazardous salary adjustment of ten per cent of the employee's classification salary base may be applied in the case of some exceptional hazardous condition not common to the class for those hours, or a fraction thereof, when the employee was subject to the exceptional hazard condition.

(4) Each claim for temporary hazard pay shall be submitted as a

separate payment and shall be subject to an administrative audit by the director as to the extent and duration of the employee's exposure to the hazardous condition.

(G) When a full-time employee whose rate of pay for a normal biweekly pay period is less than a rate equivalent to pay range 29, step 2, salary schedule B, or pay range 9, salary schedule E-1 of section 124.152 of the Revised Code is ordered by the appointing authority to report back to work after termination of the employee's regular work schedule and the employee reports, the employee shall be paid for such time. The minimum the employee shall receive for reporting is an amount equal to four times the employee's hourly base salary. This division does not apply to work that is a continuation of or immediately preceding an employee's regular work schedule. An appointing authority may apply to the director to pay the supplement provided by this division to employees who are at a higher pay range than those established by this division.

(H) When a certain position or positions paid under schedule B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code require the ability to speak or write a language other than English a special pay supplement may be granted to attract bilingual individuals, to encourage present employees to become proficient in other languages or to retain qualified bilingual employees. The bilingual pay supplement provided herein may be granted in the amount of five per cent of the employee's classification salary base for each required foreign language and shall remain in effect as long as the bilingual requirement exists.

(I) The director may establish a shift differential for employees. Such differential shall be paid to employees in positions working in other than the regular or first shift. In those divisions or agencies where only one shift prevails, no shift differential shall be paid regardless of the hours of the day that are worked. The director and the appointing authority shall designate which positions shall be covered by this section.

(J) Whenever an employee is assigned to work in a higher level position for a continuous period of more than two weeks but no more than two years because of a vacancy, the employee's pay may be established at a rate that is ~~at least five~~ approximately four per cent above the employee's current base rate for the period the employee occupies the position provided that this temporary occupancy is approved by the director. Employees paid under this provision shall continue to receive any of the pay supplements due them under provisions of this section based on the step one base rate for their normal classification.

(K) If a certain position, or positions, within a class paid under schedule

B of section 124.15 or under salary schedule E-1 of section 124.152 of the Revised Code are mandated by state or federal law or regulation or other regulatory agency or other certification authority to have special technical certification, registration, or licensing to perform the functions which are under the mandate a special professional achievement pay supplement may be granted. This special professional achievement pay supplement shall not be granted when all incumbents in all positions in a class require license as provided in the classification description published by the department of administrative services; to licensees where no special or extensive training is required; when certification is granted upon completion of a stipulated term of in-service training; when an appointing authority has required certification; or any other condition prescribed by the director.

(1) Before this supplement may be applied, evidence as to the requirement must be provided by the agency for each position involved and certification received from the director as to the director's concurrence for each of the positions so affected.

(2) The professional achievement pay supplement provided herein shall be granted in an amount up to ten per cent of the employee's classification salary base and shall remain in effect as long as the mandate exists.

(L) Those employees assigned to teaching supervisory, principal, assistant principal, or superintendent positions who have attained a higher educational level than a basic bachelor's degree may receive an educational pay supplement to remain in effect as long as the employee's assignment and classification remain the same.

(1) An educational pay supplement of two and one-half per cent of the employee's classification salary base may be applied upon the achievement of a bachelor's degree plus twenty quarter hours of postgraduate work.

(2) An educational pay supplement of an additional five per cent of the employee's classification salary base may be applied upon achievement of a master's degree.

(3) An educational pay supplement of an additional two and one-half per cent of the employee's classification salary base may be applied upon achievement of a master's degree plus thirty quarter hours of postgraduate work.

(4) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a master teacher.

(5) An educational pay supplement of five per cent of the employee's classification salary base may be applied when the employee is performing as a special education teacher.

(6) Those employees in teaching supervisory, principal, assistant principal, or superintendent positions who are responsible for specific extracurricular activity programs shall receive overtime pay for those hours worked in excess of their normal schedule, at their straight time hourly rate up to a maximum of five per cent of their regular base salary in any calendar year.

(M) A state agency, board, or commission may establish a supplementary compensation schedule for those licensed physicians employed by the agency, board, or commission in positions requiring a licensed physician. The supplementary compensation schedule, together with the compensation otherwise authorized by this chapter, shall provide for the total compensation for these employees to range appropriately, but not necessarily uniformly, for each classification title requiring a licensed physician, in accordance with a schedule approved by the state controlling board. The individual salary levels recommended for each such physician employed shall be approved by the director. Notwithstanding section 124.11 of the Revised Code, such personnel are in the unclassified civil service.

(N) Notwithstanding sections 117.28, 117.30, 117.33, 117.36, 117.42, and 131.02 of the Revised Code, the state shall not institute any civil action to recover and shall not seek reimbursement for overpayments made in violation of division (E) of this section or division (C) of section 9.44 of the Revised Code for the period starting after June 24, 1987, and ending on October 31, 1993.

(O) Employees of the office of the treasurer of state who are exempt from collective bargaining coverage may be granted a merit pay supplement of up to one and one-half per cent of their step rate. The rate at which this supplement is granted shall be based on performance standards established by the treasurer of state. Any supplements granted under this division shall be administered on an annual basis.

Sec. 124.34. The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts thereof, holding a position under this chapter of the Revised Code, shall be during good behavior and efficient service and no such officer or employee shall be reduced in pay or position, fined in excess of five days' pay, suspended, or removed, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of such sections or the rules of the director of administrative services or the commission, or any other failure of good behavior, or any

other acts of misfeasance, malfeasance, or nonfeasance in office. A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal.

In any case of a fine, reduction, suspension of more than three working days, or removal, the appointing authority shall furnish such employee with a copy of the order of reduction, suspension, or removal, which order shall state the reasons therefor. Such order shall be filed with the director of administrative services and state personnel board of review, or the commission, as may be appropriate.

Within ten days following the filing of such order, the employee may file an appeal, in writing, with the state personnel board of review or the commission. In the event such an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the board or commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission to the court of common pleas of the county in which the employee resides in accordance with the procedure provided by section 119.12 of the Revised Code.

In the case of the suspension for any period of time, or a fine, demotion, or removal of a chief of police or a chief of a fire department or any member of the police or fire department of a city or civil service township, the appointing authority shall furnish such chief or member of a department with a copy of the order of suspension, demotion, or removal, which order shall state the reasons therefor. Such order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of such order such chief or member of a department may file an appeal, in writing, with the municipal or civil service township civil service commission. In the event such an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be

had from the decision of the municipal or civil service township civil service commission to the court of common pleas in the county in which such city or civil service township is situated. Such appeal shall be taken within thirty days from the finding of the commission.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

Sec. 124.382. (A) As used in this section and sections 124.383, 124.386, 124.387, and 124.388 of the Revised Code:

(1) "Base pay period" means the pay period that includes the first day of December.

(2) "Pay period" means the fourteen-day period of time during which the payroll is accumulated, as determined by the director of administrative services.

(3) "Active pay status" means the conditions under which an employee is eligible to receive pay, and includes, but is not limited to, vacation leave, sick leave, personal leave, bereavement leave, and administrative leave.

(4) "No pay status" means the conditions under which an employee is ineligible to receive pay, and includes, but is not limited to, leave without pay, leave of absence, and disability leave.

(5) "Disability leave" means the leave granted pursuant to section 124.385 of the Revised Code.

(6) "Full-time permanent employee" means an employee whose regular hours of duty total eighty hours in a pay period in a state agency, and whose appointment is not for a limited period of time.

(7) "Base rate of pay" means the rate of pay established under schedule B or C of section 124.15 or under schedule E-1 or E-2 of section 124.152 of the Revised Code, plus any supplement provided under section 124.181 of the Revised Code, plus any supplements enacted into law which are added to schedule B or C of section 124.15 or to schedule E-1 or E-2 of section 124.152 of the Revised Code.

(8) "Part-time permanent employee" means an employee whose regular hours of duty total less than eighty hours in a pay period in a state agency and whose appointment is not for a limited period of time.

(B) Each full-time permanent and part-time permanent employee whose salary or wage is paid directly by warrant of the auditor of state shall be credited with sick leave of three and one-tenth hours for each completed eighty hours of service, excluding overtime hours worked.

(C) Any sick leave credit provided pursuant to division (B) of this section, remaining as of the last day of the pay period preceding the next

cceeding base pay period, shall be converted pursuant to section 124.383 of the Revised Code.

(D) Employees may use sick leave, provided a credit balance is available, upon approval of the responsible administrative officer of the employing unit, for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to other employees, and to illness, injury, or death in the employee's immediate family. When sick leave is used, it shall be deducted from the employee's credit on the basis of absence from previously scheduled work in such increments of an hour and at such a compensation rate as the director of administrative services determines. ~~Compensation for such credit shall be at the employee's hourly base rate of pay.~~ The appointing authority of each employing unit may require an employee to furnish a satisfactory, signed statement to justify the use of sick leave.

If, after having utilized the credit provided by this section, an employee utilizes sick leave that was accumulated prior to November 15, 1981, compensation for such sick leave used shall be equal to the employee's hourly base rate of pay.

(E)(1) The previously accumulated sick leave balance of an employee who has been separated from the public service, for which separation payments pursuant to the provisions of section 124.384 of the Revised Code have not been made, shall be placed to the employee's credit upon the employee's reemployment in the public service, if the reemployment takes place within ten years of the date on which the employee was last terminated from public service.

(2) The previously accumulated sick leave balance of an employee who has separated from a school district shall be placed to the employee's credit upon the employee's appointment as an unclassified employee of the state department of education, if all of the following apply:

(a) The employee accumulated the sick leave balance while employed by the school district;

(b) The employee did not receive any separation payments for the sick leave balance;

(c) The employee's employment with the department takes place within ten years after the date on which the employee separated from the school district.

(F) An employee who transfers from one public agency to another shall be credited with the unused balance of the employee's accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers.

(G)~~(1) Use of sick leave on six or more occasions in a twelve-month period, except for medical appointments for which leave has been requested at least one week in advance, will subject an employee to discipline, including the assessment of a fine, in accordance with a schedule to be established by the director of administrative services.~~

~~(2) For purposes of this section, "occasion" means an individual use of sick leave, regardless of the number of hours involved.~~

~~(3) The discipline may be waived if an employee can show that division (G)(1) of this section was applied in error, or if the employee provides satisfactory evidence of a bona fide, unpredictable, and recurring medical condition requiring the use of sick leave on more than six occasions in a twelve-month period.~~

~~(4) No fine assessed under this section constitutes a reduction in pay under section 124.34 of the Revised Code. Notwithstanding section 1321.32 of the Revised Code, the state may deduct from the wages or salaries of employees such amounts as are assessed as fines under this section.~~

~~(5) The director shall adopt rules on sick leave abuse in accordance with Chapter 119. of the Revised Code to provide for the administration and uniform application of this section.~~

~~(H)~~ The director of administrative services shall establish procedures to uniformly administer this section. No sick leave may be granted to a state employee upon or after the employee's retirement or termination of employment.

Sec. 124.383. (A) The director of administrative services shall allow a full-time or part-time employee who is credited with sick leave pursuant to division (B) of section 124.382 of the Revised Code to elect one of the following options with respect to sick leave credit remaining at the end of the year:

(1) Carry forward the balance.

(2) Receive a cash benefit <u>as established by the director of administrative services</u>. ~~The cash benefit shall equal one hour of the employee's base rate of pay for every two hours of unused credit that is converted. Such cash balance shall not be subject to contributions to any of the retirement systems, either by the employee or the employer.~~

(3) Carry forward a portion of the balance and receive a cash benefit for the remainder. The cash benefit shall be calculated in the manner specified in division (A)(2) of this section.

(B) The director of administrative services shall establish procedures to allow employees to indicate the option that will be selected. Included within the procedures shall be the final date by which notification is to be made to

the director concerning the option selected. Failure to comply with the date will result in the automatic carry forward of unused balances.

(C) Cash benefits shall be paid in the first pay the employee receives in December.

(D) Balances carried forward are excluded from further cash benefits provided under this section.

(E) An employee who separates during the year shall not be eligible for cash benefits provided under this section.

Sec. 124.385. (A) An employee is eligible for disability leave benefits under this section if the employee has completed one year of continuous state service immediately prior to the date of the ~~employee requests such benefits~~ disability and if either of the following applies:

(1) The employee is a full-time permanent employee and is eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code, or is a full-time permanent employee and is listed in division (B)(2) of section 124.14 of the Revised Code.

(2) The employee is a full-time permanent employee, is on disability leave or leave of absence for medical reasons and would be eligible for sick leave credit pursuant to division (B) of section 124.382 of the Revised Code except that the employee is in no pay status.

(B) The director of administrative services, by rule adopted in accordance with Chapter 119. of the Revised Code, shall establish a disability leave program. The rule shall include, but shall not be limited to:

(1) Procedures to be followed for determining disability;

(2) Provisions for the allowance of disability leave due to illness or injury;

(3) Provisions for the continuation of service credit for employees granted disability leave, including service credit towards retirement, as provided by the applicable statute;

(4) The establishment of a minimum level of benefit and of a waiting period before benefits begin;

(5) Provisions setting a maximum length of benefit and requiring that employees eligible to apply for disability retirement shall do so prior to completing the first six months of their period of disability. The director's rules shall indicate those employees required to apply for disability retirement. If an employee is approved to receive disability retirement, the employee shall receive the retirement benefit and a supplement payment that equals a percentage of the employee's base rate of pay and that, when added to the retirement benefit, equals no more than the percentage of pay received by employees after the first six months of disability. Such supplemental

payment shall not be considered earnable salary, compensation, or salary, and is not subject to contributions, under Chapter 145., 742., 3307., 3309., or 5505. of the Revised Code.

(6) Provisions that allow employees to utilize available sick leave, personal leave, or vacation leave balances to supplement the benefits payable under this section. Such balances used to supplement the benefits, plus any amount contributed by the state as provided in division (D) of this section, shall be paid at the employee's base rate of pay in an amount sufficient to give employees up to one hundred per cent of pay for time on disability.

(7) Procedures for appealing denial of payment of a claim, including:

(a) A maximum of thirty days to file an appeal by the employee;

(b) A maximum of fifteen days for the parties to select a third-party opinion pursuant to division (F) of this section, unless an extension is agreed to by the parties;

(c) A maximum of thirty days for the third party to render an opinion.

(8) Provisions for approving leave of absence for medical reasons where an employee is in no pay status because the employee has used all the employee's sick leave, personal leave, vacation leave, and compensatory time;

(9) Provisions for precluding the payment of benefits if the injury for which the benefits are sought is covered by a workers' compensation plan;

(10) Provisions for precluding the payment of benefits in order to ensure that benefits are provided in a consistent manner.

(C) Except as provided in division (B)(6) of this section, time off for an employee granted disability leave is not chargeable to any other leave granted by other sections of the Revised Code.

(D) While an employee is on an approved disability leave, the employer and employee's share of health, life, and other insurance benefits shall be paid by the state, and the retirement contribution shall be paid as follows:

(1) The employer's share shall be paid by the state;

(2) For the first three months, the employee's share shall be paid by the employee;

(3) After the first three months, the employee's share shall be paid by the state.

(E) The approval for disability leave shall be made by the director, upon recommendation by the appointing authority.

(F) If a request for disability leave is denied based on a medical determination, the director shall obtain a medical opinion from a third party. The decision of the third party is binding.

(G) The rule adopted by the director under division (B) of this section shall not deny disability leave benefits for an illness or injury to an employee who is a veteran of the United States armed forces because the employee contracted the illness or received the injury in the course of or as a result of military service and the illness or injury is or may be covered by a compensation plan administered by the United States department of veterans affairs.

Sec. 124.391. (A) As used in this section, "paid leave" means sick leave, personal leave, or vacation leave~~, or compensatory time~~.

(B) The director of administrative services may establish a program under which an employee paid directly by warrant of the auditor of state may donate that employee's accrued but unused paid leave to another employee paid directly by warrant of the auditor of state who has no accrued but unused paid leave and who has a critical need for it because of circumstances such as a serious illness or the serious illness of a member of the employee's immediate family.

If the director establishes a leave donation program under this division, the director shall adopt rules in accordance with Chapter 119. of the Revised Code to provide for the administration of the program. These rules shall include, but not be limited to, provisions that identify the circumstances under which leave may be donated and that specify the amount, types, and value of leave that may be donated.

(C) At the discretion of the appropriate legislative authority, a county may implement a leave donation program, as provided in this section, for all county agencies or for one or more designated agencies within the county.

Sec. 125.04. (A) Except as provided in division (C) of this section, the department of administrative services shall determine what supplies and services are purchased by or for state agencies. Whenever the department of administrative services makes any change or addition to the lists of supplies and services that it determines to purchase for state agencies, it shall provide a list to the agencies of the changes or additions and indicate when the department will be prepared to furnish each item listed. Except for the requirements of division (B) of section 125.11 of the Revised Code, sections 125.04 to 125.08 and 125.09 to 125.15 of the Revised Code do not apply to or affect the educational institutions of the state. The department shall not include the bureau of workers' compensation in the lists of supplies, equipment, and services purchased and furnished by the department.

Nothing in this division precludes the bureau from entering into a contract with the department for the department to perform services relative to supplies, equipment, and services contained in this division for the

bureau.

(B) As used in this division, "political subdivision" means any county, township, municipal corporation, school district, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, regional transit authority, regional airport authority, regional water and sewer district, or port authority. "Political subdivision" also includes any other political subdivision described in the Revised Code that has been approved by the department to participate in the department's contracts under this division.

The department of administrative services may permit a political subdivision to participate in contracts into which the department has entered for the purchase of supplies and services. Any political subdivision desiring to participate in such purchase contracts shall file with the department a certified copy of an ordinance or resolution of the legislative authority or governing board of the political subdivision. The resolution or ordinance shall request that the political subdivision be authorized to participate in such contracts and shall agree that the political subdivision will be bound by such terms and conditions as the department prescribes and that it will directly pay the vendor under each purchase contract. The department may charge a political subdivision a reasonable fee to cover the administrative costs the department incurs as a result of the subdivision's participation in the purchase contract. Purchases made by a political subdivision under this division are exempt from any competitive selection procedures otherwise required by law. No political subdivision shall make any purchase under this division when bids have been received for such purchase by the subdivision, unless such purchase can be made upon the same terms, conditions, and specifications at a lower price under this division.

The department shall include in its annual report an estimate of the cost it incurs by permitting political subdivisions to participate in contracts pursuant to this division. The department may require political subdivisions participating in contracts pursuant to this division to file a report with the department, as often as it finds necessary, stating how many such contracts the political subdivisions participate in within a specified period of time, and any other information the department requires.

(C) This section does not apply to supplies or services required by the legislative or judicial branches, boards of elections, the capitol square review and advisory board, the adjutant general, to supplies or services purchased by a state agency directly as provided in division (A) or (E) of section 125.05 of the Revised Code, to purchases of supplies or services for the emergency management agency as provided in section 125.023 of the

Revised Code, or to purchases of supplies or services for the department of rehabilitation and correction in its operation of the program for the employment of prisoners established under section 5145.16 of the Revised Code that shall be made pursuant to rules adopted by the director of administrative services and the director of rehabilitation and correction in accordance with Chapter 119. of the Revised Code. The rules may provide for the exemption of the program for the employment of prisoners from the requirements of division (A) of this section.

Sec. 125.05. ~~No~~Except as provided in division (E) of this section, no state agency shall purchase any supplies or services except as provided in divisions (A) to (C) of this section.

(A) Subject to division (D) of this section, a state agency may, without competitive selection, make any purchase of services that cost fifty thousand dollars or less or any purchase of supplies that cost twenty-five thousand dollars or less. The agency may make the purchase directly or may make the purchase from or through the department of administrative services, whichever the agency determines. The department shall establish written procedures to assist state agencies when they make direct purchases. If the agency makes the purchase directly, it shall make the purchase by a term contract whenever possible.

(B) Subject to division (D) of this section, a state agency wanting to purchase services that cost more than fifty thousand dollars or supplies that cost more than twenty-five thousand dollars shall, unless otherwise authorized by law, make the purchase from or through the department. The department shall make the purchase by competitive selection under section 125.07 of the Revised Code. If the director of administrative services determines that it is not possible or not advantageous to the state for the department to make the purchase, the department shall grant the agency a release and permit under section 125.06 of the Revised Code to make the purchase. Section 127.16 of the Revised Code does not apply to purchases the department makes under this section.

(C) An agency that has been granted a release and permit to make a purchase may make the purchase without competitive selection if after making the purchase the cumulative purchase threshold as computed under division (F) of section 127.16 of the Revised Code would:

(1) Be exceeded and the controlling board approves the purchase;

(2) Not be exceeded and the department of administrative services approves the purchase.

(D) Not later than January 31, 1997, the amounts specified in divisions (A) and (B) of this section and, not later than the thirty-first day of January

of each second year thereafter, any amounts computed by adjustments made under this division, shall be increased or decreased by the average percentage increase or decrease in the consumer price index prepared by the United States bureau of labor statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") for the twenty-four calendar month period prior to the immediately preceding first day of January over the immediately preceding twenty-four calendar month period, as reported by the bureau. The director of administrative services shall make this determination and adjust the appropriate amounts accordingly.

(E) If the office of information, learning, and technology services; the department of education; or the Ohio education computer network determines that it can purchase software services or supplies for specified school districts at a price less than the price for which the districts could purchase the same software services or supplies for themselves, the office, department, or network shall certify that fact to the department of administrative services and, acting as an agent for the specified school districts, shall make that purchase without following the provisions in divisions (A) through (D) of this section.

Sec. 125.13. (A) ~~Whenever~~Except as otherwise provided in section 5193.03 of the Revised Code, whenever a state agency determines that it has excess or surplus supplies, it shall notify the director of administrative services. Upon request by the director and on forms provided by ~~him~~ the director, the state agency shall furnish to the director a list of all such excess and surplus supplies and an appraisal of their value.

(B) The director of administrative services shall take immediate possession of a state agency's excess and surplus supplies, except for those that have a value below the minimum value the director establishes for excess and surplus supplies under division (D) of this section. The director shall inventory excess and surplus supplies in ~~his~~ the director's possession and may have the supplies repaired.

(C) The director may dispose of declared surplus or excess supplies in ~~his~~ the director's possession by sale, lease, or transfer. If ~~he~~ the director does so, ~~he~~ the director shall dispose of such supplies in the following order of priority:

(1) To state agencies;

(2) To state-supported or state-assisted institutions of higher education;

(3) To tax-supported agencies, municipal corporations, or other political subdivisions of this state;

(4) To the general public by auction, sealed bid, or negotiation.

(D) The director may adopt rules governing the sale, lease, or transfer of surplus and excess supplies in ~~his~~ the director's possession by public auction, sealed bid, or negotiation, except that no employee of the disposing agency shall be allowed to purchase, lease, or receive any such supplies. The director may dispose of declared surplus or excess supplies in ~~his~~ the director's possession as ~~he~~ the director determines proper if such supplies cannot be sold, leased, or transferred. The director shall by rule establish a minimum value for excess and surplus supplies and prescribe procedures for a state agency to follow in disposing of excess and surplus supplies in its possession that have a value below the minimum value established by the director.

(E) No state-supported or state-assisted institution of higher education, tax-supported agency, municipal corporation, or other political subdivision of this state shall sell, lease, or transfer excess or surplus supplies acquired under this section to private entities or the general public at a price greater than the price it originally paid for such supplies.

Sec. 125.15. All state agencies required to secure any equipment, materials, supplies, services, or contracts of insurance from the department of administrative services shall make acquisition in the manner and upon forms prescribed by the director of administrative services and shall reimburse the department for the equipment, materials, supplies, services, or contracts of insurance, including a reasonable sum to cover the department's administrative costs, wherever reimbursement is required by the department. The money so paid shall be deposited in the state treasury to the credit of the ~~office~~ general services fund, computer services fund, or telecommunication fund, as appropriate. Such funds are hereby created.

Sec. 125.22. (A) The department of administrative services shall establish the central service agency to perform routine support for the following boards and commissions:

(1) State board of examiners of architects;

(2) Barber board;

(3) Chiropractic examining board;

(4) State board of cosmetology;

(5) Accountancy board;

(6) State dental board;

(7) ~~State medical board;~~

~~(8)~~ Board of nursing;

~~(9)~~(8) State board of optometry;

~~(10) State board of pharmacy;~~

~~(11)~~(9) Ohio occupational therapy, physical therapy, and athletic

trainers board;

~~(12)~~(10) State board of registration for professional engineers and surveyors;

~~(13)~~(11) State board of sanitarian registration;

~~(14)~~(12) Board of embalmers and funeral directors;

~~(15)~~(13) State board of psychology;

~~(16)~~(14) Ohio optical dispensers board;

~~(17)~~(15) Board of speech pathology and audiology;

~~(18)~~(16) Counselor and social worker board;

~~(19)~~(17) State veterinary medical licensing board;

~~(20)~~(18) Ohio board of dietetics;

~~(21)~~(19) Commission on Hispanic-Latino affairs;

~~(22)~~(20) Ohio respiratory care board.

(B)(1) Notwithstanding any other section of the Revised Code, the agency shall perform the following routine support services for the boards and commissions named in division (A) of this section unless the controlling board exempts a board or commission from this requirement on the recommendation of the director of administrative services:

(a) Preparing and processing payroll and other personnel documents;

(b) Preparing and processing vouchers, purchase orders, encumbrances, and other accounting documents;

(c) Maintaining ledgers of accounts and balances;

(d) Preparing and monitoring budgets and allotment plans in consultation with the boards and commissions;

(e) Maintaining information required by section 3729.40 of the Revised Code;

(f) Other routine support services that the director of administrative services considers appropriate to achieve efficiency.

(2) The agency may perform other services which a board or commission named in division (A) of this section delegates to the agency and the agency accepts.

(3) The agency may perform any service for any professional or occupational licensing board not named in division (A) of this section or any commission if the board or commission requests such service and the agency accepts.

(C) The director of administrative services shall be the appointing authority for the agency.

(D) The agency shall determine the fees to be charged to the boards and commissions, which shall be in proportion to the services performed for each board or commission.

(E) Each board or commission named in division (A) of this section and any other board or commission requesting services from the agency shall pay these fees to the agency from the general revenue fund maintenance account of the board or commission or from such other fund as the operating expenses of the board or commission are paid. Any amounts set aside for a fiscal year by a board or commission to allow for the payment of fees shall be used only for the services performed by the agency in that fiscal year. All receipts collected by the agency shall be deposited in the state treasury to the credit of the central service agency fund, which is hereby created. All expenses incurred by the agency in performing services for the boards or commissions shall be paid from the fund.

(F) Nothing in this section shall be construed as a grant of authority for the central service agency to initiate or deny personnel or fiscal actions for the boards and commissions.

Sec. 125.28. Each state agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in the James A. Rhodes or Frank J. Lausche state office tower, Toledo government center, Senator Oliver R. Ocasek government office building, Vern Riffe center for government and the arts, state of Ohio ~~data~~computer center, capitol square, or governor's mansion shall reimburse the general revenue fund for the cost of occupying such space in the ratio that the occupied space in each facility attributable to such money bears to the total space occupied by the state agency in the facility.

All agencies that occupy space in ~~facilities owned or maintained by the department of administrative services, except the state of Ohio data center and governor's mansion,~~ the old blind school, the Ohio departments building, or the general services facility shall reimburse the department for the cost of occupying such space. ~~All~~ The Director of Administrative services shall determine the amount of debt service, if any, to be charged to building tenants and shall collect reimbursements therefor.

Each agency that is supported in whole or in part by nongeneral revenue fund money and that occupies space in any other facility or facilities owned and maintained by the department of Administrative Services shall reimburse the Department for the cost of occupying such space, including debt service, if any, in the ratio that the occupied space in each facility attributable to such money bears to the total space occupied by the state agency in the facility.

The director of administrative services may provide building maintenance services to any state agency occupying space in a facility not owned by the department of administrative services and collect

reimbursements for the cost of providing such services.

All money collected by the department for operating expenses of facilities owned or maintained by the department shall be deposited into the state treasury to the credit of the ~~building maintenance~~ facilities management fund, which is hereby created. ~~All other reimbursements shall be deposited into the general revenue fund.~~ All money collected for debt service shall be deposited into the general revenue fund.

The director of administrative services shall determine the reimbursable cost of space in state-owned or state-leased facilities ~~on the basis of costs for comparable space in privately owned facilities,~~ and shall collect reimbursements therefor.

Sec. 125.42. (A) No officer, board, or commission, except the clerk of the senate and the executive secretary of the house of representatives as to first and second class printing, shall print or cause to be printed at the public expense, any report, bulletin, document, or pamphlet, unless such report, bulletin, document, or pamphlet is first submitted to, and the printing thereof approved by, the department of administrative services. If such department approves the printing, it shall determine the form of such printing and the number of copies.

If such approval is given, the department shall cause the same to be printed and bound as provided by sections 125.47 to 125.56 of the Revised Code, except as otherwise provided by section 125.45 of the Revised Code; and when printed, such publications or forms shall be delivered to the ordering officer, board, commission, or department, or sold at a price not to exceed the total cost.

(B) The department of administrative services annually shall set a maximum cost per page and a maximum total cost for the printing by any board, commission, council, or other public body of the state of any annual report or any other report that it is required by law to produce. No board, commission, council, or other public body of the state shall expend or incur the expenditure of any amount in excess of these maximum amounts without the prior approval of the department. This division does not apply to the general assembly or any court.

Sec. 125.83. The department of administrative services shall maintain in the city of Columbus a reasonable supply of motor vehicles designed to carry passengers which shall be made available for the use of any state agency needing transportation facilities of an intermittent or temporary nature. The director of administrative services shall fix the rates of charge for the use of such motor vehicles at a level sufficient to operate, maintain, and replace the fleet of vehicles. Such charges shall be collected by the

director and deposited in the state treasury to the credit of the ~~transportation services~~fleet management fund, which is hereby created. The vehicles shall be used only with the permission of the appointing authority and the director. A record of such use shall be kept by the director. The director shall calculate at least once each year a cost per mile of operation for each motor vehicle in the fleet.

Sec. 125.831. The director of administrative services shall establish and operate a fleet management program. The director shall operate the fleet management program for purposes including, but not limited to, cost-effective acquisition, maintenance, management, and disposal of all vehicles owned or leased by the state. This section does not apply to any state-supported institution of higher education, the general assembly or any legislative agency, or any court or judicial agency.

Each administrative department head listed in section 121.03 of the Revised Code, the adjutant general, the chancellor of the Ohio board of regents, the ~~chairman~~ chairperson of the industrial commission, the administrator of workers' compensation, the director of the state lottery commission, the superintendent of public instruction, and the ~~chairman~~ chairperson of the public utilities commission of Ohio is entitled to receive a vehicle allowance to secure or lease transportation for that person's use in the scope of that person's employment or official duties.

The director of administrative services may establish a fleet reporting system and may require state departments, agencies, institutions, commissions, and boards to submit information relative to state vehicles to be used in operating the fleet management program. All requests for the purchase or lease of vehicles are subject to approval by the director prior to acquisition.

The director may promulgate rules and procedures for implementing the state fleet management program. The fleet management program shall be supported by reasonable fees charged for the services provided. Such fees shall be collected by the director and deposited in the state treasury to the credit of the ~~transportation services~~ fleet management fund created by section 125.83 of the Revised Code.

Sec. 125.87. Transferees, recipients, and entities referred to in sections 125.84 to 125.90 of the Revised Code shall be required to pay to the department of administrative services such service charges or fees as the department may require in connection with federal property acquired, warehoused, distributed, transferred, conveyed, or reconveyed by ~~such~~ the department and may be required to pay service charges or fees, if any, on property recaptured, reverted, or disposed of by ~~such~~ the department when

such action pertains to that property on which title is restricted by: the United States; the rules or orders of the department; the rules issued in conformance with section 5502.25 of the Revised Code; or ~~by~~ sections 125.84 to 125.90 of the Revised Code. All service charges or fees collected by the department under this section shall be paid into the state treasury to the credit of the investment recovery fund created under section 125.14 of the Revised Code.

Sec. 126.07. No contract, agreement, or obligation involving the expenditure of money chargeable to an appropriation, nor any resolution or order for the expenditure of money chargeable to an appropriation, shall be valid and enforceable unless the director of budget and management first certifies that there is a balance in the appropriation not already obligated to pay existing obligations, in an amount at least equal to the portion of the contract, agreement, obligation, resolution, or order to be performed in the current fiscal year. Any written contract or agreement entered into by the state shall contain a clause stating that the obligations of the state are subject to this section.

In order to make a payment from the state treasury, a state agency shall first submit to the director all invoices, claims, vouchers, and other evidentiary matter related to the payment. If the director approves payment to be made, ~~he~~ the director shall submit the approval to the auditor of state for the drawing of a warrant as provided in section 117.45 of the Revised Code. The director shall not approve payment to be made if ~~he~~ the director finds that there is not an unobligated balance in the appropriation for the payment, that the payment is not for a valid claim against the state that is legally due, or that insufficient evidentiary matter has been submitted. If the director does not approve payment, ~~he~~ the director shall notify the agency of the reasons ~~he~~ the director has not given approval.

In approving payments to be made under this section, the director, upon receipt of certification from the administrator of the bureau of employment services pursuant to section 4141.231 of the Revised Code, shall withhold from amounts otherwise payable to a person who is the subject of the administrator's certification, the amount certified to be due and unpaid to the bureau of employment services, and shall approve for payment to the bureau of employment services, the amount withheld.

Sec. 126.12. (A) ~~"The state clearinghouse for applications for federal funds" is hereby created within the office of budget and management. Every state agency that applies for direct or indirect federal funds shall submit a copy of its application, and a copy of each modification or amendment to such application, to the state clearinghouse at the same time the agency~~

~~submits such items to the federal funding agency or grantor state agency. The clearinghouse shall do all of the following:~~

~~(1) Review state agencies' applications for federal grants;~~

~~(2) Compile and analyze data received from state and local governments and private organizations applying for federal grants;~~

~~(3) Maintain an information system on federal grants;~~

~~(4) Serve as the governor's designation as Ohio's single point of contact with federal agencies in order to implement executive order number 12372 of the president of the United States, any amendments thereto, and any subsequent related orders;~~

~~(5) Prepare~~ The office of budget and management shall prepare and administer a statewide indirect cost allocation plan that provides for the recovery of statewide indirect costs from any fund of the state. The

~~(B) The~~ director of budget and management may make transfers of statewide indirect costs from the appropriate fund of the state to the general revenue fund on an intrastate transfer voucher. The director ~~may also~~, for reasons of sound financial management, also may waive the recovery of statewide indirect costs. Prior to making a transfer in accordance with this division, the director shall notify the affected agency of the amounts to be transferred.

~~(C)~~(B) As used in this section, "statewide indirect costs" means operating costs incurred by an agency in providing services to any other agency, for which there was no billing to such other agency for the services provided, and for which disbursements have been made from the general revenue fund.

90-day

SECTION Sec. 126.14. The release of any money appropriated for the purchase of real estate shall be approved by the controlling board. The release of money appropriated for all other capital projects is also subject to the approval of the controlling board, except that the director of budget and management may approve the release of money appropriated for specific projects in accordance with the requirements of this section.

Within sixty days after the effective date of any act appropriating money for capital projects, the director shall determine which appropriations are for general projects and which are for specific projects. Specific projects may include specific higher education projects that are to be funded from general purpose appropriations from the higher education improvements fund created in section 154.21 of the Revised Code. Upon determining which projects are general and which are specific, the director shall submit to the controlling board a list that includes a brief description of and the estimated

expenditures for each specific project. The release of money for any specific higher education projects that are to be funded from general purpose appropriations from the higher education improvements fund but that are not included on the list, and the release of money for any specific higher education projects included on the list that will exceed the estimated expenditures by more than ten per cent, are subject to the approval of the controlling board.

Sec. 126.21. The director of budget and management shall do all of the following:

(A) Keep all necessary accounting records;

(B) Prescribe and maintain the accounting system of the state and establish appropriate accounting procedures and charts of accounts;

(C) Establish procedures for the use of written, electronic, optical, or other communications media for approving payment vouchers;

(D) Reconcile, in the case of any variation between the amount of any appropriation and the aggregate amount of items thereof, with the advice and assistance of the state agency affected thereby and the legislative budget office of the legislative service commission, totals so as to correspond in the aggregate with the total appropriation. In the case of a conflict between the item and the total of which it is a part, the item shall be considered the intended appropriation.

~~(D)~~(E) Evaluate on an ongoing basis and, if necessary, recommend improvements to the internal controls used in state agencies;

~~(E)~~(F) Authorize the establishment of petty cash accounts. The director of budget and management may withdraw approval for any petty cash account and require the officer in charge to return to the state treasury any unexpended balance shown by the officer's accounts to be on hand. Any officer who is issued a warrant for petty cash shall render a detailed account of the expenditures of such petty cash and shall report when requested the balance of petty cash on hand at any time.

~~(F)~~(G) Process orders, invoices, vouchers, claims, and payrolls and prepare financial reports and statements;

~~(G)~~(H) Perform such extensions, reviews, and compliance checks prior to approving a payment as the director considers necessary;

~~(H)~~(I) Issue the official comprehensive annual financial report of the state. The report shall cover all funds and account groups of the state reporting entity and shall include general purpose financial statements prepared in accordance with generally accepted accounting principles and such other information as the director provides. All state agencies, authorities, institutions, offices, retirement systems, and other component

units of the state reporting entity as determined by the director shall furnish the director whatever financial statements and other information the director requests for the report, in such form, at such times, covering such periods, and with such attestation as the director prescribes. The information for state institutions of higher education, as such term is defined in section 3345.011 of the Revised Code, shall be submitted to the director by the Ohio board of regents. The board shall establish a due date by which each such institution shall submit the information to the board, but no such date shall be later than one hundred twenty days after the end of the state fiscal year unless a later date is approved by the director.

Sec. 126.26. The director of budget and management, when serving as ~~chairman~~chairperson of the gubernatorial transition committee appointed under section 107.29 of the Revised Code, shall:

(A) Make available to the governor-elect all the information the office of budget and management has concerning the income and revenues of the state and the state budget, and assign one or more employees of the office to assist the governor-elect in ~~his~~ the governor-elect's study of the information;

(B) In consultation with the director of administrative services, assign and make available office space sufficient to accommodate the governor-elect and ~~his~~ the governor-elect's immediate staff pending ~~his~~ the governor-elect's inauguration as governor;

(C) As necessary, direct any state agency to furnish such information as may be necessary to the governor, the governor-elect, or the gubernatorial transition committee;

(D) Preside as ~~chairman~~ chairperson at all meetings of the gubernatorial transition committee;

(E) Pay the reasonable and necessary expenses incurred by or on behalf of the governor-elect from moneys appropriated for that purpose under section 107.30 of the Revised Code.

Sec. 127.16. (A) Upon the request of either a state agency or the director of budget and management and after the controlling board determines that an emergency or a sufficient economic reason exists, the controlling board may approve the making of a purchase without competitive selection as provided in division (B) of this section.

(B) Except as otherwise provided in this section, no state agency, using money that has been appropriated to it directly, shall:

(1) Make any purchase from a particular supplier, that would amount to fifty thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for purchases made by the agency and the amount of all outstanding encumbrances for purchases

made by the agency from the supplier, unless the purchase is made by competitive selection or with the approval of the controlling board;

(2) Lease real estate from a particular supplier, if the lease would amount to seventy-five thousand dollars or more when combined with both the amount of all disbursements to the supplier during the fiscal year for real estate leases made by the agency and the amount of all outstanding encumbrances for real estate leases made by the agency from the supplier, unless the lease is made by competitive selection or with the approval of the controlling board.

(C) Any person who authorizes a purchase in violation of division (B) of this section shall be liable to the state for any state funds spent on the purchase, and the attorney general shall collect the amount from the person.

(D) Nothing in division (B) of this section shall be construed as:

(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;

(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code, payments for services provided prior to July 17, 1995, under general assistance medical assistance established under former Chapter 5113. of the Revised Code, or payments or provider agreements under disability assistance medical assistance established under Chapter 5115. of the Revised Code;

(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;

(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the legislative clerk of the house of representatives and the clerk of the senate following the close of the fair;

(5) Limiting the authority of the chief of the division of mines and reclamation to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;

(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in

a form and at such times as the board considers appropriate.

(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code;

(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security administration;

(9) Applying to payments by the department of human services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;

(10) Applying to any agency of the legislative branch of the state government;

(11) Applying to agreements entered into under section 5101.11 of the Revised Code;

(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;

(13) Applying to dues or fees paid for membership in an organization or association;

(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;

(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;

(16) Applying to purchases of tickets for passenger air transportation;

(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;

(18) Applying to the judicial branch of state government;

(19) Applying to purchases of liquor for resale by the department or, on and after July 1, 1997, the division of liquor control;

(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;

(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;

(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;

(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;

(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(26) Applying to payments by the department of human services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;

(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5111.252 of the Revised Code;

(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;

(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the REVISED CODE. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.35. (A) With respect to the federal funds received into any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any federal funds, whether such funds are advanced prior to expenditure or as reimbursement, unless such expenditures are made pursuant to specific appropriations of the general assembly identifying the federal program that is the source of funds, are authorized pursuant to section 131.38 of the Revised Code, are authorized by the controlling board pursuant to division (A)(5) of this section, or are ~~made pursuant to~~ authorized by an executive order issued in accordance with section 107.17 of the Revised Code, and until an allotment has been approved by the director of budget and management. All federal funds received by a state agency shall be reported to the director within fifteen days of the receipt of such funds or the notification of award, whichever occurs first. The director shall prescribe the forms and procedures to be used when reporting the receipt of federal ~~receipts~~ funds.

(2) ~~If the federal funds received are less than the amount of such funds appropriated by the general assembly for a specific purpose, the total appropriation of federal and state funds for such purpose shall be reduced in proportion to the amount of reduction in federal funds.~~

~~(3)~~ If the federal funds received are greater than the amount of such funds appropriated by the general assembly for a specific purpose, the total appropriation of federal and state funds for such purpose shall remain at the amount designated by the general assembly, except that the expenditure of federal funds received in excess of such specific appropriation may be authorized by the controlling board.

~~(4)~~(3) To the extent that the expenditure of excess federal funds is authorized, the controlling board may transfer a like amount of general revenue fund appropriation authority from the affected agency to the emergency purposes appropriation of the controlling board, if such action is permitted under federal regulations.

~~(5)~~(4) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

Controlling board authorization for a state agency to make an expenditure of federal funds under division (A)(1) of this section constitutes authority for the agency to participate in the federal program providing the funds, and the agency is not required to obtain an executive order under section 107.17 of the Revised Code to participate in the federal program.

(B) With respect to nonfederal funds received into the waterways safety

fund, the wildlife fund, and any fund of the state from which transfers may be made under division (D) of section 127.14 of the Revised Code:

(1) No state agency may make expenditures of any such funds unless the expenditures are made pursuant to specific appropriations of the general assembly.

(2) If the receipts received into any fund are greater than the amount appropriated, the appropriation for that fund shall remain at the amount designated by the general assembly or as increased and approved by the controlling board.

(3) Additional funds may be created by the controlling board to receive revenues not anticipated in an appropriations act for the biennium in which such new revenues are received. Expenditures from such additional funds may be authorized by the controlling board, but such authorization shall not extend beyond the end of the biennium in which such funds are created.

(C) The controlling board shall not authorize more than ten per cent of additional spending from the occupational licensing and regulatory fund, created in section 4743.05 of the Revised Code, in excess of any appropriation made by the general assembly to a licensing agency except an appropriation for costs related to the examination or reexamination of applicants for a license. As used in this division, "licensing agency" and "license" have the same meanings as in section 4745.01 of the Revised Code.

Sec. 131.38. Within sixty days after the effective date of a section of any act containing appropriations of federal funds, the director of budget and management shall transmit to the speaker of the house of representatives, the president of the senate, the chairperson of the house committee on finance and appropriations, and the chairperson of the senate finance committee a list, by state agency, that identifies specific federal programs for which federal funds have been appropriated in the act. A state agency is not required to obtain an executive order under section 107.17 of the Revised Code to participate in a federal program appearing on the list.

Sec. 131.41. There is hereby created in the state treasury the human services stabilization fund. The fund shall consist of moneys deposited into it pursuant to acts of the general assembly. The director of budget and management, with advice from the director of human services, may transfer moneys in the human services stabilization fund to the general revenue fund for the department of human services. Moneys may be transferred due to identified shortfalls, such as higher caseloads, federal funding changes, and unforeseen costs due to significant state policy changes. Before transfers are authorized, the director of budget and management shall exhaust the

possibilities for transfers of moneys within the department of human services to meet the identified shortfall. Transfers shall not be used to fund policy changes not contemplated by acts of the general assembly. Any investment earnings of the human services stabilization fund shall be credited to that fund.

Sec. 131.44. (A) As used in this section:

(1) "Surplus revenue" means the excess, if any, of the total fund balance over the required year-end balance.

(2) "Total fund balance" means the sum of the unencumbered balance in the general revenue fund on the last day of the preceding fiscal year plus the balance in the budget stabilization fund.

(3) "Required year-end balance" means the sum of the following:

(a) Five per cent of the general revenue fund revenues for the preceding fiscal year;

(b) "Ending fund balance," which means one-half of one per cent of general revenue fund revenues for the preceding fiscal year;

(c) "Carryover balance," which means, with respect to a fiscal biennium, the excess, if any, of the estimated general revenue fund appropriation and transfer requirement for the second fiscal year of the biennium over the estimated general revenue fund revenue for that fiscal year;

(d) "Capital appropriation reserve," which means the amount, if any, of general revenue fund capital appropriations made for the current biennium that the director of budget and management has determined will be encumbered or disbursed;

(e) "Income tax reduction impact reserve," which means an amount equal to the reduction projected by the director of budget and management in income tax revenue in the current fiscal year attributable to the previous reduction in the income tax rate made by the tax commissioner pursuant to division (B) of section 5747.02 of the Revised Code.

(4) "Estimated general revenue fund appropriation and transfer requirement" means the most recent adjusted appropriations made by the general assembly from the general revenue fund and includes both of the following:

(a) Appropriations made and transfers of appropriations from the first fiscal year to the second fiscal year of the biennium in provisions of acts of the general assembly signed by the governor but not yet effective;

(b) Transfers of appropriation from the first fiscal year to the second fiscal year of the biennium approved by the controlling board.

(5) "Estimated general revenue fund revenue" means the most recent such estimate available to the director of budget and management.

(B)(1) Not later than the thirty-first day of July each year, the director of budget and management shall determine the surplus revenue that existed on the preceding thirtieth day of June~~,~~ and transfer ~~an amount equal to the surplus revenue~~ from the general revenue fund ~~to the income tax reduction fund, which is hereby created in the state treasury~~, to the extent of the unobligated, unencumbered balance ~~in the general revenue fund~~ on the preceding thirtieth day of June in excess of one-half of one per cent of the general revenue fund revenues in the preceding fiscal year, the following:

(a) First, to the budget stabilization fund, any amount necessary for the balance of the budget stabilization fund to equal five per cent of the general revenue fund revenues of the preceding fiscal year;

(b) Then, to the income tax reduction fund, which is hereby created in the state treasury, an amount equal to the surplus revenue.

~~(3)~~(2) Not later than the thirty-first day of July each year, the director shall determine the percentage that the balance in the income tax reduction fund is of the amount of revenue that the ~~legislative budget office~~ director estimates will be received from the tax levied under section 5747.02 of the Revised Code in the current fiscal year without regard to any reduction under division (B) of that section. If that percentage exceeds thirty-five one hundredths of one per cent, the director shall certify the percentage to the tax commissioner not later than the thirty-first day of July.

(C) The director of budget and management shall transfer money in the income tax reduction fund to the general revenue fund, the local government fund, the library and local government support fund, and the local government revenue assistance fund as necessary to offset revenue reductions resulting from the reductions in taxes required under division (B) of section 5747.02 of the Revised Code in the respective amounts and percentages prescribed by divisions (A)(1), (2), and (4) of section 5747.03 of the Revised Code as if the amount transferred had been collected as taxes under Chapter 5747. of the Revised Code. If no reductions in taxes are made under that division that affect revenue received in the current fiscal year, the director shall not transfer money from the income tax reduction fund to the general revenue fund, the local government fund, the library and local government support fund, and the local government revenue assistance fund.

Sec. 135.142. (A) In addition to the investments authorized by section 135.14 of the Revised Code, any board of education, by a two-thirds vote of its members, may authorize the treasurer of the board of education to invest up to twenty-five per cent of the interim moneys of the board, available for investment at any one time, in either of the following:

(1) Commercial paper notes issued by any ~~corporation for profit that is~~

~~incorporated under the laws of the United States or any state~~ entity that is defined in division (D) of section 1705.01 of the Revised Code and has assets exceeding five hundred million dollars, and to which notes all of the following apply:

(a) The notes are rated at the time of purchase in the highest classification established by at least two standard rating services;

(b) The aggregate value of the notes does not exceed ten per cent of the aggregate value of the outstanding commercial paper of the issuing corporation;

(c) The notes mature no later than one hundred eighty days after purchase.

(2) Bankers' acceptances of banks that are members of the federal deposit insurance corporation to which obligations both of the following apply:

(a) The obligations are eligible for purchase by the federal reserve system;

(b) The obligations mature no later than one hundred eighty days after purchase.

(B) No investment authorized pursuant to division (A) of this section shall be made, whether or not authorized by a board of education, unless the treasurer of the board of education has completed additional training for making the types of investments authorized pursuant to division (A) of this section. The type and amount of such training shall be approved and may be conducted by or provided under the supervision of the auditor of state.

(C) The treasurer of the board of education shall prepare annually and submit to the board of education, the superintendent of public instruction, and the auditor of state, on or before the thirty-first day of August, a report listing each investment made pursuant to division (A) of this section during the preceding fiscal year, income earned from such investments, fees and commissions paid pursuant to division (D) of this section, and any other information required by the board, the superintendent, and the auditor of state.

(D) A board of education may make appropriations and expenditures for fees and commissions in connection with investments made pursuant to division (A) of this section.

(E)(1) In addition to the investments authorized by section 135.14 of the Revised Code and division (A) of this section, any board of education that is a party to an agreement with the treasurer of state pursuant to division (G) of section 135.143 of the Revised Code and that has outstanding obligations issued under authority of section 133.10 or 133.301 of the Revised Code

may authorize the treasurer of the board of education to invest interim moneys of the board in debt interests rated in either of the two highest rating classifications by at least two nationally recognized rating agencies and issued by ~~corporations~~ entities that are ~~incorporated under the laws of the United States or a state~~ defined in division (D) of section 1705.01 of the Revised Code. The debt interests purchased under authority of division (E) of this section shall mature not later than the latest maturity date of the outstanding obligations issued under authority of section 133.10 or 133.301 of the Revised Code.

(2) If any of the debt interests acquired under division (E)(1) of this section ceases to be rated as there required, its issuer shall notify the treasurer of state of this fact within twenty-four hours. At any time thereafter the treasurer of state may require collateralization at the rate of one hundred two per cent of any remaining obligation of the entity, with securities authorized for investment under section 135.143 of the Revised Code. The collateral shall be delivered to and held by a custodian acceptable to the treasurer of state, marked to market daily, and any default to be cured within twelve hours. Unlimited substitution shall be allowed of comparable securities.

Sec. 145.73. (A) The Ohio public employees deferred compensation board shall initiate, plan, expedite, and, subject to an appropriate assurance of the approval of the internal revenue service, promulgate and offer to all eligible employees, and thereafter administer on behalf of all participating employees and continuing members, and alter as required, a program for deferral of compensation, including a reasonable number of options to the employee for the investment of deferred funds, including life insurance, annuities, variable annuities, ~~regulated investment trusts,~~ pooled investment funds managed by the board, or other forms of investment approved by the board, always in such form as will assure the desired tax treatment of such funds. The members of the Ohio public employees deferred compensation board are the trustees of any deferred funds and shall discharge their duties with respect to the funds solely in the interest of and for the exclusive benefit of participating employees, continuing members, and their beneficiaries. With respect to such deferred funds, section 145.75 of the Revised Code shall apply to claims against participating employees or continuing members and their employers.

(B) Every employer of an eligible employee shall contract with such employee upon the employee's application for ~~his~~ participation in a deferred compensation program offered by the board. Every retirement system serving an eligible employee shall serve as collection agent for

sation deferred by any of its members and account for and deliver such sums to the board.

(C) The board shall, subject to any applicable contract provisions, undertake to obtain as favorable conditions of tax treatment as possible, both in the initial programs and any permitted alterations thereof or additions thereto, as to such matters as terms of distribution, designation of beneficiaries, withdrawal upon disability, financial hardship, or termination of public employment, and other optional provisions.

(D) In no event shall the total of the amount of deferred compensation to be set aside under a deferred compensation program and the employee's nondeferred income for any year exceed the total annual salary or compensation under the existing salary schedule or classification plan applicable to such employee in such year.

Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employees of this state. The board shall adopt rules pursuant to Chapter 119. of the Revised Code to provide any necessary standards or conditions for the administration of its programs, including any limits on the portion of a participating employee's compensation that may be deferred in order to avoid adverse treatment of the program by the internal revenue service or the occurrence of deferral, withholding, or other deductions in excess of the compensation available for any pay period.

Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the contributions to and benefits from the retirement system of such employee. Any sum so deferred shall not be included in the computation of any federal and state income taxes withheld on behalf of any such employee.

(E) This section does not limit the authority of any municipal corporation, county, township, park district, conservancy district, sanitary district, health district, public library, county law library, public institution of higher education, or school district to provide separate authorized plans or programs for deferring compensation of their officers and employees in addition to the program for the deferral of compensation offered by the board. Any municipal corporation, public institution of higher education, or school district that offers such plans or programs shall include a reasonable number of options to its officers or employees for the investment of the deferred funds, including annuities, variable annuities, regulated investment trusts, or other forms of investment approved by the municipal corporation, institution of higher education, or school district, that will assure the desired tax treatment of the funds.

Sec. 149.303. (A)(1) There is hereby created the national museum of Afro-American history and culture planning committee to advise the Ohio historical society in the performance of its duties pursuant to section 149.302 of the Revised Code. The committee shall consist of sixteen voting members appointed by the governor with the advice and consent of the senate, and the nonvoting members appointed under division (A)(2) of this section. Each of the following organizations shall submit to the governor a list of three nominees, and the governor shall appoint one member from each such list:

~~(A)~~(a) Association for the study of Afro-American life and history;

~~(B)~~(b) Central state university;

~~(C)~~(c) Congressional black caucus;

~~(D)~~(d) Greene county historical society;

~~(E)~~(e) National association for the advancement of colored people;

~~(F) National association of media women;~~

~~(G) National caucus of black school board members;~~

~~(H) National caucus of the black aged;~~

~~(I)~~(f) National council of Negro women;

~~(J) National education association black caucus;~~

~~(K)~~(g) National newspaper publishers association;

~~(L)~~(h) National urban league;

~~(M)~~(i) Ohio historical society;

~~(N)~~(j) Organization of American historians;

~~(O)~~(k) Society of American archivists;

~~(P)~~(l) Wilberforce university.

The governor shall appoint the remaining four voting members from the public at large.

As the term of a member appointed ~~in this manner~~ from a list of nominees submitted by an organization under divisions (A)(1)(a) to (l) of this section expires, the governor shall make an appointment from a list of nominations submitted by the same organization that submitted the nominations from which the outgoing member was appointed. ~~One~~

(2) One member of the house of representatives designated by the speaker of the house of representatives and one member of the senate designated by the president of the senate shall serve as nonvoting members of the committee.

(3) As the term of a member expires, the member's successor shall be appointed by the governor, with the advice and consent of the senate. Such terms shall be for four years, commencing on the first day of February and ending on the thirty-first day of January. Each member shall hold office

from the date of appointment until the end of the term for which the member was appointed. In the event of the death, removal, resignation, or incapacity of a member, the governor, with the advice and consent of the senate, shall appoint a successor in the same manner specified in this section for the appointment of members to full terms. Any member appointed to fill a vacancy occurring prior to the end of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The governor may remove any appointed member for misfeasance, nonfeasance, or malfeasance in office.

(B)(1) From its membership, the committee shall select a chairperson and vice-chairperson. All members of the committee shall serve without compensation, but may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The expenses of the committee shall be paid out of the appropriated subsidy to the Ohio historical society.

(2) The committee shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the chairperson, and shall be called upon a written request therefor signed by five or more members. A written notice of the time and place of each meeting shall be sent to each member. A majority of the members of the committee shall constitute a quorum.

(3) The Ohio historical society may provide any necessary staff or services required by the advisory committee in the performance of its duties. Compensation for such services shall be paid out of the appropriated subsidy to the society.

(C) The committee may accept donations of historical items and artifacts for placement in the national museum of Afro-American history and culture, and shall house such items and artifacts at the Ohio historical society until the museum is established. After the establishment of the museum, the committee shall convey all such donated items and artifacts to the private, nonprofit organization to which the Ohio historical society has conveyed the museum and its contents, as provided in section 149.302 of the Revised Code. All such historical items and artifacts so conveyed shall remain at the museum as part of its permanent collection. The committee shall advise the organization to which the society has conveyed the museum and its contents, concerning the operation and maintenance of the museum.

Sec. 164.08. (A) Except as provided in section 164.09 of the Revised

Code, the net proceeds of obligations issued and sold by the treasurer of state pursuant to section 164.09 of the Revised Code for the purpose of financing or assisting in the financing of the cost of public infrastructure capital improvement projects of local subdivisions, as provided for in Section 2k or 2m of Article VIII, Ohio Constitution, and this chapter, shall be paid into the state capital improvements fund, which is hereby created in the state treasury. Investment earnings on moneys in the fund shall be credited to the fund.

(B) Each program year the amount of obligations authorized by the general assembly in accordance with section 164.09 of the Revised Code, excluding the proceeds of refunding or renewal obligations, shall be allocated by the director of the Ohio public works commission as follows:

(1) First, twelve million dollars of the amount of obligations authorized shall be allocated to provide financial assistance to villages and to townships with populations in the unincorporated areas of the township of less than five thousand persons, for capital improvements in accordance with section 164.051 and division (D) of section 164.06 of the Revised Code. As used in division (B)(1) of this section, "capital improvements" includes resurfacing and improving roads.

(2) Following the allocation required by division (B)(1) of this section, the director may allocate two million five hundred thousand dollars of the authorized obligations to provide financial assistance to local subdivisions for capital improvement projects which in the judgment of the director of the Ohio public works commission are necessary for the immediate preservation of the health, safety, and welfare of the citizens of the local subdivision requesting assistance.

(3) For the second, third, fourth, and fifth years that obligations are authorized and are available for allocation under this chapter, one million dollars shall be allocated to the sewer and water fund created in section 1525.11 of the Revised Code. Money from this allocation shall be transferred to that fund when needed to support specific payments from that fund.

(4) For program years twelve and fourteen that obligations are authorized and available for allocation under this chapter, two million dollars each program year shall be allocated to the small county capital improvement program for use in providing financial assistance under division (F) of section 164.02 of the Revised Code.

(5) After the allocation required by division (B)(3) of this section is made, the director shall determine the amount of the remaining obligations authorized to be issued and sold that each county would receive if such

amounts were allocated on a per capita basis each year. If a county's per capita share for the year would be less than three hundred thousand dollars, the director shall allocate to the district in which that county is located an amount equal to the difference between three hundred thousand dollars and the county's per capita share.

(6) After making the allocation required by division (B)(5) of this section, the director shall allocate the remaining amount to each district on a per capita basis.

(C)(1) There is hereby created in the state treasury the state capital improvements revolving loan fund, into which shall be deposited all repayments of loans made to local subdivisions for capital improvements pursuant to this chapter. Investment earnings on moneys in the fund shall be credited to the fund.

(2) There may also be deposited in the state capital improvements revolving loan fund moneys obtained from federal or private grants, or from other sources, which are to be used for any of the purposes authorized by this chapter. Such moneys shall be allocated each year in accordance with division (B)(6) of this section.

(3) Moneys deposited into the state capital improvements revolving loan fund shall be used to make loans for the purpose of financing or assisting in the financing of the cost of capital improvement projects of local subdivisions.

(4) Investment earnings credited to the state capital improvements revolving loan fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements shall be used to pay costs incurred by the public works commission in administering this section. Investment earnings credited to the state capital improvements revolving loan fund that exceed the amounts required to pay for the administrative costs and estimated rebate requirements shall be allocated to each district on a per capita basis.

(5) Each program year, loan repayments received and on deposit in the state capital improvements revolving loan fund shall be allocated as follows:

(a) Each district public works integrating committee shall be allocated an amount equal to the sum of all loan repayments made to the state capital improvements revolving loan fund by local subdivisions that are part of the district. Moneys not used in a program year may be used in the next program year in the same manner and for the same purpose as originally allocated.

(b) Loan repayments made pursuant to projects approved under division (B)(1) of this section shall be used to make loans in accordance with section

164.051 and division (D) of section 164.06 of the Revised Code. Allocations for this purpose made pursuant to division (C)(5) of this section shall be in addition to the allocation provided in division (B)(1) of this section.

(c) Loan repayments made pursuant to projects approved under division (B)(2) of this section shall be used to make loans in accordance with division (B)(2) of this section. Allocations for this purpose made pursuant to division (C)(5) of this section shall be in addition to the allocation provided in division (B)(2) of this section.

(d) Loans made from the state capital improvements revolving loan fund shall not be limited in their usage by divisions (E), (F), (G), (H), and (I) of section 164.05 of the Revised Code.

(D) Investment earnings credited to the state capital improvements fund that exceed the amounts required to meet estimated federal arbitrage rebate requirements shall be used to pay costs incurred by the public works commission in administering sections 164.01 to ~~164.13~~ 164.12 of the Revised Code.

(E) The director of the Ohio public works commission shall notify the director of budget and management of the amounts allocated pursuant to this section and such information shall be entered into the state accounting system. The director of budget and management shall establish appropriation line items as needed to track these allocations.

(F) If the amount of a district's allocation in a program year exceeds the amount of financial assistance approved for the district by the commission for that year, the remaining portion of the district's allocation shall be added to the district's allocation pursuant to division (B) of this section for the next succeeding year for use in the same manner and for the same purposes as it was originally allocated, except that any portion of a district's allocation which was available for use on new or expanded infrastructure pursuant to division (H) of section 164.05 of the Revised Code shall be available in succeeding years only for the repair and replacement of existing infrastructure.

(G) When an allocation based on population is made by the director pursuant to division (B) of this section, the director shall use the most recent decennial census statistics, and shall not make any reallocations based upon a change in a district's population.

Sec. 164.09. (A) The issuer is authorized to issue and sell, as provided in this section and in amounts from time to time authorized by the general assembly, general obligations of this state for the purpose of financing or assisting in the financing of the costs of public infrastructure capital improvements for local subdivisions. The full faith and credit, revenues, and

taxing power of the state are and shall be pledged to the timely payment of bond service charges on outstanding obligations, all in accordance with Section 2k or 2m of Article VIII, Ohio Constitution and sections 164.09 to 164.12 of the Revised Code, excluding from that pledge fees, excises, or taxes relating to the registration, operation, or use of vehicles on the public highways, or to fuels used for propelling those vehicles, and so long as such obligations are outstanding there shall be levied and collected excises and taxes, excluding those excepted above, in amounts sufficient to pay the bond service charges on such obligations and costs relating to credit facilities.

(B)(1) The total principal amount of obligations issued pursuant to Section 2k of Article VIII, Ohio Constitution shall not exceed one billion two hundred million dollars, and not more than one hundred twenty million dollars in principal amount of obligations may be issued in any calendar year, all determined as provided in sections 164.09 to ~~164.13~~ 164.12 of the Revised Code.

(2) The total principal amount of obligations issued for the purposes of this section pursuant to ~~section~~ Section 2m of Article VIII, Ohio Constitution, shall not exceed one billion two hundred million dollars. Not more than one hundred twenty million dollars in principal amount of such obligations, plus the principal amount of such obligations that in any prior fiscal years could have been but were not issued within the one-hundred-twenty-million-dollar fiscal year limit, may be issued in any fiscal year. No obligations shall be issued for the purposes of this section pursuant to Section 2m of Article VIII, Ohio Constitution, until at least one billion one hundred ninety-nine million five hundred thousand dollars aggregate principal amount of obligations have been issued pursuant to Section 2k of Article VIII, Ohio Constitution. The amounts specified under division (B)(2) of this section shall be determined as provided in sections 164.09 to ~~164.13~~ 164.12 of the Revised Code.

(C) Each issue of obligations shall be authorized by order of the issuer. The bond proceedings shall provide for the principal amount or maximum principal amount of obligations of an issue, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding the earlier of thirty years from the date of issuance of the particular obligations or thirty years from the date the debt represented by the particular obligations was originally contracted, the interest rate or rates, the date of and the dates of payment of interest on the obligations, their denominations, and the establishment within or without the state of a place or places of payment of bond service charges. Sections 9.96 and 9.98 to 9.983 of the Revised Code are applicable to the obligations. The

purpose of the obligations may be stated in the bond proceedings as "financing or assisting in the financing of local subdivisions capital improvement projects."

(D) The proceeds of the obligations, except for any portion to be deposited in special funds, or in escrow funds for the purpose of refunding outstanding obligations, all as may be provided in the bond proceedings, shall be deposited to the state capital improvements fund established by section 164.08 of the Revised Code.

(E) The issuer may appoint paying agents, bond registrars, securities depositories, and transfer agents, and may retain the services of financial advisers and accounting experts, 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 in the issuer's judgment to carry out sections 164.01 to 164.12 of the Revised Code. Financing costs are payable, as provided in the bond proceedings, from the proceeds of the obligations, from special funds, or from other moneys available for the purpose.

(F) The bond proceedings, including any trust agreement, may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations, including but not limited to:

(1) The redemption of obligations prior to maturity at the option of the state or of the holder or upon the occurrence of certain conditions at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(2) The form of and other terms of the obligations;

(3) The establishment, deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, and provided that any bank or trust company that acts as a depository of any moneys in special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuer;

(4) Any or every provision of the bond proceedings binding upon the issuer and such state agency or local subdivision, 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;

(5) The maintenance of each pledge, any trust agreement, or other instrument comprising part of the bond proceedings until the state has fully

paid or provided for the payment of the bond service charges on the obligations or met other stated conditions;

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

(7) The rights and remedies of the holders of obligations and of the trustee under any trust agreement, and provisions for protecting and enforcing them, including limitations on rights of individual holders of obligations;

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

(9) Provision for the funding, refunding, or advance refunding or other provision for payment of obligations which will then no longer be outstanding for purposes of this section or of the bond proceedings;

(10) Any provision that may be made in bond proceedings or a trust agreement, including provision for amendment of the bond proceedings;

(11) Such other provisions as the issuer determines, including limitations, conditions, or qualifications relating to any of the foregoing;

(12) Any other or additional agreements with the holders of the obligations relating to the obligations or the security for the obligations.

(G) The great seal of the state or a facsimile of that seal may be affixed to or printed on the obligations. The obligations requiring signature by the issuer shall be signed by or bear the facsimile signature of the issuer as provided in the bond proceedings. Any obligations may be signed by the person who, on the date of execution, is the authorized signer although on the date of such obligations such person was not the issuer. In case the person whose signature or a facsimile of whose signature appears on any obligation ceases to be the issuer before delivery of the obligation, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the ~~individual~~ person had remained the member until such delivery, and in case the seal to be affixed to or printed on obligations has been changed after the seal has been affixed to or a facsimile of the seal has been printed on the obligations, that seal or facsimile seal shall continue to be sufficient as to those obligations and obligations issued in substitution or exchange therefor.

(H) The obligations are negotiable instruments and securities under Chapter 1308. of the Revised Code, subject to the provisions of the bond proceedings as to registration. Obligations may be issued in coupon or in

fully registered form, or both, as the issuer determines. Provision may be made for the registration of any obligations with coupons attached 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 of any obligations registered as to both principal and interest, and for reasonable charges for such registration, exchange, conversion, and reconversion. Pending preparation of definitive obligations, the issuer may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(I) Obligations may be sold at public sale or at private sale, and at such price at, above, or below par, as determined by the issuer in the bond proceedings.

(J) In the discretion of the issuer, obligations may be secured additionally by a trust agreement between the state and a corporate trustee which may be any trust company or bank having its principal place of business within the state. Any trust agreement may contain the order authorizing the issuance of the obligations, any provisions that may be contained in the bond proceedings, and other provisions that are customary or appropriate in an agreement of the type.

(K) Except to the extent that their rights are restricted by the bond proceedings, any holder of obligations, or a trustee under 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 the bond proceedings. Such rights include the right to compel the performance of all duties of the issuer and the state. Each duty of the issuer and the issuer's employees, and of each state agency and local public entity and its officers, members, or employees, undertaken pursuant to the bond proceedings, is hereby established as a duty of the issuer, and of each such agency, local subdivision, officer, member, or employee having authority to perform such duty, specifically enjoined by the law and resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the issuer, or the issuer's employees, are not liable in their personal capacities on any obligations or any agreements of or with the issuer relating to obligations or under the bond proceedings.

(L) The issuer may authorize and 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 refunding obligations may be issued in amounts sufficient to pay or to provide for payment of the principal amount, including principal amounts maturing prior to the redemption of the remaining obligations, any

redemption premium, and interest accrued or to accrue to the maturity or redemption date or dates, payable on the refunded obligations, and related financing costs and any expenses incurred or to be incurred in connection with such issuance and refunding. Subject to the bond proceedings therefor, the portion of the proceeds of the sale of refunding obligations issued under this division to be applied to bond service charges on the prior obligations shall be credited to an appropriate separate account in the bond service fund and held in trust for the purpose by the commissioners of the sinking fund or by a corporate trustee. Obligations authorized under this division shall be considered to be issued for those purposes for which such prior obligations were issued, and, except as otherwise provided in sections 164.09 to 164.12 of the Revised Code are subject to the provisions of sections 164.09 to 164.12 of the Revised Code pertaining to other obligations.

(M) The issuer may authorize and issue obligations in the form of bond anticipation notes and renew those notes from time to time by the issuance of new notes. The holders of such notes or appertaining interest coupons have the right to have bond service charges on those notes paid solely from the moneys and special funds that are or may be pledged to the payment of bond service charges on those notes, including the proceeds of such bonds or renewal notes, or both, as the issuer provides in the bond proceedings authorizing the notes. Such notes may be additionally secured by covenants of the issuer to the effect that the issuer and the state will do any or all things necessary for the issuance of bonds or renewal notes in appropriate amount, and apply the proceeds thereof to the extent necessary, to make full and timely payment of the principal of and interest on such notes as provided in such bond proceedings. For such purposes, the issuer may issue bonds or renewal notes in such principal amount and upon such terms as may be necessary to provide moneys to pay when due the principal of and interest on such notes. Except as otherwise provided in sections 164.08 to 164.12 of the Revised Code, notes authorized pursuant to this division are subject to sections 164.08 to 164.12 of the Revised Code pertaining to other obligations.

The issuer in the bond proceedings authorizing the issuance of bond anticipation notes shall set forth for the bonds anticipated by such notes an estimated schedule of annual principal payments for such bonds over a period of thirty years from the earlier of the date of issuance of the notes or the date of original issuance of prior notes in anticipation of those bonds. While the notes are outstanding there shall be deposited, as shall be provided in the bond proceedings for those notes, from the sources authorized for payment of bond service charges on the bonds, amounts

sufficient to pay the principal of the bonds anticipated as set forth in that estimated schedule during the time the notes are outstanding, which amounts shall be used solely to pay the principal of those notes or of the bonds anticipated.

(N) Refunding or renewal obligations issued pursuant to division (L) or (M) of this section shall not be counted against the limitations on principal amount provided for in divisions (B)(1) and (2) of this section, and shall be in addition to the amount authorized by the general assembly as provided for in division (A) of this section, to the extent the principal amount of those obligations does not exceed the then outstanding principal amount of the obligations to be refunded, renewed, or retired. For purposes of this section only, the principal amount of an obligation issued to refund an outstanding obligation is the amount on which interest or interest equivalent is initially calculated and shall not be deemed to include any premium paid by the initial purchaser of such obligation.

(O) Obligations are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, 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 political subdivisions and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the police and firemen's disability and pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(P) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuer only in notes, bonds, or other direct obligations of the United States or of any agency or instrumentality of the United States, in obligations of this state or any political subdivision of this state, in certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions, in the Ohio subdivision's fund established pursuant to section 135.45 of the Revised Code, in no-front-end-load money market mutual funds consisting exclusively of direct obligations of the United States or of an agency or instrumentality of the United States, and in repurchase agreements, including those issued by any fiduciary, secured by direct

obligations of the United States or an agency or instrumentality of the United States, and in collective investment funds established in accordance with section 1111.14 of the Revised Code and consisting exclusively of direct obligations of the United States or of an agency or instrumentality of the United States, notwithstanding division (A)(1)(c) of that section. The income from investments shall be credited to such special funds or otherwise as the issuer determines in the bond proceedings, and the investments may be sold or exchanged at such times as the issuer determines or authorizes.

(Q) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in a special fund shall be disbursed on the order of the issuer, provided that no such order is required for the payment from the bond service fund or other special fund when due of bond service charges or required payments under credit facilities.

(R) The issuer may covenant in the bond proceedings, and any such covenants shall be controlling notwithstanding any other provision of law, that the state and the applicable officers and agencies of the state, including the general assembly, so long as any obligations are outstanding in accordance with their terms, shall maintain statutory authority for and cause to be charged and collected taxes, excises, and other receipts of the state so that the receipts to the bond service fund shall be sufficient in amounts to meet bond service charges and for the establishment and maintenance of any reserves and other requirements, including payment of financing costs, provided for in the bond proceedings.

(S) The obligations, and the transfer of, and the interest and other income from, including any profit made on the sale, transfer, or other disposition of, the obligations shall at all times be free from taxation, direct or indirect, within the state.

(T) Unless a judicial action or proceeding challenging the validity of obligations is commenced by personal service on the treasurer of state prior to the initial delivery of an issue of the obligations, the obligations of that issue and the bond proceedings pertaining to that issue are incontestable and those obligations shall be conclusively considered to be and to have been issued, secured, payable, sold, executed, and delivered, and the bond proceedings relating to them taken, in conformity with law if all of the following apply to the obligations:

(1) They state that they are issued under the provisions of this section and comply on their face with those provisions;

(2) They are issued within the limitations prescribed by this section;

(3) Their purchase price has been paid in full;

(4) They state that all the bond proceedings were held in compliance with law, which statement creates a conclusive presumption that the bond proceedings were held in compliance with all laws, including section 121.22 of the Revised Code, where applicable, and rules.

Sec. 169.02. Subject to division (B) of section 169.01 of the Revised Code, the following constitute unclaimed funds:

(A) ~~Any~~ Except as provided in division (R) of this section, any demand, savings, or matured time deposit account, or matured certificate of deposit, together with any interest or dividend on it, less any lawful claims, ~~which~~ that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(B) Any funds paid toward the purchase of withdrawable shares or other interest in a financial organization, and any interest or dividends on them, less any lawful claims, ~~which~~ that is held or owed by a holder which is a financial organization, unclaimed for a period of five years;

(C) Except as provided in division (A) of section 3903.45 of the Revised Code, moneys held or owed by a holder, including a fraternal association, providing life insurance, including annuity or endowment coverage, unclaimed for five years after becoming payable as established from the records of such holder under any life or endowment insurance policy or annuity contract ~~which~~ that has matured or terminated. An insurance policy, the proceeds of which are payable on the death of the insured, not matured by proof of death of the insured is deemed matured and the proceeds payable if such policy was in force when the insured attained the limiting age under the mortality table on which the reserve is based.

Moneys otherwise payable according to the records of such holder are deemed payable although the policy or contract has not been surrendered as required.

(D) Any deposit made to secure payment or any sum paid in advance for utility services of a public utility and any amount refundable from rates or charges collected by a public utility for utility services held or owed by a holder, less any lawful claims, that has remained unclaimed for five years after the termination of the services for which the deposit or advance payment was made or five years from the date the refund was payable, whichever is earlier;

(E) ~~Any~~ except as provided in division (R) of this section, any certificates, securities as defined in section 1707.01 of the Revised Code, nonwithdrawable shares, other instruments evidencing ownership, or rights to them or funds paid toward the purchase of them, or any dividend, capital credit, profit, distribution, interest, or payment on principal or other sum,

held or owed by a holder, including funds deposited with a fiscal agent or fiduciary for payment of them, unclaimed for five years, except, in the case of instruments representing an ownership interest, unclaimed for seven years.

This division shall not prejudice the rights of fiscal agents or fiduciaries for payment to return the items described in this division to their principals, according to the terms of an agency or fiduciary agreement, but such a return shall constitute the principal as the holder of the items and shall not interrupt the period for computing the time for which the items have remained unclaimed.

In the case of any such funds accruing and held or owed by a corporation under division (E) of section 1701.24 of the Revised Code, such corporation shall comply with this chapter, subject to the limitation contained in section 1701.34 of the Revised Code. The period of time for which such funds have gone unclaimed specified in section 1701.34 of the Revised Code shall be computed, with respect to dividends or distributions, commencing as of the dates when such dividends or distributions would have been payable to the shareholder had such shareholder surrendered ~~his~~ the certificates for cancellation and exchange by the date specified in the order relating to them.

Capital credits of a cooperative which after January 1, 1972, have been allocated to members and which by agreement are expressly required to be paid if claimed after death of the owner are deemed payable, for the purpose of this chapter, fifteen years after either the termination of service by the cooperative to the owner or upon the nonactivity as provided in division (B) of section 169.01 of the Revised Code, whichever occurs later, provided that this provision does not apply if the payment is not mandatory.

(F) Any sum payable on certified checks or other written instruments certified or issued and representing funds held or owed by a holder, less any lawful claims, that are unclaimed for five years, except, in the case of money orders which are not third party bank checks, that are unclaimed for seven years, and in the case of traveler's checks, that are unclaimed for fifteen years, from the date payable, or from the date of issuance if payable on demand.

As used in this division, "written instruments" include, but are not limited to, certified checks, cashier's checks, bills of exchange, letters of credit, drafts, money orders, and traveler's checks.

If there is no address of record for the owner or other person entitled to the funds, such address is presumed to be the address where the instrument was certified or issued.

(G) ~~All~~ Except as provided in division (R) of this section, all moneys, rights to moneys, or other intangible property, arising out of the business of engaging in the purchase or sale of securities, or otherwise dealing in intangibles, less any lawful claims, ~~which~~ that are held or owed by a holder and ~~which~~ are unclaimed for five years from the date of transaction.

(H) Except as provided in division (A) of section 3903.45 of the Revised Code, all moneys, rights to moneys, and other intangible property distributable in the course of dissolution or liquidation of a holder that are unclaimed for one year after the date set by the holder for distribution;

(I) All moneys, rights to moneys, or other intangible property removed from a safe-deposit box or other safekeeping repository located in this state or removed from a safe-deposit box or other safekeeping repository of a holder, on which the lease or rental period has expired, or any amount arising from the sale of such property, less any lawful claims, that are unclaimed for five years from the date on which the lease or rental period expired;

(J) Subject to division (M)(2) of this section, all moneys, rights to moneys, or other intangible property, and any income or increment on them, held or owed by a holder which is a fiduciary for the benefit of another, or a fiduciary or custodian of a qualified retirement plan or individual retirement arrangement under section 401 or 408 of the Internal Revenue Code, unclaimed for five years after the final date for distribution;

(K) All moneys, rights to moneys, or other intangible property held or owed in this state or held for or owed to an owner whose last known address is within this state, by the United States government or any state, as those terms are described in division (E) of section 169.01 of the Revised Code, unclaimed by the owner for five years, excluding any property in the control of any court in a proceeding in which a final adjudication has not been made;

(L) Amounts payable pursuant to the terms of any policy of insurance, other than life insurance, or any refund available under such a policy, held or owed by any holder, unclaimed for five years from the date payable or distributable;

(M)(1) Subject to division (M)(2) of this section, any funds constituting rents or lease payments due, any deposit made to secure payment of rents or leases, or any sum paid in advance for rents, leases, possible damage to property, unused services, performance requirements, or any other purpose, held or owed by a holder unclaimed for five years;

(2) Any escrow funds, security deposits, or other moneys that are received by a licensed broker in a fiduciary capacity and that, pursuant to

division (A)(26) of section 4735.18 of the Revised Code, are required to be deposited into and maintained in a special or trust, noninterest-bearing bank account separate and distinct from any personal or other account of the licensed broker, held or owed by the licensed broker unclaimed for two years.

(N) Any sum payable as wages, salaries, or commissions, any sum payable for services rendered, funds owed or held as royalties, oil and mineral proceeds, funds held for or owed to suppliers, moneys owed under pension and profit-sharing plans, and all other credits, held or owed by any holder unclaimed for one year from date payable or distributable;

(O) Amounts held in respect of or represented by lay-aways sold after January 1, 1972, less any lawful claims, when such lay-aways are unclaimed for three years after the sale of them;

(P) All moneys, rights to moneys, and other intangible property not otherwise constituted as unclaimed funds by this section, including any income or increment on them, less any lawful claims, which are held or owed by any holder, other than a holder which holds a permit issued pursuant to Chapter 3769. of the Revised Code, and which have remained unclaimed for five years after becoming payable or distributable;

(Q) All moneys that arise out of a sale held pursuant to section 5322.03 of the Revised Code, that are held by a holder for delivery on demand to the appropriate person pursuant to division (I) of that section, and that are unclaimed for two years after the date of the sale.

(R)(1) Any funds that are subject to an agreement between the holder and owner providing for automatic reinvestment and that constitute dividends, distributions, or other sums held or owed by a holder in connection with a security or intangible property, or with any other routine or periodic payment related to a certificate of deposit, unclaimed for a period of five years; provided that if the funds are held or owed by a holder in connection with a security or intangible property, the security or intangible property represents an ownership interest in an investment company registered under the "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a-1, as amended.

(2) The five-year period under division (R)(1) of this section commences from the date a second shareholder notification or communication mailing to the owner of the funds is returned to the holder as undeliverable by the United States postal service or other carrier. The notification or communication mailing by the holder shall be no less frequent than quarterly.

(3) As used in division (R)(1) of this section, "security" has the same

meaning as in section 1707.01 of the Revised Code.

All moneys in a personal allowance account, as defined by rules adopted by the department of human services, up to and including the maximum resource limitation, of a medicaid patient who has died after receiving care in a long-term care facility, and for whom there is no identifiable heir or sponsor, are not subject to this chapter.

Sec. 169.03. (A)(1) Every holder of unclaimed funds and, when requested, person which could be the holder of unclaimed funds, under this chapter shall report to the director of commerce with respect to the unclaimed funds as provided in this section. The report shall be verified.

(2) With respect to items of unclaimed funds each having a value of ten dollars or more, the report required under division (A)(1) of this section shall include:

(a) The full name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of unclaimed funds under this chapter;

(b) In the case of unclaimed funds reported by holders providing life insurance coverage, the full name of the insured or annuitant and beneficiary, if any, and their last known addresses according to such holder's records;

(c) The nature and identifying number, if any, or description of the funds and the amount appearing from the records to be due;

(d) The date when the funds became payable, demandable, or returnable and the date of the last transaction with the owner with respect to the funds except with respect to each item of unclaimed funds having a value of less than twenty-five dollars;

(e) Other information which the director prescribes as necessary for the administration of this chapter.

(3) With respect to items of unclaimed funds each having a value of less than ten dollars, the report required under division (A)(1) of this section shall include:

(a) Each category of items of unclaimed funds as described in section 169.02 of the Revised Code;

(b) The number of items of unclaimed funds within each category;

(c) The aggregated value of the items of unclaimed funds within each category.

(B) If the holder of unclaimed funds is a successor to other organizations that previously held the funds for the owner, or if the holder has changed its name while holding the funds, it shall file with the report all prior known names and addresses and date and state of incorporation or

formation of each holder of the funds.

(C) The report shall be filed before the first day of November of each year as of the preceding thirtieth day of June, but the report of holders providing life insurance coverage shall be filed before the first day of May of each year as of the preceding thirty-first day of December. The director may postpone, for good cause shown, the reporting date upon written request by any holder required to file a report.

(D) The holder of unclaimed funds under this chapter shall send notice to each owner of each item of unclaimed funds having a value of twenty-five dollars or more at the last known address of the owner as shown by the records of the holder before filing the annual report. In case of holders providing life insurance coverage, such notice shall also be mailed to each beneficiary at the last known address of such beneficiary as shown by the records of such holder, except that such notice to beneficiaries shall not be mailed if such address is the same as that of the insured and the surname of the beneficiary is the same as that of the insured. The holder shall not report an item of unclaimed funds earlier than the thirtieth day after the mailing of notice required by this division.

Such notice shall set forth the nature and identifying number, if any, or description of the funds and the amount appearing on the records of the holder to be due the owner, and shall inform the owner that the funds will, thirty days after the mailing of such notice, be reported as unclaimed funds under this chapter. A self-addressed, stamped envelope shall be included with the notice, with instructions that the owner may use such envelope to inform the holder of ~~his~~ the owner's continued interest in the funds and, if so informed before the date for making the report to the director, the holder shall not report said funds to the director. The notice shall be mailed by first class mail. If there is no address of record for the owner or other person entitled to the unclaimed funds, the holder is relieved of any responsibility of sending notice, attempting to notify, or notifying the owner. The mailing of notice pursuant to this section shall discharge the holder from any further responsibility to give notice.

(E) Verification of the report and of the mailing of notice, where required, shall be executed by an officer of the reporting holder.

(F) The director may at reasonable times and upon reasonable notice examine or cause to be examined, by auditors of supervisory departments or divisions of the state, the records of any holder to determine compliance with this chapter. The director may enter into contracts, pursuant to procedures prescribed by the director, with persons for the sole purpose of examining the records of holders, determining compliance with this chapter,

and collecting, taking possession of, and remitting to the department's division of unclaimed funds, in a timely manner, the amounts found and defined as unclaimed. Holders shall retain records, designated by the director as applicable to unclaimed funds, for five years beyond the relevant time period provided in section 169.02 of the Revised Code, or until completion of an audit conducted pursuant to this division, whichever occurs first.

Records audited pursuant to this division are confidential, and shall not be disclosed except as required by section 169.06 of the Revised Code or as the director considers necessary in the proper administration of this chapter.

(G) All holders shall make sufficient investigation of their records to insure that the funds reported to the director are unclaimed as set forth in division (B) of section 169.01 and section 169.02 of the Revised Code.

(H) The expiration of any period of limitations on or after March 1, 1968, within which a person entitled to any moneys, rights to moneys, or intangible property could have commenced an action or proceeding to obtain the same shall not prevent such items from becoming unclaimed funds or relieve the holder thereof of any duty to report and give notice as provided in this section and deliver the same in the manner provided in section 169.05 of the Revised Code, provided that the holder may comply with the provisions of this section and section 169.05 of the Revised Code with respect to any moneys, rights to moneys, or intangible property as to which the applicable statute of limitations has run prior to March 1, 1968, and in such event the holder shall be entitled to the protective provisions of section 169.07 of the Revised Code.

Sec. 169.05. (A) Every holder required to file a report under section 169.03 of the Revised Code shall, at the time of filing, pay to the director of commerce ten per cent of the aggregate amount of unclaimed funds as shown on such report, except for aggregate amounts of fifty dollars or less in which case one hundred per cent shall be paid. Such funds ~~shall~~may be deposited by the director in the state treasury to the credit of the unclaimed funds trust fund, which is hereby created, or placed with a financial organization. Any interest earned on money in the trust fund shall be credited to the trust fund. The remainder of such aggregate amount of unclaimed funds as shown on such report, plus earnings accrued to date of payment to the director, shall, at the option of the ~~holder~~ director, be retained by the holder ~~or placed with a financial organization,~~ or paid to the director for deposit as agent for the mortgage funds with a financial organization as defined in section 169.01 of the Revised Code, such funds to be in income-bearing accounts to the credit of the mortgage funds, or the

holder may enter into an agreement with the director specifying the obligations of the United States in which funds are to be invested, and agree to pay the interest on such obligations to the state. Holders retaining such funds not in obligations of the United States shall enter into an agreement with the director specifying the classification of income-bearing account in which the funds will be held and pay the state interest thereon at a rate equal to the prevailing market rate for similar funds. Moneys which the holder ~~has elected~~ is required to pay to the director rather than to retain may be deposited with the treasurer of state, or placed with a financial organization.

Securities and other intangible property transferred to the director shall, within a reasonable time, be converted to cash and the proceeds deposited as provided for other funds.

One-half of the funds evidenced by such agreements or in such income-bearing accounts or on deposit with the treasurer of state shall be allocated on the records of the director to the mortgage insurance fund created by section 122.561 of the Revised Code. Out of the remaining half, after allocation of sufficient moneys to the minority business bonding fund to meet the provisions of division (B) of this section, an equal amount shall be allocated to the housing guarantee fund created by division (D) of section 175.10 of the Revised Code and the housing development fund created by division (C) of section 175.10 of the Revised Code.

(B) The director shall serve as agent for the director of development, and as agent for the Ohio housing finance agency, in the making of deposits and withdrawals and maintenance of records pertaining to the minority business bonding fund created by section 122.88 of the Revised Code, the mortgage insurance fund, the housing guarantee fund, and the housing development fund created by division (C) of section 175.10 of the Revised Code. Funds from the mortgage insurance fund shall be available to the director of development when such funds are to be disbursed to prevent or cure, or upon the occurrence of, a default of a mortgage insured pursuant to section 122.451 of the Revised Code. Funds from the housing guarantee fund shall be available to the Ohio housing finance agency when such funds are to be disbursed under a guarantee authorized by section 175.04 of the Revised Code to satisfy a guaranteed mortgage which is in default. Funds from the housing development fund shall be available to the Ohio housing finance agency for the purposes of section 175.04 of the Revised Code when it so requests. Funds from the minority business bonding fund shall be available to the director of development upon request for the purpose of paying obligations on bonds written by the director pursuant to section 122.88 of the Revised Code; except that, unless additional amounts are

orized by the general assembly, the total maximum amount of moneys that may be allocated to the minority business bonding fund under this division is ten million dollars.

When such funds are to be so disbursed, the appropriate agency shall call upon the director to transfer to it the necessary funds. The director shall first withdraw the funds paid ~~to him~~ by the holders and ~~by him~~ deposited with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the request, ~~he~~ the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is necessary to meet the request, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, ~~substantially pro rata to the dollar amount of such funds held by each such holder~~ in an equitable manner as prescribed by the director. In the event that the ~~pro rata~~ amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. The director shall then transfer to the agency the amount of funds requested.

Funds which are deposited in the unclaimed funds trust fund shall be subject to call by the director when necessary to pay claims allowed by the director under section 169.08 of the Revised Code, in accordance with the rules of the director, to defray the necessary costs of making publications required by this chapter, and to pay other operating and administrative expenses incurred by the department of commerce in the administration and enforcement of this chapter.

The unclaimed funds trust fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessment shall be paid from the unclaimed funds trust fund to the division of administration fund.

(C) Earnings on the accounts in financial organizations to the credit of the mortgage funds shall at the option of such a financial organization be credited to such accounts at such times and at such rates as earnings are paid on other accounts of the same classification held in the financial organization or paid to the director. The director shall be notified annually, and at such other times as ~~he~~ the director may request, of the amount of such earnings credited to the accounts. Interest ~~upon~~ on unclaimed funds retained by a holder shall be paid to the director or credited as specified in the agreement under which the organization retains the funds. Interest payable to the director under an agreement to invest unclaimed funds and obligations of the United States shall be paid annually by such holder to the director.

Any earnings or interest received by the director under this division shall be deposited in and credited to the mortgage funds.

Sec. 169.08. (A) Any person claiming a property interest in unclaimed funds delivered or reported to the state under Chapter 169. of the Revised Code may file a claim thereto on the form prescribed by the director of commerce.

(B) The director shall consider matters relevant to any claim filed under division (A) of this section and shall hold a formal hearing if requested or considered necessary and receive evidence concerning such claim. A finding and decision in writing on each claim filed shall be prepared, stating the substance of any evidence received or heard and the reasons for allowance or disallowance of the claim. The evidence and decision shall be a public record. No statute of limitations shall bar the allowance of a claim.

(C) For the purpose of conducting any hearing, the director may require the attendance of such witnesses and the production of such books, records, and papers as ~~he~~ the director desires, and ~~he~~ the director may take the depositions of witnesses residing within or without this state in the same manner as is prescribed by law for the taking of depositions in civil actions in the court of common pleas, and for that purpose the director may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers, directed to the sheriff of the county where such witness resides or is found, which shall be served and returned. The fees and mileage of the sheriff and witnesses shall be the same as that allowed in the court of common pleas in criminal cases. Fees and mileage shall be paid from the unclaimed funds trust fund.

(D) Interest is not payable to claimants of unclaimed funds held by the state. Claims shall be paid from the trust fund. If the amount available in the trust fund is not sufficient to pay pending claims, or other amounts disbursable from the trust fund, the treasurer of state shall certify such fact to the director, who shall then withdraw such amount of funds from the mortgage accounts as ~~he~~ the director determines necessary to reestablish the trust fund to a level required to pay anticipated claims but not more than ten per cent of the net unclaimed funds reported to date.

The director shall retain in the trust fund, as a fee for administering the funds, five per cent of the total amount of unclaimed funds payable to the claimant and may withdraw the funds paid to the director by the holders and deposited by the director with the treasurer of state or in a financial institution as agent for such funds. Whenever these funds are inadequate to meet the requirements for the trust fund, ~~he~~ the director shall provide for a withdrawal of funds, within a reasonable time, in such amount as is

necessary to meet the requirements, from financial institutions in which such funds were retained or placed by a holder and from other holders who have retained funds, ~~substantially pro rata to the dollar amount of such funds held by each such holder~~ in an equitable manner as prescribed by the director. In the event that the ~~pro rata~~ amount to be withdrawn from any one such holder is less than five hundred dollars, the amount to be withdrawn shall be at the discretion of the director. Such funds may be reimbursed in the amounts withdrawn when the trust fund has a surplus over the amount required to pay anticipated claims. Whenever the trust fund has a surplus over the amount required to pay anticipated claims, the director may transfer such surplus to the mortgage accounts.

(E) If a claim which is allowed under this section relates to funds which have been retained by the reporting holder, and if the funds, on deposit with the treasurer of state pursuant to this chapter, are insufficient to pay claims, the director may notify such holder in writing of the payment of the claim and such holder shall immediately reimburse the state in the amount of such claim. The reimbursement shall be credited to the unclaimed funds trust fund.

(F) Any person adversely affected by a decision of the director may appeal such decision in the manner provided in Chapter 119. of the Revised Code.

In the event the claimant prevails, ~~he~~ the claimant shall be reimbursed for reasonable attorney's fees and costs.

(G) Notwithstanding anything to the contrary in this chapter, any holder who has paid moneys to or entered into an agreement with the director pursuant to section 169.05 of the Revised Code on certified checks, cashiers' checks, bills of exchange, letters of credit, drafts, money orders, or travelers' checks, may make payment to any person entitled thereto, and upon surrender of the document, except in the case of travelers' checks, and proof of such payment, the director shall reimburse the holder for such payment without interest.

Sec. 171.05. The compensation of all employees of the Ohio retirement study council and other expenses of the council shall be paid upon vouchers ~~signed~~approved by the director and the chairperson of the council.

The public employees retirement system, the state teachers retirement system, the school employees retirement system, the state highway patrol retirement system, and the police and firemen's disability and pension fund shall pay the annual expenses of the Ohio retirement study council. The council shall prepare and submit to the retirement boards on or before the thirtieth day of June of each year an itemized estimate of the amounts

necessary to pay the expenses of the council during the following year. Such expenses shall be charged to and paid by each of the retirement systems in the same ratio as the assets of each system, as of the preceding January first, bear to the total assets of all five systems on that date.

The treasurer of state shall be the custodian of all funds of the council.

Sec. 173.02. The department of aging shall adopt, and may rescind, rules as necessary to carry out the provisions of Chapter 173. OF THE REVISED CODE and may:

(A) Provide technical assistance and consultation to public and private nonprofit agencies with respect to programs, services, and activities for elderly people;

(B) Cooperate with federal agencies, other state agencies or departments, and organizations to conduct studies and surveys on the special problems of the aged in such matters as mental and physical health, housing, transportation, family relationships, employment, income, vocational rehabilitation, recreation, and education; make such reports as are appropriate to the governor and other federal and state agencies; and develop recommendations for administrative or legislative action to alleviate such problems;

(C) Develop and strengthen the services available for the aging in the state by coordinating the existing services provided by federal, state, and local departments and agencies, and private agencies and facilities;

(D) Extend and expand services for the aged through coordinating the interests and efforts of local communities in studying the problems of the aged citizens of this state;

(E) Encourage, promote, and aid in the establishment of programs and services on the local level for the betterment of the living conditions of the aged by making it possible for the aged to more fully enjoy and participate in family and community life;

(F) Sponsor voluntary community rehabilitation and recreational facilities for the purpose of improving the general welfare of the elderly;

(G) Stimulate the training of workers in the field of aging;

(H) Provide consultants to agencies, associations, or individuals providing services supported by the department;

(I) ~~Operate the residential facilities for housing older persons at Worley Terrace in Columbus and Glendale Terrace in Toledo, and provide~~ Provide support which shall include, but not be limited to, financial support for the Martin Janis multipurpose senior center in Columbus;

(J) Recommend methods of improving the effectiveness of state services for elderly citizens;

(K) Adopt rules pursuant to Chapter 119. of the Revised Code to request fees, if not prohibited by any federal or state law, from persons using services or facilities for the elderly that are provided, operated, contracted for, or supported by the department, provided that requesting the fees will not disqualify the department from receiving federal or state funds;

(L) Publish a description of the organization and functions of the department so that all interested agencies and individuals may receive information about, and be better able to solicit assistance from, the department.

Sec. 175.041. The Ohio Housing Finance Agency shall adopt rules pursuant to Chapter 119. of the Revised Code to govern the procedures for funding multifamily housing that is proposed to be constructed with the assistance of the agency or pursuant to any program the agency operates or administers. The rules shall include all of the requirements of this section.

(A) the agency shall not approve the funding for any multifamily housing that is to be constructed with the assistance of the agency or pursuant to any program the agency operates or administers unless the sponsor of the project has provided notice of a proposed project as required by this section. The notice shall be in writing and delivered by certified mail, and shall include the project's address, the number of units in the project, a statement describing the nature of the project, a statement summarizing the program under which the housing would be constructed, and the address of the Ohio Housing Finance Agency and the person at the agency to whom comments should be directed. The notice shall inform the recipients of their right to submit, within thirty days of receipt of the notice, comments to the Ohio Housing Finance Agency regarding the project's impact on the community. Persons to whom the agency must respond in writing, as specified in division (B) of this section, shall be so notified and informed of the requirement that their disapproval or objection be made in writing and signed by a majority of the voting members of the legislative body.

The sponsor of the project shall provide the notice required by this section to all of the following persons:

(1) The mayor and members of the elected legislative body in which the project is located or that is within one-half mile of the project's boundaries;

(2) The members of the board of township trustees of any township in which the project is located or that is within one-half mile of the project's boundaries;

(3) The members of the board of county commissioners of any county in which the project is located or that is within one-half mile of the project's

boundaries.

(B) The agency shall, prior to approving the funding or construction of any multifamily housing that is proposed to be constructed with the assistance of the agency or pursuant to any program the agency operates or administers, provide a written response to any comments it receives that were submitted pursuant to division (A) of this section, signed by a majority of the members of the elected legislative body of any municipal corporation, township, or county within one-half mile of the project's boundaries, and that express an objection to the project and disapproval of the provision of funding to the project by the Ohio Housing Finance Agency.

(C) A public hearing shall be held to solicit and receive comments of residents of the municipal corporations, townships, and counties for which any multifamily housing project will be located that will be constructed with the assistance of the Multifamily bond program. Notice of the public hearing shall be provided to all persons listed in division (A) of this section and by publication in a newspaper of general circulation in each county in which the project will be located. The public hearing shall be held in the county in which the project will be located.

Sec. 175.21. (A) The low- and moderate-income housing trust fund is hereby created in the state treasury. The fund shall consist of all appropriations, grants, gifts, loan repayments, and contributions of money made from any source to the department of development for the fund. All investment earnings of the fund shall be credited to the fund. The director of development shall allocate a portion of the money in the fund to an account of the Ohio housing finance agency. The department shall administer the fund. The agency shall use money allocated to it in the fund for implementing and administering its programs and duties under sections 175.22 and 175.24 of the Revised Code, and the department shall use the remaining money in the fund for implementing and administering its programs and duties under sections 175.22 to 175.25 of the Revised Code. Use of all money in the fund is subject to the following restrictions: forty-five per cent of the money in the fund shall be used to make grants and loans to nonprofit organizations under section 175.22 of the Revised Code, not less than thirty-five per cent of the money in the fund shall be used to make grants and loans for activities that will provide housing and housing assistance to families and individuals in rural areas and small cities that would be eligible to participate in the small cities program of the community development and block grant program under sections 570.420 to 570.438 of the Code of Federal Regulations, ~~and~~ no more than five per cent of the money in the fund shall be used for administration, and no money in the

fund shall be used to pay for any legal services other than the usual and customary legal services associated with the acquisition of housing. Except as otherwise provided by the director under division (B) of this section, money in the fund may be used as matching money for federal funds received by the state, counties, municipal corporations, and townships for the activities listed in section 175.22 of the Revised Code.

(B) If after the second quarter of any year it appears to the director that the full amount of the money in the low- and moderate-income housing trust fund designated in that year for activities that will provide housing and housing assistance to families and individuals in rural areas and small cities under division (A) of this section will not be so used, the director may reallocate all or a portion of that amount for other housing activities. In determining whether or how to reallocate money under this division, the director may consult with and shall receive advice from the housing trust fund advisory committee.

Sec. 177.011. There is hereby created in the state treasury the organized crime commission fund. The fund shall consist of moneys paid to the treasurer of state pursuant to the judgment of a court in a criminal case as reimbursement of expenses that the organized crime investigations commission or an organized crime task force established by the commission incurred in the investigation of the criminal activity upon which the prosecution of the criminal case was based. All investment earnings on moneys in the fund shall be credited to the fund. The organized crime investigations commission shall use the moneys in the fund to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force.

Sec. 181.52. (A) There is hereby created an office of criminal justice services. The governor shall appoint a director of the office ~~of criminal justice services~~, and the director may appoint, within the office, any professional and technical personnel and other employees that are necessary to enable the office to comply with sections 181.51 to 181.56 of the Revised Code. The director and the assistant director of the office, and all professional and technical personnel employed within the office who are not public employees as defined in section 4117.01 of the Revised Code, shall be in the unclassified civil service, and all other persons employed within the office shall be in the classified civil service. The director may enter into any contracts, except contracts governed by Chapter 4117. of the Revised Code, that are necessary for the operation of the office ~~of criminal justice services~~.

(B) Subject to division (D) of this section and subject to divisions (D) to

(F) of section 5120.09 of the Revised Code insofar as those divisions relate to federal criminal justice acts that the governor requires the department of rehabilitation and correction to administer, the office of criminal justice services shall do all of the following:

(1) Serve as the state criminal justice services agency and perform criminal and juvenile justice system planning in the state, including any planning that is required by any federal law;

(2) Collect, analyze, and correlate information and data concerning the criminal and juvenile justice systems in the state;

(3) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, agencies, offices, and departments of the criminal and juvenile justice systems in the state, and other appropriate organizations and persons;

(4) Encourage and assist agencies, offices, and departments of the criminal and juvenile justice systems in the state and other appropriate organizations and persons to solve problems that relate to the duties of the office;

(5) Administer within the state any federal criminal justice acts or juvenile justice acts that the governor requires it to administer;

(6) Implement the state comprehensive plans;

(7) Audit grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the office;

(8) Monitor or evaluate the performance of criminal and juvenile justice systems projects and programs in the state that are financed in whole or in part by funds granted through the office;

(9) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts or juvenile justice acts, or made available from other federal, state, or private sources, to improve the criminal and juvenile justice systems in the state;

(10) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the office;

(11) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state;

(12) Advise the general assembly and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile justice systems in the state;

(13) Prepare and recommend legislation to the general assembly and

governor for the improvement of the criminal and juvenile justice systems in the state;

(14) Assist, advise, and make any reports that are requested or required by the governor, attorney general, or general assembly;

(15) Adopt rules pursuant to Chapter 119. of the Revised Code.

(C) Division (B) of this section does not limit~~, and shall not be construed as limiting,~~ the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.

(D) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

Sec. 307.86. Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the county or contracting authority, as defined in section 307.92 of the Revised Code, at a cost in excess of fifteen thousand dollars, except as otherwise provided in division (D) of section 713.23 and in sections 125.04, 307.022, 307.041, 307.861, 339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 5543.19, 5713.01, and 6137.05 of the Revised Code, shall be obtained through competitive bidding. However, competitive bidding is not required when:

(A) The board of county commissioners, by a unanimous vote of its members, makes a determination that a real and present emergency exists and such determination and the reasons therefor are entered in the minutes of the proceedings of the board, when:

(1) The estimated cost is less than fifty thousand dollars; or

(2) There is actual physical disaster to structures, radio communications equipment, or computers.

Whenever a contract of purchase, lease, or construction is exempted from competitive bidding under division (A)(1) of this section because the estimated cost is less than fifty thousand dollars, but the estimated cost is fifteen thousand dollars or more, the county or contracting authority shall solicit informal estimates from no fewer than three persons who could perform the contract, before awarding the contract. With regard to each such contract, the county or contracting authority shall maintain a record of such estimates, including the name of each person from whom an estimate is solicited, for no less than one year after the contract is awarded.

(B) The purchase consists of supplies or a replacement or supplemental

part or parts for a product or equipment owned or leased by the county and the only source of supply for such supplies, part, or parts is limited to a single supplier.

(C) The purchase is from the federal government, state, another county or contracting authority thereof, a board of education, township, or municipal corporation.

(D) Public social services are purchased for provision by the county department of human services under section 329.04 of the Revised Code or program services, such as direct and ancillary client services, child day-care, case management services, residential services, and family resource services, are purchased for provision by a county board of mental retardation and developmental disabilities under section 5126.05 of the Revised Code.

(E) The purchase consists of human and social services by the board of county commissioners from nonprofit corporations or associations under programs which are funded entirely by the federal government.

(F) The purchase consists of any form of an insurance policy or contract authorized to be issued under Title XXXIX of the Revised Code or any form of health care plan authorized to be issued under Chapter 1751. of the Revised Code, or any combination of such policies, contracts, or plans that the contracting authority is authorized to purchase, and the contracting authority does all of the following:

(1) Determines that compliance with the requirements of this section would increase, rather than decrease, the cost of such purchase;

(2) Employs a competent consultant to assist the contracting authority in procuring appropriate coverages at the best and lowest prices;

(3) Requests issuers of such policies, contracts, or plans to submit proposals to the contracting authority, in a form prescribed by the contracting authority, setting forth the coverage and cost of such policies, contracts, or plans as the contracting authority desires to purchase;

(4) Negotiates with such issuers for the purpose of purchasing such policies, contracts, or plans at the best and lowest price reasonably possible.

(G) The purchase consists of computer hardware, software, or consulting services that are necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by a grant from the federal government.

(H) Child day-care services are purchased for provision to county employees.

(I)(1) Property, including land, buildings, and other real property, is leased for offices, storage, parking, or other purposes and all of the

following apply:

(a) The contracting authority is authorized by the Revised Code to lease the property;

(b) The contracting authority develops requests for proposals for leasing the property, specifying the criteria that will be considered prior to leasing the property, including the desired size and geographic location of the property;

(c) The contracting authority receives responses from prospective lessors with property meeting the criteria specified in the requests for proposals by giving notice in a manner substantially similar to the procedures established for giving notice under section 307.87 of the Revised Code;

(d) The contracting authority negotiates with the prospective lessors to obtain a lease at the best and lowest price reasonably possible considering the fair market value of the property and any relocation and operational costs that may be incurred during the period the lease is in effect.

(2) The contracting authority may use the services of a real estate appraiser to obtain advice, consultations, or other recommendations regarding the lease of property under this division.

(J) The purchase is made pursuant to section 5139.34 or sections 5139.41 to 5139.46 of the Revised Code and is of programs or services that provide case management, treatment, or prevention services to any felony or misdemeanant delinquent, unruly youth, or status offender under the supervision of the juvenile court, including, but not limited to, such services as community residential care, day treatment, services to children in their home, or electronic monitoring.

Any issuer of policies, contracts, or plans listed in division (F) of this section and any prospective lessor under division (I) of this section may have ~~his~~ the issuer's or prospective contractor's name and address, or the name and address of an agent, placed on a special notification list to be kept by the contracting authority, by sending the contracting authority such name and address. The contracting authority shall send notice to all persons listed on the special notification list. Notices shall state the deadline and place for submitting proposals. The contracting authority shall mail the notices at least six weeks prior to the deadline set by the contracting authority for submitting such proposals. Every five years the contracting authority may review this list and remove any person from the list after mailing the person notification of such action.

Any contracting authority that negotiates a contract under division (F) of this section shall request proposals and renegotiate with issuers in

accordance with that division at least every three years from the date of the signing of such a contract.

Any consultant employed pursuant to division (F) of this section and any real estate appraiser employed pursuant to division (I) of this section shall disclose any fees or compensation received from any source in connection with that employment.

Sec. 321.46. (A) To enhance the background and working knowledge of county treasurers in governmental accounting, portfolio reporting and compliance, investments, and cash management, the auditor of state and the treasurer of state shall conduct education programs for persons elected for the first time to the office of county treasurer and shall hold annual continuing education programs for persons who continue to hold the office of county treasurer. Education programs for newly elected county treasurers shall be held between the first day of December and the first Monday of September next following that person's election to the office of county treasurer. Similar initial training may also be provided to any county treasurer who is appointed to fill a vacancy or who is elected at a special election.

(B)(1) The auditor of state shall determine the manner and content of the education programs in the subject areas of governmental accounting and portfolio reporting and compliance. In those areas, newly elected county treasurers shall be required to take at least thirteen hours of education before taking office.

(2) The treasurer of state shall determine the manner and content of the education programs in the subject areas of investments and cash management. In those areas, newly elected county treasurers shall be required to take at least thirteen hours of education before taking office.

(3) After completing one year in office, a county treasurer shall be required to take not less than twelve hours annually of continuing education. The treasurer of state shall determine the manner and content of the education programs in the subject areas of investments, cash management, the collection of taxes, ethics, and any other subject area that the treasurer of state determines is reasonably related to the duties of the office of the county treasurer. The auditor of state shall determine the manner and content of the education programs in the subject areas of governmental accounting, portfolio reporting and compliance, office management, and any other subject area that the auditor of state determines is reasonably related to the duties of the office of the county treasurer.

(C) The auditor of state and the treasurer of state may <u>each</u> charge counties a registration fee that will meet actual and necessary expenses of

the training of county treasurers, including instructor fees, site acquisition costs, and the cost of course materials. The necessary personal expenses of county treasurers as a result of attending the training programs shall be borne by the counties the treasurers represent.

(D) The auditor of state and the treasurer of state may allow any other interested person to attend any of the education programs that are held pursuant to this section, provided that before attending any such education program, the interested person shall pay to either the auditor of state or the treasurer of state, as appropriate, the full registration fee set for the education program.

(E) A county treasurer who fails to complete the initial or continuing education programs required by this section without a valid health-related excuse or other special hardship shall be restricted to investing in the Ohio subdivision's fund pursuant to division (A)(6) of section 135.35 of the Revised Code or in time certificate of deposits or deposit accounts pursuant to division (A)(3) of section 135.35 of the Revised Code. A county treasurer who has failed to complete the initial or continuing education programs and invests in other than the investments permitted by this division shall be subject to removal from office upon complaint and investigation by the county prosecuting attorney, a hearing, and a resolution adopted by the board of county commissioners approving the removal from office.

(F)(1) There is hereby created in the state treasury the county treasurer education fund, to be used by the ~~auditor of state and the~~ treasurer of state for ~~the~~ actual and necessary expenses of ~~any~~ education programs held pursuant to this section. All registration fees collected by the treasurer of state under this section shall be paid into ~~the~~ that fund.

(2) All registration fees collected by the auditor of state under this section shall be paid into the auditor of state training program fund established under section 117.44 of the Revised Code.

(G) The treasurer of state, with the advice and consent of the auditor of state, may adopt reasonable rules not inconsistent with this section for the implementation of this section.

Sec. 329.04. The county department of human services shall have, exercise, and perform, under the control and direction of the board of county commissioners, the following powers and duties:

(A) To be the "county administration" for all purposes of Chapter 5107. of the Revised Code;

(B)(1) To perform any duties assigned by the department of human services regarding the provision of public social services, including the provision of services authorized under Title IV-A and Title XX of the

"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, to prevent or reduce economic or personal dependency and to strengthen family life, or, if the county department is designated as the child support enforcement agency under section 2301.35 of the Revised Code, to perform or contract with other government agencies to perform services authorized under Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 U.S.C. 651, as amended.

(2) The county department of human services shall, in the development of the county plan for the administration of public social services under Title XX of the "Social Security Act," 88 Stat. 2337, 42 U.S.C. 1397, as amended, do both of the following:

(a) Consider the comments and recommendations made during local public hearings held under section 329.07 of the Revised Code;

(b) Prepare a local needs report analyzing local need for Title XX services in compliance with the guidelines developed by the department of human services pursuant to section 5101.461 of the Revised Code. The county department of human services shall consider the local needs report in the development of the county Title XX plan.

The plan shall list the services for which descriptions are established under division (D)(4) of section 5101.46 of the Revised Code that will be provided by the county with Title XX funds and the eligibility categories listed under divisions (E)(1), (2), and (3) of section 5101.46 of the Revised Code that will be provided with each of these services.

(3) The county department, upon approval of the comprehensive social services program plan by the general assembly under section 5101.461 of the Revised Code and prior to the effective date of the plan, shall take steps necessary to ensure the efficient administration of public social services under the plan, including the negotiation of contracts with providers of services and the performance of other duties assigned to it by the department of human services.

(C) To administer disability assistance under Chapter 5115. of the Revised Code as required by the state department of human services;

(D) To administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board <u>of county commissioners and if otherwise required by state law</u>;

(E) To cooperate with state and federal authorities in any matter relating to human services and to act as the agent of such authorities;

(F) To submit an annual account of its work and expenses to the board <u>of county commissioners</u> and to the department of human services at the close of each fiscal year;

(G) To exercise any powers and duties relating to human services imposed upon the county department of human services by law, by resolution of the board of county commissioners, or by order of the governor, when authorized by law, to meet emergencies during war or peace. The board may designate the county department of human services to exercise and perform any additional human services powers and duties which the board has.

(H) To determine the eligibility for medical assistance of recipients of aid under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended;

(I) If the county department is designated as the child support enforcement agency under section 2301.35 of the Revised Code, to operate the agency in accordance with sections 2301.34 to 2301.44 of the Revised Code.

Sec. 341.25. (A) The sheriff may establish a commissary for the jail. The commissary may be established either in-house or by another arrangement. If a commissary is established, all persons incarcerated in the jail shall receive commissary privileges. A person's purchases from the commissary shall be deducted from the person's account record in the jail's business office. The commissary shall provide for the distribution to indigent persons incarcerated in the jail necessary hygiene articles and writing materials.

(B) If a commissary is established, the sheriff shall establish a commissary fund for the jail. The management of funds in the commissary fund shall be strictly controlled in accordance with procedures adopted by the auditor of state. Commissary fund revenue over and above operating costs and reserve shall be considered profits. All profits from the commissary fund shall be used to purchase supplies and equipment, and to provide life skills training and education or treatment services, or both, for the benefit of persons incarcerated in the jail. The sheriff shall adopt rules ~~and regulations~~ for the operation of any commissary fund the sheriff establishes.

Sec. 715.691. (A) As used in this section:

(1) "Contracting party" means a municipal corporation that has entered into a joint economic development zone contract or any party succeeding to such a municipal corporation, or a township that entered into a joint economic development zone contract with a municipal corporation.

(2) "Zone" means a joint economic development zone designated under this section.

(B) This section provides alternative procedures and requirements for

creating and operating a joint economic development zone to those set forth in section 715.69 of the Revised Code. This section applies only if one of the contracting parties to the zone does not levy a municipal income tax under Chapter 718. of the Revised Code. A municipal corporation that does not levy a municipal income tax may enter into an agreement to create and operate a joint economic development zone under this section or under section 715.69 of the Revised Code.

Two or more municipal corporations or one or more townships and one or more municipal corporations may enter into a contract whereby they agree to share in the costs of improvements for an area or areas located in one or more of the contracting parties that they designate as a joint economic development zone for the purpose of facilitating new or expanded growth for commercial or economic development in the state. The contract and zone shall meet the requirements of divisions (B) to (J) of this section.

(C) The contract shall set forth each contracting party's contribution to the joint economic development zone. The contributions may be in any form that the contracting parties agree to, and may include, but are not limited to, the provision of services, money, or equipment. The contract may be amended, renewed, or terminated with the consent of the contracting parties. The contract shall continue in existence throughout the term it specifies and shall be binding on the contracting parties and on any entities succeeding to the contracting parties.

(D) Before the legislative authority of any of the contracting parties enacts an ordinance or resolution approving a contract to designate a joint economic development zone, the legislative authority of each of the contracting parties shall hold a public hearing concerning the contract and zone. Each such legislative authority shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the municipal corporation or township. During the thirty-day period prior to the public hearing, all of the following documents shall be available for public inspection in the office of the clerk of the legislative authority of each of the contracting parties:

(1) A copy of the contract designating the zone;

(2) A description of the area or areas to be included in the zone, including a map in sufficient detail to denote the specific boundaries of the area or areas;

(3) An economic development plan for the zone that includes a schedule for the provision of any new, expanded, or additional services, facilities, or improvements.

A public hearing held under division (D) of this section shall allow for

public comment and recommendations on the contract and zone. The contracting parties may include in the contract any of those recommendations prior to approval of the contract.

(E) After the public hearings required under division (D) of this section have been held, each contracting party may enact an ordinance or resolution approving the contract to designate a joint economic development zone. After each contracting party has enacted such an ordinance or resolution, the clerk of the legislative authority of each contracting party shall file with the board of elections of each county within which a contracting party is located a copy of the ordinance or resolution approving the contract and shall direct the board of elections to submit the ordinance or resolution to the electors of the contracting party on the day of the next general, primary, or special election occurring at least seventy-five days after the ordinance or resolution is filed with the board of elections. If any of the contracting parties is a township, however, then only the township or townships shall submit the resolution to the electors.

(F)(1) If a vote is required to approve a municipal corporation as a contracting party to a joint economic development zone under this section, the ballot shall be in the following form:

"Shall the ordinance of the legislative authority of the (city or village) of (name of contracting party) approving the contract with (name of each other contracting party) for the designation of a joint economic development zone be approved?

FOR THE ORDINANCE AND CONTRACT
AGAINST THE ORDINANCE AND CONTRACT

"

(2) If a vote is required to approve a township as a contracting party to a joint economic development zone under this section, the ballot shall be in the following form:

"Shall the resolution of the board of township trustees of the township of (name of contracting party) approving the contract with (name of each other contracting party) for the designation of a joint economic development zone be approved?

FOR THE ~~ORDINANCE~~ RESOLUTION
AND CONTRACT
AGAINST THE ~~ORDINANCE~~
RESOLUTION AND CONTRACT

"

If a majority of the electors of each contracting party voting on the issue vote for the ordinance or resolution and contract, the ordinance or resolution

shall become effective immediately and the contract shall go into effect immediately or in accordance with its terms.

(G)(1) A board of directors shall govern each joint economic development zone created under section 715.691 of the Revised Code. The members of the board shall be appointed as provided in the contract. Each of the contracting parties shall appoint three members to the board. Terms for each member shall be for two years, each term ending on the same day of the month of the year as did the term that it succeeds. A member may be reappointed to the board.

(2) Membership on the board is not the holding of a public office or employment within the meaning of any section of the Revised Code or any charter provision prohibiting the holding of other public office or employment. Membership on the board is not a direct or indirect interest in a contract or expenditure of money by a municipal corporation, township, county, or other political subdivision with which a member may be affiliated. Notwithstanding any provision of law or a charter to the contrary, no member of the board shall forfeit or be disqualified from holding any public office or employment by reason of membership on the board.

(3) The board is a public body for the purposes of section 121.22 of the Revised Code. Chapter 2744. of the Revised Code applies to the board and the zone.

(H) The contract may grant to the board of directors appointed under division (G) of this section the power to adopt a resolution to levy an income tax within the zone. The income tax shall be used for the purposes of the zone and for the purposes of the contracting municipal corporations pursuant to the contract. The income tax may be levied in the zone based on income earned by persons working within the zone and on the net profits of businesses located in the zone. The income tax is subject to Chapter 718. of the Revised Code, except that a vote shall be required by the electors residing in the zone to approve the rate of income tax unless a majority of the electors residing within the zone, as determined by the total number of votes cast in the zone for the office of governor at the most recent general election for that office, submit a petition to the board requesting that the election provided for in division (H)(1) of this section not be held. If no electors reside within the zone, then division (H)(3) of this section applies. The rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a party to the contract.

(1) The board of directors may levy an income tax at a rate that is not higher than the highest rate being levied by a municipal corporation that is a party to the contract, provided that the rate of the income tax is first

submitted to and approved by the electors of the zone at the succeeding regular or primary election, or a special election called by the board, occurring subsequent to seventy-five days after a certified copy of the resolution levying the income tax and calling for the election is filed with the board of elections. If the voters approve the levy of the income tax, the income tax shall be in force for the full period of the contract establishing the zone. No election shall be held under this section if a majority of the electors residing within the zone, determined as specified in division (H) of this section, submit a petition to that effect to the board of directors. Any increase in the rate of an income tax by the board of directors shall be approved by a vote of the electors of the zone and shall be in force for the remaining period of the contract establishing the zone.

(2) Whenever a zone is located in the territory of more than one contracting party, a majority vote of the electors in each of the several portions of the territory of the contracting parties constituting the zone approving the levy of the tax is required before it may be imposed under division (H) of this section.

(3) If no electors reside in the zone, no election for the approval or rejection of an income tax shall be held under this section, provided that where no electors reside in the zone, the rate of the income tax shall be no higher than the highest rate being levied by a municipal corporation that is a party to the contract.

(4) The board of directors of a zone levying an income tax shall enter into an agreement with one of the municipal corporations that is a party to the contract to administer, collect, and enforce the income tax on behalf of the zone.

(5) The board of directors of a zone shall publish or post public notice within the zone of any resolution adopted levying an income tax in the same manner required of municipal corporations under sections 731.21 and 731.25 of the Revised Code.

(I)(1) If for any reason a contracting party reverts to or has its boundaries changed so that it is classified as a township that is the entity succeeding to that contracting party, the township is considered to be a municipal corporation for the purposes of the contract for the full period of the contract establishing the joint economic development zone, except that if that contracting party is administering, collecting, and enforcing the income tax on behalf of the district as provided in division (H)(4) of this section, the contract shall be amended to allow one of the other contracting parties to administer, collect, and enforce that tax.

(2) Notwithstanding any other section of the Revised Code, if there is

any change in the boundaries of a township so that a municipal corporation once located within the township is no longer so located, the township shall remain in existence even though its remaining unincorporated area contains less than twenty-two square miles, if the township has been or becomes a party to a contract creating a joint economic development zone under this section or the contract creating that joint economic development zone under this section is terminated or repudiated for any reason by any party or person. The township shall continue its existing status in all respects, including having the same form of government and the same elected board of trustees as its governing body. The township shall continue to receive all of its tax levies and sources of income as a township in accordance with any section of the Revised Code, whether such levies and sources of income generate millage within the ten-mill limitation or in excess of the ten-mill limitation. The name of the township may be changed to the name of the contracting party appearing in the contract creating a joint economic development zone under this section, so long as the name does not conflict with any other name in the state that has been certified by the secretary of state. The township shall have all of the powers set out in sections 715.79, 715.80, and 715.81 of the Revised Code.

(J) If, after creating and operating a joint economic development zone under this section, a contracting party that did not levy a municipal income tax under Chapter 718. of the Revised Code levies such a tax, the tax shall not apply to the zone for the full period of the contract establishing the zone, if the board of directors of the zone has levied an income tax as provided in division (H) of this section.

Sec. 718.01. (A) As used in this chapter:

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

(2) "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(3) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(4) "Intangible income" means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code.

(B) No municipal corporation with respect to that income which it may tax shall tax such income at other than a uniform rate.

(C) No municipal corporation shall levy a tax on income at a rate in

cess of one per cent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election. The legislative authority of the municipal corporation shall file with the board of elections at least seventy-five days before the day of the election a copy of the ordinance together with a resolution specifying the date the election is to be held and directing the board of elections to conduct the election. The ballot shall be in the following form: "Shall the Ordinance providing for a ... per cent levy on income for (Brief description of the purpose of the proposed levy) be passed?

FOR THE INCOME TAX

AGAINST THE INCOME TAX"

In the event of an affirmative vote, the proceeds of the levy may be used only for the specified purpose.

(D) ~~No~~ (1) Except as otherwise provided in division (D)(2) of this section, no municipal corporation shall exempt from ~~such~~ a tax on income, compensation for personal services of individuals over eighteen years of age or the net profit from a business or profession.

(2) The legislative authority of a municipal corporation may, by ordinance or resolution, exempt from a tax on income any compensation arising from the grant, sale, exchange, or other disposition of a stock option; the exercise of a stock option; or the sale, exchange, or other disposition of stock purchased under a stock option.

(E) Nothing in this section shall prevent a municipal corporation from permitting lawful deductions as prescribed by ordinance. If a taxpayer's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the municipal corporation, the municipal corporation shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the municipal corporation. In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, no municipal corporation may tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the municipal corporation, a greater amount than the net profit reported by the taxpayer on schedule C filed in reference to the year in question as taxable income from such sole proprietorship, except as otherwise specifically provided by ordinance or regulation.

(F) No municipal corporation shall tax any of the following:

(1) The military pay or allowances of members of the armed forces of the United States;

(2) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(3) Except as otherwise provided in division (G) of this section, intangible income;

(4) Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.

(G) Any municipal corporation that taxes any type of intangible income on March 29, 1988, pursuant to Section 3 of Amended Substitute Senate Bill No. 238 of the 116th General Assembly, may continue to tax that type of income after 1988 if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 vote in favor thereof at an election held on November 8, 1988.

(H) Nothing in this section or section 718.02 of the Revised Code, shall authorize the levy of any tax on income which a municipal corporation is not authorized to levy under existing laws or shall require a municipal corporation to allow a deduction from taxable income for losses incurred from a sole proprietorship or partnership.

Sec. 901.41. As used in this section and in section 901.42 of the Revised Code:

(A) "Director" means the director of agriculture or the designee of the director of agriculture.

(B) "Exhibition" means a display of animals that is open to the public.

(C) "National exhibition" means an exhibition where species from

fifteen or more states or nations are exhibited.

(D) "Nonprofit association" means any corporation, society, partnership, or other organization formed under the laws of this state or another state or nation providing for the establishment and governance of nonprofit entities.

(E) "Ohio expositions center" means the property that is held by this state for the purpose of conducting fairs, expositions, and exhibits and that is maintained and managed by the Ohio expositions commission under section 991.03 of the Revised Code.

(F) "Premium awards" means money, ribbons, banners, medals, achievement pins, trophies, or merchandise presented for animals of superior quality.

(G) "Rental costs" means the costs associated with the rental of the facilities, or a portion thereof, at the Ohio expositions center, including, without limitation, grounds, buildings, pens, animal feeding or watering equipment, and tieouts. "Rental costs" also include labor costs associated with set-up, tear-down, and security.

(H) "Species" means dairy cattle, beef cattle, swine, and sheep.

Sec. 901.42. (A) The director of agriculture may provide financial assistance to a statewide, multi-state, or national nonprofit livestock association to defray not more than fifty per cent of the rental costs of the Ohio expositions center for purposes of conducting a livestock species exhibition at the center. In order to obtain financial assistance under this division, a nonprofit livestock association shall apply to the director on a form prescribed by the director and in the manner prescribed in rules adopted under division (D) of this section.

Rental cost assistance authorized by this division shall be provided subject to both of the following conditions:

(1) No nonprofit livestock association shall receive in any fiscal year rental cost assistance exceeding thirty-four per cent of the funds available to the director in that fiscal year for the purposes of this section and designated for the purpose of defraying rental costs for livestock species exhibitions.

(2) The rental cost assistance shall be paid by the director to the Ohio expositions commission on behalf of the nonprofit livestock association by means of intrastate transfer voucher.

(B) The director may allocate not more than fifty thousand dollars of the moneys available for the purposes of this section in a fiscal year to provide financial assistance to a nonprofit livestock association to defray the costs of premium awards for a national multispecies exhibition held at the Ohio expositions center. In order to obtain financial assistance under this division, a nonprofit livestock association shall apply to the director on a form

prescribed by the director and in the manner prescribed in rules adopted under division (D) of this section.

(C) The director may expend not more than four per cent of the moneys available for the purposes of this section in a fiscal year to defray the costs to the department of agriculture for administering this section or to assist in recruiting livestock exhibitions to be held at the Ohio expositions center.

(D) The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules to carry out this section, including, without limitation, rules establishing procedures for the allocation and distribution of moneys available for the purposes of this section.

Sec. 901.54. (A) There is hereby created the office of farmland preservation within the department of agriculture. The office shall do all of the following:

(1) Prepare guidelines and criteria for use in the development of comprehensive local land use plans that encourage the efficient use of public infrastructure and the preservation of farmland;

(2) Establish a farmland preservation program to coordinate and assist local farmland preservation initiatives;

(3) Administer the pilot farmland preservation fund established in division (B) of this section;

(4) Educate existing agencies and organizations on the importance of farmland preservation and on the significance of agriculture and agribusiness to this state's economy;

(5) Serve as a liaison with other farmland preservation entities operating on a state, regional, or national level;

(6) Prepare an inventory of farmland within this state to monitor the development of lands within this state having prime soils or unique microclimates.

(B) There is hereby created in the state treasury the pilot farmland preservation fund consisting of moneys received by the office of farmland preservation for the purposes of the fund. The fund shall be administered by the office of farmland preservation. Moneys in the fund shall be used to leverage or match other farmland preservation funds provided from federal, local, or private sources.

Sec. 924.10. (A) There is hereby established in the state treasury a fund for each marketing program that is established by the director of agriculture pursuant to this chapter. Except as authorized in division (B) of this section, all moneys collected by the department of agriculture from each marketing program pursuant to section 924.09 of the Revised Code shall be paid into the fund for the marketing program and shall be disbursed only pursuant to a

voucher ~~signed~~approved by the director for use in defraying the costs of administration of the marketing program and for carrying out sections 924.02, 924.03, and 924.13 of the Revised Code.

(B) In lieu of deposits in the fund established pursuant to division (A) of this section, the operating committee of any marketing program established pursuant to this chapter may deposit all moneys collected pursuant to section 924.09 of the Revised Code with a bank or a savings and loan association as defined in sections 1101.01 and 1151.01 of the Revised Code. All moneys collected pursuant to section 924.09 of the Revised Code and deposited pursuant to this division also shall be used only in defraying the costs of administration of the marketing program and for carrying out sections 924.02, 924.03, and 924.13 of the Revised Code.

(C) Each operating committee shall establish a fiscal year for its marketing program and shall publish within sixty days of the end of each fiscal year an activity and financial report and make such report available to each producer who pays an assessment or otherwise contributes to the marketing program which the committee administers, and to other interested persons.

(D) In addition to the reports required by division (C) of this section, any marketing program that deposits moneys in accordance with division (B) of this section shall submit to the director ~~all~~ both of the following:

(1) Annually, a financial statement prepared by a certified public accountant holding ~~valid certification~~ a live permit from the ~~Ohio board of~~ accountancy board issued pursuant to Chapter 4701. of the Revised Code. The marketing program shall file the financial statement with the director not more than sixty days after the end of each fiscal year.

(2) Monthly, an unaudited financial statement.

Sec. 991.03. (A) The Ohio expositions commission shall:

(1) Conduct at least one fair or exposition annually;

(2) Maintain and manage property held by the state for the purpose of conducting fairs, expositions, and exhibits;

(3) As provided in section 109.122 of the Revised Code, provide notice of or copies of any proposed entertainment or sponsorship contracts to the attorney general.

(B) The commission may:

(1) Conduct such additional fairs, expositions, or exhibitions as the commission determines are in the general public interest;

(2) Accept on behalf of the state conveyances of property for the purposes of conducting fairs, expositions, and exhibits, subject to any terms and conditions agreed to by the commission and approved by the controlling

board;

(3) Enter into contracts that the commission considers necessary or worthwhile in the conduct of its purposes, provided that contracts made for a term exceeding two years, other than those described in division (B)(4) of this section, shall be subject to the approval of the controlling board and provided that the attorney general, pursuant to ~~his~~ the attorney general's authority under section 109.122 of the Revised Code, has not disapproved the proposed contract;

(4) Enter into contracts for the mutual exchange of goods or services;

(5) Sell or convey all or a portion of the property, land, or buildings under its management subject to the approval of the legislature;

(6) Grant leases on all or any part of the property, land, or buildings under the management of the commission to private or public organizations, which appear to be in the best interests of the state, with the approval of the controlling board and director of administrative services, subject to the following conditions:

(a) The lessees shall make or construct improvements on such lands or buildings at no cost to the commission or to the state, subject to prior approval by the director of administrative services of detailed plans and specifications of such improvements.

(b) No person, firm, or corporation shall cause a lien to be filed against any funds or property of the state or of the commission as a result of a lessee's activities pursuant to division (B)(6)(a) of this section.

(c) Leases shall be entered into subject to the sale of such property, lands, or buildings during the term of the lease.

(d) No leases shall be made which interfere with a fair, exposition, or exhibition on such lands.

(7) Encumber appropriations for the entire amount of a contract at the time the contract is made, even though the contract will not be performed in the fiscal year for which the appropriations were made.

(8) Implement a credit card payment program permitting payment by means of a credit card of any fees, charges, and rentals associated with conducting fairs, expositions, and exhibits. The commission may open an account outside the state treasury in a financial institution for the purpose of depositing credit card receipts. By the end of the business day following the deposit of the receipts, the financial institution shall make available to the commission funds in the amount of the receipts. The commission shall then pay these funds into the state treasury to the credit of the Ohio expositions fund.

The commission shall adopt rules as necessary to carry out the purposes

of division (B)~~(7)~~(8) of this section. The rules shall include standards for determining eligible financial institutions and the manner in which funds shall be made available and shall be consistent with the standards contained in sections 135.03, 135.18, and 135.181 of the Revised Code.

The commission shall not adopt or enforce any rules which will prohibit livestock exhibited at the Ohio state fair from participating in county and independent fairs in the state.

Sec. 1309.32. (A) In this section and in the provisions of sections 1309.38 to 1309.43 of the Revised Code referring to fixture filing, unless the context otherwise requires:

(1) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law.

(2) A "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods ~~which~~ that are or are to become fixtures and conforming to the requirements of division ~~(E)~~(D) of section 1309.39 of the Revised Code.

(3) A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(B) A security interest under sections 1309.01 to 1309.50 of the Revised Code may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under sections 1309.01 to 1309.50 of the Revised Code in ordinary building materials incorporated into an improvement on land.

(C) Sections 1309.01 to 1309.50 of the Revised Code do not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(D)(1) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(a) The security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) The security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) The conflicting interest is a lien on the real estate obtained by legal

or equitable proceedings after the security interest was perfected by any method permitted by sections 1309.01 to 1309.50 of the Revised Code.

(2) Whether or not the property is a fixture, a security interest in readily removable factory or office machines or readily removable replacements of domestic appliances that are consumer goods, which security interest has been perfected by any method permitted by sections 1309.01 to 1309.50 of the Revised Code and has been perfected before the property was installed in the real estate, has priority over the conflicting interest of an encumbrancer or owner of the real estate.

(E) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where:

(1) The encumbrancer or owner has consented in writing to the security interest or has disclaimed in writing an interest in the goods as fixtures; or

(2) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(F) Notwithstanding division (D)(1) of this section but otherwise subject to division (D) and (E) of this section, a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(G) In cases not within the preceding divisions, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(H) When the secured party has priority over all owners and encumbrancers of the real estate, ~~he~~ the secured party may, on default, subject to the provisions of sections 1309.44 to 1309.50 of the Revised Code, remove ~~his~~ the secured party's collateral from the real estate but ~~he~~ the secured party must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation. The secured party shall give reasonable notification of ~~his~~ the secured party's intention to remove the collateral to all persons entitled to reimbursement.

Sec. 1309.39. (A) A financing statement ~~is sufficient if it gives~~shall state the names of the debtor and the secured party, ~~is~~ be signed by the debtor, ~~gives~~ give an address of the secured party from which information concerning the security interest may be obtained, ~~gives~~ give a mailing address of the debtor, and ~~contains~~ include a statement indicating the types, or describing the items, of collateral. A financing statement shall be filed on a form prescribed by the secretary of state. A financing statement filed in the office of the county recorder shall also comply with Chapter 317. of the Revised Code. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, timber to be cut, or minerals or the like, including oil and gas, or accounts subject to division (E) of section 1309.03 of the Revised Code, or when the financing statement is filed as a fixture filing pursuant to section 1309.32 of the Revised Code and the collateral is goods ~~which~~ that are or are to become fixtures, the statement must also comply with division ~~(E)~~(D) of this section. ~~A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic, or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.~~

(B) A financing statement ~~which~~ that otherwise complies with division (A) of this section is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in any of the following:

(1) ~~collateral~~ Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; ~~or~~

(2) ~~proceeds~~ Proceeds under section 1309.25 of the Revised Code if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; ~~or~~

(3) ~~collateral~~ Collateral as to which the filing has lapsed; ~~or~~

(4) ~~collateral~~ Collateral acquired after a change of name, identity, or corporate structure of the debtor under division ~~(C)~~(F) of this section.

(C) ~~A form substantially as follows is sufficient to comply with division (A) of this section:~~

~~Name of debtor (or assignor) .....~~

~~Address .....~~

~~Name of secured party (or assignee).....~~

~~Address .....~~

~~1. This financing statement covers the following types (or items) of property:~~

~~(Describe) .....~~

~~2. (If applicable) The above goods are to become fixtures on:~~

~~The above crops are growing or are to be grown on:~~

~~The above timber is standing on:~~

~~The above minerals or the like, including oil and gas, or accounts will be financed at the wellhead or minehead located on:~~

~~(Describe real estate) ..... and this financing statement is to be indexed in the real estate records of the county in which the real estate is situated. (If the debtor does not have an interest of record) The name of a record owner or record lessee is .....~~

~~3. If products of collateral are claimed) Products of the collateral are also covered.~~

~~(Use whichever is applicable) Signature of Debtor (or Assignor) .....~~

~~(Use whichever is applicable) Signature of Secured Party (or Assignee) .....~~

~~(D)~~ A financing statement may be amended by filing a writing signed by both the debtor and the secured party. The amendment shall be filed on a form prescribed by the secretary of state. AN AMENDMENT FILED IN THE OFFICE OF THE COUNTY RECORDER SHALL ALSO COMPLY WITH CHAPTER 317. OF THE REVISED CODE. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In sections 1309.01 to 1309.50 of the Revised Code, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

~~(E)~~(D) A financing statement covering crops growing or to be grown or timber to be cut or minerals or the like, including oil and gas, or accounts subject to division (E) of section 1309.03 of the Revised Code, or a financing statement filed as a fixture filing pursuant to section 1309.32 of the Revised Code must show that it covers this type of collateral, must recite that it is to be indexed in the real estate records of the county in which the real estate is situated, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the

financing statement must show the name of a record owner or record lessee.

~~(F)~~(E) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (1) the goods are described in the mortgage by item or type, (2) the goods are or are to become fixtures related to the real estate described in the mortgage, (3) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be indexed in the real estate records, and (4) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

~~(G)~~(F) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes ~~his~~ the debtor's name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

~~(H)~~(G) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Sec. 1309.40. (A) Presentation for filing of a financing statement ~~and~~, tender of the filing fee ~~or~~, and acceptance of the statement by the filing officer ~~constitutes~~ constitute filing under sections 1309.01 to 1309.50 of the Revised Code.

(B)(1) Except as provided in divisions (B)(2) and (F) of this section, a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty days or until expiration of the five-year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(2) A filed financing statement ~~which~~ that states that it relates to an obligation secured by both (a) a mortgage upon real estate filed for record within this state and (b) a security interest in collateral, whether or not such collateral includes or consists of goods which are or are to become fixtures situated upon such real estate, shall, if such financing statement states a maturity date of such obligation, or the final installment thereof, of more than five years, be fully effective until the maturity date set forth therein. Such financing statement shall also contain a reference to the recorder's file number of the mortgage upon real estate or to the volume and page of the mortgage record in which such mortgage is recorded.

(C) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in division (B)(1) of this section, or within six months prior to the stated maturity date referred to in division (B)(2) of this section. ~~Any such~~ A continuation statement shall be filed on a form prescribed by the secretary of state. A CONTINUATION STATEMENT FILED IN THE OFFICE OF THE COUNTY RECORDER SHALL ALSO COMPLY WITH CHAPTER 317. OF THE REVISED CODE. The continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with division (B) of section 1309.42

of the Revised Code, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in division (B) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed statement from the files and destroy it immediately if ~~he~~ the filing officer has retained a microfilm or other photographic record, or in other cases one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if ~~he~~ the filing officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under division (B)(2) or (F) of this section shall be retained.

(D) Except as provided in division (G) of this section, a filing officer shall ~~mark~~ assign each statement ~~with~~ a consecutive file number and ~~with the date and hour of filing and~~ shall hold the statement or a microfilm or other photographic or digitized copy thereof for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number, the date and hour of filing, and the address of the debtor given in the statement. In addition to the indexing required in the previous sentence, statements covering crops growing or to be grown or timber to be cut or minerals or the like, including oil and gas, or accounts subject to division (E) of section 1309.03 of the Revised Code, or a financing statement filed as a fixture filing pursuant to section 1309.32 of the Revised Code shall also be indexed in the real estate mortgage records by the filing officer according to the name of the debtor or, if the financing statement shows the record owner or record lessee to be other than the debtor, then according to the name of the record owner or record lessee given in the statement. The fee to be charged for indexing financing statements in the real estate mortgage records shall be two dollars for each record owner or lessee listed in the statement, as provided in division (E) of section 317.32 of the Revised Code.

(E) The fee for filing, indexing, and furnishing filing data for an original, amended, or a continuation statement on a form prescribed by the secretary of state ~~or on any other form approved by the filing officer~~ shall be nine dollars. The fee for filing, indexing, and furnishing filing data for an original, amended, or a continuation statement on a form ~~neither~~ not

cribed by the secretary of state ~~nor on any other form approved by the filing officer~~ and filed in the office of the county recorder shall be eleven dollars.

(F) If the debtor is a transmitting utility and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage ~~which~~ that is effective as a fixture filing under division ~~(F)~~(E) of section 1309.39 of the Revised Code remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(G) If the person filing any original or amended financing statement, termination statement, statement of assignment, or statement of release~~,~~ ~~furnishes the filing officer~~ requests a copy thereof, the filing officer shall ~~upon request~~ note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(H) Upon request of any person, the filing officer shall issue ~~his~~ a certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor, owner, lessee, and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The fee for such a certificate shall be nine dollars plus one dollar for each financing statement and for each statement of assignment reported therein. Upon request, the filing officer shall furnish a copy of any filed financing statement or statement of assignment ~~for a uniform~~. WHEN A REQUEST FOR COPIES IS MADE IN THE OFFICE OF THE COUNTY RECORDER, THE COUNTY RECORDER SHALL CHARGE A FEE OF ONE DOLLAR PER PAGE. WHEN A REQUEST FOR COPIES IS MADE IN THE OFFICE OF THE SECRETARY OF STATE, THE fee ~~of~~ shall not exceed one dollar per page.

Sec. 1309.41. (A) If a financing statement covering consumer goods is filed on or after January 1, 1979, then within one month or within ten days following written demand by the debtor after there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must file with each filing officer with whom the financing statement was filed, a termination statement to the effect that ~~he~~the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. In other cases whenever there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that ~~he~~ the secured party no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement filed under this section shall be on a form prescribed by the secretary of state. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record complying with division (B) of section 1309.42 of the Revised Code including payment of the required fee. If the affected secured party fails to file such a termination statement as required by this division or to send such a termination statement ten days after the proper demand therefor, ~~he~~ the secured party shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

(B) On presentation to the filing officer of such a termination statement ~~he~~, the filing officer must note it in the index. If ~~he~~ the filing officer has received the termination statement in duplicate, ~~he~~ the filing officer shall return one copy of the termination statement to the secured party ~~stamped~~ with a notation to show the time of receipt ~~thereof~~ of the termination statement. If the filing officer has a microfilm or other photographic or digitized record of the financing statement, and of any related continuation statement, statement of assignment, and statement of release, ~~he~~ the filing officer may remove the originals from the files at any time after receipt of the termination statement, or if ~~he has~~ there is no such record, ~~he~~ the filing officer may remove them from the files at any time after one year after receipt of the termination statement.

Sec. 1309.42. (A) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall ~~mark the same~~proceed as provided in division (D) of section 1309.40 of the Revised Code. The fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be nine dollars.

(B) A secured party may assign of record all or a part of ~~his~~ the secured party's rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment. The statement of assignment shall be on a form prescribed by the secretary of state, shall be signed by the secured party of record ~~and setting~~, shall set forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement, and the name and address of the assignee, and ~~containing~~ shall contain a description of the collateral assigned. A ~~copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence~~ statement of assignment filed in the office of the county recorder shall also comply with Chapter 317. of the Revised Code. On presentation to the filing officer of ~~such~~ a separate statement of assignment, the filing officer shall mark ~~such~~ the separate statement with the date and hour of filing. ~~He~~ The filing officer shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering crops growing or to be grown or timber to be cut, or covering minerals or the like, including oil and gas, or accounts subject to division (E) of section 1309.03 of the Revised Code, ~~he~~ the filing officer shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, ~~he~~ the filing officer shall index the assignment of the financing statement under the name of the assignee. The fee for filing, indexing, and furnishing filing data about such a separate statement of assignment shall be nine dollars if on a form prescribed by the secretary of state ~~or on any other form approved by the filing officer~~. The fee for filing, indexing, and furnishing filing data about such a separate statement of assignment on a form not prescribed by the secretary of state and filed in the office of the county recorder shall be eleven dollars. Notwithstanding the provisions of this division, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing pursuant to division ~~(F)~~(E) of section

1309.39 of the Revised Code may be made only by an assignment of the mortgage in the manner provided by the law of this state other than sections 1309.01 to 1309.50 of the Revised Code.

(C) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Sec. 1309.43. A secured party of record may by ~~his~~a signed statement release all or a part of any collateral described in a filed financing statement. The statement of release ~~is sufficient if it contains~~ shall be on a form prescribed by the secretary of state and shall contain a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release filed in the office of the county recorder shall also comply with Chapter 317. of the Revised Code. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with division (B) of section 1309.42 of the Revised Code, including payment of the required fee. Upon presentation of such a statement of release to the filing officer ~~he~~, the filing officer shall ~~mark the statement with the hour and date of filing and shall~~ note the hour and date of filing upon the margin of the index of the filing of the financing statement. The fee for filing and noting such a statement of release shall, whether collected by the secretary of state or by the county recorder, be nine dollars if on a form prescribed by the secretary of state ~~or approved by the filing officer~~. The fee for filing and noting such a statement of release on a form not prescribed by the secretary of state and ~~not approved by the filing officer~~ filed in the office of the county recorder shall be eleven dollars.

Sec. 1310.37. (A) As used in this section:

(1) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law.

(2) A "fixture filing" is the filing, in the office in which a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to division ~~(E)~~(D) of section 1309.39 of the Revised Code.

(3) A lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable.

(4) A mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if the recorded writing so indicates.

(5) "Encumbrance" includes real estate mortgages, other liens on real estate, and all other rights in real estate that are not ownership interests.

(B) Under sections 1310.01 to 1310.78 of the Revised Code, a lease may be of goods that are fixtures or may continue in goods that become fixtures, but, under those sections, no lease exists of ordinary building materials incorporated into an improvement on land.

(C) Sections 1310.01 to 1310.78 of the Revised Code do not prevent the creation of a lease of fixtures pursuant to real estate law.

(D) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if either of the following applies:

(1) The lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten days after they become fixtures, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(2) The interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(E) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if any of the following applies:

(1) The fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in

the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease and, before the goods become fixtures, the lease contract is enforceable.

(2) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable.

(3) The encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures.

(4) The lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(F) Notwithstanding division (D)(1) of this section but otherwise subject to divisions (D) and (E) of this section, the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(G) In cases not within divisions (A) to (F) of this section, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(H) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee, on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and sections 1310.01 to 1310.78 of the Revised Code, or if necessary to enforce other rights and remedies of the lessor or lessee under those sections, may remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee shall reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(I) Even though the lease agreement does not create a security interest,

the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of Chapter 1309. of the Revised Code.

Sec. 1503.05. (A) The chief of the division of forestry may sell timber and other forest products from the state forest whenever ~~he~~ the chief considers such a sale desirable and, with the approval of the attorney general and the director of natural resources, may sell portions of the state forest lands when such a sale is advantageous to the state.

(B) Except as otherwise provided in this section, a timber sale agreement shall not be executed unless the person or governmental entity bidding on the sale executes and files a surety bond conditioned on completion of the timber sale in accordance with the terms of the agreement in an amount equal to twenty-five per cent of the highest value cutting section. All bonds shall be given in a form prescribed by the chief and shall run to the state as obligee.

The chief shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by ~~his~~ the attorney in fact thereof, with a certified copy of the power of attorney attached. The chief shall not approve the bond unless there is attached a certificate of the superintendent of insurance that the company is authorized to transact a fidelity and surety business in this state.

In lieu of a bond, the bidder may deposit any of the following:

~~(A)~~(1) Cash in an amount equal to the amount of the bond;

~~(B)~~(2) United States government securities having a par value equal to or greater than the amount of the bond;

~~(C)~~(3) Negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, having a par value equal to or greater than the amount of the bond.

The cash or securities shall be deposited on the same terms as bonds. If one or more certificates of deposit are deposited in lieu of a bond, the chief shall require the bank that issued any of the certificates to pledge securities of the aggregate market value equal to the amount of the certificate or certificates that is in excess of the amount insured by the federal deposit insurance corporation. The securities to be pledged shall be those designated as eligible under section 135.18 of the Revised Code. The securities shall be security for the repayment of the certificate or certificates of deposit.

Immediately upon a deposit of cash, securities, certificates of deposit, or letters of credit, the chief shall deliver them to the treasurer of state, who shall hold them in trust for the purposes for which they have been deposited.

The treasurer of state is responsible for the safekeeping of the deposits. A bidder making a deposit of cash, securities, certificates of deposit, or letters of credit may withdraw and receive from the treasurer of state, on the written order of the chief, all or any portion of the cash, securities, certificates of deposit, or letters of credit upon depositing with the treasurer of state cash, other United States government securities, or other negotiable certificates of deposit or irrevocable letters of credit issued by any bank organized or transacting business in this state, equal in par value to the par value of the cash, securities, certificates of deposit, or letters of credit withdrawn.

A bidder may demand and receive from the treasurer of state all interest or other income from any such securities or certificates as it becomes due. If securities so deposited with and in the possession of the treasurer of state mature or are called for payment by the issuer thereof, the treasurer of state, at the request of the bidder who deposited them, shall convert the proceeds of the redemption or payment of the securities into such other United States government securities, negotiable certificates of deposit, or cash as the bidder designates.

When the chief finds that a person or governmental agency has failed to comply with the conditions of ~~his~~ the person's or governmental agency's bond, ~~he~~ the chief shall make a finding of that fact and declare the bond, cash, securities, certificates, or letters of credit forfeited. The chief ~~shall~~ thereupon shall certify the total forfeiture to the attorney general, who shall proceed to collect the amount of the bond, cash, securities, certificates, or letters of credit.

In lieu of total forfeiture, the surety, at its option, may cause the timber sale to be completed or pay to the treasurer of state the cost thereof.

All moneys collected as a result of forfeitures of bonds, cash, securities, certificates, and letters of credit under this section shall be credited to the state forest fund created in this section.

(C) The chief may grant easements and leases on portions of the state forest lands under such terms as are advantageous to the state, and ~~he~~ the chief may grant mineral rights on a royalty basis, with the approval of the attorney general and the director.

(D) All moneys received from the sale of state forest lands, or in payment for easements or leases on or as rents from ~~such~~ those lands, shall be paid into the state treasury to the credit of the state forest fund, which is hereby created. All moneys received from the sale of standing timber taken from the state forest lands shall be deposited into the general revenue fund. All moneys received from the sale of forest products, other than standing

timber, and minerals taken from the state forest lands, together with royalties from mineral rights, shall be paid into the state forest fund. ~~At~~

At the time ~~he makes~~ of making such a payment or deposit, the chief shall determine the amount and ~~net~~ gross value of all such products sold or royalties received from lands in each county ~~and~~, in each township within the county, and in each school district within the county. Afterward the chief shall send to each county treasurer a copy of the determination and shall provide for payment to the county treasurer, for the use of the general fund of that county from the amount so received as provided in this division, an amount equal to ~~fifty~~ eighty per cent of the ~~net~~ gross value of the products sold or royalties received from lands located in that county. The county auditor shall ~~pay~~ do all of the following:

(1) Retain for the use of the general fund of the county one-fourth of the amount received by the county under division (D) of this section;

(2) Pay into the general fund of any township located within the county and containing such lands ~~one-half~~ one-fourth of the amount received by the county from products sold or royalties received from lands located in the township;

(3) Request the board of education of any school district located within the county and containing such lands to identify which fund or funds of the district should receive the moneys available to the school district under division (D)(3) of this section. After receiving notice from the board, the county auditor shall pay into the fund or funds so identified one-half of the amount received by the county from products sold or royalties received from lands located in the school district, distributed proportionately as identified by the board. ~~The~~

The division of forestry shall not supply logs, lumber, or other forest products or minerals, taken from the state forest lands, to any other agency or subdivision of the state unless payment is made therefor in the amount of the actual prevailing value thereof. This section is applicable to the moneys so received. All moneys received from the sale of reforestation tree stock or other revenues derived from the operation of the state forests, facilities, or equipment shall be paid into the state forest fund.

The fund shall not be expended for any purpose other than the administration, operation, maintenance, development, or utilization of the state forests, forest nurseries, and forest programs, for facilities or equipment incident thereto, or for the further purchase of lands for state forest or forest nursery purposes.

Sec. 1503.141. There is hereby created in the state treasury the wildfire suppression fund. The fund shall consist of ~~such revenues as the general~~

~~assembly provides,~~ any federal moneys received for the purposes of this section~~,~~ and donations, gifts, bequests, and other moneys received for those purposes. In addition, the chief of the division of forestry annually may request that the director of budget and management transfer, and, if so requested, the director shall transfer, not more than one hundred thousand dollars to the wildfire suppression fund from the general revenue fund. The amount transferred shall consist only of money deposited into the general revenue fund from the sale of standing timber taken from state forest lands as set forth in section 1503.05 of the Revised Code.

The chief ~~of the division of forestry~~ shall use moneys in the wildfire suppression fund to reimburse firefighting agencies and private fire companies for their costs incurred in the suppression of wildfires. The chief shall provide such reimbursement pursuant to agreements and contracts entered into under section 1503.14 of the Revised Code and in accordance with the following schedule:

(A) For wildfire suppression on private land, an initial seventy-dollar payment to the firefighting agency or private fire company;

(B) For wildfire suppression on land under the administration or care of the department of natural resources or on land that is part of any national forest administered by the United States department of agriculture forest service, an initial one-hundred-dollar payment to the firefighting agency or private fire company;

(C) For any wildfire suppression on land specified in division (A) or (B) of this section lasting more than two hours, an additional payment of thirty-five dollars per hour.

If at any time moneys in the fund exceed two hundred thousand dollars, the chief shall disburse the moneys that exceed that amount to the firefighting agencies and private fire companies in accordance with rules that ~~he~~ the chief shall adopt in accordance with Chapter 119. of the Revised Code. The rules shall establish requirements and procedures that are similar in purpose and operation to the federal rural community fire protection program established under the "Cooperative Forestry Assistance Act of 1978," 92 Stat. 365, 16 U.S.C.A. 2101, as amended.

As used in this section, "firefighting agency" and "private fire company" have the same meanings as in section 9.60 of the Revised Code.

Sec. 1506.21. (A) There is hereby created the Ohio Lake Erie commission, consisting of the directors of environmental protection, natural resources, health, agriculture, and transportation, or their designees~~, as members ex officio~~. The members of the commission annually shall designate a ~~chairman~~ chairperson, who shall preside at the meetings of the

commission, and a secretary. ~~The offices of chairman and secretary shall rotate among the members annually.~~

The commission shall hold at least one meeting every three months. The secretary of the commission shall keep a record of its proceedings. Special meetings shall be held at the call of the ~~chairman~~ chairperson or upon the request of four members of the commission. All meetings and records of the commission shall be open to the public. Three members of the commission constitute a quorum. The agencies represented on the commission shall furnish clerical, technical, and other services required by the commission in the performance of its duties.

(B) The commission shall do all of the following:

(1) Ensure the coordination of state and local policies and programs pertaining to Lake Erie water quality, toxic pollution control, and resource protection;

(2) Review, and make recommendations concerning, the development and implementation of policies, programs, and issues for long-term, comprehensive protection of Lake Erie water resources and water quality that are consistent with the great lakes water quality agreement and the great lakes toxic substances control agreement;

(3) Recommend policies and programs to modify the coastal management program of this state;

(4) At each regular meeting, consider matters relating to the implementation of sections 1506.22 and 1506.23 of the Revised Code;

(5) Publish and submit the Lake Erie protection agenda in accordance with division (C) of section 1506.23 of the Revised Code;

(6) Ensure the implementation of a basinwide approach to Lake Erie issues;

(7) Increase representation of the interests of this state in state, regional, national, and international forums pertaining to the resources and water quality of Lake Erie and the Lake Erie basin;

(8) Promote education concerning the wise management of the resources of Lake Erie;

(9) Establish public advisory councils as considered necessary to assist in programs established under this section and sections 1506.22 and 1506.23 of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have experience or expertise in the subject for which the advisory council was established, and shall serve without compensation.

(10) Prepare and submit the report required under division (D) of section 1506.23 of the Revised Code.

(C) Each state agency, upon the request of the commission, shall cooperate in the implementation of this section and sections 1506.22 and 1506.23 of the Revised Code.

Sec. 1506.22. (A) Except as provided in division (B) of this section, the ~~department of natural resources~~state agency whose director has been designated to administer the Lake Erie protection fund under section 1506.23 of the Revised Code is hereby designated the lead agency for the implementation in this state of the purposes of the great lakes protection fund, a regional trust fund established by the great lakes states to advance the principles, goals, and objectives of the great lakes toxic substances control agreement and the great lakes water quality agreement, as they may be revised and amended.

(B) The governor shall appoint two members from this state to the board of directors of the great lakes protection fund as provided in the bylaws and articles of incorporation of the fund. Of the initial appointments made to the board, one shall serve for a term of one year and one shall serve for a term of two years; thereafter, the members of the board of directors from this state shall serve for terms of two years. The governor may remove any member at any time as provided in the bylaws and articles of incorporation of the fund. In the event of a vacancy, the governor shall appoint a successor to hold office for the remainder of the term for which ~~his~~ the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Membership on the board does not constitute holding a public office or position of employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment.

Members of the board from this state shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

Sec. 1506.23. (A) There is hereby created in the state treasury the Lake Erie protection fund, which shall consist of ~~moneys awarded to the state from the great lakes protection fund,~~ moneys deposited into the fund from the issuance of Lake Erie license plates under section 4503.52 of the Revised Code~~,~~ and donations, gifts, bequests, and other moneys received for the purposes of this section. ~~The department of natural resources shall administer the fund and~~ not later than the first day of June each year, ~~with the approval of~~ the Ohio Lake Erie commission created in section 1506.21

of the Revised Code shall designate one of its members to administer the fund and, with the approval of the commission, ~~may~~ to expend moneys from ~~it~~ the fund for any of the following purposes:

(1) Accelerating the pace of research into the economic, environmental, and human health effects of contamination of Lake Erie and its tributaries;

(2) Funding cooperative research and data collection regarding Lake Erie water quality and toxic contamination;

(3) Developing improved methods of measuring water quality and establishing a firm scientific base for implementing a basinwide system of water quality management for Lake Erie and its tributaries;

(4) Supporting research to improve the scientific knowledge on which protection policies are based and devising new and innovative clean-up techniques for toxic contaminants;

(5) Supplementing, in a stable and predictable manner, state commitments to policies and programs pertaining to Lake Erie water quality and resource protection;

(6) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, institutions of higher education, environmental organizations, and conservation groups within the Lake Erie basin;

(7) Awarding of grants to any agency of the United States, any state agency, as "agency" is defined in division (A)(2) of section 111.15 of the Revised Code, any political subdivision, any educational institution, or any nonprofit organization for the development and implementation of projects and programs that are designed to protect Lake Erie by reducing toxic contamination of or improving water quality in Lake Erie;

(8) Expenses authorized by the Ohio Lake Erie commission necessary to implement this chapter.

(B) Moneys in the Lake Erie protection fund are not intended to replace other moneys expended by any agency of the United States, any state agency, as "agency" is so defined, any political subdivision, any educational institution, or any nonprofit organization for projects and programs that are designed to protect Lake Erie by reducing toxic contamination of or improving water quality in Lake Erie.

(C) Each March, the Ohio Lake Erie commission shall publish a Lake Erie protection agenda that describes proposed uses of the Lake Erie protection fund for the following state fiscal year. The agenda shall be the subject of at least one public meeting of the commission held in the Lake Erie basin. The commission shall submit the agenda to the governor, the president of the senate, and the speaker of the house of representatives.

(D) Not later than September 1, 1991, and annually thereafter, the Lake Erie commission shall prepare a report of the activities that were undertaken by the commission under this section during the immediately preceding fiscal year, including, without limitation, revenues and expenses for the preceding fiscal year. The commission shall submit the report to the governor, the president of the senate, and the speaker of the house of representatives.

Sec. 1506.24. (A) There is hereby created in the state treasury the Lake Erie resources fund, which shall consist of moneys awarded to the state from the great lakes protection fund and donations, gifts, bequests, and other moneys received for the purposes of this section. Not later than the first day of June each year, the Ohio Lake Erie commission created in section 1506.21 of the Revised Code shall designate one of its members to administer the fund and, with the approval of the commission, to expend moneys from the fund for any of the following purposes:

(1) Accelerating the pace of research into the economic, environmental, and human health effects of contamination of Lake Erie and its tributaries;

(2) Funding cooperative research and data collection regarding Lake Erie water quality and toxic contamination;

(3) Developing improved methods of measuring water quality and establishing a firm scientific base for implementing a basinwide system of water quality management for Lake Erie and its tributaries;

(4) Supporting research to improve the scientific knowledge on which protection policies are based and devising new and innovative clean-up techniques for toxic contaminants;

(5) Supplementing, in a stable and predictable manner, state commitments to policies and programs pertaining to Lake Erie water quality and resource protection;

(6) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, institutions of higher education, environmental organizations, and conservation groups within the Lake Erie basin;

(7) Awarding of grants to any agency of the United States, any state agency, as "agency" is defined in division (A)(2) of section 111.15 of the Revised Code, any political subdivision, any educational institution, or any nonprofit organization for the development and implementation of projects and programs that are designed to protect Lake Erie by reducing toxic contamination of or improving water quality in Lake Erie;

(8) Expenses authorized by the Ohio Lake Erie commission necessary to implement this chapter.

(B) Moneys in the Lake Erie resources fund are not intended to replace other moneys expended by any agency of the United States, any state agency, as "agency" is so defined, any political subdivision, any educational institution, or any nonprofit organization for projects and programs that are designed to protect Lake Erie by reducing toxic contamination of or improving water quality in Lake Erie.

(C) Each March, the Ohio Lake Erie commission shall publish a Lake Erie protection agenda that describes proposed uses of the Lake Erie resources fund for the following state fiscal year. The agenda shall be the subject of at least one public meeting of the commission held in the Lake Erie basin. The commission shall submit the agenda to the governor, the president of the senate, and the speaker of the house of representatives.

(D) Annually the Lake Erie commission shall prepare a report of the activities that were undertaken by the commission under this section during the immediately preceding fiscal year, including, without limitation, revenues and expenses for the preceding fiscal year. The commission shall submit the report to the governor, the president of the senate, and the speaker of the house of representatives.

Sec. 1513.29. There is hereby created the council on unreclaimed strip mined lands. Its members are the chief of the division of mines and reclamation, four persons appointed by the director of natural resources, two members of the house of representatives appointed by the speaker of the house of representatives, one member of the house of representatives appointed by the minority leader of the house of representatives, two members of the senate appointed by the president of the senate, and one member of the senate appointed by the minority leader of the senate.

Members who are members of the general assembly shall serve terms of four years or until their legislative terms end, whichever is sooner. Members appointed by the director shall serve terms of four years, except that the terms of the first four members shall be for two and four years, as designated by the director. Any vacancy in the office of a member of the council shall be filled by the appointing authority for the unexpired term of the member whose office will be vacant. The appointing authority may at any time remove a member of the council for misfeasance, nonfeasance, malfeasance, or conflict of interest in office.

The council shall hold at least four regular quarterly meetings each year. Special meetings may be held at the call of the chairperson or a majority of the members. The council shall annually elect from among its members a chairperson, a vice-chairperson, and a secretary to keep a record of its proceedings.

The council shall gather information, study, and make recommendations concerning the number of acres, location, ownership, condition, environmental damage resulting from the condition, cost of acquiring, reclaiming, and possible future uses and value of eroded lands within the state, including land affected by strip mining for which no cash is held in the strip mining reclamation fund.

The council may employ such staff and hire such consultants as necessary to perform its duties. Members appointed by the director and, notwithstanding section 101.26 of the Revised Code, members who are members of the general assembly, when engaged in their official duties as members of the council, shall be compensated on a per diem basis in accordance with division (J) of section 124.15 of the Revised Code. Members shall be reimbursed for their necessary expenses. Expenses incurred by the council and compensation provided under this section shall be paid by the chief of the division of mines and reclamation from the ~~coal mining administration and reclamation reserve~~ unreclaimed lands fund created in section 1513.30 of the Revised Code.

The council shall report its findings and recommendations to the governor and the general assembly not later than January 1, 1974, and biennially thereafter.

Sec. 1513.30. There is hereby created in the state treasury the unreclaimed lands fund, to be administered by the chief of the division of mines and reclamation and used for the purpose of reclaiming land, public or private~~,~~land affected by mining or controlling mine drainage, for which no cash is held in the strip mining reclamation fund created in section 1513.18 of the Revised Code or the surface mining reclamation fund created in section 1514.06 of the Revised Code, and also for the purpose of paying the expenses and compensation of the council on unreclaimed strip mined lands as required by section 1513.29 of the Revised Code.

In order to direct expenditures from the unreclaimed lands fund toward reclamation projects that fulfill priority needs and provide the greatest public benefits, the chief shall periodically submit to the council ~~on unreclaimed strip mined lands~~ project proposals to be financed from the unreclaimed lands fund, together with benefit and cost data and other pertinent information. For the purpose of selecting project areas and determining the boundaries of project areas, the council shall consider the feasibility, cost, and public benefits of reclaiming the areas, their potential for being mined, the availability of federal or other financial assistance for reclamation, and the geographic distribution of project areas to ensure fair distribution among affected areas.

The council shall give priority to areas where there is little or no likelihood that the area will be mined within the foreseeable future, reclamation is feasible at reasonable cost with available funds, and either of the following applies:

(A) The pollution of the waters of the state and damage to adjacent property are most severe and widespread.

(B) Reclamation will make possible public uses for soil, water, forest, or wildlife conservation or public recreation purposes, will facilitate orderly commercial or industrial site development, or will facilitate the use or improve the enjoyment of nearby public conservation or recreation lands.

At least two weeks before any meeting of the council on unreclaimed strip mined lands at which the chief will submit a project proposal, a project area will be selected, or the boundaries of a project area will be determined, the chief shall mail notice by first class mail to the board of county commissioners of the county and the board of township trustees of the township in which the proposed project lies and the chief executive and the legislative authority of each municipal corporation within the proposed project area. The chief ~~shall~~ also shall give reasonable notice to the news media in the county where the proposed project lies.

Expenditures from the unreclaimed lands fund for reclamation projects may be made only for ~~reclamation~~ projects that are within the boundaries of project areas approved by the council, and expenditures for a particular project may not exceed any applicable limits set by the council. Expenditures from the unreclaimed lands fund shall be made by the chief, with the approval of the director of natural resources.

The controlling board may transfer excess funds from the oil and gas well plugging fund, after recommendation by the council on unreclaimed strip mined lands, to meet deficiencies in the unreclaimed lands fund.

The chief may expend an amount not to exceed twenty per cent of the moneys credited annually by the treasurer of state to the unreclaimed lands fund for the purpose of administering the unreclaimed lands fund.

Sec. 1515.09. The supervisors of a soil and water conservation district may employ assistants and such other employees as they consider necessary and may provide for the payment of the reasonable compensation of such assistants and employees and expenses incurred by them in the discharge of their duties from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

District employees ~~shall be~~ are entitled to the sick leave benefits that are provided in section 124.38 of the Revised Code and the vacation leave benefits that are provided in section 325.19 of the Revised Code and are entitled to participate in the sick leave donation program established under section 1515.091 of the Revised Code.

The supervisors may designate the amounts and forms of other benefits, including insurance protection, to be provided to employees and may make payments of benefits from the district fund that is created with moneys accepted by the supervisors in accordance with division (E) of section 1515.08 of the Revised Code or from the special fund created pursuant to section 1515.10 of the Revised Code. The board of county commissioners may make payments of benefits that are provided under this section.

The supervisors may purchase such materials, equipment, and supplies, may lease such equipment, and may rent, purchase, or construct, and maintain, such offices, and provide for such equipment and supplies therefor, as they consider necessary and may pay for the same from the special fund established for the district pursuant to section 1515.10 of the Revised Code.

~~Until June 1, 1996, the supervisors may enter into service agreements with a board of county commissioners under sections 307.14 to 307.19 of the Revised Code and similar agreements with a board of township trustees for the use or services of equipment or personnel of the county or township for control of multiflora rose growing outside highway boundaries. However, any such agreement for the use or services of equipment or personnel funded by moneys derived from fees, excises, or license taxes relating to registration, operation, or use of motor vehicles on public highways, or to fuels used for propelling such vehicles, shall require the supervisors to pay to the board of county commissioners or township trustees the entire cost of the services provided by the equipment and personnel, including, without limitation, the costs of labor, materials, and operation and depreciation of the equipment. The supervisors may pay the costs incurred under such service agreements from the special fund for the district created pursuant to section 1515.10 of the Revised Code.~~

Sec. 1515.091. (A) As used in this section:

(1) "Receiving employee" means an employee of a soil and water conservation district who receives donated sick leave as authorized by this section.

(2) "Donating employee" means an employee of a soil and water conservation district who donates sick leave as authorized by this section.

(3) "Paid leave" has the same meaning as in section 124.391 of the Revised Code.

(B)(1) An employee of a soil and water conservation district is eligible to become a receiving employee if the employee is a full-time, regular employee who has completed the prescribed probationary period, has used up all accrued paid leave, and has been placed on an approved, unpaid, medical-related leave of absence for a period of at least thirty working days because of the employee's own serious illness or because of a serious illness of a member of the employee's immediate family.

(2) An employee who desires to become a receiving employee shall submit to the board of supervisors of the employing soil and water conservation district, along with a satisfactory physician's certification, a written request for donated sick leave. The board of supervisors shall determine whether the employee is eligible to become a receiving employee, and shall approve the request if it determines the employee is eligible.

(C)(1) A board of supervisors that approves a request for an employee to become a receiving employee shall forward the approved application to a committee that the Ohio Association of soil and water conservation district employees shall appoint to act as a clearinghouse for the donation of sick leave under this section. The committee shall post notice for not less than ten days informing all employees of soil and water conservation districts throughout the state that it has received an approved application to become a receiving employee.

(2) A soil and water conservation district employee desiring to become a donating employee shall complete and submit a sick leave donation form to the employee's immediate supervisor within twenty days after the date of the initial posting of the notice described in division (C)(1) of this section. If the board of supervisors of the employing district of an employee desiring to become a donating employee approves the sick leave donation, the board shall forward to the committee, together with a check equal to the total value of the sick leave donation, a copy of the sick leave donation form, and the board shall notify the receiving employee regarding the donation.

(D) If the committee described in division (C)(1) of this section receives a sick leave donation form and a check from a board of supervisors, the

committee shall deposit the check into an account that it shall establish to be used to dispense funds to the employing district of a receiving employee. The committee shall notify the board of supervisors of the employing district of a receiving employee of the amount of sick leave donated. The board of supervisors shall bill the committee during each pay period for the receiving employee's gross hourly wages in an amount that does not exceed the amount donated to the receiving employee. the board of supervisors, with the approval of the county auditor, shall provide for the deposit into its appropriate payroll account of any payments it receives for the benefit of a receiving employee.

(E) The donation and receipt of sick leave under this section is subject to all of the following:

(1) all donations of sick leave shall be voluntary.

(2) a donating Employee is eligible to donate not less than eight hours and not more than eighty hours of sick leave during the same calendar year.

(3) The value of an hour of sick leave donated is the value of the donating employee's gross hourly wage. The number of hours received by a receiving employee from a donating employee shall be a number that, when multiplied by the receiving employee's gross hourly wage, equals the amount resulting when the donating employee's gross hourly wage is multiplied by the number of hours of sick leave donated.

(4) No paid leave shall accrue to a receiving employee for any compensation received through donated sick leave, and the receipt of donated sick leave does not affect the date on which a receiving employee first qualifies for continuation of health insurance coverage.

(5) If a receiving employee does not use all donated sick leave during the period of the employee's leave of absence, the unused balance shall be returned, within three months after the end of the leave of absence and on a prorated basis, to each donating employee who donated sick leave to the receiving employee.

Sec. 1517.11. There is hereby created in the state treasury the natural areas and preserves fund, which shall consist of moneys transferred into it under section 5747.113 of the Revised Code and of contributions made directly to it. Any person may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in that section. ~~Moneys~~

Moneys in the fund shall be disbursed pursuant to vouchers approved by the director of natural resources for use by the division of natural areas and preserves solely for the ~~identification, protection, conservation, and management of endangered plants and for the identification,~~ following

purposes:

(A) The acquisition~~, and management~~ of ~~natural areas,~~ new or expanded natural areas, nature preserves, and wild, scenic, and recreational river areas~~, and endangered species habitat~~;

(B) Facility development in natural areas, nature preserves, and wild, scenic, and recreational river areas;

(C) Special projects, including, but not limited to, biological inventories, research grants, and the production of interpretive material related to natural areas, nature preserves, and wild, scenic, and recreational river areas. ~~Moneys~~

Moneys appropriated from the fund ~~are~~ shall not ~~intended to replace other moneys appropriated for these purposes~~ be used to fund salaries of permanent employees, administrative costs, or routine maintenance. ~~All~~

All investment earnings of the fund shall be credited to the fund.

90-DAY

SECTION Sec. 1555.09. For meetings of the commissioners of the sinking fund pertaining to obligations under this chapter, each of the commissioners may designate an employee or officer of that commissioner's office to attend meetings when that commissioner is absent for any reason. The designee, when present, shall be counted in determining whether a quorum is present at a meeting, and may vote and participate at the meeting in all proceedings and actions of the commissioners pertaining to the obligations. However, the designee shall not execute or cause a facsimile of the designee's signature to be placed on any obligation, or execute any trust agreement or indenture of the commissioners.

A commissioner shall execute a designation under this section in writing and shall file the written designation with the secretary of the board of commissioners. A commissioner may change the designation by executing and filing with the secretary another written designation.

Sec. 1557.06. (A) The parks and natural resources local assistance grant program is hereby established to provide grants to local government entities for capital improvements for the acquisition, construction, reconstruction, expansion, improvement, planning, and equipping of capital projects that enhance the use and enjoyment of natural resources by individuals. Such projects include, but are not limited to, the acquisition of lands, facilities, and waters for public recreation, or for the preservation of wetlands or unique habitats; the development, construction, reconstruction, expansion, or rehabilitation of recreation areas and facilities; and projects to provide public park and recreation opportunities by improving public access or safety. Grants shall not be awarded for administrative, operating, or

ntenance costs; or for areas, facilities, or structures for athletics, arts, historic sites, or other purposes, that are not used primarily for public recreation.

The director of natural resources shall administer the parks and natural resources local assistance grant program in accordance with procedures and criteria that the director shall develop with the approval of the recreation and resources council.

(B) Grants awarded under this section may provide up to seventy-five per cent of the total project costs approved by the director. At least twenty per cent of such costs must be provided by the grant recipient from nonstate, nonfederal sources. Local government entities may apply for grants individually or jointly.

(C) The criteria developed for the administration of the program shall require a local government entity receiving a grant for a project under this section to have sufficient real property interests in the project for the purposes of the obligations issued under this chapter, and shall require that the projects be retained and used in a manner consistent with the purposes of Section 2l of Article VIII, Ohio Constitution.

(D) The director shall allocate to each county a portion of the proceeds of the first two hundred million dollars principal amount in obligations issued under this chapter, for projects of local government entities within each ~~such~~ county. The director shall determine each county's allocation by calculating both of the following for each county:

(1) Its per capita share of forty million dollars;

(2) Its per capita share of thirty million dollars plus one hundred thirteen thousand six hundred thirty-six dollars.

The larger of the amount calculated under division (D)(1) or (2) of this section for each county shall be that county's allocation, and whatever percentage of the first two hundred million dollars principal amount in obligations issued under this chapter that is necessary to satisfy the requirements of ~~this~~ division (D) of this section, shall be so allocated.

(E) The director shall allocate to each county a portion of twenty per cent of the proceeds in excess of the first two hundred million dollars principal amount in obligations issued under this chapter, for projects of local government entities within each county. The director shall determine each county's allocation by calculating both of the following and combining the amounts calculated for each county:

(1) One-third of twenty per cent of the proceeds to be divided equally among all of the counties;

(2) Two-thirds of twenty per cent of the proceeds to be distributed on a per capita basis to each county.

(F) Any moneys granted under division (E) of this section and not obligated within a county after two funding cycles, at the discretion of the director, shall be reallocated to projects either in the county to which they originally were allocated or in other counties demonstrating a need for the funds.

Sec. 1703.03. No foreign corporation not excepted from sections 1703.01 to 1703.31~~, inclusive,~~ of the Revised Code, shall transact business in this state unless it holds an unexpired and uncanceled license to do so issued by the secretary of state. To procure ~~and maintain~~ such a license, a foreign corporation shall file an application, pay a filing fee, ~~file annual reports, pay a license fee in initial and additional installment,~~ and comply with all other requirements of law respecting the maintenance of ~~such~~ the license as provided in ~~such~~ those sections.

Sec. 1703.05. When the application of a foreign corporation for a license to transact business in this state has been accepted for filing and the filing fee has been paid, the secretary of state shall issue to ~~such~~ the corporation a license certificate authorizing it to transact business in this state, subject to expiration or cancellation of ~~such~~ the license as provided by law~~, until it fails to pay installments of the license fee as required by section 1703.11 of the Revised Code~~.

Sec. 1703.07. ~~Each~~If a foreign corporation ~~for profit licensed to transact business in this state, at the time prescribed by law for the filing of its annual franchise or excise tax report, shall file with the secretary of state, on a form prescribed by the secretary of state, a report that is verified by the oath of an authorized officer. The report shall be accompanied by a filing fee of ten dollars, and that sets forth, as of the date of the beginning of the current annual accounting period of the corporation, all of the following:~~

~~(A) The location and address of the corporation's principal office;~~

~~(B) The date of the beginning of its current annual accounting period;~~

~~(C) The location and value of the property owned or used by the corporation, as shown on its books, both within and without the state, given separately, in either case exclusive of good will carried as an asset on the books of the corporation;~~

~~(D) The total amount of business done by the corporation during its preceding annual accounting period, both within and without this state, given separately;~~

~~(E) The number of its issued shares;~~

~~(F) The name and address of the person to whom statements of installments of license fees due may be mailed, which person may be the same person as the designated agent of the corporation, but notwithstanding~~

~~the naming of such person, any such statement may be mailed to such designated agent.~~

~~If, prior to the filing of an annual report under this section, the corporation has amended its articles to change the corporate title or~~ has merged or consolidated with one or more foreign ~~or domestic~~ corporations ~~and has not filed a certificate evidencing the change of corporate title, merger, or consolidation with the secretary of state~~, it shall ~~accompany its annual report~~ file with the secretary of state a certificate setting forth the ~~new corporate title enacted by the amendment to its articles or the~~ fact of merger or consolidation, certified by the secretary of state, or other proper official, of the state under the laws of which the foreign corporation was incorporated.

The secretary of state, before filing a certificate evidencing a foreign corporation's ~~change of corporate title,~~ merger~~,~~ or consolidation, shall charge and collect from the foreign corporation ~~an additional~~ a filing fee of ten dollars.

90-DAY

SECTION Sec. 1703.08. A foreign corporation shall file a certificate of amendment with the secretary of state if, in amending its articles of incorporation, it modifies any of the information included in either its application for a license to transact business in this state or any amendment to that application. The certificate of amendment shall describe the modification of information, include a statement of its adoption together with a statement that the certificate supersedes the information currently on file with the secretary of state, and be signed by an authorized officer of the corporation. The certificate of amendment shall also be accompanied by the filing fee set forth in division (B) of section 111.16 of the Revised Code.

Sec. 1703.12. Upon the ~~payment~~filing of ~~any installment of the license fee~~ an amendment by a foreign corporation increasing its number of authorized shares in this state, the secretary of state shall issue to the corporation a supplemental license certificate setting forth the number of shares ~~which~~ that the corporation is authorized to have represented in this state.

Sec. 1703.22. ~~A certificate~~An amendment changing the name of a foreign corporation~~, certified by the secretary of state or other proper official of the state under the laws of which the corporation is incorporated, and showing its original as well as its new name,~~ may be filed for record with the county recorder of any county when accompanied by a certificate from the secretary of state of this state certifying that ~~a certificate~~ an amendment evidencing a change in the corporate name has been filed in ~~his~~ the secretary

of state's office. For such recording the recorder shall charge and collect the same fee as provided for in division (A) of section 317.32 of the Revised Code.

Sec. 1703.26. A foreign corporation licensed before the effective date of this amendment and having authority on that date to transact business in this state may appeal from any decision, finding, determination, or action by the secretary of state under sections 1703.01 to 1703.31~~, inclusive,~~ of the Revised Code, to a board of review consisting of the auditor of state, the treasurer of state, and the attorney general, or their authorized representatives, by filing notice of such appeal with the auditor of state. The auditor of state shall thereupon notify the corporation of the date of the hearing before ~~such~~ the board at least ten days prior to the date of ~~such~~ the hearing, and at ~~such~~ the hearing the corporation shall be entitled to be heard. The decision of a majority of the members of ~~such~~ the board shall be final. The decision shall be in writing and shall be transmitted to the secretary of state. The secretary of state shall thereupon mail to the corporation a copy of ~~such~~ the decision.

~~If an appeal is taken from any determination by the secretary of state of the number of such corporation's issued shares represented in this state, the secretary of state shall mail to the corporation a statement of the installment of the license fee payable in accordance with the decision by the board on such appeal, and such fee shall be payable within thirty days after the mailing of such statement by the secretary of state.~~

Sec. 1703.27. No foreign nonprofit corporation shall exercise its corporate privileges in this state in a continual course of transactions until it has first procured from the secretary of state a certificate authorizing it to do so.

Before issuing such certificate the secretary of state shall require such foreign corporation to file in the secretary of state's office a certificate of good standing or subsistence, setting forth the exact corporate title, the date of incorporation, and the fact that the corporation is in good standing or is a subsisting corporation, certified by the secretary of state, or other proper official, of the state under the laws of which the corporation was incorporated, and a statement, on a form prescribed by the secretary of state, verified by the oath of one of its officers, setting forth, but not limited to:

(A) The name of the corporation;

(B) The state under the laws of which it is incorporated;

(C) The location of its principal office;

(D) The corporate privileges it proposes to exercise in this state;

(E) The location of its principal office in this state;

(F) The appointment of a designated agent and the complete address of such agent;

(G) Its irrevocable consent to service of process on such agent so long as the authority of ~~such~~ the agent continues and to service of process upon the secretary of state in the events provided for in section 1703.19 of the Revised Code.

For the filing of such statement the secretary of state shall charge and collect a fee of thirty-five dollars.

A foreign nonprofit corporation shall file an amendment with the secretary of state if there is a modification of any of the information required to be included in its statement. For the filing of such amendment the secretary of state shall charge and collect a fee of fifty dollars.

Sections 1703.01 to 1703.31 of the Revised Code, governing foreign corporations for profit in respect to exemption from attachment, change of location of principal office, change of its designated agent or of ~~his~~ the designated agent's address, service on the secretary of state, license certificate as prima-facie evidence, proof of due incorporation, filing of ~~certificates~~ amendments evidencing changes of corporate name, merger, or consolidation, filing of certificate of surrender, service on retired corporation, and penalties or forfeitures for transacting business without license, for false reports, and for failure to comply with other applicable provisions of such sections, shall also apply to foreign nonprofit corporations.

The secretary of state may require further reports, certificates, or information from a foreign nonprofit corporation, including verification of the continued existence of the corporation. Upon the failure of any corporation to provide the information, the secretary of state shall give notice of the failure by certified mail and, if the report is not filed within thirty days after the mailing of the notice, the license of the corporation to exercise its corporate privileges in this state shall expire and the secretary of state shall make a notation to that effect on the secretary of state's records.

Sec. 1707.041. (A)(1) No control bid for any securities of a subject company shall be made pursuant to a tender offer or request or invitation for tenders until the offeror files with the division of securities the information prescribed in division (A)(2) of this section. The offeror shall deliver a copy of the information specified in division (A)(2) of this section, by personal service, to the subject company at its principal office not later than the time of the filing with the division of securities. The offeror shall send or deliver to all offerees in this state, as soon as practicable after the filing, the material terms of the proposed offer and the information specified in division (A)(2)

of this section.

(2) The information to be filed with the division of securities, with the subject company, and with any other offeror, pursuant to division (A)(1) of this section, shall include:

(a) Copies of all prospectuses, brochures, advertisements, circulars, letters, or other matter by means of which the offeror proposes to disclose to offerees all information material to a decision to accept or reject the offer;

(b) The identity and background of all persons on whose behalf the acquisition of any equity security of the subject company has been or is to be effected;

(c) The source and amount of funds or other consideration used or to be used in acquiring any equity security, including a statement describing any securities, other than the existing capital stock or long term debt of the offeror, which are being offered in exchange for the equity securities of the subject company;

(d) A statement of any plans or proposals that the offeror, upon gaining control, may have to liquidate the subject company, sell its assets, effect a merger or consolidation of it, establish, terminate, convert, or amend employee benefit plans, close any plant or facility of the subject company or of any of its subsidiaries or affiliates, change or reduce the work force of the subject company or any of its subsidiaries or affiliates, or make any other major change in its business, corporate structure, management personnel, or policies of employment;

(e) The number of shares of any equity security of the subject company of which each offeror is beneficial or record owner or has a right to acquire, directly or indirectly, together with the name and address of each person defined in this section as an offeror;

(f) Particulars as to any contracts, arrangements, or understandings to which an offeror is party with respect to any equity security of the subject company, including transfers of any equity security, joint ventures, loan or option arrangements, puts and calls, guarantees of loan, guarantees against loss, guarantees of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into;

(g) Complete information on the organization and operations of offeror, including the year of organization, the form of organization, the jurisdiction in which it is organized, a description of each class of the offeror's capital stock and of its long term debt, financial statements for the current period and for the three most recent annual accounting periods, a brief description of the location and general character of the principal physical properties of

the offeror and its subsidiaries, a description of pending legal proceedings other than routine litigation to which the offeror or any of its subsidiaries is a party or of which any of their property is the subject, a brief description of the business done and projected by the offeror and its subsidiaries and the general development of such business over the past three years, the names of all directors and executive officers together with biographical summaries of each for the preceding three years to date, and the approximate amount of any material interest, direct or indirect, of any of the directors or officers in any material transaction during the past three years, or in any proposed material transactions, to which the offeror or any of its subsidiaries was or is to be a party;

(h) Such other and further documents, exhibits, data, and information as may be required by regulations of the division of securities, or as may be necessary to make fair, full, and effective disclosure to offerees of all information material to a decision to accept or reject the offer.

(3) Within ~~three~~ five calendar days of the date of filing by an offeror of information specified in division (A)(2) of this section, the division of securities may by order summarily suspend the continuation of the control bid if the division determines that all of the information specified has not been provided by the offeror or that the control bid materials provided to offerees do not provide full disclosure to offerees of all material information concerning the control bid. Such a suspension shall remain in effect only until the determination following a hearing held pursuant to division (A)(4) of this section.

(4) A hearing shall be scheduled and held by the division of securities with respect to each suspension imposed under division (A)(3) of this section. The hearing shall be held within ten calendar days of the date on which the suspension is imposed. Chapter 119. of the Revised Code does not apply to a hearing held under this division. The division of securities may allow any interested party to appear at and participate in the hearing in a manner considered appropriate by the division. The determination of the division of securities made following the hearing shall be made within three calendar days after the hearing has been completed, and no later than ~~sixteen~~ fourteen calendar days after the date on which the suspension is imposed. The division of securities, by rule or order, may prescribe time limits for conducting the hearing and for the making of the determination that are shorter than those specified in this division. If, based upon the hearing, the division of securities determines that all of the information required to be provided by division (A)(2) of this section has not been provided by the offeror, that the control bid materials provided to offerees do not provide

ull disclosure to offerees of all material information concerning the control bid, or that the control bid is in material violation of any provision of this chapter, the division shall maintain the suspension of the continuation of the control bid, subject to the right of the offeror to correct disclosure and other deficiencies identified by the division and to reinstitute the control bid by filing new or amended information pursuant to this section.

(B)(1) No control bid shall be made pursuant to a tender offer or request or invitation for tenders unless division (A) of section 1707.14 of the Revised Code has been complied with, and no offeror shall make a control bid that is not made to all holders residing in this state of the equity security that is the subject of the control bid, or that is not made to such holders on the same terms as the control bid is made to holders of such equity security not residing in this state.

(2) No offeror may make a control bid pursuant to a tender offer or request or invitation for tenders or acquire any equity security in this state pursuant to a control bid at any time during which any proceeding by the division alleging a violation of any provision of this chapter is pending against the offeror.

(3) No offeror may acquire from any resident of this state in any manner any equity security of any class of a subject company at any time within two years following the last acquisition of any security of the same class pursuant to a control bid pursuant to a tender offer or request or invitation for tenders by that offeror, whether the acquisition was made by purchase, exchange, merger, consolidation, partial or complete liquidation, redemption, reverse stock split, recapitalization, reorganization, or any other similar transaction, unless the resident is afforded, at the time of the later acquisition, a reasonable opportunity to dispose of the security to the offeror upon substantially the same terms as those provided in the earlier control bid.

(4) If an offeror makes a tender offer or request or invitation for tenders not subject to Rule 14D-1 or Rule 14D-4 of the securities and exchange commission under the "Securities Exchange Act of 1934," for less than all the outstanding equity securities of a class, and if a greater number of securities is deposited pursuant thereto within ten days after copies of the offer or request or invitation for tenders are first published or sent or given to security holders than the offeror is bound or willing to take up and pay for, the securities shall be taken up as nearly as may be pro rata, disregarding fractions, according to the number of securities deposited by each offeree. The preceding sentence applies to securities deposited within ten days after notice of an increase in the consideration offered to security

holders, as described in the next sentence, is first published or sent or given to security holders. If the terms of a control bid are changed before its expiration by increasing the consideration offered to offerees, the offeror shall pay the increased consideration for all equity securities taken up, whether the same are deposited or taken up before or after the change in the terms of the control bid.

(C) If the offeror or the subject company is a banking corporation subject to regulation by the division of banks, a savings and loan association subject to regulation by the division of savings and loan associations, or a public utility corporation subject to regulation by the public utilities commission, the division of securities shall forthwith, upon receipt of the filing required under division (A) of this section, furnish a copy of the filing to the regulatory body having jurisdiction over the offeror or subject company.

(D) An offeror is subject to the liabilities and penalties applicable to a seller, and an offeree is entitled to the remedies applicable to a purchaser, as set forth in sections 1707.041 to 1707.44 of the Revised Code.

(E) The division of securities may, pursuant to Chapter 119. of the Revised Code, prescribe reasonable rules:

(1) Defining fraudulent, evasive, deceptive, or grossly unfair practices in connection with control bids, and the terms used in this section;

(2) Exempting from this section control bids not made for the purpose of, and not having the effect of, changing or influencing the control of a subject company;

(3) Covering such other matters as are necessary to give effect to this section.

(F) If the offeror or a subject company is an insurance company subject to regulation under Title XXXIX of the Revised Code, the superintendent of insurance shall for all purposes of this section be substituted for the division of securities. This section shall not be construed to limit or modify in any way any responsibility, authority, power, or jurisdiction of the division of securities or the superintendent of insurance pursuant to any other section of the Revised Code.

(G) This section does not apply when:

(1) The offeror or the subject company is a public utility or a public utility holding company as defined in section 2 of the "Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 U.S.C. 79, as amended, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(2) The offeror or the subject company is a bank or a bank holding

company as subject to the "Bank Holding Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, and subsequent amendments thereto, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(3) The offeror or the subject company is a savings and loan holding company as defined in section 2 of the "Savings and Loan Holding Company Amendments of 1967," 82 Stat. 5, 12 U.S.C. 1730a, as amended, and the control bid is subject to approval by the appropriate federal agency as provided in such act;

(4) The offeror and the subject company are banks and the offer is part of a merger transaction subject to approval by appropriate federal supervisory authorities.

(H) If any application of any provision of this section is for any reason held to be illegal or invalid, the illegality or invalidity shall not affect any legal and valid provision or application of this section, and the parts and application of this section are severable.

Sec. 1707.44. (A) No person shall engage in any act or practice that violates division (A), (B), or (C) of section 1707.14 of the Revised Code, and no salesperson shall sell securities in this state without being licensed pursuant to section 1707.16 of the Revised Code.

(B) No person shall knowingly make or cause to be made any false representation concerning a material and relevant fact, in any oral statement or in any prospectus, circular, description, application, or written statement, for any of the following purposes:

(1) Complying with this chapter, in regard to registering securities by description;

(2) Securing the qualification of any securities under this chapter;

(3) Procuring the licensing of any dealer or ~~salesman~~ salesperson under this chapter;

(4) Selling any securities in this state.

(C) No person shall knowingly and intentionally sell, cause to be sold, offer for sale, or cause to be offered for sale, any security which comes under any of the following descriptions:

(1) Is not exempt under section 1707.02 of the Revised Code, nor the subject matter of one of the transactions exempted in sections 1707.03, 1707.04, and 1707.34 of the Revised Code, has not been registered by description, coordination, or qualification, and is not the subject matter of a transaction that has been registered by description;

(2) The prescribed fees for registering by description, by coordination, or by qualification have not been paid in respect to such security;

(3) Such person has been notified by the division, or has knowledge of ~~such~~ the notice, that the right to buy, sell, or deal in such security has been suspended or revoked, or that the registration by description, by coordination, or by qualification under which it may be sold has been suspended or revoked;

(4) The offer or sale is accompanied by a statement that the security offered or sold has been or is to be in any manner indorsed by the division.

(D) No person who is an officer, director, or trustee of, or a dealer for, any issuer, and who knows such issuer to be insolvent in that the liabilities of such issuer exceed its assets, shall sell any securities of or for any such issuer, without disclosing the fact of ~~such~~ the insolvency to the purchaser.

(E) No person with intent to aid in the sale of any securities on behalf of the issuer, shall knowingly make any representation not authorized by such issuer or at material variance with statements and documents filed with the division by such issuer.

(F) No person, with intent to deceive, shall sell, cause to be sold, offer for sale, or cause to be offered for sale, any securities of an insolvent issuer, with knowledge that such issuer is insolvent in that the liabilities of such issuer exceed its assets, taken at their fair market value.

(G) No person in selling securities shall knowingly engage in any act or practice which is, in this chapter, declared illegal, defined as fraudulent, or prohibited.

(H) No licensed dealer shall refuse to buy from, sell to, or trade with any person because ~~such~~ the person appears on a blacklist issued by, or is being boycotted by, any foreign corporate or governmental entity, nor sell any securities of or for any issuer who is known in relation to the issuance or sale of such securities to have engaged in such practices.

(I) No dealer in securities, knowing that ~~his~~ the dealer's liabilities exceed the reasonable value of ~~his~~ the dealer's assets, shall accept money or securities, except in payment of or as security for an existing debt, from a customer who is ignorant of ~~such~~ the dealer's insolvency, and thereby cause the customer to lose any part of ~~his~~ the customer's securities or the value thereof, by doing either of the following without the customer's consent:

(1) Pledging, selling, or otherwise disposing of such securities, when the dealer has no lien on or any special property in such securities;

(2) Pledging such securities for more than the amount due, or otherwise disposing of such securities for ~~his~~ the dealer's own benefit, when the dealer has a lien or indebtedness on such securities.

It is an affirmative defense to a charge under this division that, at the time the securities involved were pledged, sold, or disposed of, the dealer

ad in ~~his~~ the dealer's possession or control, and available for delivery, securities of the same kinds and in amounts sufficient to satisfy all customers entitled thereto, upon demand and tender of any amount due thereon.

(J) No person, with purpose to deceive, shall make, issue, publish, or cause to be made, issued, or published any statement or advertisement as to the value of securities, or as to alleged facts affecting the value of securities, or as to the financial condition of any issuer of securities, when ~~such~~ the person knows that such statement or advertisement is false in any material respect.

(K) No person, with purpose to deceive, shall make, record, or publish or cause to be made, recorded, or published, a report of any transaction in securities which is false in any material respect.

(L) No dealer shall engage in any act that violates the provisions of section 15(c) or 15(g) of the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule or regulation promulgated by the securities and exchange commission thereunder. If, subsequent to ~~the effective date of this amendment~~ OCTOBER 11, 1994, additional amendments to section 15(c) or 15(g) are adopted, or additional rules or regulations are promulgated pursuant to such sections, the division of securities shall, by rule, adopt the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

Sec. 1731.07. The premiums or other charges received by an insurer from or on behalf of an enrolled small employer and eligible employees or retirees under a health benefit plan provided by the insurer under a qualified alliance program shall not be considered "premiums received" or "premium rate payments received" for purposes of division ~~(B)~~(A) of section 5725.18 and division (A) of section 5729.03 of the Revised Code, and are exempt from any other tax or excise in this state.

Sec. 1751.68. (A) As used in this section:

(1) "Continuing care facility" means a facility that provides continuing care as defined in section 173.13 of the Revised Code.

(2) "Facility" means any of the following:

(a) A skilled nursing facility;

(b) A continuing care facility that includes a part that is a skilled nursing facility;

(c) A home for the aging that includes a part that is a skilled nursing facility.

(3) "Home for the aging" and "skilled nursing care" have the same

meanings as in section 3721.01 of the Revised Code.

(4) "Skilled nursing facility" means a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) Notwithstanding section 3901.71 of the Revised Code, each individual or group health insuring corporation policy, contract, certificate, or agreement delivered, issued for delivery, or renewed in this state that provides benefits for skilled nursing care through a closed panel plan shall provide reimbursement for medically necessary covered skilled nursing care services that an enrollee receives in a facility even though the facility does not participate in the health insuring corporation's closed panel plan if all of the following conditions apply:

(1) The enrollee or the enrollee's spouse, on or before September 1, 1997, resided in the facility or had a contract to reside in the facility.

(2) The enrollee or the enrollee's spouse, immediately prior to the enrollee being hospitalized, resided in the facility or has a contract to reside in the facility and, following the hospitalization, the enrollee resides in a part of the facility that is a skilled nursing facility, regardless of whether the enrollee or the enrollee's spouse resided in or had a contract to reside in a different part of the facility prior to the enrollee's hospitalization.

(3) The facility provides the enrollee the level of skilled nursing care that the enrollee requires.

(4) The facility is willing to accept from the health insuring corporation all of the same terms and conditions that apply to a facility that provides skilled nursing care and is participating in the health insuring corporation's closed panel plan.

Sec. 1785.01. As used in this chapter:

(A) "Professional service" means any type of professional service which may be performed only pursuant to a license, certificate, or other legal authorization, as provided by Chapters 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4731., 4732., 4733., 4734., and 4741., and sections 4755.01 to 4755.12, and ~~sections~~ 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, to certified public accountants, licensed public accountants, architects, attorneys, ~~chiropractors,~~ dentists, registered nurses, optometrists, pharmacists, ~~optometrists,~~ physicians ~~and surgeons~~, practitioners of the limited branches of medicine or surgery ~~as defined~~ specified in section 4731.15 of the Revised Code, psychologists, professional engineers, chiropractors, veterinarians, occupational therapists, and physical therapists~~, and registered nurses, and occupational therapists~~.

(B) "Professional association" means an association organized under

this chapter, for the sole purpose of rendering one of the professional services authorized under Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4731., 4732., 4733., 4734., or 4741. or sections 4755.01 to 4755.12 or ~~sections~~ 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code, or a combination of the professional services authorized under Chapters 4703. and 4733. of the Revised Code.

Sec. 1901.06. A municipal judge during ~~his~~the judge's term of office shall be a qualified elector and a resident of the territory of the court to which ~~he~~ the judge is elected or appointed. A municipal judge shall have been admitted to the practice of law in this state and shall have been, for a total of at least six years preceding ~~his~~ the judge's appointment or the commencement of ~~his~~ the judge's term, engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both. For the purpose of having been engaged in the practice of law in this state for at least six years as described in this section, the year in which the judge was admitted to the practice of law in this state shall be deemed a full year of having been engaged in the practice of law, regardless of the actual date of the judge's admission to the practice of law in this state.

Except as provided in section 1901.08 of the Revised Code, the first election of any newly created office of a municipal judge shall be held at the next regular municipal election occurring not less than one hundred days after the creation of the office. The institution of a new municipal court shall take place on the first day of January next after the first election for the court.

Sec. 1907.13. A county court judge, at the time of filing a nominating petition for the office or at the time of appointment to the office and during the judge's term of office, shall be a qualified elector and a resident of the county court district in which the judge is elected or appointed. A county court judge does not have to be a resident of an area of separate jurisdiction in the county court district to which the judge may be assigned pursuant to section 1907.15 of the Revised Code. Every county court judge shall have been admitted to the practice of law in this state and shall have been engaged, for a total of at least six years preceding the judge's appointment or the commencement of the judge's term, in the practice of law in this state, except that the six-year practice requirement does not apply to a county court judge who is holding office on ~~the effective date of this amendment~~July 1, 1997, and who subsequently is a candidate for that office. For the purpose of having been engaged in the practice of law in htis state for at least six years as described in this section, the year in which the judge

was admitted to the practice of law in this state shall be deemed a full year of having been engaged in the practice of law, regardless of the actual date of the judge's admission to the practice of law in this state.

Judges shall be elected by the electors of the county court district at the general election in even-numbered years as set forth in section 1907.11 of the Revised Code for a term of six years commencing on the first day of January following the election for the county court or on the dates specified in section 1907.11 of the Revised Code for particular county court judges. Their successors shall be elected in even-numbered years every six years.

All candidates for county court judge shall be nominated by petition. The nominating petition shall be in the general form and signed and verified as prescribed by section 3513.261 of the Revised Code and shall be signed by the lesser of fifty qualified electors of the county court district or a number of qualified electors of the county court district not less than one per cent of the number of electors who voted for governor at the most recent regular state election in the district. A nominating petition shall not be accepted for filing or filed if it appears on its face to contain signatures aggregating in number more than twice the minimum aggregate number of signatures required by this section. A nominating petition shall be filed with the board of elections not later than four p.m. of the seventy-fifth day before the day of the general election.

Sec. 2151.23. (A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:

(1) Concerning any child who on or about the date specified in the complaint is alleged to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child;

(2) Subject to division (V) of section 2301.03 of the Revised Code, to determine the custody of any child not a ward of another court of this state;

(3) To hear and determine any application for a writ of habeas corpus involving the custody of a child;

(4) To exercise the powers and jurisdiction given the probate division of the court of common pleas in Chapter 5122. of the Revised Code, if the court has probable cause to believe that a child otherwise within the jurisdiction of the court is a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code;

(5) To hear and determine all criminal cases charging adults with the violation of any section of this chapter;

(6) To hear and determine all criminal cases in which an adult is charged with a violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, or section 2919.24 of

the Revised Code, provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a felony arising out of the same actions that are the basis of the alleged violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, or section 2919.24 of the Revised Code;

(7) Under the interstate compact on juveniles in section 2151.56 of the Revised Code;

(8) Concerning any child who is to be taken into custody pursuant to section 2151.31 of the Revised Code, upon being notified of the intent to take the child into custody and the reasons for taking the child into custody;

(9) To hear and determine requests for the extension of temporary custody agreements, and requests for court approval of permanent custody agreements, that are filed pursuant to section 5103.15 of the Revised Code;

(10) To hear and determine applications for consent to marry pursuant to section 3101.04 of the Revised Code;

(11) Subject to division (V) of section 2301.03 of the Revised Code, to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115. of the Revised Code;

(12) Concerning an action commenced under section 121.38 of the Revised Code;

(13) Concerning an action commenced under section 2151.55 of the Revised Code.

(B) The juvenile court has original jurisdiction under the Revised Code:

(1) To hear and determine all cases of misdemeanors charging adults with any act or omission with respect to any child, which act or omission is a violation of any state law or any municipal ordinance;

(2) To determine the paternity of any child alleged to have been born out of wedlock pursuant to sections 3111.01 to 3111.19 of the Revised Code;

(3) Under the uniform reciprocal enforcement of support act in Chapter 3115. of the Revised Code;

(4) To hear and determine an application for an order for the support of any child, if the child is not a ward of another court of this state.

(C) The juvenile court, except as to juvenile courts that are a separate division of the court of common pleas or a separate and independent juvenile court, has jurisdiction to hear, determine, and make a record of any action for divorce or legal separation that involves the custody or care of

ldren and that is filed in the court of common pleas and certified by the court of common pleas with all the papers filed in the action to the juvenile court for trial, provided that no certification of that nature shall be made to any juvenile court unless the consent of the juvenile judge first is obtained. After a certification of that nature is made and consent is obtained, the juvenile court shall proceed as if the action originally had been begun in that court, except as to awards for spousal support or support due and unpaid at the time of certification, over which the juvenile court has no jurisdiction.

(D) The juvenile court has jurisdiction to hear and determine all matters as to custody and support of children duly certified by the court of common pleas to the juvenile court after a divorce decree has been granted, including jurisdiction to modify the judgment and decree of the court of common pleas as the same relate to the custody and support of children.

(E) The juvenile court has jurisdiction to hear and determine the case of any child certified to the court by any court of competent jurisdiction if the child comes within the jurisdiction of the juvenile court as defined by this section.

(F)(1) The juvenile court shall exercise its jurisdiction in child custody matters in accordance with sections 3109.04, 3109.21 to 3109.36, and 5103.20 to 5103.28 of the Revised Code.

(2) The juvenile court shall exercise its jurisdiction in child support matters in accordance with section 3109.05 of the Revised Code.

(G)(1) Each order for child support made or modified by a juvenile court on or after December 31, 1993, shall include as part of the order a general provision, as described in division (A)(1) of section 3113.21 of the Revised Code, requiring the withholding or deduction of wages or assets of the obligor under the order as described in division (D) of section 3113.21 of the Revised Code, or another type of appropriate requirement as described in division (D)(6), (D)(7), or (H) of that section, to ensure that withholding or deduction from the wages or assets of the obligor is available from the commencement of the support order for collection of the support and of any arrearages that occur; a statement requiring all parties to the order to notify the child support enforcement agency in writing of their current mailing address, their current residence address, and any changes in either address; and a notice that the requirement to notify the child support enforcement agency of all changes in either address continues until further notice from the court. Any juvenile court that makes or modifies an order for child support on or after April 12, 1990, shall comply with sections 3113.21 to 3113.219 of the Revised Code. If any person required to pay child support under an order made by a juvenile court on or after April 15,

1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt.

(2) Notwithstanding section 3109.01 of the Revised Code, if a juvenile court issues a child support order under this chapter, the order shall remain in effect beyond the child's eighteenth birthday as long as the child continuously attends on a full-time basis any recognized and accredited high school. Any parent ordered to pay support under a child support order issued under this chapter shall continue to pay support under the order, including during seasonal vacation periods, until the order terminates.

(H) If a child who is charged with an act that would be an offense if committed by an adult was fourteen years of age or older and under eighteen years of age at the time of the alleged act and if the case is transferred for criminal prosecution pursuant to section 2151.26 of the Revised Code, the juvenile court does not have jurisdiction to hear or determine the case subsequent to the transfer. The court to which the case is transferred for criminal prosecution pursuant to that section has jurisdiction subsequent to the transfer to hear and determine the case in the same manner as if the case originally had been commenced in that court, including, but not limited to, jurisdiction to accept a plea of guilty or another plea authorized by Criminal Rule 11 or another section of the Revised Code and jurisdiction to accept a verdict and to enter a judgment of conviction pursuant to the Rules of Criminal Procedure against the child for the commission of the offense that was the basis of the transfer of the case for criminal prosecution, whether the conviction is for the same degree or a lesser degree of the offense charged, for the commission of a lesser-included offense, or for the commission of another offense that is different from the offense charged.

(I) If a person under eighteen years of age allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended for that act until after the person attains twenty-one years of age, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing that act. In those circumstances, divisions (B) and (C) of section 2151.26 of the Revised Code do not apply regarding the act, the case charging the person with committing the act shall be a criminal prosecution commenced and heard in the appropriate court having jurisdiction of the offense as if the

person had been eighteen years of age or older when the person committed the act, all proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction of the offense, and the court having jurisdiction of the offense has all the authority and duties in the case as it has in other criminal cases commenced in that court.

Sec. 2151.355. (A) If a child is adjudicated a delinquent child, the court may make any of the following orders of disposition:

(1) Any order that is authorized by section 2151.353 of the Revised Code;

(2) Place the child on probation under any conditions that the court prescribes. If the child is adjudicated a delinquent child for violating section 2909.05, 2909.06, or 2909.07 of the Revised Code and if restitution is appropriate under the circumstances of the case, the court shall require the child to make restitution for the property damage caused by the child's violation as a condition of the child's probation. If the child is adjudicated a delinquent child because the child violated any other section of the Revised Code, the court may require the child as a condition of the child's probation to make restitution for the property damage caused by the child's violation and for the value of the property that was the subject of the violation the child committed if it would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. The restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim approximately equal to the value of the property damage caused by the child's violation or to the value of the property that is the subject of the violation if it would be a theft offense if committed by an adult, the performance of community service or community work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

If the child is adjudicated a delinquent child for violating a law of this state or the United States, or an ordinance or regulation of a political subdivision of this state, that would be a crime if committed by an adult or for violating division (A) of section 2923.211 of the Revised Code, the court, in addition to all other required or permissive conditions of probation that the court imposes upon the delinquent child pursuant to division (A)(2) of this section, shall require the child as a condition of the child's probation to abide by the law during the period of probation, including, but not limited to, complying with the provisions of Chapter 2923. of the Revised Code relating to the possession, sale, furnishing, transfer, disposition, purchase,

quisition, carrying, conveying, or use of, or other conduct involving, a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code.

(3) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2151.34 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required;

(4) If the child is adjudicated a delinquent child for committing an act that would be a felony of the third, fourth, or fifth degree if committed by an adult or for violating division (A) of section 2923.211 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization for an indefinite term consisting of a minimum period of six months and a maximum period not to exceed the child's attainment of twenty-one years of age;

(5)(a) If the child is adjudicated a delinquent child for violating section 2903.03, 2905.01, 2909.02, or 2911.01 or division (A) of section 2903.04 of the Revised Code or for violating any provision of section 2907.02 of the Revised Code other than division (A)(1)(b) of that section when the sexual conduct or insertion involved was consensual and when the victim of the violation of division (A)(1)(b) of that section was older than the delinquent child, was the same age as the delinquent child, or was less than three years younger than the delinquent child, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for an indefinite term consisting of a minimum period of one to three years, as prescribed by the court, and a maximum period not to exceed the child's attainment of twenty-one years of age;

(b) If the child is adjudicated a delinquent child for violating section 2923.02 of the Revised Code and if the violation involves an attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for an indefinite term consisting of a minimum period of six to seven years, as prescribed by the court, and a maximum period not to exceed the child's attainment of twenty-one years of age;

(c) If the child is adjudicated a delinquent child for committing an act that is not described in division (A)(5)(a) or (b), of this section and that would be a felony of the first or second degree if committed by an adult, commit the child to the legal custody of the department of youth services for

institutionalization in a secure facility for an indefinite term consisting of a minimum period of one year and a maximum period not to exceed the child's attainment of twenty-one years of age;

(6) If the child is adjudicated a delinquent child for committing a violation of section 2903.01 or 2903.02 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility until the child's attainment of twenty-one years of age;

(7)(a) If the child is adjudicated a delinquent child for committing an act, other than a violation of section 2923.12 of the Revised Code, that would be a felony if committed by an adult and is committed to the legal custody of the department of youth services pursuant to division (A)(4), (5), or (6) of this section and if the court determines that the child, if the child was an adult, would be guilty of a specification of the type set forth in section 2941.141 , 2941.144, 2941.145, or 2941.146 of the Revised Code in relation to the act for which the child was adjudicated a delinquent child, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for the following period of time, subject to division (A)(7)(b) of this section:

(i) If the child would be guilty of a specification of the type set forth in section 2941.141 of the Revised Code, a period of one year;

(ii) If the child would be guilty of a specification of the type set forth in section 2941.144, 2941.145, or 2941.146 of the Revised Code, a period of three years.

(b) The court shall not commit a child to the legal custody of the department of youth services pursuant to division (A)(7)(a) of this section for a period of time that exceeds three years. The period of commitment imposed pursuant to division (A)(7)(a) of this section shall be in addition to, and shall be served consecutively with and prior to, a period of commitment ordered pursuant to division (A)(4), (5), or (6) of this section, provided that the total of all the periods of commitment shall not exceed the child's attainment of twenty-one years of age.

(8)(a) Impose a fine and costs in accordance with the schedule set forth in section 2151.3512 of the Revised Code;

(b) Require the child to make restitution for all or part of the property damage caused by the child's delinquent act and for all or part of the value of the property that was the subject of any delinquent act the child committed that would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. If the court determines that the victim of the child's delinquent act was sixty-five years

of age or older or permanently and totally disabled at the time of the commission of the act, the court, regardless of whether or not the child knew the age of the victim, shall consider that fact in favor of imposing restitution, but that fact shall not control the decision of the court. The restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim, the performance of community service or community work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

(9) Suspend or revoke the driver's license or temporary instruction permit issued to the child or suspend or revoke the registration of all motor vehicles registered in the name of the child;

(10) If the child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a criminal offense that would qualify the adult as an eligible offender pursuant to division (A)(3) of section 2929.23 of the Revised Code, impose a period of electronically monitored house detention in accordance with division (I) of this section that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act;

(11) Commit the child to the temporary or permanent custody of the court;

(12) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or ~~any other~~ another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) a community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to 5139.45 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to division (A)(4), (5), or (6) of this section. as used in division (A)(12)(b) of this section, "community corrections facility" and "public safety beds" have the same meanings as in section 5139.01 of the Revised Code.

(B)(1) If a child is adjudicated a delinquent child for violating section 2923.32 of the Revised Code, the court, in addition to any order of disposition it makes for the child under division (A) of this section, shall enter an order of criminal forfeiture against the child~~,~~ in accordance with divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 2923.32 of the

evised Code.

(2) If a child is adjudicated a delinquent child for committing two or more acts that would be felonies if committed by an adult and if the court entering the delinquent child adjudication orders the commitment of the child, for two or more of those acts, to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to division (A)(4), (5), or (6) of this section, the court may order that all of the periods of commitment imposed under those divisions for those acts be served consecutively in the legal custody of the department of youth services and, if applicable, be in addition to and commence immediately following the expiration of a period of commitment that the court imposes pursuant to division (A)(7) of this section. A court shall not commit a delinquent child to the legal custody of the department of youth services under division (B)(2) of this section for a period that exceeds the child's attainment of twenty-one years of age.

(C) If a child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a drug abuse offense, as defined in section 2925.01 of the Revised Code, or for violating division (B) of section 2917.11 of the Revised Code, in addition to imposing in its discretion any other order of disposition authorized by this section, the court shall do both of the following:

(1) Require the child to participate in a drug abuse or alcohol abuse counseling program;

(2) Suspend or revoke the temporary instruction permit or probationary operator's license issued to the child until the child attains eighteen years of age or attends, at the discretion of the court, and satisfactorily completes~~,~~ a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending the program, the court shall retain any temporary instruction permit or probationary license issued to the child, and the court shall return the permit or license when the child satisfactorily completes the program.

(D)(1) At the dispositional hearing and prior to making any disposition pursuant to division (A) of this section, the court shall determine whether a victim of the delinquent act committed by the child was five years of age or younger at the time the delinquent act was committed, whether a victim of the delinquent act sustained physical harm to the victim's person during the commission of or otherwise as a result of the delinquent act, whether a victim of the delinquent act was sixty-five years of age or older or permanently and totally disabled at the time the delinquent act was committed, and whether the delinquent act would have been an offense of

violence if committed by an adult. If the victim was five years of age or younger at the time the delinquent act was committed, sustained physical harm to the victim's person during the commission of or otherwise as a result of the delinquent act, or was sixty-five years of age or older or permanently and totally disabled at the time the act was committed, regardless of whether the child knew the age of the victim, and if the act would have been an offense of violence if committed by an adult, the court shall consider those facts in favor of imposing commitment under division (A)(3), (4), (5), or (6) of this section, but those facts shall not control the court's decision.

(2) At the dispositional hearing and prior to making any disposition pursuant to division (A)(4), (5), or (6) of this section, the court shall determine whether the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance. If the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance, the court, for purposes of entering an order of disposition for the delinquent child under this section, shall consider the previous delinquent child adjudication as a conviction of a violation of the law or ordinance in determining the degree of offense the current delinquent act would be had it been committed by an adult.

(E)(1) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this section, the court shall not designate the specific institution in which the department is to place the child but instead shall specify that the child is to be institutionalized or that the institutionalization is to be in a secure facility if that is required by division (A) of this section.

(2) When a juvenile court commits a delinquent child to the custody of the department of youth services, the court shall provide the department with the child's social history, the child's medical records, a copy of the report of any mental examination of the child ordered by the court, the section or sections of the Revised Code violated by the child and the degree of the violation, the warrant to convey the child to the department, and a copy of the court's journal entry ordering the commitment of the child to the legal custody of the department. The department may refuse to accept physical custody of a delinquent child who is committed to the legal custody of the department until the court provides to the department the documents specified in division (E)(2) of this section. No officer or employee of the department who refuses to accept physical custody of a delinquent child who is committed to the legal custody of the department shall be subject to prosecution or contempt of court for the refusal if the court fails to provide

he documents specified in division (E)(2) of this section at the time the court transfers the physical custody of the child to the department.

(3) Within five working days after the juvenile court commits a delinquent child to the custody of the department of youth services, the court shall provide the department with a copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child, a copy of any victim impact statement pertaining to that act, and any other information concerning the child that the department reasonably requests. Within twenty working days after the department of youth services receives physical custody of a delinquent child from a juvenile court, the court shall provide the department with a certified copy of the child's birth certificate or the child's social security number, or, if the court made all reasonable efforts to obtain the information but was unsuccessful, the court shall provide the department with documentation of the efforts it made to obtain the information.

(4) When a juvenile court commits a delinquent child to the custody of the department of youth services, the court shall give notice to the school attended by the child of the child's commitment by sending to that school a copy of the court's journal entry ordering the commitment. As soon as possible after receipt of the notice described in this division, the school shall provide the department with the child's school transcript. However, the department shall not refuse to accept a child committed to it, and a child committed to it shall not be held in a county or district detention home, because of a school's failure to provide the school transcript that it is required to provide under division (E)(4) of this section.

(5) The department of youth services shall provide the court and the school with an updated copy of the child's school transcript and shall provide the court with a summary of the institutional record of the child when it releases the child from institutional care. The department also shall provide the court with a copy of any portion of the child's institutional record that the court specifically requests within five working days of the request.

(6) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to division (A)(4) or (5) of this section, the court shall state in the order of commitment the total number of days that the child has been held, as of the date of the issuance of the order, in detention in connection with the delinquent child complaint upon which the order of commitment is based. The department shall reduce the minimum period of institutionalization or minimum period of institutionalization in a secure facility specified in division (A)(4) or (5) of

this section by both the total number of days that the child has been so held in detention as stated by the court in the order of commitment and the total number of any additional days that the child has been held in detention subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department.

(F)(1) At any hearing at which a child is adjudicated a delinquent child or as soon as possible after the hearing, the court shall notify all victims of the delinquent act, who may be entitled to a recovery under any of the following sections, of the right of the victims to recover, pursuant to section 3109.09 of the Revised Code, compensatory damages from the child's parents; of the right of the victims to recover, pursuant to section 3109.10 of the Revised Code, compensatory damages from the child's parents for willful and malicious assaults committed by the child; and of the right of the victims to recover an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

(2) If a child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be aggravated murder, murder, rape, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, involuntary manslaughter, a felony of the first or second degree resulting in the death of or physical harm to a person, complicity in or an attempt to commit any of those offenses, or an offense under an existing or former law of this state that is or was substantially equivalent to any of those offenses and if the court in its order of disposition for that act commits the child to the custody of the department of youth services, the court may make a specific finding that the adjudication should be considered a conviction for purposes of a determination in the future, pursuant to Chapter 2929. of the Revised Code, as to whether the child is a repeat violent offender as defined in section 2929.01 of the Revised Code. If the court makes a specific finding as described in this division, it shall include the specific finding in its order of disposition and in the record in the case.

(G)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created the risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a public record, as defined in section 149.43 of the Revised Code. However, the court may furnish copies of the statement to the department of youth services pursuant to division (E)(3) of this section or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to division (E)(3) of this section shall be kept confidential and is not a public record, as defined in section 149.43 of the Revised Code. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to division (G)(3) of this section shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this section.

(H)(1) As used in this division, "felony drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2925.41 and further described in section 2925.42 or 2925.43 of the Revised Code.

(I)(1) As used in this section:

(a) "Electronic monitoring device," "certified electronic monitoring device," "electronic monitoring system," and "certified electronic monitoring system" have the same meanings as in section 2929.23 of the Revised Code.

(b) "Electronically monitored house detention" means a period of

confinement of a child in the child's home or in other premises specified by the court, during which period of confinement all of the following apply:

(i) The child wears, otherwise has attached to the child's person, or otherwise is subject to monitoring by a certified electronic monitoring device or is subject to monitoring by a certified electronic monitoring system.

(ii) The child is required to remain in the child's home or other premises specified by the court for the specified period of confinement, except for periods of time during which the child is at school or at other premises as authorized by the court.

(iii) The child is subject to monitoring by a central system that monitors the certified electronic monitoring device that is attached to the child's person or that otherwise is being used to monitor the child and that can monitor and determine the child's location at any time or at a designated point in time, or the child is required to participate in monitoring by a certified electronic monitoring system.

(iv) The child is required by the court to report periodically to a person designated by the court.

(v) The child is subject to any other restrictions and requirements that may be imposed by the court.

(2) A juvenile court, pursuant to division (A)(10) of this section, may impose a period of electronically monitored house detention upon a child who is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a criminal offense that would qualify the adult as an eligible offender pursuant to division (A)(3) of section 2929.23 of the Revised Code. The court may impose a period of electronically monitored house detention in addition to or in lieu of any other dispositional order imposed upon the child, except that any period of electronically monitored house detention shall not extend beyond the child's eighteenth birthday. If a court imposes a period of electronically monitored house detention upon a child, it shall require the child to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house detention except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that monitors the certified electronic monitoring device that is attached to the child's person or that otherwise is being used to monitor the child and that can monitor and determine the

child's location at any time or at a designated point in time or to be monitored by the certified electronic monitoring system; to report periodically to a person designated by the court; and, in return for receiving a dispositional order of electronically monitored house detention, to enter into a written contract with the court agreeing to comply with all restrictions and requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house detention imposed by the court pursuant to division (E) of section 2929.23 of the Revised Code, and agreeing to waive the right to receive credit for any time served on electronically monitored house detention toward the period of any other dispositional order imposed upon the child for the act for which the dispositional order of electronically monitored house detention was imposed if the child violates any of the restrictions or requirements of the dispositional order of electronically monitored house detention. The court also may impose other reasonable restrictions and requirements upon the child.

(3) If a child violates any of the restrictions or requirements imposed upon the child as part of the child's dispositional order of electronically monitored house detention, the child shall not receive credit for any time served on electronically monitored house detention toward any other dispositional order imposed upon the child for the act for which the dispositional order of electronically monitored house detention was imposed.

(J) Within ten days after completion of the adjudication, the court shall give written notice of an adjudication that a child is a delinquent child to the superintendent of a city, local, exempted village, or joint vocational school district if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult and that was committed by the delinquent child when the child was sixteen years of age or older and if the act is any of the following:

(1) A violation of section 2923.122 of the Revised Code that relates to property owned or controlled by, or to an activity held under the auspices of, the board of education of that school district;

(2) A violation of section 2923.12 of the Revised Code or of a substantially similar municipal ordinance that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(3) A violation of division (A) of section 2925.03 or 2925.11 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school

district and that is not a minor drug possession offense as defined in section 2925.01 of the Revised Code;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised Code, or a violation of former section 2907.12 of the Revised Code, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, if the victim at the time of the commission of the act was an employee of the board of education of that school district;

(5) Complicity in any violation described in division (J)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (J)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(K) During the period of a delinquent child's probation granted under division (A)(2) of this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's probation. The court that places a delinquent child on probation under division (A)(2) of this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of probation if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's probation. The court also shall provide the written notice described in division (C)(2)(b) of section 2151.411 of the Revised Code to each parent, guardian, or custodian of the delinquent child who is described in division (C)(2)(a) of that section.

(L) This is an interim section effective until September 30, 1997.

Sec. 2151.421. (A)(1)(a) No ~~attorney, physician, including a hospital intern or resident, dentist, podiatrist, practitioner of a limited branch of~~

~~medicine or surgery as defined in section 4731.15 of the Revised Code, registered nurse, licensed practical nurse, visiting nurse, other health care professional, licensed psychologist, licensed school psychologist, speech pathologist or audiologist, coroner, administrator or employee of a child day-care center, administrator or employee of a certified child care agency or other public or private children services agency, school teacher, school employee, school authority, person engaged in social work or the practice of professional counseling, or person rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion,~~ person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, shall fail to immediately report that knowledge or suspicion to the public children services ~~board, the county department of human services exercising the children services function,~~ agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.

(b) Division (A)(1)(a)of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine or surgery as defined in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; or a person rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion.

(2) An attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication ~~the attorney the attorney's a client~~ the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division

(A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney of physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The attorney-client or physician-patient relationship does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

~~(3) A physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the physician the physician's the patient the physician receives from a patient in a physician-patient relationship, if, in accordance with division (B) of section 2317.02 of the Revised Code, the physician could not testify with respect to that communication in a civil or criminal proceeding, except that the patient is deemed to have waived any testimonial privilege under division (B) of section 2317.02 of the Revised Code with respect to that communication and the physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:~~

~~(a) The patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.~~

~~(b) The physician knows or suspects, as a result of the communication or any observations made during that communication, that the patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the patient.~~

~~(c) The physician-patient relationship does not arise out of the patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.~~

(B) Anyone, who knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of

suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child, may report or cause reports to be made of that knowledge or suspicion to the public children services ~~board, the county department of human services exercising the children services function,~~ agency or to a municipal or county peace officer.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2) The child's age and the nature and extent of the child's known or suspected injuries, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect.

Any person, who is required by division (A) of this section to report known or suspected child abuse or child neglect, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D)(1) Upon the receipt of a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, the municipal or county peace officer who receives the report shall refer the report to the appropriate ~~county department of human services or~~ public children services ~~board~~ agency.

(2) On receipt of a report pursuant to this division or division (A) or (B) of this section, the public children services agency shall comply with section 2151.422 of the Revised Code.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services ~~board or the county department of human services exercising the children services function~~ agency, unless, in the judgment of the ~~reporting physician and the~~ officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or

neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) ~~The county department of human services or~~ Except as provided in section 2151.422 of the Revised Code, the public children services ~~board~~ agency shall investigate, within twenty-four hours, each report of known or suspected child abuse or child neglect and of a known or suspected threat of child abuse or child neglect that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the ~~plan of cooperation for the county adopted~~ memorandum of understanding prepared under division (J) of this section. A failure to make the investigation in accordance with the ~~plan of cooperation~~ memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The ~~county department of human services or~~ public children services ~~board~~ agency shall report each case to a central registry which the state department of human services shall maintain in order to determine whether prior reports have been made in other counties concerning the child or other principals in the case. The ~~department or board~~ agency shall submit a report of its investigation, in writing to the law enforcement agency.

(2) The ~~county department of human services or~~ public children services ~~board~~ agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)(1) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding. Notwithstanding section 4731.22 of the Revised Code,

the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in ~~division~~ divisions (H)(4), (M), and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section of the disposition of the investigation. The agency shall not provide to the person ~~a statement of the allegations~~ any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section shall result in protective services and emergency supportive services being made available by the ~~county department of human services or~~ public children services ~~board~~ agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report

pursuant to section 2151.422 of the Revised Code.

(J) ~~There shall be placed on file with the juvenile court in each county and the department of human services an initial plan of cooperation jointly prepared and subscribed to by a committee consisting of the presiding judge of the court of common pleas of the county or a the presiding judge's representative; if~~ (1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the juvenile judge of the county or ~~a~~ the juvenile judge's representative; ~~if~~

(b) If there is more than one juvenile judge in the county, a juvenile judge or ~~a~~ the ~~judge's~~ juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or ~~a~~ the senior juvenile judge's representative; ~~the~~

(c) The county peace officer; ~~all~~

(d) All chief municipal peace officers within the county; ~~all chief township peace officers within~~

(e) Other law enforcement officers handling child abuse and neglect cases in the county; ~~the~~

(f) The prosecuting attorney of the county; ~~the director of law of each city within the county; the village solicitor of each village within the county; and the children services board or~~

(g) If the public children services agency is not the county department of human services ~~exercising the children services function as convened by,~~ the county ~~director~~ department of human services. ~~The plan~~

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the ~~plan in the execution of those responsibilities~~ memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any

rights or any grounds for appeal or post-conviction relief to any person. ~~The plan~~

(3) A memorandum of understanding shall include all of the following:

~~(1) A system for cross-referral of reported~~ (a) The roles and responsibilities for handling emergency and non-emergency cases of abuse and neglect ~~as necessary~~;

~~(2)~~(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected~~, standards and procedures governing the making of a videotape of any interview if an interview is videotaped, a system for sharing the information obtained as a result of any interview and any videotape made of it, and a system for reducing the number of times that the child who is the subject of the report and who allegedly was abused or neglected is interviewed;~~

~~(3) Any other standards, procedures, or systems that the committee believes may minimize damage and trauma to the child who is the subject of a reported case of child abuse or child neglect;~~

~~(4) The name and title of the official directly responsible for making reports to the central registry~~.

(K)(1) ~~the person of receiving~~ Except as provided in division (K)(4) of this section a person who is required to make a report pursuant to division (A) of this section ~~the person making the report the person's the person of making the person's the person making the report~~ may make a reasonable number of requests of the ~~county department of human services or~~ public children services ~~board~~ agency that receives or is referred the report to ~~the person making the report~~ be provided with the following information:

(a) Whether the ~~department or board~~ agency has initiated an investigation of the report;

(b) Whether the ~~department or board~~ agency is continuing to investigate the report;

(c) Whether the ~~department or board~~ agency is otherwise involved with the child who is the subject of the report;

(d) The general status of the health and safety of the child who is the subject of the report;

(e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a ~~county department of human services or~~ public children services ~~board~~ agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

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Each request is subject to verification of the identity ~~the that person's the person of making~~ of the person making the report. If that person's identity is verified, the ~~department or board~~ agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the ~~department or board~~ agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K).

(L) The department of human services shall ~~exercise rule-making authority under~~ adopt rules in accordance with Chapter 119. of the Revised Code to ~~aid in the implementation of~~ implement this section. The department may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M) No later than the end of the day following the day on which a public children services ~~board or county department of human services exercising the children services function~~ agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or

child neglect, that allegedly occurred in or involved an out-of-home care entity, the ~~board or department~~ agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the ~~board or department~~ agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The ~~board or department~~ agency shall not provide witness statements or police or other investigative reports.

(N) No later than three days after the day on which a public children services ~~board or county department of human services exercising the children services function~~ agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the ~~board or department~~ agency shall ~~provide~~ send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The ~~board or department~~ agency shall not provide witness statements or police or other investigative reports.

Sec. 2151.422. (A) As used in this section, "Homeless shelter" means a facility that provides ACCOMMODATIONS to homeless individuals.

(B) On receipt of a notice pursuant to division (A), (B), or (D) of section 2151.421 of the Revised Code, the public children services agency shall determine whether the child subject to the report is living in a shelter for victims of domestic violence or a homeless shelter and whether the child was brought to that shelter pursuant to an agreement with a shelter in another county. If the child is living in a shelter and was brought there from another county, the agency shall immediately notify the public children services agency of the county from which the child was brought of the report and all the information contained in the report. On receipt of the notice pursuant to this division, the agency of the county from which the child was brought shall conduct the investigation of the report required

uant to section 2151.421 of the Revised Code and shall perform all duties required of the agency under this chapter with respect to the child who is the subject of the report. If the child is not living in a shelter or the child was not brought to the shelter from another county, the agency that received the report pursuant to division (A), (B), or (D) of section 2151.421 of the Revised Code shall conduct the investigation required pursuant to section 2151.421 of the Revised Code and shall perform all duties required of the agency under this chapter with respect to the child who is the subject of the report. The agency of the county in which the shelter is located in which the child is living and the agency of the county from which the child was brought may ask the shelter to provide information concerning the child's residence address and county of residence to the agency.

(C) if a child is living in a shelter for victims of domestic violence or a homeless shelter and the child was brought to that shelter pursuant to an agreement with a shelter in another county, the public children services agency of the county from which the child was brought shall provide services to or take custody of the child if services or custody are needed or required under this Chapter or section 5153.16 of the Revised Code.

(D) When a homeless shelter provides ACCOMMODATIONS to a person, the shelter, on admitting the person to the shelter, shall determine, if possible, the person's last known residential address and county of residence. the information concerning the address and county of residence is confidential and may only be released to a public children services agency pursuant to this section.

Sec. 2151.55. (A) This section shall have no effect on and after the date the supreme court adopts, pursuant to its authority under Section 5 of Article IV, Ohio Constitution, rules governing procedure in the Juvenile Courts of the state that address the placement of a child in a foster home in a county other than the county in which the child resided at the time of being removed from home.

(B) Prior to placing a child in a foster home in a county other than the county in which the child resided at the time of being removed from home, the Private or Government entity responsible for the placement shall communicate directly with all of the following and notify them of the intended placement: the intended foster caregiver, the juvenile court of the county in which the foster home is located, and, if the child will attend the schools of the district in which the foster home is located, the school district's board of education. The private or government entity shall provide any information it has in its possession concerning the reasons the child is being placed in the foster home if that information may be disclosed under

federal and state law.

(C) If a child is placed in a foster home in a county other than the county in which the child resided at the time the child was removed from home, the superintendent of the school district in which the child resides in a foster home may file, in the juvenile court of the county in which the school district is located, a complaint requesting that the child be removed from the county because the child is causing a significant and unreasonable disruption to the educational process in the school the child is attending.

(D) The court shall hold a hearing as soon as possible, but no later than thirty days after the complaint is filed. No later than five days before the date on which the court hearing is to be held, the court shall send to the entity that placed the child in a foster home in the county and to the superintendent written notice by first class mail of the date, time, place, and purpose of the court hearing. The hearing shall be limited to determining whether the child is causing a significant and unreasonable disruption to the educational process. At the conclusion of the hearing, the court shall determine whether the child is causing such a disruption. If the court determines the child is causing such a disruption, the court shall order the entity that placed the child in a foster home in the county to remove the child from the county. If the court determines the child is not causing such a disruption, the court shall dismiss the complaint.

(E) If the court orders the removal of a child, the court shall send written notice of the removal order to the juvenile court that journalized a case plan as part of its dispositional order pursuant to section 2151.35 of the Revised Code or issued any order pursuant to Chapter 2151. of the Revised Code requiring placement of the child in a foster home in the county from which the child is ordered removed. On receipt of the removal notice, the juvenile court receiving the removal notice shall enter the notice on its journal and shall do one of the following:

(1) If a case plan was journalized as part of the dispositional order, the court shall schedule a hearing under section 2151.417 of the Revised Code to be held no later than ten days after the removal notice was received. The court shall give notice of the date, time, and location of the hearing to all parties and the guardian ad litem. At the hearing, the court shall make appropriate changes to the case plan consistent with the removal order and journalize the case plan.

(2) If no case plan was journalized as part of the dispositional order, the court shall immediately issue a new order concerning the child's placement pursuant to Chapter 2151. of the Revised Code that is consistent with the removal order.

(F) This section does not affect the jurisdiction of a court with respect to a child for which the court issued a dispositional order pursuant to Chapter 2151. of the Revised Code.

Sec. 2744.01. As used in this chapter:

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2151.355 of the Revised Code to perform community service or community work in a political subdivision.

(C)(1) "Governmental function" means a function of a political subdivision that is specified in division (C)(2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G)(2) of this section as a proprietary function.

(2) A "governmental function" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses;

(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code;

(i) The enforcement or nonperformance of any law;

(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

(k) The collection and disposal of solid wastes, as defined in section 3734.01 of the Revised Code, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section, and the collection and management of hazardous waste generated by households. As used in division (C)(2)(k) of this section, "hazardous waste generated by households" means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under section 3734.12 of the Revised Code, but that is excluded from regulation as a hazardous waste by those rules.

(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

(m) The operation of a human services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

(o) The operation of mental health facilities, mental retardation or

opmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in connection with buildings or structures;

(q) Urban renewal projects and the elimination of slum conditions;

(r) Flood control measures;

(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;

(t) The issuance of revenue obligations under section 140.06 of the Revised Code;

(u) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any park, playground, playfield, indoor recreational facility, zoo, zoological park, bath, or swimming pool or pond, and the operation and control of any golf course;

(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;

(w) A function that the general assembly mandates a political subdivision to perform.

(D) "Law" means any provision of the constitution, statutes, or rules of the United States or of this state; provisions of charters, ordinances, resolutions, and rules of political subdivisions; and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(F) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under section 339.14 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning

commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, a fire and ambulance district created pursuant to section 505.375 of the Revised Code, joint interstate emergency planning district established by an agreement entered into under that section, ~~and~~ county solid waste management district and joint solid waste management district established under section 343.01 or 343.012 of the Revised Code, and a community school established under Chapter 3314. of the Revised Code.

(G)(1) "Proprietary function" means a function of a political subdivision that is specified in division (G)(2) of this section or that satisfies both of the following:

(a) The function is not one described in division (C)(1)(a) or (b) of this section and is not one specified in division (C)(2) of this section;

(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) A "proprietary function" includes, but is not limited to, the following:

(a) The operation of a hospital by one or more political subdivisions;

(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;

(c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;

(d) The maintenance, destruction, operation, and upkeep of a sewer system;

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.

(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. "Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices, unless the traffic control devices are mandated by the Ohio manual of uniform traffic

control devices.

(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

Sec. 2744.02. (A)(1) For the purposes of this chapter, the functions of political subdivisions are hereby classified as governmental functions and proprietary functions. Except as provided in division (B) of this section, a political subdivision is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.

(2) Subject to statutory limitations upon their monetary jurisdiction, the courts of common pleas, the municipal courts, and the county courts have jurisdiction to hear and determine civil actions governed by or brought pursuant to this chapter.

(B) Subject to sections 2744.03 and 2744.05 of the Revised Code, a political subdivision is liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by an act or omission of the political subdivision or of any of its employees in connection with a governmental or proprietary function, as follows:

(1) Except as otherwise provided in this division, political subdivisions are liable for injury, death, or loss to person or property caused by the negligent operation of any motor vehicle by their employees upon the public roads when the employees are engaged within the scope of their employment and authority. The following are full defenses to that liability:

(a) A member of a municipal corporation police department or any other police agency was operating a motor vehicle while responding to an emergency call and the operation of the vehicle did not constitute willful or wanton misconduct;

(b) A member of a municipal corporation fire department or any other firefighting agency was operating a motor vehicle while engaged in duty at a fire, proceeding toward a place where a fire is in progress or is believed to be in progress, or answering any other emergency alarm and the operation of the vehicle did not constitute willful or wanton misconduct;

(c) A member of an emergency medical service owned or operated by a political subdivision was operating a motor vehicle while responding to or completing a call for emergency medical care or treatment, the member was holding a valid commercial driver's license issued pursuant to Chapter 4506. or a driver's license issued pursuant to Chapter 4507. of the Revised Code, the operation of the vehicle did not constitute willful or wanton misconduct, and the operation complies with the precautions of section 4511.03 of the Revised Code.

(2) Except as otherwise provided in ~~section~~ sections 3314.07 and 3746.24 of the Revised Code, political subdivisions are liable for injury,

death, or loss to person or property caused by the negligent performance of acts by their employees with respect to proprietary functions of the political subdivisions.

(3) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property caused by their negligent failure to keep public roads in repair and other negligent failure to remove obstructions from public roads, except that it is a full defense to that liability, when a bridge within a municipal corporation is involved, that the municipal corporation does not have the responsibility for maintaining or inspecting the bridge.

(4) Except as otherwise provided in section 3746.24 of the Revised Code, political subdivisions are liable for injury, death, or loss to person or property that is caused by the negligence of their employees and that occurs within or on the grounds of, and is due to physical defects within or on the grounds of, buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings and courthouses, but not including jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code.

(5) In addition to the circumstances described in divisions (B)(1) to (4) of this section, a political subdivision is liable for injury, death, or loss to person or property when liability is expressly imposed upon the political subdivision by a section of the Revised Code, including, but not limited to, sections 2743.02 and 5591.37 of the Revised Code. Liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon a political subdivision, because of a general authorization in that section that a political subdivision may sue and be sued, or because that section uses the term "shall" in a provision pertaining to a political subdivision.

(C) An order that denies a political subdivision or an employee of a political subdivision the benefit of an alleged immunity from liability as provided in Chapter 2744. or any other provision of the law is a final order.

Sec. 2744.03. (A) In a civil action brought against a political subdivision or an employee of a political subdivision to recover damages for injury, death, or loss to persons or property allegedly caused by any act or omission in connection with a governmental or proprietary function, the following defenses or immunities may be asserted to establish nonliability:

(1) The political subdivision is immune from liability if the employee involved was engaged in the performance of a judicial, quasi-judicial, prosecutorial, legislative, or quasi-legislative function.

(2) The political subdivision is immune from liability if the conduct of the employee involved, other than negligent conduct, that gave rise to the claim of liability was required by law or authorized by law, or if the conduct of the employee involved that gave rise to the claim of liability was necessary or essential to the exercise of powers of the political subdivision or employee.

(3) The political subdivision is immune from liability if the action or failure to act by the employee involved that gave rise to the claim of liability was within the discretion of the employee with respect to policy-making, planning, or enforcement powers by virtue of the duties and responsibilities of the office or position of the employee.

(4) The political subdivision is immune from liability if the action or failure to act by the political subdivision or employee involved that gave rise to the claim of liability resulted in injury or death to a person who had been convicted of or pleaded guilty to a criminal offense and who, at the time of the injury or death, was serving any portion of the person's sentence by performing community service work for or in the political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, or resulted in injury or death to a child who was found to be a delinquent child and who, at the time of the injury or death, was performing community service or community work for or in a political subdivision in accordance with the order of a juvenile court entered pursuant to section 2151.355 of the Revised Code, and if, at the time of the person's or child's injury or death, the person or child was covered for purposes of Chapter 4123. of the Revised Code in connection with the community service or community work for or in the political subdivision.

(5) The political subdivision is immune from liability if the injury, death, or loss to persons or property resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials, personnel, facilities, and other resources unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner.

(6) In addition to any immunity or defense referred to in division (A)(7) of this section and in circumstances not covered by that division or ~~section~~ sections 3314.07 and 3746.24 of the Revised Code, the employee is immune from liability unless one of the following applies:

(a) The employee's acts or omissions were manifestly outside the scope of the employee's employment or official responsibilities;

(b) The employee's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner;

(c) Liability is expressly imposed upon the employee by a section of the Revised Code. Liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon an employee, because of a general authorization in that section that an employee may sue and be sued, or because the section uses the term "shall" in a provision pertaining to an employee.

(7) The political subdivision, and an employee who is a county prosecuting attorney, city director of law, village solicitor, or similar chief legal officer of a political subdivision, an assistant of any such person, or a judge of a court of this state is entitled to any defense or immunity available at common law or established by the Revised Code.

(B) Any immunity or defense conferred upon, or referred to in connection with, an employee by division (A)(6) or (7) of this section does not affect or limit any liability of a political subdivision for an act or omission of the employee as provided in section 2744.02 of the Revised Code.

Sec. 2744.05. Notwithstanding any other provisions of the Revised Code or rules of a court to the contrary, in an action against a political subdivision to recover damages for injury, death, or loss to person or property caused by an act or omission in connection with a governmental or proprietary function:

(A) Punitive or exemplary damages shall not be awarded.

(B)(1) If a claimant receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits shall be disclosed to the court, and the amount of the benefits shall be deducted from any award against a political subdivision recovered by that claimant. No insurer or other person is entitled to bring an action under a subrogation provision in an insurance or other contract against a political subdivision with respect to those benefits. The amount of the benefits shall be deducted from an award against a political subdivision under division (B)(1) of this section regardless of whether the claimant may be under an obligation to pay back the benefits upon recovery, in whole or

in part, for the claim. A claimant whose benefits have been deducted from an award under division (B)(1) of this section is not considered fully compensated and shall not be required to reimburse a subrogated claim for benefits deducted from an award pursuant to division (B)(1) of this section.

(2) Nothing in division (B)(1) of this section shall be construed to ~~limit~~ do either of the following:

(a) Limit the rights of a beneficiary under a life insurance policy or the rights of sureties under fidelity or surety bonds;

(b) Prohibit the department of human services from recovering from the political subdivision, pursuant to section 5101.58 of the Revised Code, the cost of medical assistance benefits provided under Chapter 5107., 5111., or 5115. of the Revised Code.

(C)(1) There shall not be any limitation on compensatory damages that represent the actual loss of the person who is awarded the damages. However, except in wrongful death actions brought pursuant to Chapter 2125. of the Revised Code, damages that arise from the same cause of action, transaction or occurrence, or series of transactions or occurrences and that do not represent the actual loss of the person who is awarded the damages shall not exceed two hundred fifty thousand dollars in favor of any one person. The limitation on damages that do not represent the actual loss of the person who is awarded the damages provided in this division does not apply to court costs that are awarded to a plaintiff, or to interest on a judgment rendered in favor of a plaintiff, in an action against a political subdivision.

(2) As used in this division, "the actual loss of the person who is awarded the damages" includes all of the following:

(a) All wages, salaries, or other compensation lost by the person injured as a result of the injury, including wages, salaries, or other compensation lost as of the date of a judgment and future expected lost earnings of the person injured;

(b) All expenditures of the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that were necessary because of the injury;

(c) All expenditures to be incurred in the future, as determined by the court, by the person injured or another person on behalf of the person injured for medical care or treatment, for rehabilitation services, or for other care, treatment, services, products, or accommodations that will be necessary because of the injury;

(d) All expenditures of a person whose property was injured or

destroyed or of another person on behalf of the person whose property was injured or destroyed in order to repair or replace the property that was injured or destroyed;

(e) All expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed in relation to the actual preparation or presentation of the claim involved;

(f) Any other expenditures of the person injured or of the person whose property was injured or destroyed or of another person on behalf of the person injured or of the person whose property was injured or destroyed that the court determines represent an actual loss experienced because of the personal or property injury or property loss.

"The actual loss of the person who is awarded the damages" does not include any fees paid or owed to an attorney for any services rendered in relation to a personal or property injury or property loss, and does not include any damages awarded for pain and suffering, for the loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education of the person injured, for mental anguish, or for any other intangible loss.

Sec. 2941.51. (A) Counsel appointed to a case or selected by an indigent person under division (E) of section 120.16 or division (E) of section 120.26 of the Revised Code, or otherwise appointed by the court, except for counsel appointed by the court to provide legal representation for a person charged with a violation of an ordinance of a municipal corporation, shall be paid for their services by the county the compensation and expenses that the trial court approves. Each request for payment shall be accompanied by an affidavit of indigency completed by the indigent person on forms prescribed by the state public defender. Compensation and expenses shall not exceed the amounts fixed by the board of county commissioners pursuant to division (B) of this section.

(B) The board of county commissioners shall establish a schedule of fees by case or on an hourly basis to be paid by the county for legal services provided by appointed counsel. Prior to establishing such schedule, the board shall request the bar association or associations of the county to submit a proposed schedule. The schedule submitted shall be subject to the review, amendment, and approval of the board of county commissioners.

(C) In a case where counsel have been appointed to conduct an appeal under Chapter 120. of the Revised Code, such compensation shall be fixed by the court of appeals or the supreme court, as provided in divisions (A) and (B) of this section.

(D) The fees and expenses approved by the court under this section shall not be taxed as part of the costs and shall be paid by the county. However, if the person represented has, or reasonably may be expected to have, the means to meet some part of the cost of the services rendered to ~~him~~ the person, ~~he~~ the person shall ~~reimburse~~ pay the county ~~in~~ an amount that ~~he~~ the person reasonably can be expected to pay. ~~The~~ Pursuant to section 120.04 of the Revised Code, the county shall pay to the state public defender a percentage of the ~~reimbursement~~ payment received from ~~such~~ the person in an amount proportionate to the percentage of the costs of the person's case that were paid to the county by the state public defender pursuant to this section. The money paid to the state public defender shall be credited to the ~~public defender reimbursement~~ client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code.

(E) The county auditor shall draw ~~his~~ a warrant on the county treasurer for the payment of such counsel in the amount fixed by the court, plus the expenses that the court fixes and certifies to the auditor. The county auditor shall report periodically, but not less than annually, to the board and to the Ohio public defender commission the amounts paid out pursuant to the approval of the court under this section, separately stating costs and expenses that are reimbursable under section 120.35 of the Revised Code. The board, after review and approval of the auditor's report, may then certify it to the state public defender for reimbursement. The state public defender shall review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B)(7) and (8) of section 120.04 of the Revised Code, pay fifty per cent of the total cost, other than costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, of paying appointed counsel in each county and pay fifty per cent of costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, to the board.

(F) If any county system for paying appointed counsel fails to maintain the standards for the conduct of the system established by the rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 of the Revised Code or the standards established by the state public defender pursuant to division (B)(7) of section 102.04 of the Revised Code, the commission shall notify the board of county commissioners of the county that the county system for paying appointed counsel has failed to comply with its rules. Unless the board corrects the conduct of its appointed counsel system to comply with the rules within ninety days after the date of the notice, the state public defender may deny all or part of the county's reimbursement from the state provided for in this section.

Sec. 3113.33. As used in sections 3113.33 to ~~3113.39~~3113.40 of the Revised Code:

(A) "Domestic violence" means attempting to cause or causing bodily injury to a family or household member, or placing a family or household member by threat of force in fear of imminent physical harm.

(B) "Family or household member" means any of the following:

(1) Any of the following who is residing or has resided with the person committing the domestic violence:

(a) A spouse, a person living as a spouse, or a former spouse of the person committing the domestic violence;

(b) A parent or child of the person committing the domestic violence, or another person related by consanguinity or affinity to the person committing the domestic violence;

(c) A parent or a child of a spouse, person living as a spouse, or former spouse of the person committing the domestic violence, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person committing the domestic violence;

(d) The dependents of any person listed in division (B)(1)(a), (b), or (c) of this section.

(2) The natural parent of any child of whom the person committing the domestic violence is the other natural parent.

(C) "Shelter for victims of domestic violence" or "shelter" means a facility that provides temporary residential service or facilities to family or household members who are victims of domestic violence.

(D) "Person living as a spouse" means a person who is living or has lived with the person committing the domestic violence in a common law marital relationship, who otherwise is cohabiting with the person committing the domestic violence, or who otherwise has cohabited with the person committing the domestic violence within one year prior to the date of the alleged occurrence of the act in question.

Sec. 3113.40. When a shelter for victims of domestic violence provides ACCOMMODATIONS to a person, the shelter, on admitting the person, shall determine, if possible, the person's last known residential address and county of residence. the information concerning the address and county of residence is confidential and may be released only to a public children services agency pursuant to section 2151.422 of the Revised Code.

Sec. 3301.075. The state board of education shall adopt rules governing the purchasing and leasing of data processing services and equipment for all local, exempted village, city, and joint vocational school districts and all educational service centers. Such rules shall include provisions for the

establishment of an Ohio education computer network under procedures, guidelines, and specifications of the department of education.

The department shall administer funds appropriated for the Ohio education computer network to ensure its efficient and economical operation and shall approve no more than twenty-seven data acquisition sites to operate concurrently. Such sites shall be approved for funding in accordance with rules of the state board adopted under this section that shall provide for the superintendent of public instruction to require the membership of each data acquisition site to be composed of combinations of school districts and educational service centers from contiguous counties having sufficient students to support an efficient, economical comprehensive program of computer services to member districts and educational service centers. Each data acquisition site, other than sites organized under Chapter 167. of the Revised Code prior to the effective date of this section, shall be organized in accordance with section 3313.92 of the Revised Code.

The department of education may contract with an independent for profit or nonprofit entity to provide current and historical information on Ohio government through the Ohio education computer network to school district libraries operating in accordance with section 3375.14 of the Revised Code in order to assist school teachers in social studies course instruction and support student research projects. Any such contract shall be awarded in accordance with Chapter 125. of the Revised Code.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish, grade, and score all tests required by section 3301.0710 of the Revised Code to city, local, and exempted village school districts;

(2) Adopt rules for the ethical use of tests and prescribing the manner in which the tests prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J)(2) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the tests prescribed under division (A)(1) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(2) Administer any tests prescribed under division (A)(2) of section 3301.0710 of the Revised Code at least once annually to all students in the grade designated under that division.

(3) Administer any tests prescribed under division (A)(3) of section 3301.0710 of the Revised Code at least once annually to any student in the twelfth grade who, on all the tests prescribed under division (B) of that section, has attained the applicable scores designated under such division prior to the first day of January of that year.

(4) Administer any test prescribed under division (B) of section 3301.0710 of the Revised Code at least twice annually to:

(a) All students in ninth, tenth, eleventh, or twelfth grade who have not yet attained the score on that test designated under that division;

(b) Any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such test, at any time such test is administered in the district.

(C)(1) Any student receiving special education services under Chapter 3323. of the Revised Code shall be excused from taking any particular test required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test. In the case of any student so excused from taking a test, the school district board of education shall not prohibit ~~him~~ the student from taking the test. Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29

U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular test required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that test. In the case of any student so excused from taking a test, the chartered nonpublic school shall not prohibit the student from taking the test.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking a test administered under this section on the date scheduled, but any such test shall be administered to such excused student not later than fifteen days following the scheduled date. The board shall annually report the number of students who have not taken one or more of the tests required by this section to the state board of education not later than the ~~thirty-first~~ thirtieth day of ~~May~~ June.

(D) In the school year next succeeding the school year in which the tests prescribed by division (A)(1) of section 3301.0710 of the Revised Code are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide intervention services to the student in any skill in which the student failed on those tests to demonstrate at least fourth-grade levels of literacy and basic competency. This division does not apply to any student receiving services pursuant to an individualized education program developed for the student pursuant to section 3323.08 of the Revised Code.

(E) ~~No~~ Except as provided in division (N) of this section, no school district board of education shall permit any student to be denied promotion to a higher grade level solely because of the student's failure to attain a specified score on any test administered under this section.

(F) No person shall be charged a fee for taking any test administered under this section.

(G) Not later than sixty days after any administration of any test prescribed by section 3301.0710 of the Revised Code, the department shall send to each school district board a list of the individual test scores of all persons taking the test.

(H) Individual test scores on any tests administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate test results in any manner that conflicts with rules for the ethical use of tests adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department shall not release any individual test scores on any test administered under

this section and shall adopt rules to ensure the protection of student confidentiality at all times.

(J) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any joint vocational or cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a joint vocational school district or a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the joint vocational or cooperative education school district for administering any test prescribed under this section to students of the city, exempted village, or local school district who are attending school in the joint vocational or cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any test prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(4)(b) of this section.

Any testing of students pursuant to such an agreement shall be in lieu of any testing of such students or persons pursuant to this section.

(K)(1) Any chartered nonpublic school may participate in the testing program by administering any of the tests prescribed by section 3301.0710 of the Revised Code if the chief administrator of the school specifies which tests the school wishes to administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which tests are administered and shall include a pledge that the nonpublic school will administer the specified tests in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the tests prescribed by section 3301.0710 of the Revised Code to any chartered nonpublic school electing to participate under this division.

(L)(1) Except as provided in division (L)(3) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the tests described by section 3301.0710 of the Revised Code. Each superintendent shall administer the tests in the same manner as district boards are required to do under this section and rules adopted by the department of education.

(2) The department of education shall furnish the tests described by section 3301.0710 of the Revised Code to each superintendent.

(3) Any student enrolled in the state school for the blind or the state school for the deaf shall be excused from taking any particular test required to be administered under division (L)(1) of this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that test. In the case of any student so excused from taking a test, the superintendent of the school shall not prohibit the student from taking the test.

(M) Notwithstanding division (B)(4) of this section and division (C)(3) of section 3301.0710 of the Revised Code, upon request of a district board of education, the department of education shall provide for the district to administer the tests prescribed under division (B) of section 3301.0710 of the Revised Code to students in the eighth grade on a specified date during the month of March. In such a district, tests shall be administered either once or twice during the ninth grade year to students who did not attain the designated scores on such tests in the eighth grade. Such ninth grade test administration shall be prior to the thirty-first day of December or subsequent to that date but prior to the thirty-first day of March or during both such time periods. The district board of education shall determine whether to administer such tests once or twice during the ninth grade year and during which time period to administer the tests if they are only administered once during such year.

(N) If a school district offers summer school to a student who has failed to attain the designated scores on three or more of the five tests described by division (A)(1) or (2) of section 3301.0710 of the Revised Code, or by division (B) of that section in the case of students taking those tests in the eighth grade pursuant to division (M) of this section, and the student chooses not to attend summer school or does not maintain an acceptable level of attendance in summer school, the district may use the failure to attain such scores on those tests as a reason for retaining the student for an additional year in the grade in which the tests were administered.

As used in this division, "summer school" means a six-week remedial course in the areas covered by the proficiency tests on which the student did

not attain the score designated pursuant to division (A)(1) or (2) or (B), as applicable, of section 3301.0710 of the Revised Code.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for handicapped students, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of handicap. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division

(C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels in grades one through eight as assessed by the locally developed competency programs required by division (D) of section 3301.07 of the Revised Code;

(e) Academic achievement levels as assessed by the testing of student proficiency under sections 3301.0710 and 3301.0711 of the Revised Code;

(f) The number of students designated as having a handicapping condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(g) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(h) Attendance rates and the average daily attendance for the year;

(i) Expulsion rates;

(j) Suspension rates;

(k) The percentage of students receiving corporal punishment;

(l) Dropout rates;

(m) Rates of retention in grade;

(n) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board <u>of education</u> rules;

(o) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that is consistent with nationally accepted reporting requirements.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed

employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(3) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in average daily membership in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units

under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D) The guidelines adopted under this section may require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may authorize school districts to request social security numbers of individual students so that school districts and the data acquisition sites operated under section 3301.075 of the Revised Code can assure accuracy and avoid errors in collecting the data. However, the guidelines shall prohibit the reporting under this section of any personally identifiable information about any student, including a student's social security number, name, or address, to the state board of education or the department of education or to any other person unless such person is employed by the school district or the data acquisition site and is authorized by the district or acquisition site to have access to such information. The guidelines may require school districts to provide the social security numbers of individual staff members.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.358 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student proficiency maintained pursuant to division (B)(1)(e) of this section so that the academic achievement levels of students who are excused from taking any such test pursuant to division (C)(1) of section 3301.0711 of the Revised Code are distinguished from the academic achievement levels of students who are not so excused.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system

established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L) ANY TIME THE DEPARTMENT OF EDUCATION DETERMINES THAT A SCHOOL DISTRICT HAS TAKEN ANY OF THE ACTIONS DESCRIBED UNDER DIVISION (L)(1), (2), OR (3) OF THIS SECTION, IT SHALL MAKE A REPORT OF THE ACTIONS OF THE DISTRICT, SEND A COPY OF THE REPORT TO THE SUPERINTENDENT OF SUCH SCHOOL DISTRICT, AND MAINTAIN A COPY OF THE REPORT IN ITS FILES:

(1) The school district fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system;

(2) The school district fails to meet any deadline established pursuant to this section for the correction of any data reported to the education management information system;

(3) The school district reports data to the education management information system in a condition, as determined by the department, that indicates that the district did not make a good faith effort in reporting the data to the system.

ANY REPORT MADE UNDER THIS DIVISION SHALL INCLUDE RECOMMENDATIONS FOR CORRECTIVE ACTION BY THE SCHOOL DISTRICT.

UPON making A REPORT for the first time in a fiscal year, the department shall withhold ten per cent of the total amount due during that fiscal year under Chapter 3317. of the Revised Code to the school district to which the report applies. UPON making a second REPORT in a fiscal year, the department shall withhold an additional twenty per cent of such total amount due during that fiscal year to the school district to which the report applies. The department shall not release such funds unless it determines that the district has taken corrective action. However, no such release of funds shall occur if the district fails to take corrective action within ninety days of the date upon which the report was made by the department.

(M) THE DEPARTMENT OF EDUCATION, AFTER CONSULTATION WITH THE OHIO EDUCATION COMPUTER NETWORK, MAY PROVIDE AT NO COST TO SCHOOL DISTRICTS UNIFORM COMPUTER SOFTWARE FOR USE IN REPORTING DATA TO THE EDUCATION MANAGEMENT INFORMATION SYSTEM, PROVIDED THAT NO SCHOOL DISTRICT SHALL BE REQUIRED TO UTILIZE SUCH SOFTWARE TO REPORT DATA TO THE

UCATION MANAGEMENT INFORMATION SYSTEM IF SUCH DISTRICT IS SO REPORTING DATA IN AN ACCURATE, COMPLETE, AND TIMELY MANNER IN A FORMAT COMPATIBLE WITH THAT REQUIRED BY THE EDUCATION MANAGEMENT INFORMATION SYSTEM.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (a) of SECTION 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

Sec. 3301.0719. (A) As used in this section:

(1) "Aid to dependent children" means:

(a) Aid provided under Chapter 5107. of the Revised Code prior to October 1, 1996;

(b) Cash assistance provided on or after October 1, 1996, under a state program operated pursuant to Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, regardless of the name used to designate that assistance.

(2) "Aid-to-dependent-children rate" means the percentage that equals the quotient obtained by dividing the number of children ages five to seventeen residing in the district and living in a family receiving aid to dependent children, as certified for the most recent year under section 3317.10 of the Revised Code, by the total of the number of students in average daily membership in grades kindergarten through twelve, as certified for the most recent year under section 3317.03 of the Revised Code.

~~(2)~~(3) "At-risk school district" means any city, exempted village, or local school district that has a dropout rate, rounded to the nearest one-half per cent, of thirty per cent or more and to whom one or both of the following apply:

(a) The aid-to-dependent-children rate of the district is more than thirty per cent.

(b) The amount of the average personal income per tax return of the district, as reported for the most recent tax year by the department of taxation to the department of education, is less than eighty per cent of the amount of the statewide average personal income per tax return for that tax year.

~~(3)~~(4) "Dropout rate" for any at-risk school district means the percentage that equals the difference between one hundred per cent and the

graduation rate for the most recent school year calculated in accordance with division (B)(1)~~(r)~~(l) of section 3301.0714 of the Revised Code.

(B) During the first two weeks of July each year, beginning in 1992, the state board of education shall determine each school district that is an at-risk school district and that receives at least three hundred thousand dollars under division (B)(3) of section 3317.023 of the Revised Code and shall notify any such district of this determination and the requirements of division (B)(4) of section 3317.023 of the Revised Code.

Notwithstanding division (B)(4) of section 3317.023 of the Revised Code, in the school year in which a school district is initially identified as at-risk, in lieu of the expenditure required by that division, each district board shall expend at least one-eightieth of the amount designated under that division on preparation for the implementation of the programs required by that division for the following school year. Such preparation shall include submission of a report to the state board of education detailing the preparation and the actual plans for implementation of the specified programs and the provision of at least ten days of in-service training for teachers who will be participating in such programs. The preparation may include the purchase of materials and the hiring of consultants.

Sec. 3301.134. (A) In each fiscal year the department of education, in accordance with appropriations made by the general assembly, may issue AWARDS of equal amounts up to fifteen thousand dollars to those fifty public schools that are determined by the department to have implemented in the immediately preceding fiscal year innovative and exemplary parental involvement programs that have enhanced parental involvement in such schools according to criteria established by the department.

(B) The department of education shall collect and retain information on the INNOVATIVE and exemplary parental involvement programs of all schools that have received awards under division (A) of this section. In each fiscal year the department shall publicize to every school district a description of each of the INNOVATIVE and exemplary parental involvement programs of the schools that have received awards in the immediately preceding fiscal year.

(C) Any school that receives an award under division (A) of this section may expend the money on any lawful purpose.

Sec. 3301.80. (A)~~(1)~~ There is hereby created the information, learning, and technology ~~advisory committee~~ authority consisting of ~~nine~~ eleven members, ~~five~~ seven of whom are voting members. Of the voting members, one shall be appointed by the ~~governor~~ speaker of the house of representatives and one shall be appointed by the president of the senate. The members appointed by the speaker of the house and the president of the senate shall not be members of the general assembly. The state superintendent of public instruction or a designee of the superintendent, the director of the office of budget and management or a designee of the director, the director of ~~the department of~~ administrative services or a designee of the director, the chairperson of the public utilities commission or a designee of the chairperson, and the director of the Ohio educational telecommunications network commission or a designee of the director shall serve on the committee as ex officio voting members. Of the nonvoting members, two shall be members of the house of representatives appointed by the speaker of the house of representatives and two shall be members of the senate appointed by the president of the senate. The members appointed from each house shall not be members of the same political party.

The ~~term~~ terms of office for the ~~member~~ members appointed by the ~~governor~~ speaker of the house and the president of the senate shall be for two years, with ~~the~~ each term ending on the same day of the same month as did the term that it succeeds. The ~~member~~ members appointed by the ~~governor~~ speaker of the house and the president of the senate may be reappointed. Any member appointed from the house of representatives or senate who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the committee. Vacancies among appointed members shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which a predecessor was appointed shall hold office as a member for the remainder of that term. The ~~member~~ members appointed by the ~~governor~~ speaker of the house and the president of the senate shall continue in office subsequent to the expiration date of that member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(2) The information, learning, and technology ~~advisory committee~~ authority shall monitor and oversee the operations of, and programs administered by, the office of information, learning, and technology services established under division (B) of this section. In addition, the ~~committee~~ authority may develop and issue policies and directives to be followed by the office of information, learning, and technology services in implementing

the programs under its jurisdiction.

(B) The office of information, learning, and technology services is hereby established as an independent agency ~~within the department of education~~. The office shall be under the supervision of a director who shall be appointed by the ~~superintendent of public instruction except that the superintendent shall not appoint a person as director unless the person has been approved by a majority vote of the~~ information, learning, and technology ~~advisory committee~~ authority. The director shall serve at the pleasure of the ~~committee~~ authority and shall direct the office in the administration of all programs for the provision of financial and other assistance to school districts and other educational institutions for the acquisition and utilization of educational technology. The office of information, learning, and technology services shall do all of the following:

(1) Make grants to institutions and other organizations as prescribed by the general assembly for the provision of technical assistance, professional development, and other support services to enable school districts and other educational institutions to utilize educational technology;

(2) Contract with the department of education, state institutions of higher education, private nonprofit institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code, and such other public or private entities, and employ such persons as the director of the office deems necessary for the administration and implementation of the programs under the office's jurisdiction;

(3) Establish a reporting system to which school districts and other educational institutions receiving financial assistance pursuant to this section for the acquisition of educational technology report information as to the manner in which such assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of this utilization, and other information as may be required by the office;

(4) Establish necessary guidelines governing purchasing and procurement by participants in programs administered by the office that facilitate the timely and effective implementation of such programs;

(5) Implement policies and directives issued by the information, learning, and technology ~~advisory committee~~ authority established under division (A) of this section.

The office of information, learning, and technology services may establish a systems support network to facilitate the timely implementation of the programs, projects, or activities for which it provides assistance.

Chapters 123., 124., 125., and 153., and sections 9.331, 9.332, and

9.333 of the Revised Code do not apply to contracts, programs, projects, or activities of the information, learning, and technology authority or the office of information, learning, and technology services.

For purposes of exercising collective bargaining rights under Chapter 4117. of the Revised Code, the employees of the office of information, learning, and technology services shall be placed in a bargaining unit separate from any other unit containing employees of the state.

Sec. 3301.801. The office of Information, Learning, and Technology services shall create and maintain a clearinghouse for classroom teachers to easily obtain lesson plans and Materials and other practical resources for use in classroom teaching. the office shall develop a method of obtaining submissions, from classroom teachers and others, of such plans, materials, and other resources that have been used in the classroom and that can be readily used and implemented by classroom teachers in their regular teaching activities. the office also shall develop methods of informing classroom teachers of both the AVAILABILITY of such plans, materials, and other resources, and of the opportunity to submit such plans, materials, and other resources and other classroom teaching ideas to the clearinghouse.

The office shall periodically report to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, and the chairpersons and ranking minority members of the education committees of the senate and the house of representatives regarding the clearinghouse and make recommendations for changes in state law or administrative rules that may facilitate the usefulness of the clearinghouse.

Sec. 3307.01. As used in this chapter:

(A) "Employer" means the board of education, school district, governing authority of any community school established under Chapter 3314. of the Revised Code, college, university, institution, or other agency within the state by which a teacher is employed and paid.

(B) "Teacher" means any person paid from public funds and employed in the public schools of the state under any type of contract described in section 3319.08 of the Revised Code in a position for which the ~~teacher~~ person is required to have a license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code; any person employed as a teacher by a community school pursuant to Chapter 3314. of the Revised Code; and any other teacher or faculty member employed in any school, college, university, institution, or other agency wholly controlled and managed, and supported in whole or in part, by the state or any political subdivision thereof, including Central state university, Cleveland state university, the university of Toledo, and the medical college of Ohio at Toledo. The educational

employees of the department of education, as determined by the state superintendent of public instruction, shall be considered teachers for the purpose of membership in this system. In all cases of doubt, the state teachers retirement board shall determine whether any person is a teacher, and its decision shall be final.

"Teacher" does not include any academic or administrative employee of a public institution of higher education, as defined in section 3305.01 of the Revised Code, who participates in ~~all~~ an alternative retirement plan established under Chapter 3305. of the Revised Code.

(C) "Prior service" means all service as a teacher before September 1, 1920, military service credit, all service prior to September 1, 1920, as an employee of any employer who comes within the public employees retirement system, the school employees retirement system, or any other state retirement system established under the laws of Ohio, and similar service in another state, credit for which was procured by a member under section 3307.33 of the Revised Code, prior to June 25, 1945. Prior service credit shall not be granted to any member for service for which credit or benefits have been received in any other state retirement system in Ohio or for credit that was forfeited by withdrawal of contributions, unless the credit has been restored. If the teacher served as an employee in any two or all of the capacities, "prior service" means the total combined service in the capacities prior to September 1, 1920.

If a teacher who has been granted prior service credit for service rendered prior to September 1, 1920, as an employee of an employer who comes within the public employees retirement system or the school employees retirement system, establishes, subsequent to September 16, 1957, and before retirement, three years of contributing service in the public employees retirement system, or one year in the school employees retirement system, the prior service credit granted shall become, at retirement, the liability of the other system if the prior service or employment was in a capacity covered by that system.

(D) "Total service," "total service credit," except as provided in section 3307.41 of the Revised Code, or "Ohio service credit" means all service of a member of the state teachers retirement system since last becoming a member and, in addition thereto, restored service credit under section 3307.28, all prior service credit, all military service credit computed as provided in this chapter, and all other service credit established under sections 3307.31, 3307.311, 3307.32, 3307.35, 3307.411, 3307.51, 3307.512, 3307.513, and 3307.73 and former section 3307.52 of the Revised Code, and Section 3 of Amended Substitute Senate Bill No. 530 of the 114th

general assembly. All service credit purchased under section 3307.33 of the Revised Code shall be used exclusively for the purpose of qualifying for service retirement.

(E) "Member" means any person included in the membership of the state teachers retirement system, which shall consist of all teachers and contributors as defined in divisions (B) and (F) of this section and all disability benefit recipients. However, for purposes of this chapter, the following persons shall not be considered members:

(1) A student, intern, or resident who is not a member while employed part-time by a school, college, or university at which the student, intern, or resident is regularly attending classes;

(2) A person denied membership pursuant to section 3307.27 of the Revised Code;

(3) A superannuate or other system retirant as defined in section 3307.381 of the Revised Code;

(4) An individual employed in a program established pursuant to the "Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 1501.

(F) "Contributor" means any person who has an account in the teachers' savings fund.

(G) "Beneficiary" means any person eligible to receive, or in receipt of, a retirement allowance or other benefit provided by this chapter.

(H)(1) "Service retirement" means retirement as provided in section 3307.38 or 3307.39 of the Revised Code.

(2) "Disability retirement" means retirement as provided in section 3307.43 of the Revised Code.

(I) "Accumulated contributions" means the sum of all amounts credited to a contributor's individual account in the teachers' savings fund, together with interest credited thereon at the rates approved by the state teachers retirement board prior to retirement.

(J) "Annuity" means payments for life derived from contributions made by a contributor and paid from the annuity and pension reserve fund. All annuities shall be paid in twelve equal monthly installments.

(K) "Pensions" means annual payments for life derived from appropriations made by an employer and paid from the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(L)(1) "Allowance" or "benefit" means the pension plus the annuity, or any other payment under this chapter, and includes a disability allowance or disability benefit.

(2) "Disability allowance" means an allowance paid on account of

disability under section 3307.431 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 3307.43 of the Revised Code, as a disability allowance under section 3307.431 of the Revised Code, or as a disability benefit under section 3307.41 of the Revised Code.

(M) "Annuity reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a member.

(N) "Pension reserve" means the present value, computed upon the basis of mortality tables adopted by the state teachers retirement board with interest, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a member or to a beneficiary.

(O) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following, except that for the purpose of determining final average salary, "year" may mean the contract year.

(P) "Local district pension system" means any school teachers pension fund created in any school district of the state in accordance with the laws of the state prior to September 1, 1920.

(Q) "Employer contribution" means the amount paid by an employer, as determined by the employer rate, including the normal and deficiency rates, contributions, and funds wherever used in this chapter.

(R) "Five years of service credit," for the exclusive purpose of satisfying the service credit requirements and determining eligibility for benefits under section 3307.38 of the Revised Code, means employment covered under this chapter and employment covered under a former retirement plan operated, recognized, or endorsed by a college, institute, university, or political subdivision of this state prior to coverage under this chapter.

(S) "Actuary" means the actuarial consultant to the state teachers retirement board, who shall be either of the following:

(1) A member of the American academy of actuaries;

(2) A firm, partnership, or corporation of which at least one person is a member of the American academy of actuaries.

(T) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the

administration of the system.

(U)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a teacher by reason of the teacher's employment, including compensation paid pursuant to a supplemental contract. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the teachers' savings fund under section 3307.51 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary, compensation, or benefits under this chapter are paid;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the teacher or the teacher's family, or amounts paid by the employer to the teacher in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made by the employer in exchange for a member's waiver of a right to receive any payment, amount, or benefit described in division (U)(2) of this section;

(g) Payments by the employer for services not actually rendered;

(h) Any amount paid by the employer as a retroactive increase in salary, wages, or other earnings, unless the increase is one of the following:

(i) A retroactive increase paid to a member employed by a school district board of education in a position that requires a license designated for teaching and not designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(ii) A retroactive increase paid to a member employed by a school

ct board of education in a position that requires a license designated for being an administrator issued under section 3319.22 of the Revised Code that is paid in accordance with uniform criteria applicable to all members employed by the board in positions requiring the licenses;

(iii) A retroactive increase paid to a member employed by a school district board of education as a superintendent that is also paid as described in division (U)(2)(h)(i) of this section;

(iv) A retroactive increase paid to a member employed by an employer other than a school district board of education in accordance with uniform criteria applicable to all members employed by the employer.

(i) Payments made to or on behalf of a teacher that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a teacher who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. 103-66, 107 Stat. 472.

(j) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th ~~General Assembly~~ general assembly;

(k) Anything of value received by the teacher that is based on or attributable to retirement or an agreement to retire.

(3) The retirement board shall determine by rule both of the following:

(a) Whether particular forms of earnings are included in any of the categories enumerated in this division;

(b) Whether any form of earnings not enumerated in this division is to be included in compensation.

Decisions of the board made under this division shall be final.

(V) "Retirant" means any former member who is granted age and service retirement as provided in sections 3307.38, 3307.39, 3307.41, and 3307.50 of the Revised Code.

(W) "Disability benefit recipient" means a member who is receiving a disability benefit.

Sec. 3309.01. As used in this chapter:

(A) "Employer" or "public employer" means boards of education, school districts, joint vocational districts, governing authorities of community schools established under Chapter 3314. of the Revised Code, educational institutions, technical colleges, state, municipal, and community colleges, community college branches, universities, university branches, other educational institutions, or other agencies within the state by which an employee is employed and paid, including any organization using federal funds, provided the federal funds are disbursed by an employer as determined by the above. In all cases of doubt, the school employees retirement board shall determine whether any employer is an employer as defined in this chapter, and its decision shall be final.

(B) "Employee" means all of the following:

(1) Any person employed by a public employer in a position for which the person is not required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code;

(2) Any person who performs a service common to the normal daily operation of an educational unit even though the person is employed and paid by one who has contracted with an employer to perform the service, and the contracting board or educational unit shall be the employer for the purposes of administering the provisions of this chapter;

(3) Any person, not a faculty member, employed in any school or college or other institution wholly controlled and managed, and wholly or partly supported by the state or any political subdivision thereof, the board of trustees, or other managing body of which shall accept the requirements and obligations of this chapter.

In all cases of doubt, the school employees retirement board shall determine whether any person is an employee, as defined in this division, and its decision is final.

(C) "Prior service" means all service rendered prior to September 1, 1937:

(1) As an employee as defined in division (B) of this section;

(2) As an employee in a capacity covered by the public employees retirement system or the state teachers retirement system;

(3) As an employee of an institution in another state, service credit for which was procured by a member under the provisions of section 3309.31 of the Revised Code.

Prior service, for service as an employee in a capacity covered by the public employees retirement system or the state teachers retirement system, shall be granted a member under qualifications identical to the laws and

rules applicable to service credit in those systems.

Prior service shall not be granted any member for service rendered in a capacity covered by the public employees retirement system, the state teachers retirement system, and this system in the event the service credit has, in the respective systems, been received, waived by exemption, or forfeited by withdrawal of contributions, except as provided in this chapter.

If a member who has been granted prior service should, subsequent to September 16, 1957, and before retirement, establish three years of contributing service in the public employees retirement system, or one year in the state teachers retirement system, then the prior service granted shall become, at retirement, the liability of the other system, if the prior service or employment was in a capacity that is covered by that system.

The provisions of this division shall not cancel any prior service granted a member by the school employees retirement board prior to August 1, 1959.

(D) "Total service," "total service credit," or "Ohio service credit" means all contributing service of a member of the school employees retirement system, and all prior service, computed as provided in this chapter, and all service established pursuant to sections 3309.31, 3309.311, and 3309.33 of the Revised Code. In addition, "total service" includes any period, not in excess of three years, during which a member was out of service and receiving benefits from the state insurance fund, provided the injury or incapacitation was the direct result of school employment.

(E) "Member" means any employee, except an SERS retirant or other system retirant as defined in section 3309.341 of the Revised Code, who has established membership in the school employees retirement system. "Member" includes a disability benefit recipient.

(F) "Contributor" means any person who has an account in the employees' savings fund.

(G) "Retirant" means any former member who retired and is receiving a service retirement allowance or commuted service retirement allowance as provided in this chapter.

(H) "Beneficiary" or "beneficiaries" means the estate or a person or persons who, as the result of the death of a contributor or retirant, qualifies for or is receiving some right or benefit under this chapter.

(I) "Interest," as specified in division (E) of section 3309.60 of the Revised Code, means interest at the rates for the respective funds and accounts as the school employees retirement board may determine from time to time, except as follows:

(1) The rate of interest credited on employee contributions at retirement

shall be four per cent per annum, compounded annually, to and including June 30, 1955; three per cent per annum, compounded annually, from July 1, 1955, to and including June 30, 1963; three and one-quarter per cent per annum, compounded annually, from July 1, 1963, through June 30, 1966; and thereafter, four per cent per annum compounded annually until a change in the amount is recommended by the system's actuary and approved by the retirement board. Subsequent to June 30, 1959, the retirement board shall discontinue the annual crediting of current interest on a contributor's accumulated contributions. Noncrediting of current interest shall not affect the rate of interest at retirement guaranteed under this division.

(2) In determining the reserve value for purposes of computing the amount of the contributor's annuity, the rate of interest used in the annuity values shall be four per cent per annum through September 30, 1956; three per cent per annum compounded annually from October 1, 1956, through June 30, 1963; three and one-quarter per cent per annum compounded annually from July 1, 1963, through June 30, 1966; and, thereafter, four per cent per annum compounded annually until a change in the amount is recommended by the system's actuary and approved by the retirement board. In the purchase of out-of-state service credit as provided in section 3309.31 of the Revised Code, and in the purchase of an additional annuity, as provided in section 3309.47 of the Revised Code, interest shall be computed and credited to reserves therefor at the rate the school employees retirement board shall fix as regular interest thereon.

(J) "Accumulated contributions" means the sum of all amounts credited to a contributor's account in the employees' savings fund together with any regular interest credited thereon at the rates approved by the retirement board prior to retirement.

(K) "Final average salary" means the sum of the annual compensation for the three highest years of compensation for which contributions were made by the member, divided by three. If the member has a partial year of contributing service in the year in which the member terminates employment and the partial year is at a rate of compensation that is higher than the rate of compensation for any one of the highest three years of annual earnings, the board shall substitute the compensation earned for the partial year for the compensation earned for a similar fractional portion in the lowest of the three high years of annual compensation before dividing by three. If a member has less than three years of contributing membership, the final average salary shall be the total compensation divided by the total number of years, including any fraction of a year, of contributing service.

(L) "Annuity" means payments for life derived from contributions made

by a contributor and paid from the annuity and pension reserve fund as provided in this chapter. All annuities shall be paid in twelve equal monthly installments.

(M)(1) "Pension" means annual payments for life derived from appropriations made by an employer and paid from the employers' trust fund or the annuity and pension reserve fund. All pensions shall be paid in twelve equal monthly installments.

(2) "Disability retirement" means retirement as provided in section 3309.40 of the Revised Code.

(N) "Retirement allowance" means the pension plus the annuity.

(O)(1) "Benefit" means a payment, other than a retirement allowance or the annuity paid under section 3309.341 of the Revised Code, payable from the accumulated contributions of the member or the employer, or both, under this chapter and includes a disability allowance or disability benefit.

(2) "Disability allowance" means an allowance paid on account of disability under section 3309.401 of the Revised Code.

(3) "Disability benefit" means a benefit paid as disability retirement under section 3309.40 of the Revised Code, as a disability allowance under section 3309.401 of the Revised Code, or as a disability benefit under section 3309.35 of the Revised Code.

(P) "Annuity reserve" means the present value, computed upon the basis of mortality tables adopted by the school employees retirement board, of all payments to be made on account of any annuity, or benefit in lieu of any annuity, granted to a retirant.

(Q) "Pension reserve" means the present value, computed upon the basis of mortality tables adopted by the school employees retirement board, of all payments to be made on account of any pension, or benefit in lieu of any pension, granted to a retirant or a beneficiary.

(R) "Year" means the year beginning the first day of July and ending with the thirtieth day of June next following.

(S) "Local district pension system" means any school employees' pension fund created in any school district of the state prior to September 1, 1937.

(T) "Employer contribution" means the amount paid by an employer as determined by the employer rate, contributions, and funds as provided in this chapter, and shall be credited to the employers' trust fund.

(U) "Fiduciary" means a person who does any of the following:

(1) Exercises any discretionary authority or control with respect to the management of the system, or with respect to the management or disposition of its assets;

(2) Renders investment advice for a fee, direct or indirect, with respect to money or property of the system;

(3) Has any discretionary authority or responsibility in the administration of the system.

(V)(1) Except as otherwise provided in this division, "compensation" means all salary, wages, and other earnings paid to a contributor by reason of employment. The salary, wages, and other earnings shall be determined prior to determination of the amount required to be contributed to the employees' savings fund under section 3309.47 of the Revised Code and without regard to whether any of the salary, wages, or other earnings are treated as deferred income for federal income tax purposes.

(2) Compensation does not include any of the following:

(a) Payments for accrued but unused sick leave or personal leave, including payments made under a plan established pursuant to section 124.39 of the Revised Code or any other plan established by the employer;

(b) Payments made for accrued but unused vacation leave, including payments made pursuant to section 124.13 of the Revised Code or a plan established by the employer;

(c) Payments made for vacation pay covering concurrent periods for which other salary or compensation is also paid or during which benefits are paid under this chapter;

(d) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;

(e) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, use of the employer's property or equipment, and reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;

(f) Payments made to or on behalf of a contributor that are in excess of the annual compensation that may be taken into account by the retirement system under division (a)(17) of section 401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 401(a)(17), as amended. For a contributor who first establishes membership before July 1, 1996, the annual compensation that may be taken into account by the retirement system shall be determined under division (d)(3) of section 13212 of the "Omnibus Budget Reconciliation Act of 1993," Pub. L. 103-66, 107 Stat. 472;

(g) Payments made under division (B) or (D) of section 5923.05 of the Revised Code or Section 4 of Substitute Senate Bill No. 3 of the 119th

general assembly;

(h) Anything of value received by the contributor that is based on or attributable to retirement or an agreement to retire, except that payments made on or before January 1, 1989, that are based on or attributable to an agreement to retire shall be included in compensation if both of the following apply:

(i) The payments are made in accordance with contract provisions that were in effect prior to January 1, 1986.

(ii) The employer pays the retirement system an amount specified by the retirement board equal to the additional liability from the payments.

(3) The retirement board shall determine by rule whether any form of earnings not enumerated in this division is to be included in compensation, and its decision shall be final.

(W) "Disability benefit recipient" means a member who is receiving a disability benefit.

(X) "Actuary" means an individual who satisfies all of the following requirements:

(1) Is a member of the American academy of actuaries;

(2) Is an associate or fellow of the society of actuaries;

(3) Has a minimum of five years' experience in providing actuarial services to public retirement plans.

Sec. 3311.053. (A) The boards of education of up to five adjoining educational service centers may, by identical resolutions adopted by a majority of the members of each governing board within any sixty-day period, combine such educational service centers into one educational service center. The resolutions shall state the name of the new center, which may be styled as a "joint educational service center." The resolutions shall also indicate whether the governing board of the new educational service center is to be formed in accordance with division (B) of this section ~~or~~, in accordance with division (A) of section 3311.054 of the Revised Code, or in accordance with section 3311.057 of the Revised Code.

A copy of each resolution shall be filed with the state board of education. The new educational service center shall be created and the governing boards of the participating educational service centers shall be dissolved and a new governing board established thirty days after the date on which the last resolution was filed with the state board.

(B) The initial members of a new governing board established in accordance with this division shall be appointed as follows:

(1) If two educational service centers combine, each center's governing board, prior to its dissolution, shall appoint two members to the new

governing board and the four members so selected shall select a fifth member within ten days of the date on which the last of the four members is appointed.

(2) If three educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board and the three members so selected shall select the remaining two members of the governing board within ten days of the date on which the last of the three members is appointed.

(3) If four educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board and the four members so selected shall select the remaining member of the governing board within ten days of the date on which the last of the four members is appointed.

(4) If five educational service centers combine, each center's governing board, prior to its dissolution, shall appoint one member to the new governing board.

If the members appointed to a new governing board by the governing boards of the combining educational service centers are unable to agree on the selection of the remaining members of the new governing board within ten days, the probate judge of the county in which the greatest number of pupils under the supervision of the new educational service center reside shall appoint the remaining members.

Electors of the new educational service center shall elect a new governing board at the next general election occurring in an odd-numbered year and more than seventy-five days after the date of the appointment of the last member to the initial governing board. Members shall serve for the duration of the term to which they are elected or until their successors are elected and qualified. At such election, two members shall be elected to terms of two years and three members shall be elected to terms of four years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of governing boards of all educational service centers. Each candidate for election as a member of the educational service center governing board shall file a nominating petition in accordance with section 3513.255 of the Revised Code.

(C) The funds of each former educational service center shall be paid over in full to the governing board of the new educational service center, and the legal title to all property of the former governing boards shall become vested in the new governing board.

The governing board of an educational service center created under this section shall honor all contracts made by the former governing boards.

Sec. 3311.056. After at least one election of board members has occurred under division (B) of section 3313.053 ~~or~~, division (C) of section 3311.054, or section 3311.057 of the Revised Code, the elected governing board members of an educational service center created under division (A) of section 3311.053 of the Revised Code may by resolution adopt a plan for adding appointed members to that governing board. A plan may provide for adding to the board a number of appointed members that is up to one less than the number of elected members on the board except that the total number of elected and appointed board members shall be an odd number. A plan shall provide for the terms of the appointed board members. The appointed board members in each plan shall be appointed by a majority vote of the full number of elected members on the board and vacancies shall be filled as provided in the plan. Each plan shall specify the qualifications for the appointed board members of an educational service center and shall at least require appointed board members to be electors residing in the service center.

A governing board adopting a plan under this section shall submit the plan to the state board of education for approval. The state board may approve or disapprove a plan or make recommendations for modifications in a plan. A plan shall take effect thirty days after approval by the state board and, when effective, appointments to the board shall be made in accordance with the plan.

The elected members of the governing board of an educational service center with a plan in effect under this section may adopt, by unanimous vote of all the elected members, a resolution to revise or rescind the plan in effect under this section. All revisions shall comply with the requirements in this section for appointed board members. A resolution revising or rescinding a plan shall specify the dates and manner in which the revision or rescission is to take place. The revision or rescission of a plan shall be submitted to the state board of education for approval. The state board may approve or disapprove a revision or rescission of a plan or make recommendations for modifications. Upon approval of a revision or rescission by the state board, the revised plan or rescission of the plan shall go into effect as provided in the revision or rescission.

Sec. 3311.057. (a) any educational service center that is formed by merging two or more educational service centers or former county school districts after july 1, 1995, but prior to july 1, 1999, may determine the number of members of its board of education and whether the members are to be elected at large or by subdistrict, provided each board shall have an odd number of members.

(B) if an educational service center described in division (a) of this section is formed on or after the effective date of this section, the board of education of each service center that is merging to form the new service center shall include identical provisions for electing the new service center's board in its resolution adopted pursuant to division (a) of section 3311.053 of the Revised Code. if there is any transition period between the effective date of the merger of the service centers and the assumption of control of the new service center by the new board, the resolutions shall include provisions for an interim governing board which shall be appointed to govern the service center until the time the new board is elected and assumes control of the service center.

(C) if an educational service center described in division (a) of this section was formed prior to the effective date of this section, the governing board of the service center may adopt at any time prior to July 1, 1999, a resolution setting forth provisions for changing the number of members and the manner of electing its board and provisions for any transitional period between the abolition of the existing board and the assumption of control by the new board.

(D) any provisions for electing a governing board adopted pursuant to division (b) or (c) of this section may provide for the election of members at large, may provide for the establishment of subdistricts within the district, or may require some members to be elected at large and some to be elected from subdistricts. if subdistricts are included, the resolutions shall specify the manner in which their boundaries are to be drawn. the provisions shall attempt to ensure that each elected member of the board represents an equal number of residents of the service center. To accomplish this, any subdistrict containing a multiple of the number of electors in another subdistrict, may elect at-large within that subdistrict, a number of board members equal to the multiple that its population is of the population of the other subdistrict.

(E) the provisions for selecting board members set forth in the latest resolution adopted pursuant to division (b) or (c) of this section prior to july 1, 1999, shall remain the method of electing school board members within that educational service center.

Sec. 3313.172. The board of education of any city, exempted village, local, or joint vocational school district and the governing board of any educational service center may expend funds to obtain one or more motor vehicles, as defined in section 4501.01 of the Revised Code, by purchase ~~or,~~ lease, or lease-purchase. Except as provided in section 3327.14 of the Revised Code, any motor vehicle so obtained shall be used solely for school purposes.

Sec. 3313.372. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, a building, to reduce energy consumption. It includes:

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(3) Automatic energy control systems;

(4) Heating, ventilating, or air conditioning system modifications or replacements;

(5) Caulking and weatherstripping;

(6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;

(7) Energy recovery systems;

(8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;

(9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure.

(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:

(1) Not less than ~~one-tenth~~ one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.

(2) The remaining balance of the costs thereof shall be paid within ~~ten~~ fifteen years from the date of purchase.

An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section.

(C) The board may issue the notes of the school district signed by the

president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code shall not exceed one per cent of the district's tax valuation. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the district, may be applied to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by division (B) of this section.

(D) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a school district under section 133.06 of the Revised Code.

(E) No school district board shall enter into an installment payment contract under division (B) of this section unless it first obtains a report of the costs of the energy conservation measures and the savings thereof as described under division (G) of section 133.06 of the Revised Code as a requirement for issuing energy securities, makes a finding that the amount spent on such measures is not likely to exceed the amount of money it would save in energy costs and resultant operational and maintenance costs as described in that division, except that that finding shall cover the ensuing fifteen years, and the Ohio school facilities commission determines that the district board's findings are reasonable and approves the contract as described in that division.

The district board shall monitor the savings and maintain a report of those savings, which shall be available to the commission in the same manner as required by division (G) of section 133.06 of the Revised Code in the case of energy securities.

Sec. 3313.535. (A) As used in this section, "interscholastic extracurricular activity" means a pupil activity program that a school or school district sponsors or participates in and that includes participants from more than one school or school district. "Interscholastic extracurricular activity" does not include any activity included in the school district's graded course of study.

(B) Not later than July 1, 1998, the board of education of each city, local, exempted village, and joint vocational school district shall adopt rules requiring students in grades seven to twelve to attain a minimum grade point average, to be established by the board, as a condition for such students to participate in interscholastic extracurricular activities.

(C) Not later than July 1, 1998, the board of education shall adopt a policy either prohibiting any student from participating in any interscholastic extracurricular activity, or allowing any student to so participate, if the student has received a failing grade for any class or course in the school district's graded course of study for the previous grading period.

(D) A board also may adopt rules that include additional standards for determining the eligibility of students to participate in interscholastic extracurricular activities, requirements for attaining reeligibility in interscholastic extracurricular activities, and an exemption for any student whose individualized education program prepared pursuant to section 3323.08 of the Revised Code indicates an exemption would be advisable.

Sec. 3313.613. NOTWITHSTANDING ANY OTHER SECTION OF THE REVISED CODE, the board of education of any city, exempted village, or local school district that operates a high school shall award high school credit for a course successfully completed OUTSIDE OF REGULAR SCHOOL HOURS by a student AT AN ACCREDITED POST-SECONDARY INSTITUTION. sUCH course MAY EITHER BE free of charge or paid for by the parent, guardian, or custodian of the student. high school credit awarded for a course successfully completed UNDER THIS SECTION shall count toward the graduation requirements and subject area requirements of the school district. if a course comparable to the course SUCCESSFULLY COMPLETED UNDER THIS SECTION is offered by the school district, the district board shall award comparable credit for the completed EQUIVALENT course. if no comparable course is offered by the school district, the district board shall grant to the student an appropriate number of credits in a similar subject area.

Sec. 3313.843. Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to either of the following:

(A) Any cooperative education school district;

(B) Any city or exempted village school district with an average daily membership of thirteen thousand or more reported pursuant to division (A) of section 3317.03 of the Revised Code that has not entered into one or more agreements pursuant to this section prior to July 1, 1993, unless the district's average daily membership did not exceed thirteen thousand at the time it

entered into an initial agreement under this section.

The board of education of a city or exempted village school district and the governing board of an educational service center with territory in a county in which the city or exempted village school district also has territory may enter into an agreement, through adoption of identical resolutions, under which the educational service center governing board will provide services to the city or exempted village school district.

Services provided under the agreement shall be specified in the agreement, and may include any one or a combination of the following: supervisory teachers; in-service and continuing education programs for city or exempted village school district personnel; curriculum services as provided to the local school districts under the supervision of the service center governing board; research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; and assistance in the provision of special accommodations and classes for handicapped students. Services included in the agreement shall be provided to the city or exempted village district in the same manner they are provided to local school districts under the governing board's supervision, unless otherwise specified in the agreement. The city or exempted village board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code.

If an educational service center received funding under division (B) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose average daily membership was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any subsequent year if the city district's average daily membership exceeds thirteen thousand. However, only the first thirteen thousand pupils in the average daily membership of such district shall be included in determining the amount of the per pupil subsidy the service center shall receive under division (B) of section 3317.11 of the Revised Code.

Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of the school year for which the agreement is in effect.

Sec. 3313.844. THE GOVERNING AUTHORITY OF A COMMUNITY SCHOOL ESTABLISHED UNDER CHAPTER 3314. OF THE REVISED CODE AND THE GOVERNING BOARD OF AN EDUCATIONAL SERVICE CENTER MAY ENTER INTO AN AGREEMENT, THROUGH ADOPTION OF IDENTICAL

RESOLUTIONS, UNDER WHICH THE SERVICE CENTER BOARD WILL PROVIDE SERVICES TO THE COMMUNITY SCHOOL. SERVICES PROVIDED UNDER THE AGREEMENT AND THE AMOUNT AND MANNER IN WHICH THE COMMUNITY SCHOOL BOARD WILL PAY FOR SUCH SERVICES SHALL BE MUTUALLY AGREED TO BY THE SCHOOL'S GOVERNING BOARD AND THE SERVICE CENTER BOARD, AND SHALL BE SPECIFIED IN THE SERVICE AGREEMENT.

Sec. 3313.871. (A) By a majority vote of its members, a board of education may appropriate from the general fund an amount sufficient to pay annual membership dues and service fees to one or more accrediting associations that have the purpose of improving education. Such annual membership dues and service fees shall not exceed in the aggregate ~~four~~five hundred dollars per public school evaluated for accreditation in the district.

(B) In addition to the expenditures authorized under division (A) of this section, a board of education may pay the necessary and proper expenses associated with accreditation activities and school evaluations. A board of education may pay an employee ~~his~~ the employee's regular salary during ~~his~~ the employee's service as an evaluator of a school in another school district.

Sec. 3313.975. ~~(A)~~ As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program ~~in one~~ and shall include in such program any school ~~district~~ districts that~~, as of March 1995, was~~ are or have ever been under ~~a~~ federal court order requiring supervision and operational management of the district by the state superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program. In no case, however, shall more than fifty per cent of all

olarships awarded be used by students who were enrolled in a nonpublic school during the school year of application for a scholarship.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, no new students may receive scholarships unless they are enrolled in grade kindergarten, one, two, or three. However, any student who has received a scholarship the preceding year may continue to receive one until ~~he~~ the student has completed grade eight.

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades up to the eighth grade that are provided in such school, under the same conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39, 3307.35, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

(E) The state superintendent shall make a grant to the pilot project school district sufficient to defray one hundred per cent of the additional costs to the district of providing transportation to and from the alternative school for all students utilizing a scholarship to attend an alternative school.

Sec. 3314.01. (A) A board of education may permit all or part of any of

the schools under its control, upon request of a proposing person or group and provided the person or group meets the requirements of this chapter, to become a community school.

(B) A community school created under this chapter is a public school, independent of any school district, and is part of the state's program of education. A community school may sue and be sued, acquire facilities as needed, contract for any services necessary for the operation of the school, and enter into contracts with a sponsor pursuant to this chapter. The governing authority of a community school may carry out any act and ensure the performance of any function that is in compliance with the Ohio Constitution, this chapter, other statutes applicable to community schools, and the contract entered into under this chapter establishing the school.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means the board of education of the school district in which a proposed community school is located and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project district" means a school district included in the territory of a community school pilot project established by Am. Sub. H.B. No. 215 of the 122nd general assembly.

(B) Prior to July 1, 2002, any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of a city, local, or exempted village school district, other than a pilot project district, in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C) A majority vote of a sponsoring school district board and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school. An unlimited number of community schools may be established in

any school district provided that a contract is entered into for each community school pursuant to this chapter.

Sec. 3314.03. (A) Each contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as a nonprofit corporation established under Chapter 1702. of the Revised Code;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide proficiency tests;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code;

(6) Dismissal procedures;

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements and procedures for program and financial audits, including audits by the auditor of state and the department of education. THE CONTRACT SHALL REQUIRE FINANCIAL RECORDS OF THE SCHOOL TO BE MAINTAINED IN THE SAME MANNER AS ARE FINANCIAL RECORDS OF SCHOOL DISTRICTS, PURSUANT TO RULES OF THE AUDITOR OF STATE.

(9) The Facility to be used and its location;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be NONSECTARIAN IN ITS PROGRAMS, ADMISSION POLICIES, EMPLOYMENT PRACTICES, AND ALL OTHER OPERATIONS, AND WILL NOT BE OPERATED BY A

SECTARIAN SCHOOL OR RELIGIOUS INSTITUTION;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0714, 3313.50, 3313.643, 3313.66, 3313.661, 3313.662, 3313.67, 3313.672, 3313.673, 3313.69, 3313.71, 3313.80, 3313.96, 3319.321, 3319.39, 3321.01, 3327.10, 4111.17, and 4113.52 and Chapters 117., 1347., 2744., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters;

(f) The school will comply with sections 3313.61 and 3313.611 of the Revised Code, except that the requirement in those sections that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit an annual report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and to the parents of all students enrolled in the school.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall not exceed three years;

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the dollar formula amount specified for the year under section 3317.022 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of disadvantaged pupil impact aid the school is to receive that year under section 3314.08 of the Revised Code.

(16) REQUIREMENTS AND PROCEDURES REGARDING THE DISPOSITION OF EMPLOYEES OF THE SCHOOL IN THE EVENT

E CONTRACT IS TERMINATED OR NOT RENEWED PURSUANT TO SECTION 3314.07 OF THE REVISED CODE;

(17) Specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community SCHOOL with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) Alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

Sec. 3314.04. Except as otherwise specified in this chapter and in the contract between a community school and a sponsor, such school is exempt from all state laws and rules pertaining to schools, school districts, and boards of education, except those laws and rules that grant certain rights to parents.

Sec. 3314.05. The contract between the community school and the sponsor shall specify the facility to be used for the community school. Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school.

Sec. 3314.06. The governing authority of each community school established under this chapter shall adopt admission procedures that specify the following:

(A) That except as otherwise provided in this section, admission to the school shall be open only to any individual age five to twenty-two entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code in the school district in which the school is located or who was enrolled in the

converted school during the school year preceding the year of its conversion to a community school.

(B) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students that meet a definition of "at-risk," as defined in the contract; or to residents of a specific geographic area, as defined in the contract, that is within the school district in which the school is located.

(C) That there will be no discrimination in the admission of students to the school on the basis of race, creed, color, handicapping condition, or sex; and that, upon admission of any handicapped student, the community school will comply with all federal and state laws regarding the education of handicapped students.

(D) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

(E) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(F) That, except as otherwise provided under division (B) of this section, if the number of applicants exceeds the capacity restrictions of division (E) of this section, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and may be given to siblings of such students.

Notwithstanding divisions (A) through (F) of this section, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

Sec. 3314.07. (A) The expiration of the contract for a community school between a sponsor and a school shall be the date provided in the contract. A successor contract may be entered into unless the contract is terminated or not renewed pursuant to this section.

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

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

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

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

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

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

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

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

(E) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

of the financial plan required by this section;

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

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

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

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

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

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

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

Sec. 3317.01. As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and also includes educational service centers unless otherwise specified.

As used in sections 3317.02 to 3317.64 of the Revised Code, "school district," unless otherwise specified, means city, local, and exempted village school districts; "county MR/DD board" means a county board of mental retardation and developmental disabilities; and "handicapped preschool child" means a handicapped child, as defined by division (A) of section 3323.01 of the Revised Code, who is at least three years of age but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who has not entered kindergarten.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter, except that moneys to meet the financial obligations of section 3301.17 of the Revised Code shall be supplemented from funds available to the state from the United States or any agency or department thereof for a driver education course of instruction.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed at least monthly to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan ~~at~~ to the controlling ~~board's first~~ board in January ~~meeting~~. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year. Payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in

the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent. Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (C) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentamester.

A school district shall not be considered to have failed to comply with

this division or section 3313.481 of the Revised Code because schools were open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.015. (A) In addition to the information certified to the department of education under division (a) of section 3317.021 of the Revised Code, the tax commissioner shall, at the same time, certify the following information for each city, exempted village, and local school district to be used for the same purposes as described under that division:

(1) the school district's carryover property, as defined in section 319.301 of the Revised Code, for the preceding tax year;

(2) the school district's increase in carryover valuation, if any, between the second preceding tax year and the preceding tax year as used in calculating the percentage reduction under section 319.301 of the Revised

Code.

(B) Except as provided in division (C) of this section, in any fiscal year the department of education shall calculate each school district's recognized valuation in the following manner:

(1) for a school district located in a county in which a reappraisal or triennial update occurred in the preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year minus two-thirds times the increase in the carryover value from the second preceding tax year to the preceding tax year.

(2) for a school district located in a county in which a reappraisal or triennial update occurred in the second preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year minus one-third times the increase in the carryover value from the third preceding tax year to the second preceding tax year.

(3) for a school district located in a county in which a reappraisal or triennial update occurred in the third preceding tax year, the recognized valuation equals the district's total taxable value for the preceding tax year.

(C) Notwithstanding division (b) of this section, In fiscal year 1998 the department of education shall calculate the recognized valuation for school districts, except that the recognized valuation for school districts not described in division (B)(1) of this section shall be equal to the district's total taxable value for the preceding tax year.

Sec. 3317.02. As used in sections 3317.02 to 3317.023 and section 3317.16 of the Revised Code:

(A) Except as used in division (B) of section 3317.023 of the Revised Code, "ADM" means the average daily membership determined pursuant to section 3317.03 of the Revised Code, including the average daily membership certified under division (A)(4) of section 3317.03 of the Revised Code but not including the average daily membership of pupils attending a joint vocational school or counted in a unit funded under division (M) or (N) of section 3317.024 of the Revised Code; minus one-half of the kindergarten average daily membership in the case of any school district other than an urban or big eight district; minus one-fourth of the extended kindergarten average daily membership and one-half of the traditional kindergarten average daily membership in the case of any big eight district; minus one-fourth of the all-day and extended kindergarten average daily membership and one-half of the traditional kindergarten average daily membership in the case of any urban district; plus one-fourth of the average daily membership of pupils enrolled in the district and attending a joint vocational school, or a vocational school, or a compact or

contract vocational school. Except for purposes of divisions (C), (D), and (E) of section 3317.023 of the Revised Code, if the average of the average daily membership of a district for the current year and the two immediately preceding years is larger than the sum for the current year, such average shall be used as the ADM for that district for the current year after: deducting the number of pupils attending a joint vocational school or counted in division (M) or (N) of section 3317.024 of the Revised Code; and, in the case of any school district other than an urban or big eight district, deducting one-half of the kindergarten average daily membership, and, in the case of any big eight district, deducting one-fourth of the extended kindergarten average daily membership and one-half of the traditional kindergarten average daily membership, and in the case of any urban district, deducting one-fourth of the all-day and extended kindergarten average daily membership and one-half of the traditional kindergarten average daily membership; and adding one-fourth of the pupils residing in the district and attending a joint vocational school.

(B) "Per pupil" means the amount to which the term refers divided by the district's ADM for the fiscal year for which the amount was computed.

(C) "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

(D) Except as provided in division (B)(2) of section 3317.022 of the Revised Code, "total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(E)(1) "Cost-of-doing-business factor" means the amount indicated in this division for the county in which the district is located, adjusted in accordance with division (E)(2) of this section. If the district is located in more than one county, the factor is the amount indicated for the county to which the district is assigned by the state department of education.

COUNTY	COST-OF-DOING-BUSINESS FACTOR AMOUNT
Adams	~~1.008~~ 1.0100
Allen	~~1.028~~ 1.0272
Ashland	~~1.030~~ 1.0362
Ashtabula	~~1.050~~ 1.0540
Athens	~~1.002~~ 1.0040
Auglaize	~~1.032~~ 1.0300

Belmont	~~1.014~~ 1.0101
Brown	~~1.017~~ 1.0218
Butler	~~1.066~~ 1.0662
Carroll	~~1.018~~ 1.0180
Champaign	~~1.044~~ 1.0432
Clark	~~1.046~~ 1.0489
Clermont	~~1.045~~ 1.0498
Clinton	~~1.026~~ 1.0287
Columbiana	~~1.030~~ 1.0320
Coshocton	~~1.020~~ 1.0224
Crawford	~~1.015~~ 1.0174
Cuyahoga	~~1.069~~ 1.0725
Darke	~~1.035~~ 1.0360
Defiance	~~1.019~~ 1.0214
Delaware	~~1.048~~ 1.0512
Erie	~~1.038~~ 1.0414
Fairfield	~~1.036~~ 1.0383
Fayette	~~1.026~~ 1.0281
Franklin	~~1.053~~ 1.0548
Fulton	~~1.037~~ 1.0382
Gallia	~~1.000~~ 1.0000
Geauga	~~1.058~~ 1.0608
Greene	~~1.039~~ 1.0418
Guernsey	~~1.010~~ 1.0091
Hamilton	~~1.075~~ 1.0750
Hancock	~~1.029~~ 1.0270
Hardin	~~1.040~~ 1.0384
Harrison	~~1.014~~ 1.0111
Henry	~~1.037~~ 1.0389
Highland	~~1.015~~ 1.0177
Hocking	~~1.015~~ 1.0164
Holmes	~~1.024~~ 1.0275
Huron	~~1.032~~ 1.0348
Jackson	~~1.017~~ 1.0176
Jefferson	~~1.011~~ 1.0090
Knox	~~1.022~~ 1.0276
Lake	~~1.060~~ 1.0627
Lawrence	~~1.014~~ 1.0154
Licking	~~1.038~~ 1.0418
Logan	~~1.042~~ 1.0376

Lorain	~~1.051~~ 1.0573
Lucas	~~1.044~~ 1.0449
Madison	~~1.047~~ 1.0475
Mahoning	~~1.043~~ 1.0465
Marion	~~1.027~~ 1.0289
Medina	~~1.061~~ 1.0656
Meigs	~~1.001~~ 1.0016
Mercer	~~1.021~~ 1.0209
Miami	~~1.043~~ 1.0456
Monroe	~~1.016~~ 1.0152
Montgomery	~~1.047~~ 1.0484
Morgan	~~1.011~~ 1.0168
Morrow	~~1.024~~ 1.0293
Muskingum	~~1.016~~ 1.0194
Noble	~~1.015~~ 1.0150
Ottawa	~~1.051~~ 1.0529
Paulding	~~1.018~~ 1.0216
Perry	~~1.015~~ 1.0185
Pickaway	~~1.035~~ 1.0350
Pike	~~1.014~~ 1.0146
Portage	~~1.057~~ 1.0595
Preble	~~1.052~~ 1.0523
Putnam	~~1.028~~ 1.0308
Richland	~~1.017~~ 1.0232
Ross	~~1.012~~ 1.0111
Sandusky	~~1.036~~ 1.0361
Scioto	~~1.009~~ 1.0082
Seneca	~~1.026~~ 1.0265
Shelby	~~1.029~~ 1.0274
Stark	~~1.031~~ 1.0330
Summit	~~1.062~~ 1.0642
Trumbull	~~1.044~~ 1.0465
Tuscarawas	~~1.012~~ 1.0109
Union	~~1.050~~ 1.0488
Van Wert	~~1.018~~ 1.0181
Vinton	~~1.006~~ 1.0065
Warren	~~1.065~~ 1.0678
Washington	~~1.010~~ 1.0124
Wayne	~~1.040~~ 1.0446
Williams	~~1.028~~ 1.0316

Wood	~~1.044~~ 1.0431
Wyandot	~~1.025~~ 1.0227

(2) As used in this division, "multiplier" means the number for the corresponding fiscal year as follows:

FISCAL YEAR OF THE COMPUTATION	MULTIPLIER
1998	9.6/7.5
1999	10.3/7.5
2000	11.0/7.5
2001	11.7/7.5
2002	12.4/7.5
2003	13.1/7.5
2004	13.8/7.5
2005	14.5/7.5
2006	15.2/7.5
2007	15.9/7.5
2008	16.6/7.5
2009	17.3/7.5
2010 and thereafter	18.0/7.5

Beginning in fiscal year 1998, the department shall annually adjust the cost-of-doing-business factor for each county in accordance with the following formula:

[(The cost-of-doing-business factor specified under division (E)(1) of this section - 1) X (the multiplier for the fiscal year of the calculation)] + 1

The result of such formula shall be the adjusted cost-of-doing-business factor for that fiscal year.

(F) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

(G) "Potential value" of a school district means the adjusted total taxable value of a school district plus the tax exempt value of the district.

(H) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

(I) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

(J) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

(K) "Valuation per pupil" for a city, exempted village, or local school district means the district's recognized valuation divided by the district's ADM.

(L) "Adjusted valuation per pupil" means the amount calculated in accordance with the following formula:

District valuation per pupil - [$60,000 X (1 - district income factor)]

If the result of such formula is negative, the adjusted valuation per pupil shall be zero.

(M) "Adjusted total taxable value" means one of the following:

(1) In any fiscal year that a district's income factor is less than or equal to one, the product obtained by multiplying the district's adjusted valuation per pupil by the district's ADM except that the adjusted total taxable value for such a district in fiscal years 1998 through 2009 shall be recalculated in accordance with the following formula:

(Adjusted total taxable value X multiple) + [recognized valuation X (1 - multiple)]

(2) In any fiscal year that a district's income factor is greater than one, the product obtained by multiplying the district's adjusted valuation per pupil by the district's ADM, except that the adjusted total taxable value for such a district in that fiscal year shall be recalculated in accordance with the following formula:

(Adjusted total taxable value X 2/15) + (recognized valuation X 13/15)

(N) "Multiple" means the number for the corresponding fiscal year as follows:

FISCAL YEAR OF THE COMPUTATION	MULTIPLE
1998	1/5
1999	4/15
2000	1/3
2001	2/5
2002	7/15
2003	8/15
2004	3/5
2005	2/3
2006	11/15
2007	4/5
2008	13/15

(O) "urban school district" means a school district that in fiscal year 1997 met either of the following conditions:

(1) had a percentage of children residing in the district and receiving aid to dependent children greater than fifteen and one-half per cent, as reported pursuant to section 3317.10 of the Revised Code, and had an average daily membership greater than five thousand five hundred, as reported pursuant to division (a) of section 3317.03 of the Revised Code;

(2) had a percentage of children residing in the district and receiving aid to dependent children greater than five per cent, as reported pursuant to section 3317.10 of the Revised Code, and had an average daily membership greater than twelve thousand, as reported pursuant to division (a) of section 3317.03 of the Revised Code.

(P) "big eight school district" means a school district that for fiscal year 1997 had a percentage of children residing in the district and receiving aid to dependent children greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code, and had an average daily membership greater than twelve thousand, as reported pursuant to division (a) of section 3317.03 of the Revised Code.

(Q) "All-day kindergarten" means a kindergarten class that is in session five days per week for not less than the same number of clock hours each day as for pupils in grades one through six.

(R) "Extended kindergarten" means a kindergarten class that is in session five days per week for not less than one hour longer each day than the number of clock hours required for kindergarten by the minimum standards adopted under section 3301.07 of the Revised Code.

(S) "Traditional kindergarten" means kindergarten that is neither all-day kindergarten nor extended kindergarten.

(T) "RECOGNIZED VALUATION" MEANS THE AMOUNT CALCULATED FOR A SCHOOL DISTRICT PURSUANT TO SECTION 3317.015 OF THE REVISED CODE.

Sec. 3317.022. (A) As used in the computation under this section, the "formula amount for fiscal year 1998" equals ~~$3,500~~ 3,663. The department of education shall compute and distribute state aid to each school district for ~~each~~ the fiscal year in accordance with the following formula, using adjusted total taxable value as defined under division (M) of section 3317.02 of the Revised Code and the information obtained under section 3317.021 of the Revised Code in ~~the~~ 1997 calendar year ~~in which the fiscal year begins~~:

Compute the following for each eligible district: (cost-of-doing-business factor X the formula amount X ADM)~~*/-~~ (.023 X adjusted total taxable

value)

If the difference obtained is a negative number, the district's computation shall be zero.

(B)(1) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(2) For each school district to which division (B)(1) of this section applies, the adjusted total taxable value used in the calculation under division (A) of this section shall be the adjusted total taxable value modified by subtracting the amount calculated under division (B)(1) of this section.

(C) If in any fiscal year insufficient funds are appropriated to provide each school district the amount of money calculated under the formula in division (A) of this section and pursuant to other sections of this chapter, such calculated amounts shall be reduced in accordance with any formula provided for that purpose by the general assembly in its main biennial appropriations act.

Sec. 3317.023. (A) Notwithstanding section 3317.022 of the Revised Code, the amounts required to be paid to a district under that section shall be adjusted by the amount of the computations made under divisions (B) to (L) of this section.

As used in this section:

(1) "Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.

(2) "Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.

(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (D) of this section. It shall not include any salary payments for supplemental teachers contracts.

~~(B)(1)~~(4) As used in division (B) of this section, "average daily

membership" means the three-year average number of pupils in grades one through twelve plus one-half the kindergarten average daily membership certified under section 3317.03 of the Revised Code for the current and preceding two fiscal years, except that:

(a) In the case of a big eight district "average daily membership" means the three-year average number of pupils in grades one through twelve, plus the three-year average number of pupils in all-day kindergarten, plus three-fourths of the three-year average number of pupils in extended kindergarten, plus one-half of the three-year average number of pupils in traditional kindergarten, all certified under division (A) of that section for the current and preceding two fiscal years;

(b) In the case of an urban district, "average daily membership" means the three-year average number of pupils in grades one through twelve, plus three-fourths of the three-year average number of pupils in all-day or extended kindergarten, plus one-half of the three-year average number of pupils in traditional kindergarten, all as certified under division (A) of that section for the current and preceding two fiscal years.

(5) As used in ~~this~~ division (B) of this section, "per cent figure" means a school district's three-year average number of ADC children divided by the ~~district's three-year average of the~~ average daily membership ~~in grades one through twelve and one-half the kindergarten average daily membership~~, multiplied by one hundred.

(6) As used in divisions (A)(5) and (B) of this section, "aid to dependent children" and "ADC" mean:

(a) Aid provided under Chapter 5107. of the Revised Code prior to October 1, 1996;

(b) Cash assistance provided on or after October 1, 1996, under a state program operated pursuant to Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, regardless of the name used to designate that assistance.

(B)(1)(a) If the three-year average of the number of children ages five to seventeen residing in the district and living in a family receiving aid to dependent children, as certified or adjusted under section 3317.10 of the Revised Code for the current and preceding two fiscal years, is equal to five per cent or more of the number of pupils in ~~the three-year average of~~ the average daily membership ~~in grades one through twelve and one-half the kindergarten average daily membership, certified under section 3317.03 of the Revised Code for the current and preceding two fiscal years~~, add the amount computed for the district in accordance with the following schedule, as adjusted by division (B)(1)(b) of this section:

THREE-YEAR AVERAGE NUMBER OF ADC CHILDREN DIVIDED BY ~~THREE-YEAR AVERAGE OF~~ THE AVERAGE DAILY MEMBERSHIP ~~IN GRADES ONE THROUGH TWELVE AND ONE-HALF THE KINDERGARTEN AVERAGE DAILY MEMBERSHIP~~	PAYMENT PER ADC CHILD IN THE THREE-YEAR AVERAGE
At least 5%, but less than 10%	$198.00 ~~x number of ADCchildren~~
At least 10%, but less than 20%	~~(~~($101.50 x per cent figure) minus $817.00~~)~~ ~~x number of ADC children~~
At least 20%, but less than 30%	~~(~~($7.50 x per cent figure) plus $1,063.00~~) x number of ADC children~~
At least 30%	1,288.00 ~~x number of ADC children~~

(b) In fiscal year 1998, for school districts with a per cent figure of at least five, increase the amount determined under division (B)(1)(a)of this section by four per cent. In fiscal year 1999, determine the per-ADC-child amount the district would have received in fiscal year 1998 under divisions (B)(1)(a) and (b) of this section, based on its per cent figure for fiscal year 1999, and increase that amount by five per cent.

(2) If in any year the sum of the additions made under this division is less than ninety-seven per cent of the amount appropriated for this division for that year, the department of education shall increase the amount added for each district under this division. The amount so added for each district shall equal (1) the difference between ninety-seven per cent of the amount appropriated and the total amount of the additions prior to such increase, times (2) the percentage that the amount added for the district prior to the increase was of the total of such amount added for all districts.

(3) Except as provided in division (B)(4) of this section, a district shall expend at least seventy per cent of any addition received under this division

for any of the following:

(a) The purchase of technology for instructional purposes;

(b) All-day kindergarten;

(c) Reduction of class sizes;

(d) Summer school remediation or other remedial programs;

(e) Dropout prevention programs;

(f) Guaranteeing that all third graders are ready to progress to more advanced work;

(g) Summer education and work programs;

(h) Adolescent pregnancy programs;

(i) Head start or preschool programs;

(j) Reading improvement programs described by the department of education;

(k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(l) Furnishing free of charge materials used in courses of instruction, except for the necessary textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families receiving aid to dependent children in accordance with section 3313.642 of the Revised Code;

(m) School breakfasts provided pursuant to section 3313.813 of the Revised Code.

(4) Except as provided in division (B) of section 3301.0719 of the Revised Code, each at-risk school district, as defined in division (A)~~(2)~~(3) of section 3301.0719 of the Revised Code, that receives at least three hundred thousand dollars under divisions (B)(1) and (2) of this section shall expend at least one-tenth of the amount described in division (B)(3) of this section for either all-day kindergarten classes with a student teacher ratio of fifteen to one or for reduction of class sizes in grades kindergarten to four to a fifteen to one student teacher ratio, or both. Such districts shall also expend such funds to provide training for teachers participating in such programs on an ongoing basis, including at least six days of training each school year. Amounts expended for all-day kindergarten under this section shall only be expended to provide additional all-day kindergarten classes not in existence on July 26, 1991. Upon the request of a board of education, the state board of education may grant an exemption from the requirement of division (B)(4) of this section if the district board satisfies the state board that the district has insufficient physical facilities to implement this requirement.

(5) Each district shall maintain the portion required to be spent under division (B)(3) of this section in a separate district account. Each district

shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.

(C) If the district employs less than one full-time equivalent classroom teacher for each twenty-five pupils in ADM in any school district, deduct the sum of the amounts obtained from the following computations:

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's ADM;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(D) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's ADM. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.

(E) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in ADM:

(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one-thousandths;

(2) Subtract the quotient in (1) from the district's ADM;

(3) Multiply the difference in (2) by ninety-four dollars.

(F) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing

board under section 3317.11 of the Revised Code.

(G)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (I) of section 3313.64 or section 3317.08 of the Revised Code.

(2) For each child for whom the district is responsible for tuition under division (A)(1) of section 3317.082 or under division (B)(1) of section 3323.091 of the Revised Code, deduct the amount of tuition for which the district is responsible.

(H) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under section 3317.022 of the Revised Code.

(I) If the amount computed by the department of education under division (I)(1) of this section is less than the amount computed under division (I)(2) of this section, add an amount equal to the result obtained by subtracting the amount computed under division (I)(1) from the amount computed under division (I)(2) of this section.

The department of education shall compute both of the following for each district:

(1) The sum of the amounts computed for the district under section 3317.022 and division (N) of section 3317.024 of the Revised Code for units approved under division (B) of section 3317.05 of the Revised Code.

(2) The amount the district would be entitled to receive under section 3317.022 of the Revised Code if the ADM used in the computation required by that section included the number of full-time equivalent pupils enrolled in the units for handicapped children approved under division (B) of section 3317.05 of the Revised Code that are used to make the computation required by division (N)(1)(a) of section 3317.024 of the Revised Code.

(J) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

(K)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another

district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division (K)(1) of this section, add the amount of such payments.

(L) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

Sec. 3317.026. (A) As used in this section, "refunded taxes" means taxes charged and payable from real and tangible personal property, including public utility property, that have been found to have been overpaid as the result of reductions in the taxable value of such property and that have been refunded, including any interest or penalty refunded with those taxes. If taxes are refunded over a period of time pursuant to division (B)(2), (3), or (4) of section 319.36 or division (C) of section 5727.471 of the Revised Code, the total amount of taxes required to be refunded, excluding any interest accruing after the day the undertaking is ENTERED into, shall be considered to have been refunded on the day the first portion of the overpayment is paid or credited.

(B) Not later than the last day of February each year, each county auditor shall certify to the tax commissioner, for each school district in the county, the amount of refunded taxes refunded in the preceding calendar year and the reductions in taxable value that resulted in those refunds, except for reductions in taxable value that previously have been reported to the tax commissioner on an abstract. if the tax commissioner determines that the amount of refunded taxes certified for a school district exceeds three per cent of the total taxes charged and payable for current expenses of the school district for the calendar year in which those taxes were refunded, the tax commissioner shall certify the reductions in taxable value that resulted in those refunds on or before the first day of June to the department of education. upon receiving the certification by the tax commissioner, the department of EDUCATION shall reduce the total taxable value of the school district, as defined in section 3317.02 of the Revised Code, by the total amount of the reductions in taxable value that resulted in those refunds for the purpose of computing the state aid for the school district for the current fiscal year under section 3317.022 of the Revised Code. the increase

in the amount of such aid resulting from the adjustment required by this section shall be paid to the school district on or before the thirtieth day of June of the current year.

(C) If an adjustment is made under this section in the amount of state aid paid to a school district, the tax value reductions from which that adjustment results shall not be used in recomputing aid to a school district under section 3317.027 of the Revised Code.

Sec. 3317.0212. (A) As used in this section:

(1) "Basic aid" means the amount computed for a school district under sections 3317.022, 3317.023, and 3317.025 to 3317.028 of the Revised Code for the fiscal year, exclusive of the amount computed under division (B) of section 3317.023 of the Revised Code and before any deductions or credits required by division (G), (I), or (J) of that section.

(2) "1991 state aid" means the district's basic aid for fiscal year 1991 plus any amount for which it was eligible for that year under the heading "basic aid guarantee" in section 46.08 of Amended Substitute House Bill No. 111 of the 118th general assembly.

(3) "School district" means a city, local, or exempted village school district that meets the requirements of section 3317.01 of the Revised Code for receipt of state aid payments.

(4) "Valuation per pupil" means the amount defined under division (D) of section 3317.02 of the Revised Code divided by the school district's average daily membership for the fiscal year for which the amount was computed.

(5) "Average daily membership" has the meaning prescribed by division (A) of section 3317.02 of the Revised Code.

(6) "1992 actual aid" means the amount a school district finally received for fiscal year 1992 under sections 3317.022, 3317.023, and 3317.025 to 3317.028 of the Revised Code, after any reductions made pursuant to Section 59.13 of Am. Sub. H.B. 298 of the 119th general assembly, exclusive of the amount received under division (B) of section 3317.023 of the Revised Code and not including any deduction or credits required by division (G), (I), or (J) of that section.

(B) Except as provided in divisions (C), (D), and (E) of this section, if a school district's basic aid for any fiscal year is less than that district's 1991 state aid, the state department of education shall pay the district one hundred per cent of the difference between its basic aid for that year and its 1991 state aid.

(C) Notwithstanding division (B) of this section and except as provided in divisions (D) and (E) of this section, if a school district's basic aid for any

fiscal year is less than that district's fiscal year 1992 actual aid and the district did not receive a payment for fiscal year 1992 pursuant to division (B) of this section, the department of education shall pay such district one hundred per cent of the difference between its basic aid for that fiscal year and its fiscal year 1992 actual aid, or one hundred per cent of the difference between its basic aid for that fiscal year and its fiscal year 1991 state aid, whichever is the greater amount.

(D) ~~The~~ Except in the case of a school district whose average daily membership is less than one hundred, the one hundred per cent figure referred to in divisions (B) and (C) of this section shall be reduced by a percentage equal to the sum of the following:

(1) Fifteen per cent times the number of years after fiscal year 1992 that the district had a valuation per pupil of two hundred eighty-five thousand dollars or more;

(2) Five per cent times the number of years after fiscal year 1994 that the district had a valuation per pupil of at least two hundred thousand but less than two hundred eighty-five thousand dollars.

If the sum of the percentages in divisions (D)(1) and (2) of this section is equal to or greater than one hundred per cent, the school district shall not receive a payment under this section.

(E) ~~No~~ Except in the case of a school district whose average daily membership is less than one hundred, no school district that has received a payment under division (D) of this section or under division (C) or (D) of this section as such divisions existed on June 30, 1995, shall receive any payment under this section in excess of the smallest payment it has ever received under division (D) of this section or division (C) or (E) of this section as such divisions existed on June 30, 1995.

Sec. 3317.0213. (A) As used in this section:

(1) "ADM" for any school district means the average daily membership described by division (A) of section 3317.02 of the Revised Code, as finally determined by the department of education in calculating the district's payments under section 3317.022 of the Revised Code for the preceding fiscal year.

(2) "Total taxable value" means the sum of the average of the amounts certified for a district in the second, third, and fourth preceding fiscal years under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

(3) "District median income" means the median Ohio adjusted gross income certified for a district under division (B) of this section.

(4) "Statewide median income" means the median district median income of all school districts in the state.

(5) "Income factor" for a district means the quotient obtained by dividing that district's median income by the statewide median income.

(6) "Valuation per pupil" for a district means the district's total taxable value, divided by the district's ADM.

(7) "Threshold valuation" means the ~~annual per-pupil~~ adjusted valuation ~~amount resulting from~~ per pupil of the school district with the two hundred ninety-third lowest adjusted valuation per pupil in the state, according to data available at the time of the computation under division ~~(B)(2)~~(C) of this section.

(8) "Adjusted valuation per pupil" for a district means an amount calculated in accordance with the following formula:

The district's valuation per pupil - ($30,000 X (one minus the district's income factor))

(B)~~(1)~~ On or before the first day of July of each year, the tax commissioner shall certify to the department of education for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district. The amount certified shall be used in calculating the district's income factor.

~~(2) Annually by the first day of August, the superintendent of public instruction shall compute the highest per pupil adjusted valuation that, when inserted into the formula in division (C) of this section as the threshold valuation, will result in the distribution of the full calculated amount under the formula for each school district having an adjusted per pupil valuation below the threshold valuation, without exceeding the amount appropriated by the general assembly for the purposes of this section for that fiscal year.~~

~~In making the calculation required by this division, the superintendent shall use what he deems to be the best available data as of the calculation date.~~

(C) Beginning in fiscal year 1993, during August of each fiscal year, the department of education shall distribute to each school district meeting the requirements of section 3317.01 of the Revised Code whose adjusted valuation per pupil is less than the threshold valuation, an amount calculated in accordance with the following formula:

(The threshold valuation - the district's adjusted valuation per pupil) X .013 X ADM

Sec. 3317.03. Except for handicapped preschool children in units approved by the state board of education under division (E) of section 3317.05 of the Revised Code, handicapped preschool children shall not be

counted in any calculation under this section or included in any determination of average daily membership under this section.

(A) Except as otherwise provided in this section, the superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify each of the following to the state board of education on or before the fifteenth day of October in each year:

(1) The total average daily membership in regular day classes for the first full school week in the month of October for all-day kindergarten, extended kindergarten, and traditional kindergarten, all as defined in section 3317.02 of the Revised Code; grades one through six~~,~~; and grades seven through twelve in each school under the superintendent's supervision;

(2) The average daily membership based upon full-time equivalency in approved vocational units and in joint vocational school districts;

(3) The average daily membership of all handicapped children in classes in the district and in the educational service center's territory that are eligible for approval by the state board of education under division (B) or (E) of section 3317.05 of the Revised Code and the number of such classes;

(4) The average daily membership based upon full-time equivalency in schools of a cooperative education school district.

The average daily membership in vocational units, in approved classes in licensed proprietary schools, and in joint vocational and cooperative education districts shall be based upon the number of full-time equivalent students in attendance in such units and districts. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom. The average daily membership of pupils enrolled in approved vocational classes in licensed proprietary schools may be counted, pursuant to section 3313.90 of the Revised Code, only where standards as to facilities and staffing are comparable, as determined by the superintendent of public instruction, to those established by the state board of education for public schools. No child shall be counted more than once in the average daily membership of a school district. The superintendent of each joint vocational and cooperative education school district shall similarly certify to the superintendent of public instruction the average daily membership for all classes in the joint vocational or cooperative education school district, also indicating the city, local, or exempted village school district of residence for each pupil.

(B) The superintendent of each city, exempted village, joint vocational, or cooperative education school district, and the superintendent of the educational service center on behalf of local districts, operating on a

ter plan, on a quarterly plan, or on a pentamester plan shall estimate the number of students for all-day kindergarten, extended kindergarten, traditional kindergarten, grades one through six, and grades seven through twelve in each school under the superintendent's supervision; the average daily membership based upon full-time equivalency in approved vocational units and in joint vocational and cooperative education school districts; and the average daily membership of all handicapped children in classes approved annually by the state board of education under division (B) or (E) of section 3317.05 of the Revised Code under the superintendent's supervision not actually enrolled in the first full week of October, but whose enrollment is anticipated in the next succeeding trimester, quarter, or pentamester and shall certify this estimate to the state board of education in addition to the certification of total average daily membership of those students actually enrolled during the first full week in October. For the purposes of this report and for the purpose of the calculation of classroom units under section 3317.05 of the Revised Code, the estimates so certified shall be interpreted as though the number of students contained therein were actually enrolled during the first full week of October. In no case shall such estimate exceed fifty per cent of the total average daily membership calculated on those students actually enrolled during the first week in October for districts operating on a trimester plan. In no case shall such estimate exceed thirty-three and one-third per cent of the total average daily membership calculated on those students actually enrolled during the first full week of October for districts operating on a quarterly plan. In no case shall such estimate exceed twenty-five per cent of the total average daily membership calculated on those students actually enrolled during the first week in October for districts operating on a pentamester plan. Within ten days after the conclusion of the third full week of the next succeeding trimester for those districts operating on a trimester plan or the next succeeding quarter for those districts operating on a quarterly plan, or the next succeeding pentamester for those districts operating on a pentamester plan, the appropriate superintendent shall certify to the state board of education the actual number of students for all-day kindergarten, extended kindergarten, traditional kindergarten, grades one through six, and grades seven through twelve in each school under such superintendent's supervision; the average daily membership based upon full-time equivalency in approved vocational units and in joint vocational and cooperative education school districts; and the average daily membership of all handicapped children in classes approved annually by the state board of education under division (B) or (E) of section 3317.05 of the Revised Code

under such superintendent's supervision who were not actually enrolled during the first full week of October but who are enrolled in the third full week of the subsequent trimester, quarter, or pentamester. The average daily membership figures so certified plus the average daily membership figures calculated on those students actually enrolled during the first full week of October shall be considered as the total average daily membership figures for the district for the school year and the calculation of classroom units under section 3317.05 of the Revised Code shall be adjusted accordingly.

The certification of average daily membership required by this section for districts operating one or more schools in accordance with section 3313.481 of the Revised Code on other than a trimester, quarter, or pentamester plan shall be due on or before the fifteenth day of October and shall be the sum of:

(1) The number of students actually in average daily membership during the first full school week in October; and

(2) An estimate of the number of students that are not in average daily membership during the first full school week in October but who are anticipated to be in attendance prior to the end of the school year.

The figure so obtained shall be used to calculate classroom units under section 3317.05 of the Revised Code.

On or before the first week in January, a district operating a school under section 3313.481 of the Revised Code on other than a trimester, quarter, or pentamester plan shall certify to the state board of education the number of pupils enrolled in the district as of that date who were not enrolled upon the date of the first certification of average daily membership required by this division for such districts. This figure plus the number of students certified under division (B)(1) of this section, shall be the average daily membership of that district for the school year, and the calculation of average daily membership shall be adjusted accordingly.

(C) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those who are entitled by division (B) or (F) of section 3313.64 or section 3313.65 of the Revised Code to attend school in that school district, those pupils described by division (G) of this section, and those who are attending the school in the capacity of tuition pupils, other than those pupils for whom tuition is calculated pursuant to section 3317.081 or 3323.141 of the Revised Code.

Part-time pupils may be included on a pro rata basis, as defined by the superintendent of public instruction, as regular day class students in average daily membership. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of ~~his~~ entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any pupil who has graduated from the twelfth grade of a public high school; any pupil who is not a resident of the state; any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) of that section; or any pupil who has attained the age of twenty-two years, except for the following:

(1) Persons suffering from tuberculosis and receiving treatment in any approved state, county, district, or municipal tuberculosis hospital who have not graduated from the twelfth grade of a public high school;

(2) Veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge. If any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in such membership.

Notwithstanding division (C) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

The average daily membership figure of any local, city, or exempted village school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school is actually open for instruction during the first full school week in October by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized

reasons, those students described by division (G) of this section, and those handicapped children currently receiving home instruction.

The average daily membership figure of any joint vocational or cooperative education school district shall be determined in accordance with rules adopted by the state board of education pursuant to division (A) of this section.

(D)(1) If the total average daily membership in regular day classes for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city or exempted village school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased membership in calculating or recalculating the amounts to be allocated in accordance with sections 3317.022 and 3317.023 of the Revised Code. In no event shall the superintendent use an increased membership certified to ~~him~~ the superintendent after the fifteenth day of February.

(2) If during the first full school week in February the total number of classes or units for handicapped children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of such classes or units that have been approved for the year under such division, the superintendent of schools of any city, exempted village, joint vocational, or cooperative education school district or educational service center shall make the certifications required by division (A)(3) of this section for such week. If the state board of education determines additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such classes and units, the board shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department of education shall pay an amount computed in the manner prescribed in division (N)(2) of section 3317.024, 3317.16, or 3317.19 of the Revised Code, as applicable.

(E)(1) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education the average daily membership of all handicapped children in classes or programs approved annually by the state board of education, in accordance with divisions (A), (C), and (D)(1) of this section.

(2) The superintendent of each county MR/DD board that maintains

special education classes or units approved by the state board of education pursuant to division (B) or (E) of section 3317.05 of the Revised Code shall do both of the following:

(a) In accordance with divisions (A), (C), and (D)(1) of this section, certify to the state board the average daily membership in classes and units described in division (B) of section 3317.05 of the Revised Code for each school district that has placed children in the classes or units;

(b) Certify to the state board the average daily membership in preschool units described in division (E) of section 3317.05 of the Revised Code.

(3) If during the first full school week in February the average daily membership of the classes or units maintained by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the average daily membership for the preceding October, the superintendent of the board shall make the certifications required by division (A)(3) of this section for such week and, if during the first full school week in February the average daily membership of the units maintained by the county MR/DD board that are eligible for approval under division (E) of section 3317.05 of the Revised Code is greater than the average daily membership for the preceding October, the superintendent shall certify the average daily membership for the first full school week in February for such units to the state board of education. If the state board determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such classes and units under division (N)(1) of section 3317.024 of the Revised Code, the board shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department of education shall pay an amount computed in the manner prescribed in division (N)(2) of section 3317.024 of the Revised Code.

(F) Except as provided in division (G) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of approved classroom units as provided by section 3317.05 of the Revised Code or in the calculation of that district's average daily membership under this section. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division

(B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(G)(1) A school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship ~~programt hat~~ program that year pursuant to sections 3313.974 through 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in division (A)(9) of section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

Sec. 3317.08. ~~A~~As used in this section, "urban district," "big eight district," "all-day kindergarten," "extended kindergarten," and "traditional kindergarten" have the same meanings as in section 3317.02 of the Revised Code.

A board of education may admit to its schools a child it is not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a handicapped preschool child described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the amount described in division (A)(3) of this section.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 or 5748.08 of the Revised Code that are disbursed to the district during the fiscal year. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education for each city, local, and exempted village school district that levies a school district income tax.

(3) The district's average daily membership ~~less~~:

(a) Minus, in the case of a school district other than an urban district or big eight district, one-half the kindergarten average daily membership certified pursuant to section 3317.03 of the Revised Code for the preceding school year;

(b) Minus, in the case of a big eight district, one-fourth of the extended kindergarten average daily membership and one-half of the traditional kindergarten average daily membership certified pursuant to section 3317.03 of the Revised Code;

(c) Minus, in the case of an urban district, one-fourth of the all-day kindergarten average daily membership, one-fourth of the extended kindergarten average daily membership, and one-half of the traditional kindergarten average daily membership certified pursuant to section 3317.03 of the Revised Code.

(B) For any handicapped preschool child not included in a unit approved under division (E) of section 3317.05 of the Revised Code, an amount

computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all handicapped preschool children not included in units approved under division (E) of section 3317.05 of the Revised Code;

(2) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, determine the amount of such operating expenses that was paid from any state funds received under this chapter;

(3) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, divide the difference between the amount determined under division (B)(1) of this section and the amount determined under division (B)(2) of this section by the total number of handicapped preschool children not included in units approved under division (E) of section 3317.05 of the Revised Code who received that type of service;

(4) Determine the sum of the quotients obtained under division (B)(3) of this section for all types of special education services provided to the child for whom tuition is being calculated.

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (I) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division (G) of

section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the facility is located is exempt from taxation by the school district within which such territory is located, and there are school age children residing within such territory, the political subdivision owning such tax exempt territory shall pay tuition to the district in which such children attend school. The tuition for these children shall be computed as provided for in this section.

Sec. 3317.10. (A)~~(1)~~ As used in this section, "aid to dependent children" means:

(1) Aid provided under Chapter 5107. of the Revised Code prior to October 1, 1996;

(2) Cash assistance provided on or after October 1, 1996, under a state program operated pursuant to Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C.A. 601, as amended, regardless of the name used to designate that assistance.

(B) On or before the first day of March of each year, the department of human services shall certify to the state board of education the number of children ages five through seventeen residing in each school district and living in a family that received aid to dependent children during the preceding October according to the school district of residence for each child. Except as provided under division ~~(B)~~(C) of this section, the number of children so certified in any year shall be used by the department of education in ~~the calculation of~~ determining at-risk school districts under section 3301.0719 of the Revised Code and calculating the distribution of moneys for the ensuing fiscal year provided in division (B) of section 3317.023 of the Revised Code.

~~(B)~~(C) Upon the transfer of part of the territory of one school district to the territory of one or more other school districts, the department of education may adjust the number certified under division ~~(A)(1)~~(B) of this section for any district gaining or losing territory in such a transfer in order to take into account the effect of the transfer on the number of children ages five through seventeen who reside in the district and live in a family that receives aid to dependent children. Within sixty days of receipt of a request for information from the department of education, the department of human

services shall provide any information the department of education determines is necessary to make such adjustments. The department of education may use the adjusted number for any district for the applicable fiscal year, in lieu of the number certified for the district for that fiscal year under division ~~(A)(1)~~(B) of this section, in the calculation of the distribution of moneys provided in division (B) of section 3317.023 ~~and~~ of the Revised Code.

Sec. 3317.11. Except as otherwise specified, as used in this section, "ADM" means the total number of pupils under an educational service center governing board's supervision certified under section 3317.03 and division (B) of section 3317.032 of the Revised Code for all local school districts within the limits of the service center's territory.

(A) Annually, on or before a date designated by the state board of education, each educational service center governing board shall prepare a budget of operating expenses for the ensuing year for the service center on forms prepared and furnished by the state board of education and shall certify the budget to the state board of education, together with such other information as the board may require. Such budget shall consist of two parts. Part (A) shall include the cost of the salaries, employers retirement contributions, and travel expenses of supervisory teachers approved by the state board of education. The amount derived from the calculation for such units in part (A) of the governing board budget shall be the sum of:

(1) The sum of the minimum salaries calculated, pursuant to section 3317.13 of the Revised Code, for each approved licensed employee of the governing board;

(2) An additional salary allowance proportional to the length of the extended term of service not to exceed three months for each supervisory and child study teacher whose term of service in any year is extended beyond the terms of service of regular classroom teachers;

(3) An allowance equal to fifteen per cent of the amount computed under division (A)(1) of this section;

(4) An allowance for necessary travel expenses, for each of the personnel approved in part (A) of the budget, limited to two hundred twenty-three dollars and sixteen cents per month, or two thousand six hundred seventy-eight dollars per year per person employed, whichever is the lesser. Part (B) shall include the cost of all other lawful expenditures of the governing board. The state board of education shall review such budget and may approve, increase, or decrease such budget.

The governing board shall be reimbursed by the state board of education from state funds for the cost of part (A) of the budget. The governing board

shall be reimbursed by the state board of education, from state funds for the cost of part (B) of the approved budget that is in excess of six dollars and fifty cents times the ADM. If the governing board provides services to city or exempted village school districts pursuant to section 3313.843 of the Revised Code, the governing board shall be reimbursed from state funds for the cost of part (B) of the budget that is in excess of six dollars and fifty cents times the sum of the ADM of the local districts under the governing board's supervision and the ADM of the city or exempted village districts to which such services are provided. The cost of part (B) not in excess of six dollars and fifty cents times the number of such ADM shall be apportioned by the state board of education among the local school districts in the territory of the service center, or among all districts to which the governing board provides services, on the basis of the total number of pupils in each school district.

If part (B) of the budget is in excess of that approved by the state board of education, the excess cost shall be apportioned by the state board of education among the local school districts in the territory of the service center on the basis of the total number of such pupils in each such school district, provided that a majority of the boards of education of such local school districts approve such apportionment. The state board of education shall initiate and supervise the procedure by which the local boards shall approve or disapprove such apportionment.

The amounts so apportioned shall be certified to the treasurers of the various school districts. In the case of each district such amount shall be deducted by the state board of education from funds allocated to the district pursuant to division (F) of section 3317.023 of the Revised Code.

The state board of education shall certify to the director of budget and management for payment the total of the deductions, whereupon the amount shall be paid to the governing board of each service center, to be deposited to the credit of a separate fund, hereby created, to be known as the educational service center governing board fund.

Special education units for handicapped children approved pursuant to division (B) or (E) of section 3317.05 of the Revised Code may be operated by a governing board, which shall be eligible for funding under divisions (A), (J), and (N) of section 3317.024 of the Revised Code and eligible for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code. Special education units for gifted children, child study, and occupational, physical, and speech and hearing therapy, special education supervisors, and special education coordinators approved pursuant to divisions (C) and (D) of section 3317.05 of the Revised Code may be

operated by a governing board, which shall be eligible for funding under division (O) of section 3317.024 of the Revised Code. Vocational education units approved pursuant to division (A) of section 3317.05 of the Revised Code may be operated by a governing board, which shall be eligible for funding under division (M) of section 3317.024 of the Revised Code. A governing board may conduct driver education for pupils enrolled in a high school for which the state board of education prescribes minimum standards and which is eligible for funding under division (I) of section 3317.024 of the Revised Code.

Every local school district shall be provided supervisory services by its governing board as approved by the state board of education. A city or exempted village school district shall be considered to be provided supervisory services by a governing board if it has entered into an agreement for the governing board to provide any services under section 3313.843 of the Revised Code. Supervisory services shall not exceed one supervisory teacher for the first fifty classroom teachers employed in all districts that are provided supervisory services calculated under section 3317.023 of the Revised Code and one supervisory teacher for every additional one hundred such classroom teachers so calculated. Reimbursement for such supervisory services shall be a deduction by the state board of education from the payment to the school district pursuant to division (F) of section 3317.023 of the Revised Code. Deductions for all supervisory services and extended services for supervisory and child study in excess of that paid by the state pursuant to section 3317.024 of the Revised Code shall be apportioned among local school districts within the territory of the service center and any city or exempted village districts that have entered into agreements with a service center pursuant to section 3313.843 of the Revised Code by the state board of education on the basis of the total number of pupils in each school district, except that where such services are provided to districts other than local school districts within the service center territory and city or exempted village districts having agreements with the service center, such charges shall be apportioned among all participating districts on the basis of the total number of pupils in each school district. All deductions from state funding to school districts required for reimbursement of governing boards by division (F) of section 3317.023 of the Revised Code shall be made from the total of the payment computed under sections 3317.022 and 3317.023 of the Revised Code, after making any other adjustments in that payment required by law.

(B) In addition to the payments made under division (A) of this section, except as otherwise provided in division (C) of this section, the department

of education shall pay each governing board, each fiscal year, an amount equal to ~~thirty-two~~ thirty-four dollars times the sum of the ADM and ~~thirty-two~~ thirty-four dollars times the sum of the ADM of any city or exempted village school districts with which the governing board has entered into agreements to provide services pursuant to section 3313.843 of the Revised Code.

(C)(1) As used in this section:

(a) "Client district" means a city or exempted village school district that has entered into an agreement to receive services from a service center pursuant to section 3313.843 of the Revised Code.

(b) "Multicounty service center" means a service center that includes territory that formerly was included in the territory of at least three former service centers or county school districts, which former centers or districts engaged in one or more mergers pursuant to section 3311.053 of the Revised Code to form the present center.

(2) Beginning with the fiscal year that starts July 1, 1997, in lieu of the payment specified under division (B) of this section, each multicounty service center shall receive a payment each fiscal year equal to one per cent times the formula amount specified in division (A) of section 3317.022 of the Revised Code times the sum of the ADM of the service center and the ADMs of all its client districts.

Sec. 3317.51. (A) The distance learning fund is hereby created in the state treasury. The fund shall consist of moneys paid to the information, learning, and technology authority by any telephone company as a part of a settlement agreement between such company and the public utilities commission in fiscal year 1995 in part to establish distance learning throughout the state. The authority shall administer the fund and expend moneys from it to finance technology grants to eligible schools chartered by the state board of education to establish distance learning in those schools. Chartered schools are eligible for funds if they are within the service area of the telephone company. Investment earnings of the fund shall be credited to the fund.

(B) For purposes of this section, "distance learning" means the creation of a learning environment involving a school setting and at least one other location outside of the school which allows for information available at one site to be accessed at the other through the use of such educational applications as one-way or two-way transmission of data, voice, and video, singularly or in appropriate combinations.

Sec. 3318.02. (A) For purposes of sections 3318.01 to 3318.33 of the Revised Code, the Ohio school facilities commission shall periodically

orm an assessment of the classroom facility needs in the state to identify school districts in need of additional classroom facilities, or replacement or reconstruction of existent classroom facilities, and the cost to each such district of constructing or acquiring such additional facilities or making such renovations.

(B) Based upon the most recent assessment conducted pursuant to division (A) of this section, the commission shall conduct on-site visits to school districts identified as having classroom facility needs to confirm the findings of the periodic assessment and ~~to~~ further evaluate the classroom facility needs of the district. The evaluation shall assess the district's need to construct or acquire new classroom facilities and may include an assessment of the district's need for building additions or for the reconstruction of existent buildings in lieu of constructing or acquiring replacement buildings.

~~The~~

(C)(1) EXCEPT AS PROVIDED IN DIVISION (C)(2) OF THIS SECTION, ON-SITE VISITS PERFORMED ON OR AFTER MAY 20, 1997, SHALL BE PERFORMED IN THE ORDER SPECIFIED IN THIS DIVISION. THE first round of on-site visits first succeeding the effective date of this amendment, May 20, 1997, shall be limited to the school districts in the first through fifth percentiles, excluding districts that are ineligible for funding under this chapter pursuant to section 3318.04 of the Revised Code. The second round of on-site visits shall be limited to the school districts in the first through tenth percentiles, excluding districts that are ineligible for funding under this chapter pursuant to section 3318.04 of the Revised Code. Each succeeding round of on-site visits shall be limited to the percentiles included in the immediately preceding round of on-site visits plus the next five percentiles. Except for the first round of on-site visits, no round of on-site visits shall commence unless eighty per cent of the districts for which on-site visits were performed during the immediately preceding round, have had projects approved under section 3318.04 of the Revised Code.

~~(C)~~ (2) NOTWITHSTANDING DIVISION (C)(1) OF THIS SECTION, THE COMMISSION MAY PERFORM ON-SITE VISITS FOR SCHOOL DISTRICTS IN THE NEXT HIGHEST PERCENTILE TO THE PERCENTILES INCLUDED IN THE CURRENT ROUND OF ON-SITE VISITS, and then TO SUCCEEDING PERCENTILES ONE AT A TIME, NOT TO EXCEED THE TWENTY-FIFTH PERCENTILE, IF ALL OF THE FOLLOWING APPLY:

(a) LESS THAN EIGHTY PER CENT OF THE DISTRICTS FOR WHICH ON-SITE VISITS WERE PERFORMED IN THE CURRENT

ROUND, AND IN ANY PERCENTILES FOR WHICH ON-SITE VISITS WERE PERFORMED IN ADDITION TO THE CURRENT ROUND PURSUANT TO THIS DIVISION, HAVE HAD PROJECTS APPROVED UNDER SECTION 3318.04 OF THE REVISED CODE;

(b) THERE ARE FUNDS APPROPRIATED FOR THE PURPOSE OF SECTIONS 3318.01 TO 3318.20 OF THE REVISED CODE THAT ARE NOT RESERVED AND ENCUMBERED FOR PROJECTS PURSUANT TO SECTION 3318.04 OF THE REVISED CODE;

(c) THE COMMISSION MAKES A FINDING THAT SUCH AVAILABLE FUNDS WOULD BE MORE THOROUGHLY UTILIZED IF ON-SITE VISITS WERE EXTENDED TO THE NEXT HIGHEST PERCENTILE.

(D) Notwithstanding ~~division~~ divisions (B) and (C) of this section, in any biennium, the commission may limit the number of districts for which it conducts on-site visits based upon its projections of the moneys available and moneys necessary to undertake projects under sections 3318.01 to 3318.33 of the Revised Code for the current biennium.

Sec. 3318.03. Upon conducting the on-site evaluation under section 3318.02 of the Revised Code, the Ohio school facilities commission shall make a determination of the practicabilty of meeting the district's classroom facility needs as indicated in division (B)(2) of section 3318.02 of the Revised Code; the needs of the school district for additional classroom facilities; the number of classroom facilities to be included in a project and the basic project cost of constructing, acquiring, reconstructing, or making additions to each such facility; the amount of such cost that the school district can supply from available funds, by the issuance of bonds previously authorized by the electors of the school district the proceeds of which can lawfully be used for the project, and by the issuance of bonds under section 3318.05 of the Revised Code; and the remaining amount of such cost that shall be supplied by the state. The commission shall make a determination in favor of constructing, acquiring, reconstructing, or making additions to a classroom facility only upon evidence that the proposed project conforms to sound educational practice, that it is in keeping with the orderly process of school district reorganization and consolidation, and that the actual or projected enrollment in each classroom facility proposed to be included in the project is at least three hundred fifty pupils. Exceptions shall be authorized only in those districts where topography, sparcity of population, and other factors make larger schools impracticable.

Sections 125.81 and 153.04 of the Revised Code shall not apply to classroom facilities constructed under sections 3318.01 to 3318.20 of the Revised Code.

Sec. 3318.041. A school district ranked in the first through ~~fifth~~ twenty-fifth percentiles may adopt and certify to the Ohio school facilities commission a resolution specifying a proposed project that meets the requirements of this chapter and the needs of the district, as confirmed through an on-site visit pursuant to section 3318.02 of the Revised Code. The commission shall consider such projects for conditional approval pursuant to section 3318.03 and shall encumber funds pursuant to section 3318.04 of the Revised Code in the order in which such resolutions are received.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division (P) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 or 3317.11 of the

Revised Code.

(B) When for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including leaves provided pursuant to division (B) of section 3314.10 of the Revised Code, suspension of schools, or territorial changes affecting the district or center;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference to teachers on continuing contracts and to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference to teachers on continuing contracts and to teachers who have greater seniority.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board in the order of seniority of service in the district if and when teaching positions become vacant or are created for which any of such teachers are or become qualified.

Sec. 3319.283. (A) The board of education of any school district may employ an individual who is not certificated or licensed as required by Chapter 3319. of the Revised Code, but who meets the following

qualifications, as a teacher in the schools of the district:

(1) The individual is a veteran of the armed forces of the United States and was honorably discharged within three years of the effective date of this amendment;

(2) While in the armed forces the individual had meaningful teaching or other instructional experience;

(3) The individual holds at least a baccalaureate degree.

(B) An individual employed under this section shall be deemed to hold a teaching certificate or educator license for the purposes of state and federal law and rules and regulations and school district policies, rules, and regulations. Such individuals shall meet the requirement to successfully complete fifteen hours, or the equivalent, of coursework every five years that is approved by the local professional development committee as is required of other teachers licensed in accordance with Chapter 3319. of the Revised Code.

(C) The superintendent of public instruction may revoke the right of an individual employed under division (A) of this section to teach if, after an investigation and an adjudication conducted pursuant to Chapter 119. of the Revised Code, the superintendent finds that the person is not competent to teach the subject the person has been employed to teach or did not fulfill the requirements of division (A) of this section. No individual whose right to teach has been revoked under this division shall teach in a public school, and no board of education may engage such an individual to teach in the schools of its district.

Notwithstanding division (B) of this section, a board of education is not required to comply with the provisions of sections 3319.11 and 3319.16 of the Revised Code with regard to termination of employment if the superintendent, after an investigation and an adjudication, has revoked the individual's right to teach.

Sec. 3323.012. A community school established under Chapter 3314. of the Revised Code shall be considered a school district for the purposes of this chapter.

Sec. 3329.16. If the superintendent of public instruction determines that a school district has expended for other purposes any moneys appropriated by the general assembly for the specific purpose of purchasing textbooks or other instructional materials, the superintendent shall notify the school district of this determination within seven days and shall deduct the amount so expended from payments otherwise due to the district under chapter 3317. of the Revised Code.

Sec. 3332.07. (A) Each application for issuance and renewal of a

certificate of registration, for the issuance and renewal of program authorization, for issuance and renewal of agent's permits, and for any other service specified by the state board of proprietary school registration shall be accompanied by the required fee. Fees submitted under this section are not returnable even if approval or renewal is denied.

(B) Fee schedules for the issuance and renewal of certificates of registration, for the issuance and renewal of program authorization, for issuance and renewal of agent's permits, and for any other service specified by the board shall be established by rule adopted by the state board.

(C) If in any fiscal year the amount received in fees under this section does not equal or exceed fifty per cent of ~~the amount appropriated to the~~ board expenditures for the fiscal year ~~by the general assembly~~, the board shall increase fees for the ensuing fiscal year by an amount estimated to be sufficient to produce revenues equal to fifty per cent of ~~the appropriated amount~~ estimated expenditures for that ensuing fiscal year.

Sec. 3333.04. The Ohio board of regents shall:

(A) Make studies of state policy in the field of higher education and formulate a master plan for higher education for the state, considering the needs of the people, the needs of the state, and the role of individual public and private institutions within the state in fulfilling these needs;

(B)(1) Report annually to the governor and the general assembly on the findings from its studies and the master plan for higher education for the state;

(2) Report at least semiannually to the general assembly and the governor the enrollment numbers at each state-assisted institution of higher education.

(C) Approve or disapprove the establishment of new branches or academic centers of state colleges and universities;

(D) Approve or disapprove the establishment of state technical colleges or any other state institution of higher education;

(E) Recommend the nature of the programs, undergraduate, graduate, professional, state-financed research, and public services which should be offered by the state colleges, universities, and other state-assisted institutions of higher education in order to utilize to the best advantage their facilities and personnel;

(F) Recommend to the state colleges, universities, and other state-assisted institutions of higher education graduate or professional programs, including, but not limited to, doctor of philosophy, doctor of education, and juris doctor programs, that could be eliminated because they constitute unnecessary duplication, as shall be determined using the process

developed pursuant to this section, or for other good and sufficient cause. For purposes of determining the amounts of any state instructional subsidies paid to these colleges, universities, and institutions, the board may exclude students enrolled in any program that the board has recommended for elimination pursuant to this division except that the board shall not exclude any such student who enrolled in the program prior to the date on which the board initially commences to exclude students under this division. The board of regents and these colleges, universities, and institutions shall jointly develop a process for determining which existing graduate or professional programs constitute unnecessary duplication.

(G) Recommend to the state colleges, universities, and other state-assisted institutions of higher education programs which should be added to their present programs;

(H) Conduct studies for the state colleges, universities, and other state-assisted institutions of higher education to assist them in making the best and most efficient use of their existing facilities and personnel;

(I) Make recommendations to the governor and general assembly concerning the development of state-financed capital plans for higher education; the establishment of new state colleges, universities, and other state-assisted institutions of higher education; and the establishment of new programs at the existing state colleges, universities, and other institutions of higher education;

(J) Review the appropriation requests of the public community colleges and the state colleges and universities and submit to the office of budget and management and to the chairpersons of the finance committees of the house of representatives and of the senate its recommendations in regard to the biennial higher education appropriation for the state, including appropriations for the individual state colleges and universities and public community colleges. For the purpose of determining the amounts of instructional subsidies to be paid to state-assisted colleges and universities, the board shall define "full-time equivalent student" by program per academic year. The definition may take into account the establishment of minimum enrollment levels in technical education programs below which support allowances will not be paid. Except as otherwise provided in this section, the board shall make no change in the definition of "full-time equivalent student" in effect on November 15, 1981, which would increase or decrease the number of subsidy-eligible full-time equivalent students, without first submitting a fiscal impact statement to the president of the senate, the speaker of the house of representatives, the legislative budget office of the legislative service commission, and the director of budget and

management. The board shall work in close cooperation with the director of budget and management in this respect and in all other matters concerning the expenditures of appropriated funds by state colleges, universities, and other institutions of higher education.

(K) Seek the cooperation and advice of the officers and trustees of both public and private colleges, universities, and other institutions of higher education in the state in performing its duties and making its plans, studies, and recommendations;

(L) Appoint advisory committees consisting of persons associated with public or private secondary schools, members of the state board of education, or personnel of the state department of education;

(M) Appoint advisory committees consisting of college and university personnel, or other persons knowledgeable in the field of higher education, or both, in order to obtain their advice and assistance in defining and suggesting solutions for the problems and needs of higher education in this state;

(N) Approve or disapprove all new degrees and new degree programs at all state colleges, universities, and other state-assisted institutions of higher education;

(O) Adopt such rules as are necessary to carry out its duties and responsibilities;

(P) Establish and submit to the governor and the general assembly a clear and measurable set of goals and timetables for their achievement for each program under the supervision of the board that is designed to accomplish any of the following:

(1) Increased access to higher education;

(2) Job training;

(3) Adult literacy;

(4) Research;

(5) Excellence in higher education;

(6) Reduction in the number of graduate programs within the same subject area.

In July of each odd-numbered year, the board of regents shall submit to the governor and the general assembly a report on progress made toward these goals.

(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.21 to 3333.27, and 5910.02 of the Revised Code~~.~~:

(R) Participate in education-related state or federal programs on behalf

of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law~~.~~;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.21 to 3333.27, 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the board by those sections~~.~~;

(T) Administer contracts under sections 3702.74 and 3702.75 of the Revised Code in accordance with rules adopted by the director of health under section 3702.79 of the Revised Code.

Sec. 3333.12. (A) As used in this section:

(1) "Eligible student" means an undergraduate student who is:

(a) An Ohio resident;

(b) Enrolled in either of the following:

(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, or has a certificate of registration from the state board of proprietary school registration and program authorization to award an associate or bachelor's degree. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.

(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less than full-time student for the term expected to be the student's final term of enrollment and is enrolled for the number of credit hours necessary to complete the requirements of the program in which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship and income earned by the student between the last day of the spring term and the first day of the fall term, as published by the institution in which the student is enrolled. In the case of self-employed persons, business expenses as defined by the Ohio board of regents shall be subtracted from taxable and nontaxable income. Where no gross income or inadequate gross income as determined by the board is reported, the board shall establish a formula for determining the means by which the family

maintained itself and translate the data into gross income for Ohio instructional grant purposes. Family income may be verified by supplying to the board a copy of the federal government tax return, by authorizing access to the family federal government income tax return, or by other means satisfactory to the board.

(3) "Resident," "full-time student," "dependent," "financially independent," and "accredited" shall be defined by rules adopted by the board.

(4) "Federal law" means the "Higher Education Amendments of 1986," 101 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended.

(5) "Default rate" means the cohort default rate determined by the United States secretary of education pursuant to federal law.

(6) "School year" means the twelve months that begin on the first day of August of a calendar year and end on the thirty-first day of July of the following calendar year.

(B) The Ohio board of regents shall establish and administer an instructional grant program and may adopt rules to carry out this section. The general assembly shall support the instructional grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program. If the amounts available for support of the program are inadequate to provide grants to all eligible students, preference in the payment of grants shall be given in terms of income, beginning with the lowest income category of gross income and proceeding upward by category to the highest gross income category.

An instructional grant shall be paid to an eligible student through the institution in which the student is enrolled, except that no instructional grant shall be paid to any person serving a term of imprisonment ~~unless that person is eligible for parole within five years of making application for the grant~~. Applications for such grants shall be made as prescribed by the board, and such applications may be made in conjunction with and upon the basis of information provided in conjunction with student assistance programs funded by agencies of the United States government or from financial resources of the institution of higher education. The institution shall certify that the student applicant meets the requirements set forth in divisions (A)(1)(b) and (c) of this section. Instructional grants shall be provided to an eligible student only as long as the student is making appropriate progress toward a nursing diploma or an associate or bachelor's degree. The grant shall cover any two semesters, three quarters, or the equivalent of one academic year. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years. A

grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment.

An instructional grant shall not exceed the total instructional and general charges of the institution.

(C) For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Gross Income	Maximum Grant ~~$3750~~ 4,428 Number of Dependents				
	1	2	3	4	5 or more
~~$10,000 and under~~	~~$3,750~~	~~$3,750~~	~~$3,750~~	~~$3,750~~	~~$3,750~~
Under $11,001	4,428	4,428	4,428	4,428	4,428
~~$10,001 - $11,000~~	~~3,378~~	~~3,750~~	~~3,750~~	~~3,750~~	~~3,750~~
$11,001 - $12,000	3,984	4,428	4,428	4,428	4,428
~~$11,001 - $12,000~~	~~2,994~~	~~3,378~~	~~3,750~~	~~3,750~~	~~3,750~~
$12,001 - $13,000	3,534	3,984	4,428	4,428	4,428
~~$12,001 - $13,000~~	~~2,622~~	~~2,994~~	~~3,378~~	~~3,750~~	~~3,750~~
$13,001 - $14,000	3,096	3,534	3,984	4,428	4,428
~~$13,001 - $14,000~~	~~2,250~~	~~2,622~~	~~2,994~~	~~3,378~~	~~3,750~~
$14,001 - $15,000	2,658	3,096	3,534	3,984	4,428
~~$14,001 - $15,000~~	~~1,878~~	~~2,250~~	~~2,622~~	~~2,994~~	~~3,378~~
$15,001 - $16,000	2,220	2,658	3,096	3,534	3,984
~~$15,001 - $16,000~~	~~1,506~~	~~1,878~~	~~2,250~~	~~2,622~~	~~2,994~~
$16,001 - $17,000	1,770	2,220	2,658	3,096	3,534
~~$16,001 - $19,000~~	~~1,122~~	~~1,506~~	~~1,878~~	~~2,250~~	~~2,622~~
$17,001 - $20,000	1,320	1,770	2,220	2,658	3,096
~~$19,001 - $22,000~~	~~930~~	~~1,122~~	~~1,506~~	~~1,878~~	~~2,250~~
$20,001 - $23,000	1,092	1,320	1,770	2,220	2,658
~~$22,001 - $25,000~~	~~750~~	~~930~~	~~1,122~~	~~1,506~~	~~1,878~~
$23,001 - $26,000	882	1,092	1,320	1,770	2,220
~~$25,001 - $28,000~~	~~684~~	~~750~~	~~930~~	~~1,122~~	~~1,506~~
$26,001 - $29,000	804	882	1,092	1,320	1,770
~~$28,001 - $30,000~~	~~612~~	~~684~~	~~750~~	~~930~~	~~1,122~~

$29,001 - $31,000	720	804	882	1,092	1,320
~~$30,001 and over~~	-0-	-0-	-0-	-0-	-0-
Over $31,000					

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Maximum Grant ~~$3,750~~ 4,428

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
~~$3,300 and under~~	~~$3,750~~	~~$3,750~~	~~$3,750~~	~~$3,750~~	~~$3,750~~	~~$3,750~~
Under $3,601	4,428	4,428	4,428	4,428	4,428	4,428
~~$3,301 - $3,900~~	~~3,378~~	~~3,750~~	~~3,750~~	~~3,750~~	~~3,750~~	~~3,750~~
$3,601 - $4,200	3,984	4,428	4,428	4,428	4,428	4,428
~~$3,901 - $4,400~~	~~2,994~~	~~3,378~~	~~3,750~~	~~3,750~~	~~3,750~~	~~3,750~~
$4,201 - $4,700	3,534	3,984	4,428	4,428	4,428	4,428
~~$4,401 - $4,900~~	~~2,622~~	~~2,994~~	~~3,378~~	~~3,750~~	~~3,750~~	~~3,750~~
$4,701 - $5,200	3,096	3,534	3,984	4,428	4,428	4,428
~~$4,901 - $5,400~~	~~2,250~~	~~2,622~~	~~2,994~~	~~3,378~~	~~3,750~~	~~3,750~~
$5,201 - $5,700	2,658	3,096	3,534	3,984	4,428	4,428
~~$5,401 - $5,900~~	~~1,878~~	~~2,250~~	~~2,622~~	~~2,994~~	~~3,378~~	~~3,750~~
$5,701 - $6,200	$ 2,220	2,658	3,096	3,534	3,984	4,428
~~$5,901 - $6,900~~	~~1,506~~	~~1,878~~	~~2,250~~	~~2,622~~	~~2,994~~	~~3,378~~
$6,201 - $7,200	1,770	2,220	2,658	3,096	3,534	3,984
~~$6,901 - $7,900~~	~~1,122~~	~~1,506~~	~~1,878~~	~~2,250~~	~~2,622~~	~~2,994~~
$7,201 - $8,200	1,320	1,770	2,220	2,658	3,096	3,534
~~$7,901 - $8,900~~	~~930~~	~~1,122~~	~~1,506~~	~~1,878~~	~~2,250~~	~~2,622~~
$8,201 - $9,200	1,092	1,320	1,770	2,220	2,658	3,096
~~$8,901 - $10,400~~	~~750~~	~~930~~	~~1,122~~	~~1,506~~	~~1,878~~	~~2,250~~
$9,201 - $10,700	882	1,092	1,320	1,770	2,220	2,658
~~$10,401 - $11,900~~	~~684~~	~~750~~	~~930~~	~~1,122~~	~~1,506~~	~~1,878~~
$10,701 - $12,200	804	882	1,092	1,320	1,770	2,220
~~$11,901 - $13,400~~	~~612~~	~~684~~	~~750~~	~~930~~	~~1,122~~	~~1,506~~
$12,201 - $13,700	720	804	882	1,092	1,320	1,770
~~$13,401 - $14,900~~	-0-	~~612~~	~~684~~	~~750~~	~~930~~	~~1,122~~
$13,701 - $15,200		720	804	882	1,092	1,320
~~$14,901 - $17,900~~	-0-	-0-	~~612~~	~~684~~	~~750~~	~~930~~

$15,201 - $18,200			720	804	882	1,092
~~$17,901 - $20,900~~	~~-0-~~	~~-0-~~	~~-0-~~	~~612~~	~~684~~	~~750~~
$18,201 - $21,200				720	804	882
~~$20,901 - $23,900~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~	~~612~~	~~684~~
$21,201 - $24,200					720	804
~~$23,901 - $28,600~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~	~~612~~
$24,201 - $28,900						720
~~$28,601 and over~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~	~~-0-~~
Over $28,900						

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of proprietary school registration, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Maximum Grant ~~$3,180~~ 3,750

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
~~$10,000 and under~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~
Under $11,001	$3,750	$3,750	$3,750	$3,750	$3,750
~~$10,001 - $11,000~~	~~2,868~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~
$11,001 - $12,000	3,384	3,750	3,750	3,750	3,750
~~$11,001 - $12,000~~	~~2,532~~	~~2,868~~	~~3,180~~	~~3,180~~	~~3,180~~
$12,001 - $13,000	2,988	3,384	3,750	3,750	3,750
~~$12,001 - $13,000~~	~~2,214~~	~~2,532~~	~~2,868~~	~~3,180~~	~~3,180~~
$13,001 - $14,000	2,616	2,988	3,384	3,750	3,750
~~$13,001 - $14,000~~	~~1,920~~	~~2,214~~	~~2,532~~	~~2,868~~	~~3,180~~
$14,001 - $15,000	2,268	2,616	2,988	3,384	3,750
~~$14,001 - $15,000~~	~~1,578~~	~~1,920~~	~~2,214~~	~~2,532~~	~~2,868~~
$15,001 - $16,000	1,860	2,268	2,616	2,988	3,384
~~$15,001 - $16,000~~	~~1,278~~	~~1,578~~	~~1,920~~	~~2,214~~	~~2,532~~
$16,001 - $17,000	1,506	1,860	2,268	2,616	2,988
~~$16,001 - $19,000~~	~~978~~	~~1,278~~	~~1,578~~	~~1,920~~	~~2,214~~
$17,001 - $20,000	1,152	1,506	1,860	2,268	2,616
~~$19,001 - $22,000~~	~~786~~	~~978~~	~~1,278~~	~~1,578~~	~~1,920~~
$20,001 - $23,000	924	1,152	1,506	1,860	2,268
~~$22,001 - $25,000~~	~~630~~	~~786~~	~~978~~	~~1,278~~	~~1,578~~
$23,001 - $26,000	738	924	1,152	1,506	1,860
~~$25,001 - $28,000~~	~~594~~	~~630~~	~~786~~	~~978~~	~~1,278~~

$26,001 - $29,000	696	738	924	1,152	1,506
~~$28,001 - $30,000~~	~~522~~	~~594~~	~~630~~	~~786~~	~~978~~
$29,001 - $31,000	612	696	738	924	1,152
~~$30,001 and over~~	-0-	-0-	-0-	-0-	-0-
Over $31,000					

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the state board of proprietary school registration, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Maximum Grant ~~$3,180~~ 3,750

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
~~$3,300 and under~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~
Under $3,601	$3,750	$3,750	$3,750	$3,750	$3,750	$3,750
~~$3,301 - $3,900~~	~~2,868~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~
$3,601 - $4,200	3,384	3,750	3,750	3,750	3,750	3,750
~~$3,901 - $4,400~~	~~2,532~~	~~2,868~~	~~3,180~~	~~3,180~~	~~3,180~~	~~3,180~~
$4,201 - $4,700	2,988	3,384	3,750	3,750	3,750	3,750
~~$4,401 - $4,900~~	~~2,214~~	~~2,532~~	~~2,868~~	~~3,180~~	~~3,180~~	~~3,180~~
$4,701 - $5,200	2,616	2,988	3,384	3,750	3,750	3,750
~~$4,901 - $5,400~~	~~1,920~~	~~2,214~~	~~2,532~~	~~2,868~~	~~3,180~~	~~3,180~~
$5,201 - $5,700	2,268	2,616	2,988	3,384	3,750	3,750
~~$5,401 - $5,900~~	~~1,578~~	~~1,920~~	~~2,214~~	~~2,532~~	~~2,868~~	~~3,180~~
$5,701 - $6,200	1,860	2,268	2,616	2,988	3,384	3,750
~~$5,901 - $6,900~~	~~1,278~~	~~1,578~~	~~1,920~~	~~2,214~~	~~2,532~~	~~2,868~~
$6,201 - $7,200	1,506	1,860	2,268	2,616	2,988	3,384
~~$6,901 - $7,900~~	~~978~~	~~1,278~~	~~1,578~~	~~1,920~~	~~2,214~~	~~2,532~~
$7,201 - $8,200	1,152	1,506	1,860	2,268	2,616	2,988
~~$7,901 - $8,900~~	~~786~~	~~978~~	~~1,278~~	~~1,578~~	~~1,920~~	~~2,214~~
$8,201 - $9,200	924	1,152	1,506	1,860	2,268	2,616
~~$8,901 - $10,400~~	~~630~~	~~786~~	~~978~~	~~1,278~~	~~1,578~~	~~1,920~~
$9,201 - $10,700	738	924	1,152	1,506	1,860	2,268
~~$10,401 - $11,900~~	~~594~~	~~630~~	~~786~~	~~978~~	~~1,278~~	~~1,578~~
$10,701 - $12,200	696	738	924	1,152	1,506	1,860
~~$11,901 - $13,400~~	~~522~~	~~594~~	~~630~~	~~786~~	~~978~~	~~1,278~~
$12,201 - $13,700	612	696	738	924	1,152	1,506
~~$13,401 - $14,900~~	-0-	~~522~~	~~594~~	~~630~~	~~786~~	~~978~~

$13,701 - $15,200		612	696	738	924	1,152
~~$14,901 - $17,900~~	-0-	-0-	~~522~~	~~594~~	~~630~~	~~786~~
$15,201 - $18,200			612	696	738	924
~~$17,901 - $20,900~~	-0-	-0-	-0-	~~522~~	~~594~~	~~630~~
$18,201 - $21,200				612	696	738
~~$20,901 - $23,900~~	-0-	-0-	-0-	-0-	~~522~~	~~594~~
$21,201 - $24,200					612	696
~~$23,901 - $28,600~~	-0-	-0-	-0-	-0-	-0-	~~522~~
$24,201 - $28,900						612
~~$28,601 and over~~	-0-	-0-	-0-	-0-	-0-	-0-
Over $28,900						

For a full-time student who is a dependent and enrolled in a state assisted educational institution, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Maximum Grant ~~$1,512~~ 1,782

Gross Income	Number of Dependents				
	1	2	3	4	5 or more
~~$10,000 and under~~	~~$ 1,512~~	~~$ 1,512~~	~~$ 1,512~~	~~$ 1,512~~	~~$ 1,512~~
Under $11,001	1,782	1,782	1,782	1,782	1,782
~~$10,001 - $11,000~~	~~1,356~~	~~1,512~~	~~1,512~~	~~1,512~~	~~1,512~~
$11,001 - $12,000	1,602	1,782	1,782	1,782	1,782
~~$11,001 - $12,000~~	~~1,200~~	~~1,356~~	~~1,512~~	~~1,512~~	~~1,512~~
$12,001 - $13,000	1,416	1,602	1,782	1,782	1,782
~~$12,001 - $13,000~~	~~1,062~~	~~1,200~~	~~1,356~~	~~1,512~~	~~1,512~~
$13,001 - $14,000	1,254	1,416	1,602	1,782	1,782
~~$13,001 - $14,000~~	~~912~~	~~1,062~~	~~1,200~~	~~1,356~~	~~1,512~~
$14,001 - $15,000	1,074	1,254	1,416	1,602	1,782
~~$14,001 - $15,000~~	~~750~~	~~912~~	~~1,062~~	~~1,200~~	~~1,356~~
$15,001 - $16,000	882	1,074	1,254	1,416	1,602
~~$15,001 - $16,000~~	~~606~~	~~750~~	~~912~~	~~1,062~~	~~1,200~~
$16,001 - $17,000	708	882	1,074	1,254	1,416
~~$16,001 - $19,000~~	~~456~~	~~606~~	~~750~~	~~912~~	~~1,062~~
$17,001 - $20,000	534	708	882	1,074	1,254
~~$19,001 - $22,000~~	~~366~~	~~456~~	~~606~~	~~750~~	~~912~~
$20,001 - $23,000	432	534	708	882	1,074
~~$22,001 - $25,000~~	~~300~~	~~366~~	~~456~~	~~606~~	~~750~~
$23,001 - $26,000	348	432	534	708	882
~~$25,001 - $28,000~~	~~282~~	~~300~~	~~366~~	~~456~~	~~606~~

$26,001 - $29,000	324	348	432	534	708
~~$28,001 - $30,000~~	~~252~~	~~282~~	~~300~~	~~366~~	~~456~~
$29,001 - $31,000	294	324	348	432	534
~~$30,001 and over~~	-0-	-0-	-0-	-0-	-0-
Over $31,000					

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Table of Grants

Maximum Grant ~~$1,152~~ 1,782

Gross Income	Number of Dependents					
	0	1	2	3	4	5 or more
~~$3,300 and under~~	~~$1,512~~	~~$1,512~~	~~$1,512~~	~~$1,512~~	~~$1,512~~	~~$1,512~~
Under $3,601	1,782	1,782	1,782	1,782	1,782	1,782
~~$3,301 - $3,900~~	~~1,356~~	~~1,512~~	~~1,512~~	~~1,512~~	~~1,512~~	~~1,512~~
$3,601 - $4,200	1,602	1,782	1,782	1,782	1,782	1,782
~~$3,901 - $4,400~~	~~1,200~~	~~1,356~~	~~1,512~~	~~1,512~~	~~1,512~~	~~1,512~~
$4,201 - $4,700	1,416	1,602	1,782	1,782	1,782	1,782
~~$4,401 - $4,900~~	~~1,062~~	~~1,200~~	~~1,356~~	~~1,512~~	~~1,512~~	~~1,512~~
$4,701 - $5,200	1,254	1,416	1,602	1,782	1,782	1,782
~~$4,901 - $5,400~~	~~912~~	~~1,062~~	~~1,200~~	~~1,356~~	~~1,512~~	~~1,512~~
$5,201 - $5,700	1,074	1,254	1,416	1,602	1,782	1,782
~~$5,401 - $5,900~~	~~750~~	~~912~~	~~1,062~~	~~1,200~~	~~1,356~~	~~1,512~~
$5,701 - $6,200	882	1,074	1,254	1,416	1,602	1,782
~~$5,901 - $6,900~~	~~606~~	~~750~~	~~912~~	~~1,062~~	~~1,200~~	~~1,356~~
$6,201 - $7,200	708	882	1,074	1,254	1,416	1,602
~~$6,901 - $7,900~~	~~456~~	~~606~~	~~750~~	~~912~~	~~1,062~~	~~1,200~~
$7,201 - $8,200	534	708	882	1,074	1,254	1,416
~~$7,901 - $8,900~~	~~366~~	~~456~~	~~606~~	~~750~~	~~912~~	~~1,062~~
$8,201 - $9,200	432	534	708	882	1,074	1,254
~~$8,901 - $10,400~~	~~300~~	~~366~~	~~456~~	~~606~~	~~750~~	~~912~~
$9,201 - $10,700	348	432	534	708	882	1,074
~~$10,401 - $11,900~~	~~282~~	~~300~~	~~366~~	~~456~~	~~606~~	~~750~~
$10,701 - $12,200	324	348	432	534	708	882
~~$11,901 - $13,400~~	~~252~~	~~282~~	~~300~~	~~366~~	~~456~~	~~606~~
$12,201 - $13,700	294	324	348	432	534	708
~~$13,401 - $14,900~~	-0-	~~252~~	~~282~~	~~300~~	~~366~~	~~456~~
$13,701 - $15,200		294	324	348	432	534

~~$14,901 - $17,900~~	-0-	-0-	~~252~~	~~282~~	~~300~~	~~366~~
$15,201 - $18,200			294	324	348	432
~~$17,901 - $20,900~~	-0-	-0-	-0-	~~252~~	~~282~~	~~300~~
$18,201 - $21,200				294	324	348
~~$20,901 - $23,900~~	-0-	-0-	-0-	-0-	~~252~~	~~282~~
$21,201 - $24,200					294	324
~~$23,901 - $28,600~~	-0-	-0-	-0-	-0-	-0-	~~252~~
$24,201 - $28,900						294
~~$28,601 and over~~	-0-	-0-	-0-	-0-	-0-	-0-
Over $28,900						

(D) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, or associate of arts degree.

(E)(1) Except as provided in division (E)(2) of this section, no grant shall be made to any student for enrollment during a school year in an institution with a default rate, as of the fifteenth day of June preceding such school year, equal to or greater than thirty per cent for each of the preceding two years.

(2) Division (E)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its default rate after recalculation is lower than the rate specified in division (E)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (E)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (E)(1) of this section shall not affect that student's eligibility to receive a grant when enrolled in another institution.

(F) Institutions of higher education that enroll students receiving instructional grants under this section shall report to the board all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the

uarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative budget office of the legislative service commission of all refunds so received.

Sec. 3333.20. (A) On or before September 1, 1993, the Ohio board of regents shall adopt educational service standards that shall apply to all community colleges, university branches, technical colleges, and state community colleges established under Chapters 3354., 3355., 3357., and 3358. of the Revised Code, respectively. These standards shall provide for such institutions to offer or demonstrate at least the following:

(1) An appropriate range of career or technical programs designed to prepare individuals for employment in specific careers at the technical or paraprofessional level;

(2) Commitment to an effective array of developmental education services providing opportunities for academic skill enhancement;

(3) Partnerships with industry, business, government, and labor for the retraining of the workforce and the economic development of the community;

(4) Noncredit continuing education opportunities;

(5) College transfer programs or the ~~inital~~ initial two years of a baccalaureate degree for students planning to transfer to institutions offering baccalaureate programs;

(6) Linkages with high schools to ensure that graduates are ~~adquately~~ adequately prepared for post-secondary instruction;

(7) Student access provided according to a convenient schedule and program quality provided at an affordable price;

(8) That student fees charged by any institution are as low as possible, especially if the institution is being supported by a local tax levy~~.~~;

(9) A high level of community involvement in the decision-making process in such critical areas as course delivery, range of services, fees and budgets, and administrative personnel.

(B) The board of regents shall consult with representatives of state-assisted colleges and universities, as defined in section 3333.041 of the Revised Code, in developing appropriate methods for achieving or maintaining the standards adopted pursuant to division (A) of this section.

(C) In ~~applying the educational service standards adopted under this section to a university branch and a technical college~~ considering institutions that are co-located, the board of regents shall ~~consider the~~

~~university branch and the technical college as~~ apply the standards to them in two manners:

(1) As a whole entity~~. For purposes of this section, the board of regents shall designate the university branches and the technical colleges that are co-located~~;

(2) As separate entities, applying the standards separately to each.

When distributing any state funds among institutions based on the degree to which they meet the standards, the board of regents shall provide to institutions that are co-located the higher amount produced by the two judgments under divisions (C)(1) and (2) of this section.

Sec. 3333.27. As used in this section:

(A) "Eligible institution" means a nonprofit Ohio institution of higher education that holds a certificate of authorization issued under section 1713.02 of the Revised Code and meets the requirements of Title VI of the Civil Rights Act of 1964.

(B) "Resident" and "full-time student" have the meanings established for purposes of this section by rule of the Ohio board of regents.

The board shall establish and administer a student choice grant program and shall adopt rules for the administration of the program.

The board may make a grant to any resident of this state who is enrolled as a full-time student in a bachelor's degree program at an eligible institution and maintains an academic record that meets or exceeds the standard established pursuant to this section by rule of the board, except that no grant shall be made to any individual who was enrolled as a student in an institution of higher education on or before July 1, 1984, or is serving a term of imprisonment. The grant shall not exceed the lesser of the total instructional and general charges of the institution in which the student is enrolled, or an amount equal to one-fourth of the total of any state instructional subsidy amount distributed by the board in the second fiscal year of the preceding biennium for all full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education divided by the sum of the actual number of full-time students enrolled in bachelor's degree programs at four-year state-assisted institutions of higher education reported to the board for such year by the institutions to which the subsidy was distributed.

The board shall prescribe the form and manner of application for grants including the manner of certification by eligible institutions that each applicant from such institution is enrolled in a bachelor's degree program as a full-time student and has an academic record that meets or exceeds the standard established by the board.

A grant awarded to an eligible student shall be paid to the institution in which the student is enrolled, and the institution shall reduce the student's instructional and general charges by the amount of the grant. Each grant awarded shall be prorated and paid in equal installments at the time of enrollment for each term of the academic year for which the grant is awarded. No student shall be eligible to receive a grant for more than ten semesters, fifteen quarters, or the equivalent of five academic years.

The receipt of an Ohio student choice grant shall not affect a student's eligibility for assistance, or the amount of such assistance, granted under section 3315.33, 3333.12, 3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised Code. If a student receives assistance under one or more of such sections, the student choice grant made to the student shall not exceed the difference between the amount of assistance received under such sections and the total instructional and general charges of the institution in which the student is enrolled.

The general assembly shall support the student choice grant program by such sums and in such manner as it may provide, but the board may also receive funds from other sources to support the program.

No grant shall be made to any student enrolled in a course of study leading to a degree in theology, religion, or other field of preparation for a religious profession.

Institutions of higher education that enroll students receiving grants under this section shall report to the board the name of each student who has received such a grant but who is no longer eligible for all or part of such grant and shall refund all moneys due to the state within thirty days after the beginning of the term immediately following the term in which the student was no longer eligible to receive all or part of the grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The board shall immediately notify the office of budget and management and the legislative budget office of the legislative service commission of all refunds received.

Sec. 3333.29. (A) As used in this section, "resident" has the meaning established for purposes of this section by rule of the Ohio board of regents.

(B) Beginning June 30, 1999, the board of regents shall establish and administer the student workforce development grant program and shall adopt rules for the administration of the program.

(C) The board may make a grant to any resident of this state who is enrolled as a full-time student in an authorized baccalaureate degree or associate degree program at a private career school registered in accordance with section 3332.05 of the Revised Code and who maintains an academic

record that meets or exceeds a standard that shall be established by rule of the state board of proprietary school registration, except that no grant shall be made to any individual who was enrolled as a student in a registered private career school on or before June 30, 1999. Each grant award shall be four hundred dollars. The grant shall be prorated and paid in equal installments per academic quarter or semester in accordance with division (E) of this section.

(D) The board of regents shall prescribe the form and manner of application for grants and shall provide a method for private career schools to certify applicants who are enrolled in authorized baccalaureate degree or associate degree programs and have academic records meeting or exceeding the standard established by the state board of proprietary school registration.

(E) a grant awarded to an eligible student shall be paid to the registered private career school in which the student is enrolled, and the school shall reduce the student's instructional and general charges by the amount of the grant. each grant awarded shall be paid in accordance with division (C) of this section within thirty days of the start of each term of the academic year for which the grant is awarded. no student shall be eligible to receive grants for more than the equivalent of five academic years.

(F) The receipt of a workforce development grant shall not affect a student's eligibility for assistance, or the amount of such assistance, granted under any other section of Ohio law. If a student receives assistance under one or more such sections, the workforce development grant made to the student shall not exceed the difference between the amount of assistance received under such sections and the total instructional and general charges of the private career school in which the student is enrolled.

(G) The general assembly shall support the workforce development grant program by such sums and in such manner as it may provide, but the board of regents may also receive funds from other sources to support the program.

(H) Private career schools that enroll students receiving grants under this section shall report to the board of regents the name of each student who has received such a grant but who is no longer eligible. In the event an eligible student who has been awarded a grant under this section withdraws from enrollment at a school during any term, the school shall refund a prorated amount of the student's grant for that term to the board of regents in accordance with the school's refund policy.

(I) Beginning June 30, 1999, each registered private career school shall report annually to the board of regents the school's job placement rate for each of its authorized baccalaureate degree or associate degree programs in

the immediately preceding academic year. No student workforce development grant awarded to an eligible student under this section shall be paid to a registered private career school in accordance with division (E) of this section if in the immediately preceding academic year that school's job placement rate for that student's baccalaureate degree or associate degree program was less than seventy-five per cent.

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 ~~a resident of this state~~ an individual designated by the purchaser under a tuition payment contract or through a scholarship program as the individual ~~entitled to apply~~ on whose behalf tuition credits purchased under the contract or awarded through the scholarship program ~~to the payment of that individual's~~ will be applied toward the payment of undergraduate, graduate, or professional tuition.

(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~~ 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 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 (J)(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 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.

Sec. 3334.03. (A) There is hereby created the Ohio tuition trust authority, which shall have the powers enumerated in this chapter and which shall operate as a qualified state tuition program within the meaning of section 529 of the Internal Revenue Code. The exercise by the authority of its powers shall be and is hereby declared an essential state governmental function. The authority is subject to all provisions of law generally applicable to state agencies which do not conflict with the provisions of this chapter.

(B) The Ohio tuition trust authority shall consist of nine members, no more than five of whom shall be of the same political party. Four members shall be appointed by the governor with the advice and consent of the senate as follows: one shall represent state institutions of higher education, one shall represent private nonprofit colleges and universities located in Ohio, and two shall have experience in the field of banking, investment banking, marketing, insurance, or law. Four members shall be appointed by the speaker of the house of representatives and the president of the senate as follows: the speaker of the house of representatives shall appoint one member of the house from each political party and the president of the senate shall appoint one member of the senate from each political party. The chancellor of the board of regents shall be an ex officio voting member; provided, however, that the chancellor may designate a vice-chancellor of the board of regents to serve as ~~his~~ the chancellor's representative. The political party of the chancellor shall be deemed the political party of the designee for purposes of determining that no more than five members are of the same political party.

Initial gubernatorial appointees to the authority shall serve staggered

terms, with two terms expiring on January 31, 1991, one term expiring on January 31, 1992, and one term expiring on January 31, 1993. Thereafter, terms of office for gubernatorial appointees shall be for four years. The initial terms of the four legislative members shall expire on January 31, 1991. Thereafter legislative members shall serve two-year terms, provided that legislative members may continue to serve on the authority only if they remain members of the general assembly. Any vacancy on the authority shall be filled in the same manner as the original appointment, except that any person appointed to fill a vacancy shall be appointed to the remainder of the unexpired term. Any member is eligible for reappointment.

(C) Any member may be removed by the appointing authority for misfeasance, malfeasance, or willful neglect of duty or for other cause after notice and a public hearing, unless the notice and hearing are waived in writing by the member. Members shall serve without compensation but shall receive their reasonable and necessary expenses incurred in the conduct of authority business.

(D) The speaker of the house of representatives and the president of the senate shall each designate a member of the authority to serve as ~~co-chairmen~~ co-chairpersons. The four gubernatorial appointees and the chancellor of the board of regents or ~~his~~ the chancellor's designee shall serve as the executive committee of the authority, and shall elect an executive ~~chairman~~ chairperson from among the executive committee members. The authority and the executive committee may elect such other officers as determined by the authority or the executive committee respectively. The authority shall meet at least annually at the call of either ~~co-chairman~~ co-chairperson and at such other times as either ~~co-chairman~~ co-chairperson or the authority determines necessary. In the absence of both ~~co-chairmen~~ co-chairpersons, the executive ~~chairman~~ chairperson shall serve as the presiding officer of the authority. The executive committee shall meet at the call of the executive ~~chairman~~ chairperson or as the executive committee determines necessary. The authority may delegate to the executive committee such duties and responsibilities as the authority determines appropriate, except that the authority may not delegate to the executive committee the final determination of the annual price of a tuition credit, the final designation of bonds as college savings bonds, or the employment of an executive director of the authority. Upon such delegation, the executive committee shall have the authority to act pursuant to such delegation without further approval or action by the authority. A majority of the authority shall constitute a quorum of the authority, and the affirmative vote of a majority of the members present shall be necessary for any action taken

by the authority. A majority of the executive committee shall constitute a quorum of the executive committee, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the executive committee. No vacancy in the membership of the authority or the executive committee shall impair the rights of a quorum to exercise all rights and perform all duties of the authority or the executive committee respectively.

Sec. 3334.08. (A) 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 college savings program;

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

(9) Contract, for the provision of all or part of the services necessary for the management and operation of the 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;

(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, 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;

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

(16) ~~Except as provided in division (C) of section 3334.09 of the Revised Code, impose~~ Impose limits on the number of credits which may be purchased on behalf of or assigned or awarded to any beneficiary;

(17) Impose restrictions on the substitution of another individual for the original beneficiary;

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

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

(21) Terminate any prepaid tuition contract if no purchases are made for a period of three years or more and there are fewer than a total of five tuition units or tuition credits 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) Perform all acts necessary and proper to carry out the duties and

responsibilities of the authority pursuant to this chapter.

(B) 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. 3334.09. (A) ~~The~~Except in the case of a scholarship program established in accordance with section 3334.17 of the Revised Code, the Ohio tuition trust authority may enter into a tuition payment contract with any person ~~or governmental entity~~ for the purchase of tuition credits if either the purchaser or the beneficiary is a resident of this state at the time the contract is entered into. A tuition payment contract shall allow any person ~~or governmental entity~~ to purchase tuition credits at the price determined by the authority pursuant to section 3334.07 or 3334.12 of the Revised Code for the year in which the tuition credit is purchased. The purchaser shall name in the payment contract one specific individual as the beneficiary for the tuition credits.

~~A purchaser of tuition credits shall elect one of the following options at the time of entering into a contract under this section:~~

~~(1) To name in the payment contract one specific individual as the beneficiary for the tuition credits.~~

~~(2) To name in the payment contract from two to five specific individuals as the beneficiaries for the tuition credits. A person or governmental entity selecting this option shall also elect whether to retain ownership of the credits in the account established under division (F)(1) of section 3334.11 of the Revised Code for the contract or to allocate the credits in the account to one or more of the designated beneficiaries. If the purchaser retains ownership, the purchaser may allocate the tuition credits among the specified beneficiaries at the time of enrollment in an institution of higher education. If the purchaser assigns ownership of the credits to the beneficiaries, each beneficiary is entitled to use those credits the beneficiary owns.~~

In accordance with rules of the authority, ~~beneficiaries~~ credits may be transferred to the credit of another beneficiary and a new beneficiary may be ~~deleted, or be added to or~~ substituted for ~~those~~ the beneficiary originally named in the contract ~~and ownership of the assets may be changed during the life of the contract, except that no more than five specified individuals shall be included in a contract at any one time~~.

~~(3) To establish a tuition credit account for unspecified beneficiaries,~~

~~and from time to time to award tuition credits from the account to one or more beneficiaries or to donate tuition credits from the account to a scholarship program. The purchaser shall be the owner of the tuition credits, except credits donated to a scholarship program.~~

~~Annually, by the date established by the authority, the purchaser shall notify the authority of the number of credits to be awarded to beneficiaries for the ensuing academic year and shall provide whatever information the authority may require about those beneficiaries.~~

~~In lieu of purchasing credits to establish an account pursuant to division (A)(1) or (2) of this section, the owner of a tuition payment account established by a contract described by division (A)(3) of this section may utilize tuition credits from such account in order to enter into a contract for establishment of a specified named beneficiary account pursuant to division (A)(1) or (2) of this section.~~

~~(4) To purchase any number of credits and donate them directly to a scholarship program. The board of education, public high school, or nonpublic high school that establishes the scholarship program shall be the owner of credits purchased pursuant to division (A)(4) of this section, and the purchaser shall have no rights to the credits.~~

(B) Each tuition credit shall entitle the beneficiary to an amount equal to one per cent of the weighted average tuition.

(C) ~~There shall be no limit on the number of tuition credits that may be purchased pursuant to a contract described by division (A)(3) of this section.~~

~~(D)~~ Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be construed as a guarantee by the state, the authority, or any institution of higher education that a beneficiary will be admitted to an institution of higher education, or, upon admission to an institution of higher education, will be permitted to continue to attend or will receive a degree from an institution of higher education. Nothing in this chapter or in any tuition payment contract entered into pursuant to this chapter shall be considered a guarantee that the beneficiary's cost of tuition at an institution of higher education other than a state institution of higher education will be covered in full by the proceeds of the beneficiary's tuition credits.

~~(E)~~(D) The following information shall be disclosed in writing to each purchaser of tuition credits and, where appropriate, to each ~~school district, public high school, or nonpublic high school maintaining~~ entity establishing a scholarship program under section 3334.17 of the Revised Code:

(1) The terms and conditions for ~~purchasing~~ the purchase and use of tuition credits;

(2) In the case of a contract described by division (A)~~(2)~~ of this section, any restrictions on the substitution of another individual for the original beneficiary and any restrictions on the transfer of ownership of credits in the payment account;

(3) The person or entity entitled to terminate the contract;

(4) The terms and conditions under which the contract may be terminated and the amount of the refund, if any, to which the person or entity terminating the contract, or that person's or entity's designee, is entitled upon termination;

(5) The obligation of the authority to make payments to a beneficiary, or an institution of higher education on behalf of a beneficiary, under division (B) of this section based upon the number of tuition credits purchased on behalf of the beneficiary or awarded to the beneficiary pursuant to a scholarship program ~~or division (A)(3) of this section~~;

(6) The method by which tuition credits shall be applied toward payment of tuition and other higher education expenses if in any academic term the beneficiary is a part-time student;

(7) The period of time during which a beneficiary may receive benefits under the contract;

(8) The terms and conditions under which money may be wholly or partially withdrawn from the program, including, but not limited to, any reasonable charges and fees that may be imposed for withdrawal;

(9) All other rights and obligations of the purchaser and the authority, including the provisions of division (A) of section 3334.12 of the Revised Code, and any other terms, conditions, and provisions the authority considers necessary and appropriate.

~~(F)~~(E) A tuition payment contract may provide that the authority will pay directly to the institution of higher education in which a beneficiary is enrolled during a term the amount represented by the tuition credits being used that term.

~~(G)~~(F) A tuition payment contract described by division (A)~~(1) or (2)~~ of this section may provide that if the contract has not been terminated or ~~a beneficiary designated in the contract has not used~~ credits purchased under the contract have not been applied toward the payment of tuition or other higher education expenses within a specified period of time, the authority may, after making a reasonable effort to locate the purchaser of the tuition credits, the beneficiary, and any person designated in the contract to act on behalf of the purchaser of the credits or the beneficiary, terminate the contract and retain the amounts payable under the contract.

~~(H)~~(G) If, at any time after tuition credits are purchased on behalf of a

beneficiary or awarded to a beneficiary or pursuant to a scholarship program ~~or division (A)(3) of this section~~, the beneficiary becomes a nonresident of this state, or, if the beneficiary was not a resident of this state at the time the tuition payment contract was entered into, the purchaser becomes a nonresident of this state, credits purchased or awarded while the beneficiary was a resident may be applied ~~by the beneficiary~~ on behalf of the beneficiary toward the payment of tuition at an institution of higher education and other ~~educational~~ higher education expenses in the manner specified in division (B) of this section, except that if the beneficiary enrolls in a state institution of higher education, the beneficiary shall be responsible for payment of all nonresident fees charged to out-of-state residents by the institution in which the beneficiary is enrolled.

Sec. 3334.10. Divisions (A) and (B) of this section do not apply to ~~tuition payment contracts described by division (A) (3) or (4) of section 3334.09~~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 ~~person entering into the contract, the beneficiary, or by any person or combination of persons designated in the contract. A tuition payment contract may be terminated~~ 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 ~~a state~~ an institution of higher education ~~other than a state university listed in section 3345.011 of the Revised Code~~;

(4) Upon ~~completion of the bachelor's degree requirements at an institution of higher education in fewer than twelve quarters, eight semesters, or their equivalent~~ the rollover of all contributions to a tuition credit account to the prepaid tuition plan of 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)~~, or (4)~~ of this section, the amount of the refund ~~to which the person designated in the contract is~~

~~entitled~~ shall be equal to ninety-nine one-hundredths of one per cent of the weighted average tuition in the academic year the contract is terminated, 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 ~~to which the person designated in the contract is entitled~~ shall be equal to the greater of the following:

(a) One per cent of the weighted average tuition in the academic year the contract is terminated, 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 ~~to which the person designated in the contract is entitled~~ 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)~~(1) In the case of a contract described by division (A)(3) of section 3334.09 of the Revised Code, the contract may be terminated and a refund made to the purchaser only for just cause with the approval of the authority. The amount of any refund shall be determined by the authority.~~

~~(2)~~ In the case of a scholarship program, a refund of tuition credits in the program's account may be made ~~to the board of education, public high school, or nonpublic high school~~ 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) 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 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) If, in any academic term for which tuition credits 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 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)~~, or (3)~~ of section 3334.11 of the Revised Code.

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), and (D) 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)~~(18)~~(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 ~~an~~ a separate account for each tuition payment contract entered into pursuant to division (A)~~(1) or (2)~~ 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 purchaser of tuition credits pursuant to a contract described by division (A)(3) of section 3334.09 of the Revised Code showing the number of credits purchased and the number used. Upon the request of any such purchaser, the authority shall provide a statement indicating these numbers. The purchaser may file only one such request in any year.~~

~~(3)~~ 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 ~~board of education, public high school, or nonpublic high school~~ entity that established the scholarship program, the authority shall provide a statement indicating these numbers.

~~(4) The authority may assess a reasonable administrative surcharge for the costs of maintaining accounts with more than one specified named beneficiary pursuant to a contract described by division (A)(2) of section 3334.09 of the Revised Code or for maintaining an account established pursuant to division (A)(3) of that section.~~

(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's~~ 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. 3334.17. (A) The ~~board of education of any school district, the principal of any public high school, or the chief administrative officer of any chartered nonpublic high school~~ state, any political subdivision of the state, and any organization that is exempt from federal income taxation under section 501 (a) and described in section 501 (c)(3) of the Internal Revenue Code, including the Ohio tuition trust authority if this is authorized under federal tax law, may establish a scholarship program to award scholarships consisting of tuition credits to students ~~enrolled in the district or in the high school~~. Any scholarship program established under this section shall be registered with the Ohio tuition trust authority. The authority shall be notified of the name and address of each scholarship beneficiary under the program, the number of credits awarded, and the institution of higher education in which the beneficiary is enrolled. Scholarship beneficiaries shall be selected by the ~~board of education, the principal, or the chief administrative officer~~ entity establishing the scholarship program, in accordance with criteria established by ~~such board, principal, or officer~~ the entity.

(B) Any person or governmental entity may purchase tuition credits on behalf of a scholarship program that is or is to be established ~~by a school district, public high school, or nonpublic high school under~~ in accordance with division (A) of this section at the same price as is established for the purchase of credits for named beneficiaries pursuant to this chapter. ~~The purchaser may register the scholarship program at the time of purchase.~~ Tuition credits shall have the same value to the beneficiary of a scholarship awarded pursuant to this section as they would have to any other beneficiary pursuant to division (B) of section 3334.09 of the Revised Code.

(C) The ~~school district, public high school, or nonpublic high school~~ entity establishing and maintaining a scholarship program shall specify whether a scholarship beneficiary may receive a refund or payment for the tuition credits awarded under the scholarship program directly from the tuition trust authority, or whether the amount of such credits shall be paid by the authority only to the institution of higher education in which the student is enrolled.

(D) If a scholarship beneficiary does not use tuition credits awarded within a length of time specified under the scholarship program, the credits may be awarded to another beneficiary.

Sec. 3343.08. The treasurer of the ~~Central~~central state university, before entering upon the discharge of the treasurer's duties, shall give ~~to the state~~ a bond to the state for the faithful performance of the treasurer's duties and the proper accounting for all moneys coming into the treasurer's care. The amount of the bond shall be determined by the board of trustees of central state university, but shall not be for a sum less than the amount that the board estimates may come into the treasurer's control at any time. The bond shall be approved by the attorney general ~~in the sum of one thousand dollars conditioned that such treasurer shall faithfully discharge his duties and account for any money coming into his hands from the state. Such bond shall be deposited with the secretary of state and kept in his office~~.

Sec. 3345.11. Each state university or college may acquire, by purchase, lease, lease-purchase, lease with option to purchase, or otherwise, construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, and operate, and lease to or from others, auxiliary facilities or ~~educational~~education facilities, and may pay for the facilities out of available receipts of such state university or college. To pay all or part of the costs of auxiliary facilities or ~~educational~~ education facilities, and any combination of them, and to refund obligations previously issued for such purpose, each state university or college may issue obligations in the manner provided by and subject to the applicable provisions of section 3345.12 of the Revised Code.

Sec. 3345.12. (A) As used in this section and sections 3345.07 and 3345.11 of the Revised Code, in other sections of the Revised Code that make reference to this section unless the context does not permit, and in related bond proceedings unless otherwise expressly provided:

(1) "State university or college" means each of the state universities identified in section 3345.011 of the Revised Code, the northeastern Ohio universities college of medicine, and the medical college of Ohio at Toledo, and includes its board of trustees.

(2) "Institution of higher education" or "institution" means a state university or college, or a community college district, technical college district, university branch district, or state community college, and includes the applicable board of trustees or, in the case of a university branch district, any other managing authority.

(3) "Housing and dining facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate

therefor, to be used for or in connection with dormitories or other living quarters and accommodations, or related dining halls or other food service and preparation facilities, for students, members of the faculty, officers, or employees of the institution of higher education, and their spouses and families.

(4) "Auxiliary facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with student activity or student service facilities, housing and dining facilities, dining halls, and other food service and preparation facilities, vehicular 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.

(5) "Education facilities" means buildings, structures, and other improvements, and equipment, real estate, and interests in real estate therefor, to be used for or in connection with, classrooms or other instructional facilities, libraries, administrative and office facilities, and other facilities, other than auxiliary facilities, to be used directly or indirectly for or in connection with the conduct of the institution of higher education.

(6) "Facilities" means housing and dining facilities, auxiliary facilities, or education facilities, and includes any one, part of, or any combination of such facilities, and further includes site improvements, utilities, machinery, furnishings, and any separate or connected buildings, structures, improvements, sites, open space and green space areas, utilities or equipment to be used in, or in connection with the operation or maintenance of, or supplementing or otherwise related to the services or facilities to be provided by, such facilities.

(7) "Obligations" means bonds or notes or other evidences of obligation, including interest coupons pertaining thereto, authorized to be issued under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

(8) "Bond service charges" means principal, including any mandatory sinking fund or redemption requirements for the retirement of obligations, interest, or interest equivalent and other accreted amounts, and any call premium required to be paid on obligations.

(9) "Bond proceedings" means the resolutions, trust agreement, indenture, and other agreements and credit enhancement facilities, and amendments and supplements to the foregoing, or any one or more or combination thereof, authorizing, awarding, or providing for the terms and

conditions applicable to, or providing for the security or liquidity of, obligations, and the provisions contained in those obligations.

(10) "Costs of facilities" means the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, and the financing thereof, including the cost of clearance and preparation of the site and of any land to be used in connection with facilities, the cost of any indemnity and surety bonds and premiums on insurance, all related direct administrative expenses and allocable portions of direct costs of the institution of higher education or state agency, cost of engineering, architectural services, design, plans, specifications and surveys, estimates of cost, legal fees, fees and expenses of trustees, depositories, bond registrars, and paying agents for the obligations, cost of issuance of the obligations and financing costs and fees and expenses of financial advisers and consultants in connection therewith, interest on the obligations from the date thereof to the time when interest is to be covered by available receipts or other sources other than proceeds of the obligations, amounts necessary to establish reserves as required by the bond proceedings, costs of audits, the reimbursements of all moneys advanced or applied by or borrowed from the institution or others, from whatever source provided, including any temporary advances from state appropriations, for the payment of any item or items of cost of facilities, and all other expenses necessary or incident to planning or determining feasibility or practicability with respect to facilities, and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, rehabilitation, remodeling, renovation, enlargement, improvement, equipment, and furnishing of facilities, the financing thereof and the placing of ~~these~~ them in use and operation, including any one, part of, or combination of such classes of costs and expenses.

(11) "Available receipts" means all moneys received by the institution of higher education, including income, revenues, and receipts from the operation, ownership, or control of facilities, grants, gifts, donations, and pledges and receipts therefrom, receipts from fees and charges, and the proceeds of the sale of obligations, including proceeds of obligations issued to refund obligations previously issued, but excluding any special fee, and receipts therefrom, charged pursuant to division (D) of section 154.21 of the Revised Code.

(12) "Credit enhancement facilities" has the meaning given in division (H) of section 133.01 of the Revised Code.

(13) "Financing costs" has the meaning given in division (K) of section 133.01 of the Revised Code.

(14) "Interest" or "interest equivalent" has the meaning given in division (R) of section 133.01 of the Revised Code.

(B) Obligations issued under section 3345.07 or 3345.11 of the Revised Code by a state university or college shall be authorized by resolution of its board of trustees. Obligations issued by any other institution of higher education shall be authorized by resolution of its board of trustees, or managing directors in the case of certain university branch districts, as applicable. Sections 9.96 and 9.98 to 9.983 of the Revised Code apply to obligations. Obligations may be issued to pay costs of facilities even if the institution anticipates the possibility of a future state appropriation to pay all or a portion of such costs.

(C) Obligations shall be secured by a pledge of and lien on all or such part of the available receipts of the institution of higher education as it provides for in the bond proceedings, excluding moneys raised by taxation and state appropriations. Such pledge and lien may be made prior to all other expenses, claims, or payments, excepting any pledge of such available receipts previously made to the contrary and except as provided by any existing restrictions on the use thereof, or such pledge and lien may be made subordinate to such other expenses, claims, or payments, as provided in the bond proceedings. Obligations may be additionally secured by covenants of the institution to make, fix, adjust, collect, and apply such charges, rates, fees, rentals, and other items of available receipts as will produce pledged available receipts sufficient to meet bond service charges, reserve, and other requirements provided for in the bond proceedings. Notwithstanding this and any other sections of the Revised Code, the holders or owners of the obligations shall not be given the right and shall have no right to have excises or taxes levied by the general assembly for the payment of bond service charges thereon, and each such obligation shall bear on its face a statement to that effect and to the effect that the right to such payment is limited to the available receipts and special funds pledged to such purpose under the bond proceedings.

All pledged available receipts and funds and the proceeds of obligations are trust funds and, subject to the provisions of this section and the applicable bond proceedings, shall be held, deposited, invested, reinvested, disbursed, applied, and used to such extent, in such manner, at such times, and for such purposes, as are provided in the bond proceedings.

(D) The bond proceedings for obligations shall provide for the purpose thereof and the principal amount or maximum principal amount, and provide for or authorize the manner of determining the principal maturity or maturities, the sale price including any permitted discount, the interest rate

or rates, which may be a variable rate or rates, or the maximum interest rate, the date of the obligations and the date or dates of payment of interest thereon, their denominations, the manner of sale thereof, and the establishment within or without the state of a place or places of payment of bond service charges. The bond proceedings also shall provide for a pledge of and lien on available receipts of the institution of higher education as provided in division (C) of this section, and a pledge of and lien on such fund or funds provided in the bond proceedings arising from available receipts, which pledges and liens may provide for parity with obligations theretofore or thereafter issued by the institution. The available receipts so pledged and thereafter received by the institution and the funds so pledged are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding against all parties having claims of any kind against the institution, irrespective of whether 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 of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement or other document with respect thereto; and the pledge of such available receipts and funds shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any act of appropriation.

(E) The bond proceedings may contain additional provisions customary or appropriate to the financing or to the obligations or to particular obligations, including:

(1) The acquisition, construction, reconstruction, equipment, furnishing, improvement, operation, alteration, enlargement, maintenance, insurance, and repair of facilities, and the duties of the institution of higher education with reference thereto;

(2) The terms of the obligations, including provisions for their redemption prior to maturity at the option of the institution of higher education at such price or prices and under such terms and conditions as are provided in the bond proceedings;

(3) Limitations on the purposes to which the proceeds of the obligations may be applied;

(4) The rates or rentals or other charges for the use of or right to use the facilities financed by the obligations, or other properties the revenues or receipts from which are pledged to the obligations, and rules for assuring use and occupancy thereof, including limitations upon the right to modify such rates, rentals, other charges, or regulations;

(5) The use and expenditure of the pledged available receipts in such manner and to such extent as shall be determined, which may include provision for the payment of the expenses of operation, maintenance, and repair of facilities so that such expenses, or part thereof, shall be paid or provided as a charge prior or subsequent to the payment of bond service charges and any other payments required to be made by the bond proceedings;

(6) Limitations on the issuance of additional obligations;

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

(8) The deposit, investment, and application of funds, and the safeguarding of funds on hand or on deposit without regard to Chapter 131. or 135. of the Revised Code, and any bank or trust company or other financial institution that acts as depository of any moneys under the bond proceedings shall furnish such indemnifying bonds or pledge such securities as required by the bond proceedings or otherwise by the institution of higher education;

(9) The binding effect of any or every provision of the bond proceedings 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;

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

(11) Any other or additional agreements with respect to the facilities of the institution of higher education, their operation, the available receipts and funds pledged, and insurance of facilities and of the institution its officers and employees.

(F) Such obligations may have the seal of the institution of higher education or a facsimile thereof affixed thereto or printed thereon and shall be executed by such officers as are designated in the bond proceedings, which execution may be by facsimile signatures. Any obligations may be executed by an officer who, on the date of execution, is the proper officer although on the date of such obligations such person was not the proper officer. In case any officer whose signature or a facsimile of whose signature appears on any such obligation ceases to be such officer before delivery thereof, such signature or facsimile is nevertheless valid and sufficient for all purposes as if the person had remained such officer until such delivery; and in case the seal of the institution has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal continues to be sufficient as to such obligations and obligations issued

in substitution or exchange therefor.

(G) All such 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. 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.

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

(I) Such obligations may be secured additionally by a trust agreement or indenture between the institution of higher education and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without this state but authorized to exercise trust powers within this state. Any such agreement or indenture may contain the resolution authorizing the issuance of the obligations, any provisions that may be contained in the bond proceedings as authorized by this section, and other provisions which are customary or appropriate in an agreement or indenture of such type, including:

(1) Maintenance of each pledge, trust agreement, and indenture, or other instrument comprising part of the bond proceedings until the institution of higher education has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(2) In the event of default in any payments required to be made by the bond proceedings, or any other agreement of the institution of higher education 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 institution of higher education agree upon, including limitations, conditions, or qualifications

lating to any of the foregoing.

(J) Each duty of the institution of higher education and its officers or employees, undertaken pursuant to the bond proceedings or any related agreement or lease made under authority of law, is hereby established as a duty of such institution, and of each such officer or employee having authority to perform such duty, specially enjoined by law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code. The persons who are at the time the members of the board of trustees or the managing directors of the institution or its officers or employees are not liable in their personal capacities on such obligations, or lease, or other agreement of the institution.

(K) The authority to issue obligations includes authority to:

(1) Issue obligations in the form of bond anticipation notes and to renew them from time to time by the issuance of new notes. Such notes are payable solely from the available receipts and funds that may be pledged to the payment of such bonds, or from the proceeds of such bonds or renewal notes, or both, as the institution of higher education provides in its resolution authorizing such notes. Such notes may be additionally secured by covenants of the institution to the effect that it will do such or all things necessary for the issuance of such bonds or renewal notes in appropriate amount, and either exchange such bonds or renewal notes therefor or apply the proceeds thereof to the extent necessary, to make full payment of the bond service charges on such notes at the time or times contemplated, as provided in such resolution. Subject to the provisions of this division, all references to obligations in this section apply to such anticipation notes.

(2) Issue obligations to refund, including funding and retirement of, obligations previously issued to pay costs of facilities~~, whether issued under authority of such sections or other law authorizing their issuance~~. Such obligations may be issued in amounts sufficient for payment of the principal amount of the obligations to be so refunded, any redemption premiums thereon, principal maturities of any obligations maturing prior to the redemption of any other obligations on a parity therewith to be so refunded, interest accrued or to accrue to the maturity date or dates of redemption of such obligations, and any expenses incurred or to be incurred in connection with such refunding or the issuance of the obligations.

(L) Obligations are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, 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 political subdivisions

and taxing districts of this state, the commissioners of the sinking fund, the administrator of workers' compensation in accordance with the investment policy established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, the state teachers retirement system, the public employees retirement system, the public school employees retirement system, and the police and firemen's disability and pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any state agency with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(M) All facilities purchased, acquired, constructed, or owned by an institution of higher education, or financed in whole or in part by obligations issued by an institution, and used for the purposes of the institution or other publicly owned and controlled college or university, is public property used exclusively for a public purpose, and such property and the income therefrom is exempt from all taxation and assessment within this state, including ad valorem and excise taxes. The obligations, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, are at all times free from taxation within the state. The transfer of tangible personal property by lease under authority of this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code is not a sale as used in Chapter 5739. of the Revised Code.

(N) The authority granted by this section is cumulative with the authority granted to institutions of higher education under Chapter 154. of the Revised Code, and nothing in this section impairs or limits the authority granted by Chapter 154. of the Revised Code. In any lease, agreement, or commitment made by an institution of higher education under Chapter 154. of the Revised Code, it may agree to restrict or subordinate any pledge it may thereafter make under authority of this section.

(O) Title to lands acquired under this section and sections 3345.07 and 3345.11 of the Revised Code by a state university or college shall be taken in the name of the state.

(P) Except where costs of facilities are to be paid in whole or in part from funds appropriated by the general assembly, section 125.81 of the Revised Code and the requirement for certification with respect thereto under section 153.04 of the Revised Code do not apply to such facilities.

(Q) A state university or college may sell or lease lands or interests in land owned by it or by the state for its use, or facilities authorized to be acquired or constructed by it under section 3345.07 or 3345.11 of the Revised Code, to permit the purchasers or lessees thereof to acquire,

construct, equip, furnish, reconstruct, alter, enlarge, remodel, renovate, rehabilitate, improve, maintain, repair, or maintain and operate thereon and to provide by lease or otherwise to such institution, facilities authorized in section 3345.07 or 3345.11 of the Revised Code. Such land or interests therein shall be sold for such appraised value, or leased, and on such terms as the board of trustees determines. All deeds or other instruments relating to such sales or leases shall be executed by such officer of the state university or college as the board of trustees designates. The state university or college shall hold, invest, or use the proceeds of such sales or leases for the same purposes for which proceeds of borrowings may be used under sections 3345.07 and 3345.11 of the Revised Code.

(R) An institution of higher education may pledge available receipts, to the extent permitted by division (C) of this section with respect to obligations, to secure the payments to be made by it under any lease, lease with option to purchase, or lease-purchase agreement authorized under this section or section 3345.07, 3345.11, 3354.121, 3355.091, 3357.112, or 3358.10 of the Revised Code.

Sec. 3345.122. Notwithstanding any other provision of law, a member of a board of trustees of an institution of higher education, as defined in section 3345.12 of the Revised Code, is not liable in damages in a civil action for injury, death, or loss to person or property that allegedly is caused by an expenditure made or a contract entered into by the institution of higher education unless the trustee acted with malicious purpose, in bad faith, or in a wanton or reckless manner with respect to the expenditure or contract.

Sec. 3345.182. The board of trustees or managing authority of a state university or college as defined under divisions (A) to (D) of section 3345.27 of the Revised Code may expend funds of the university or college and utilize lands, facilities, equipment, and personnel of the university or college on activities to benefit the people of ohio by creating and PRESERVING jobs and employment opportunities or improving the economic development and welfare of the people of ohio if the board or authority finds that all of the following apply:

(A) there is reasonable assurance that the proposed activity will not interfere with or compromise the university's or college's mission.

(B) there is reasonable assurance that the proposed activity will not unfairly interfere with, displace, or compete with any existing private or public entity's performance of the same or similar activity.

(C) there is reasonable assurance that the proposed activity will result in revenues to the university or college in an amount that offsets any expenses incurred from the activity.

(D) There is reasonable assurance that the proposed activity will allow public or private entities or enterprises the opportunity to compete more effectively in the marketplace and fulfill needs that are being inadequately met by the private market.

Sec. 3345.50. Notwithstanding anything to the contrary in sections 123.01, 123.15, and 153.01 to 153.20 of the Revised Code, a state university, the medical college of Ohio at Toledo, a state community college, or the northeastern Ohio universities college of medicine may locally administer a project for the construction, reconstruction, improvement, renovation, enlargement, or alteration of a public improvement under its jurisdiction for which the total amount of funds expected to be appropriated by the general assembly does not exceed ~~four~~six million dollars without the supervision, control, or approval of the department of administrative services as specified in those sections, if both of the following occur:

(A) Within sixty days after the effective date of the section of an act in which the general assembly initially makes an appropriation for the project, the board of trustees of the institution notifies the Ohio board of regents in writing of its intent to administer the project locally;

(B) The board of trustees complies with the guidelines established pursuant to division (A) of section 125.101 of the Revised Code and all laws that govern the selection of consultants, preparation and approval of contract documents, receipt of bids, and award of contracts with respect to the project.

Sec. 3345.51. Notwithstanding anything to the contrary in sections 123.01, 123.15, and 153.01 to 153.20 of the Revised Code, a state university, the medical college of Ohio at Toledo, a state community college, or the northeastern Ohio universities college of medicine may locally administer a project for the basic or supplemental renovation of a public improvement under its jurisdiction for which the total amount of funds expected to be appropriated by the general assembly does not exceed ~~one~~two million five hundred thousand dollars, without the supervision, control, or approval of the department of administrative services as specified in those sections, if both of the following occur:

(A) The board of trustees of the institution notifies the Ohio board of regents in writing of its intent to administer the project locally;

(B) The board of trustees complies with the guidelines established pursuant to division (A) of section 125.101 of the Revised Code and all laws that govern the selection of consultants, preparation and approval of contract documents, receipt of bids, and award of contracts.

Sec. 3345.70. (A) WHENEVER THE BOARD OF TRUSTEES OF A STATE UNIVERSITY, AS DEFINED UNDER SECTION 3345.011 OF THE REVISED CODE, DECLARES THAT THE UNIVERSITY IS IN A STATE OF FISCAL EXIGENCY, THE BOARD SHALL DO ALL OF THE FOLLOWING UNTIL IT DECLARES THAT THE UNIVERSITY IS NO LONGER IN SUCH A STATE:

(1) FILE QUARTERLY REPORTS ON AN ANNUALIZED BUDGET, COMPARING the BUDGET TO ACTUAL SPENDING WITH PROJECTED EXPENSES for the remainder of the year. SUCH REPORTS SHALL INCLUDE NARRATIVE EXPLANATIONS AS APPROPRIATE.

(2) PLACE ALL RESIDENCE HALL AND MEAL FEES IN A ROTARY ACCOUNT DEDICATED TO THE UPKEEP AND MAINTENANCE OF THE DORMITORY BUILDINGS AND TO FUND MEAL PROGRAMS;

(3) PLACE MONEYS FOR THE OPERATION OF RESIDENCE HALL AND MEAL PROGRAMS IN SEPARATELY MAINTAINED AUXILIARY FUNDS IN THE UNIVERSITY ACCOUNTING SYSTEM;

(4) FILE THE MINUTES FROM THEIR BOARD OF TRUSTEES MEETINGS WITH THE BOARD OF REGENTS WITHIN THIRTY DAYS OF THEIR MEETINGS.

(B) NO STATE UNIVERSITY DESCRIBED UNDER DIVISION (A) OF THIS SECTION SHALL DO ANY OF THE FOLLOWING:

(1) USE STATE FUNDS FOR THE PURPOSE OF PROVIDING GRANTS OR SCHOLARSHIPS TO OUT-OF-STATE STUDENTS;

(2) USE STATE FUNDS TO SUBSIDIZE OFF-CAMPUS HOUSING OR SUBSIDIZE TRANSPORTATION TO AND FROM OFF-CAMPUS HOUSING.

(C) THE REQUIREMENTS OF DIVISIONS (A)(2) AND (3) OF THIS SECTION ARE SUBJECT TO THE PROVISIONS OF ANY APPLICABLE BOND PROCEEDINGS AS DEFINED UNDER DIVISION (A)(9) OF SECTION 3345.12 OF THE REVISED CODE AND TO ANY APPLICABLE PLEDGE MADE AS AUTHORIZED BY DIVISION (R) OF SECTION 3345.12 OF THE REVISED CODE.

Sec. 3365.01. As used in sections 3365.01 to 3365.10 of the Revised Code:

(A) "College" means any state-assisted college or university described in section 3333.041 of the Revised Code, any nonprofit institution holding a certificate of authorization pursuant to Chapter 1713. of the Revised Code, and any institution holding a certificate of registration from the state board of proprietary school registration and program authorization for an associate

or bachelor's degree program issued under section 3332.05 of the Revised Code.

(B) "School district" means any school district to which a student is admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of the Revised Code and does not include a joint vocational or cooperative education school district.

(C) "Parent" has the same meaning as in section 3313.64 of the Revised Code.

(D) "Participant" means a student enrolled in a college under the post-secondary enrollment options program established by this chapter.

(E) "Secondary grade" means the ~~eleventh and~~ ninth through twelfth grades.

(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the formula amount specified in section 3317.022 of the Revised Code multiplied by the district's cost-of-doing-business factor specified in division (E) of section 3317.02 of the Revised Code.

(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.

(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.

Sec. 3365.02. There is hereby established the post-secondary enrollment options program under which a secondary grade student may enroll at a college, on a full- or part-time basis, and complete nonsectarian courses for high school and college credit.

Secondary grade students in a nonpublic school may participate in the post-secondary enrollment options program if the chief administrator of such school notifies the department of education by the first day of April prior to the school year in which the school's students will participate.

The state board of education, after consulting with the board of regents, shall adopt rules governing the program. The rules shall include:

(A) Requirements for school districts or participating nonpublic schools to provide information about the program prior to the first day of March of each year to all students enrolled in grades ~~ten and~~ eight through eleven.

(B) A requirement that a student or ~~his~~ the student's parent inform the district board of education or the nonpublic school administrator by the thirtieth day of March of the student's intent to participate in the program during the following school year. The rule shall provide that any student who fails to notify a district board or the nonpublic school administrator by the required date may not participate in the program during the following school year without the written consent of the district superintendent or the nonpublic school administrator.

(C) Requirements that school districts provide counseling services to students in grades ~~ten and~~ eight through eleven and to their parents before the students participate in the program under this chapter to ensure that students and parents are fully aware of the possible risks and consequences of participation. Counseling information shall include without limitation:

(1) Program eligibility;

(2) The process for granting academic credits;

(3) Financial arrangements for tuition, books, materials, and fees;

(4) Criteria for any transportation aid;

(5) Available support services;

(6) Scheduling;

(7) The consequences of failing or not completing a course in which the student enrolls and the effect of the grade attained in the course being included in the student's grade point average, if applicable;

(8) The effect of program participation on the student's ability to complete the district's or nonpublic school's graduation requirements;

(9) The academic and social responsibilities of students and parents under the program;

(10) Information about and encouragement to use the counseling services of the college in which the student intends to enroll.

(D) A requirement that the student and ~~his~~ the student's parent sign a form, provided by the school district, stating that they have received the counseling required by division (C) of this section and that they understand the responsibilities they must assume in the program.

(E) The options required by section 3365.04 of the Revised Code.

Sec. 3365.021. The chief administrator of any nonpublic school notifying the department of education that students of the school will participate in the post-secondary enrollment options program shall provide counseling to students in grades ~~ten and~~eight through eleven and to their parents before the students participate in the program to ensure that students and parents are fully aware of the possible risks and consequences of participation. Such counseling shall include explaining the fact that funding

may be limited and that not all students who wish to participate may be able to do so.

Sec. 3365.03. Notwithstanding any other provision of law, a student enrolled in a school district or a participating nonpublic school may apply to a college to enroll in it during ~~his~~the student's ninth, tenth, eleventh, or twelfth grade school year under this chapter. If a college accepts the student, it shall send written notice to the student, ~~his~~ the student's school district or nonpublic school, and the superintendent of public instruction within ten days after acceptance. Within ten days after each enrollment for a term, the college shall also send the student, ~~his~~ the student's school district or nonpublic school, and the superintendent of public instruction a written notice indicating the courses and hours of enrollment of the student and the option elected by the student under division (A) or (B) of section 3365.04 of the Revised Code for each course.

Sec. 3365.06. (A) A student in grade ~~eleven~~nine may not enroll in courses under this chapter for which ~~he~~ the student elects under division (B) of section 3365.04 of the Revised Code to receive credit toward high school graduation for more than the equivalent of ~~two~~ four academic school years. A student ~~in grade twelve~~ enrolling ~~for the first time~~ in courses under this chapter may not enroll in courses in which ~~he~~ the student elects to receive credit toward high school graduation for more than the equivalent of ~~one~~:

(1) Three academic school years, if the student so enrolls for the first time in grade ten;

(2) Two academic school years, if the student so enrolls for the first time in grade eleven;

(3) One academic school year, if the student so enrolls for the first time in grade twelve. ~~These~~

These restrictions shall be reduced proportionately for any such student who enrolls in the program during the course of a school year in accordance with rules adopted under section 3365.02 of the Revised Code.

(B) In considering the admission of any secondary student, a college shall give priority to its other students regarding enrollment in courses. However, once a student has been accepted in a course as a participant, the institution shall not displace the participant for another student.

Sec. 3383.01. As used in this chapter:

(A) "Arts" means any of the following:

(1) Visual, musical, dramatic, graphic, and other arts and includes, but is not limited to, architecture, dance, literature, motion pictures, music, painting, photography, sculpture, and theater;

(2) The presentation or making available, in museums or other indoor or

outdoor facilities, of principles of science and their development, use, or application in business, industry, or commerce or of the history, heritage, development, presentation, and uses of the arts as defined above and of transportation;

(3) The preservation, presentation, or making available of features of archaeological, architectural, environmental, or historical interest or significance in a state historical facility.

(B) "Arts organization" means either of the following:

(1) A governmental agency or Ohio nonprofit corporation that provides programs or activities in areas directly concerned with the arts;

(2) A regional arts and cultural district as defined in section 3381.01 of the Revised Code.

(C) "General building services" means general building services for an Ohio arts facility or an Ohio sports facility, including, but not limited to, general custodial care, security, maintenance, repair, painting, decoration, cleaning, utilities, fire safety, grounds and site maintenance and upkeep, and plumbing.

(D) "Governmental agency" means a state agency, a state-supported or state-assisted institution of higher education, a municipal corporation, county, township, or school district, a port authority created under Chapter 4582. of the Revised Code, or any other political subdivision or special district in this state established by or pursuant to law, any combination of these entities, or, except where otherwise indicated, the United States or any department, division, or agency of the United States, or any agency, commission, or authority established pursuant to an interstate compact or agreement.

(E) "Manage," "operate," or "management" means the provision of, or the exercise of control over the provision of, activities:

(1) Relating to the arts for an Ohio arts facility, including as applicable, but not limited to, providing for displays, exhibitions, specimens, and models; booking of artists, performances, or presentations; scheduling; and hiring or contracting for directors, curators, technical and scientific staff, ushers, stage managers, and others directly related to the arts activities in the facility; but not including general building services;

(2) Relating to sports and athletic events for an Ohio sports facility, including, as applicable, but not limited to, providing for booking of athletes, teams, and events; scheduling; and hiring or contracting for staff, ushers, managers, and others directly related to the sports and athletic events in the facility; but not including general building services.

(F) "Ohio arts facility" means any of the following:

(1) The three theaters located in the state office tower at 77 South High street in Columbus;

(2) Any capital facility in this state to which all of the following apply:

(a) The construction of the facility was authorized or funded by the general assembly pursuant to division (D)(3) of section 3383.07 of the Revised Code.

(b) The state owns or has sufficient real property interests in the facility or in the portion of the facility financed from the proceeds of obligations or in the site of the facility for a period of no less than the greater of the useful life of the portion of the facility financed from the proceeds of those obligations as determined by the director of budget and management using the guidelines for maximum maturities as provided under divisions (B), (C), and (E) of section 133.20 of the Revised Code, or the period of time remaining to the date of payment or provision for payment of outstanding obligations issued by the Ohio building authority allocable to costs of that portion of the facility, as determined by the director of budget and management, in either case as certified to the Ohio arts and sports facilities commission and the Ohio building authority~~, or the final maturity of obligations issued by the Ohio building authority to finance the facility~~.

(c) The facility is managed directly by, or by contract with, the Ohio arts and sports facilities commission, and used for or in connection with the activities of the commission, including the presentation or making available of arts to the public.

(3) A state historical facility.

(G) "State agency" means the state or any of its branches, officers, boards, commissions, authorities, departments, divisions, or other units or agencies of the state.

(H) "Construction" includes acquisition, including acquisition by lease-purchase, demolition, reconstruction, alteration, renovation, remodeling, enlargement, improvement, site improvements and related equipping and furnishing.

(I) "State historical facility" means a site or facility of archaeological, architectural, environmental, or historical interest or significance, or a facility, including a storage facility, appurtenant to the operations of such a site or facility, that is owned by or is located on real property owned by the state or by an arts organization, so long as the real property of the arts organization meets the requirements of division (F)(2)(b) of this section and is contiguous to state-owned real property that is in the care, custody, and control of an arts organization, and that is managed directly by or by contract with the commission, and that is used for or in connection with the

commission's activities.

(J) "Ohio sports facility" means all or a portion of a stadium, arena, or other capital facility in Ohio, a primary purpose of which is to provide a site or venue for the presentation to the public of events of one or more major or minor league professional athletic or sports teams that are associated with the state or with an Ohio city or region, which facility is owned by or is located on real property owned by the state or a governmental agency, and including all parking facilities, walkways, and other auxiliary facilities, equipment, furnishings, and real and personal property and interests and rights therein, that may be appropriate for or used for or in connection with the facility or its operation, for capital costs of which state funds are spent pursuant to this chapter. A facility constructed as an Ohio sports facility may be both an Ohio arts facility and an Ohio sports facility.

Sec. 3383.08. There is hereby created in the state treasury the capital donations fund, which shall be administered by the Ohio arts and sports facilities commission. The fund shall consist of gifts, grants, devises, bequests, and other financial contributions made to the commission for the construction or improvement of arts and sports facilities~~,~~ and shall be used in accordance with the specific purposes for which ~~such~~ the gifts, grants, devises, bequests, or other financial contributions are made. All investment earnings of the fund shall be credited to the fund. Chapters 123., 125., 127., and 153. and section 3517.13 of the Revised Code do not apply to contracts paid from the fund, notwithstanding anything to the contrary in those chapters or that section.

Not later than the tenth day of each month, the commission shall allocate the amounts credited to the fund during the preceding month among the specific projects for which they are to be used~~,~~ and shall certify this information to the director of budget and management. Investment earnings of the fund shall be allocated in the same manner as the gifts, grants, devises, bequests, and other financial contributions to which they are attributable.

~~In the event that~~ If the amounts credited to the fund for a particular project exceed what is required to complete that project, the commission may refund any such excess amounts, including unexpended investment earnings attributable to ~~such~~ those amounts, to the entity from which ~~it was~~ they were received.

Sec. 3501.10. (A) The board of elections shall, as an expense of the board, provide suitable rooms for its offices and records and the necessary and proper furniture and supplies for such rooms. The board may lease such offices and rooms, necessary to its operation, for such length of time and

upon such terms as the board deems in the best interests of the public, provided that the term of any such lease shall not exceed fifteen years ~~subject to the right of the board of county commissioners by a majority vote within sixty days after the board of county commissioners has been notified in writing of the execution of the lease to void the action of the board of elections~~. ~~The~~

Thirty days prior to entering into such a lease, the board shall notify the board of county commissioners in writing of its intent to enter into the lease. The notice shall specify the terms and conditions of the lease. Prior to the thirtieth day after receiving that notice and before any lease is entered into, the board of county commissioners may reject the proposed lease by a majority vote. After receiving written notification of the rejection by the board of county commissioners, the board of elections shall not enter into the lease that was rejected, but may immediately enter into additional lease negotiations, subject to the requirements of this section.

The board of elections in any county may, by resolution, request that the board of county commissioners submit to the electors of the county, in accordance with section 133.18 of the Revised Code, the question of issuing bonds for the acquisition of real estate and the construction on it of a suitable building with necessary furniture and equipment for the proper administration of the duties of the board of elections. The resolution declaring the necessity for issuing such bonds shall relate only to the acquisition of real estate and to the construction, furnishing, and equipping of a building as provided in this division.

(B) The board of elections in each county shall keep its offices, or one or more of its branch registration offices, open for the performance of its duties an additional seven hours each week for three weeks before the close of registration before a general or primary election. At all other times during each week, the board shall keep its offices and rooms open for a period of time that such board considers necessary for the performance of its duties.

(C) The board may maintain permanent or temporary branch offices at any place within the county.

Sec. 3501.11. Each board of elections shall exercise by a majority vote all powers granted to such board by Title XXXV of the Revised Code, shall perform all the duties imposed by law, and shall:

(A) Establish, define, provide, rearrange, and combine election precincts;

(B) Fix and provide the places for registration and for holding primaries and elections;

(C) Provide for the purchase, preservation, and maintenance of booths,

ballot boxes, books, maps, flags, blanks, cards of instructions, and other forms, papers, and equipment used in registration, nominations, and elections;

(D) Appoint and remove its director, deputy director, and employees and all registrars, judges, and other officers of elections, fill vacancies, and designate the ward or district and precinct in which each shall serve;

(E) Make and issue such rules and instructions, not inconsistent with law or the rules established by the secretary of state, as it considers necessary for the guidance of election officers and voters;

(F) Advertise and contract for the printing of all ballots and other supplies used in registrations and elections;

(G) Provide for the issuance of all notices, advertisements, and publications concerning elections, except as otherwise provided in division (G) of section 3501.17 of the Revised Code;

(H) Provide for the delivery of ballots, pollbooks, and other required papers and material to the polling places;

(I) Cause the polling places to be suitably provided with stalls and other required supplies;

(J) Investigate irregularities, nonperformance of duties, or violations of Title XXXV of the Revised Code by election officers and other persons; administer oaths, issue subpoenas, summon witnesses, and compel the production of books, papers, records, and other evidence in connection with any such investigation; and report the facts to the prosecuting attorney;

(K) Review, examine, and certify the sufficiency and validity of petitions and nomination papers, and, after certification, return to the secretary of state all petitions and nomination papers that the secretary of state forwarded to the board;

(L) Receive the returns of elections, canvass the returns, make abstracts thereof, and transmit such abstracts to the proper authorities;

(M) Issue certificates of election on forms to be prescribed by the secretary of state;

(N) Make an annual report to the secretary of state, on the form prescribed by the secretary of state, containing a statement of the number of voters registered, elections held, votes cast, appropriations received, and expenditures made, and such other data as is required by the secretary of state;

(O) Prepare and submit to the proper appropriating officer a budget estimating the cost of elections for the ensuing fiscal year;

(P) Perform such other duties as are prescribed by law or the rules of the secretary of state;

(Q) Investigate and determine the residence qualifications of electors;

(R) Administer oaths in matters pertaining to the administration of the election laws;

(S) Prepare and submit to the secretary of state whenever the secretary of state requires, a report containing the names and residence addresses of all incumbent county, municipal, township, and board of education officials serving in their respective counties;

(T) Establish and maintain a voter registration of all qualified electors in the county who offer to register;

(U) Maintain voter registration records, make reports concerning voter registration as required by the secretary of state, and remove ineligible electors from voter registration lists in accordance with law and directives of the secretary of state.

(V) At least annually, on a schedule and in a format prescribed by the secretary of state, submit to the secretary of state an accurate and current list of all registered voters in the county for the purpose of assisting the secretary of state to maintain a master list of registered voters pursuant to section 3503.27 of the Revised Code;

(W) Give approval to ballot language for any local question or issue and transmit the language to the secretary of state for the secretary of state's final approval;

(X) Prepare and cause the following notice to be displayed in a prominent location in every polling place:

"NOTICE

Ohio law prohibits any person from voting or attempting to vote more than once at the same election.

Violators are guilty of a felony of the fourth degree and shall be imprisoned and additionally may be fined in accordance with law."

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the director or ~~chairman~~ chairperson shall submit the matter in controversy, not later than fourteen days after the tie vote or the disagreement, to the secretary of state, who shall summarily decide the question and the secretary of state's decision shall be final.

(Y) Assist each designated agency, deputy registrar of motor vehicles, public high school and vocational school, public library, and office of a county treasurer in the implementation of a program for registering voters at all voter registration locations as prescribed by the secretary of state. Under this program, each board of elections shall direct to the appropriate board of elections any voter registration applications for persons residing outside the county where the board is located within five days after receiving the

applications.

On any day on which an elector may vote in person at the office of the board or at another site designated by the board, the board or other designated site shall be considered a polling place for that day and all requirements or prohibitions of law that apply to a polling place shall apply to the office of the board or other designated site on that day.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections, such board may apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and such amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its ~~chairman~~ chairperson or acting ~~chairman~~ chairperson and the director or deputy director, upon warrants of the county auditor. The board of elections shall not incur any obligation involving the expenditure of money unless there are moneys sufficient in the funds appropriated therefor to meet such obligations. Such expenses shall be apportioned among the county and the various subdivisions as provided in this section, and the amount chargeable to each subdivision shall be withheld by the auditor from the moneys payable thereto at the time of the next tax settlement. At the time of submitting budget estimates in each year, the board of elections shall submit to the taxing authority of each subdivision, upon the request of the subdivision, an estimate of the amount to be withheld therefrom during the next fiscal year.

~~The~~ (B) Except as otherwise provided in division (F) of this section, the entire compensation of the members of the board of elections and of the director, deputy director, and other employees in the board's offices; the expenditures for the rental, furnishing, and equipping of the office of the board and for the necessary office supplies for the use of the board; the expenditures for the acquisition, repair, care, and custody of the polling places, booths, guardrails, and other equipment for polling places; the cost of pollbooks, tally sheets, maps, flags, ballot boxes, and all other permanent records and equipment; the cost of all elections held in and for the state and county; and all other expenses of the board which are not chargeable to a political subdivision in accordance with this section shall be paid in the same manner as other county expenses are paid.

(C) The compensation of judges and clerks of elections; the cost of renting, moving, heating, and lighting polling places and of placing and

removing ballot boxes and other fixtures and equipment thereof; the cost of printing and delivering ballots, cards of instructions, and other election supplies; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

(D) The entire cost of special elections held on a day other than the day of a primary or general election, both in odd-numbered or in even-numbered years, shall be charged to the subdivision. Where a special election is held on the same day as a primary or general election in an even-numbered year, the subdivision submitting the special election shall be charged only for the cost of ballots and advertising. Where a special election is held on the same day as a primary or general election in an odd-numbered year, the subdivision submitting the special election shall be charged for the cost of ballots and advertising for such special election, in addition to the charges prorated to such subdivision for the election or nomination of candidates in each precinct within the subdivision, as set forth in the preceding paragraph. ~~Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, the state shall bear the entire cost of printing of ballots and advertising necessary to conduct the special election and shall reimburse the counties for all expenses incurred in opening precincts which are open for the sole purpose of conducting the special election. In precincts which are open for the conducting of any primary or other special election, the cost shall be borne as otherwise provided in this section.~~

(E) Where a special election is held on the day specified by division (E) of section 3501.01 of the Revised Code for the holding of a primary election, for the purpose of submitting to the voters of the state constitutional amendments proposed by the general assembly, and a subdivision conducts a special election on the same day, the entire cost of

the special election shall be divided proportionally between the state and the subdivision based upon a ratio determined by the number of issues placed on the ballot by each, except as otherwise provided in division (G) of this section. Such proportional division of cost shall be made only to the extent funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

(F) When a precinct is open during a general, primary, or special election solely for the purpose of submitting to the voters a statewide ballot issue, the state shall bear the entire cost of the election in that precinct and shall reimburse the county for all expenses incurred in opening the precinct.

(G) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law and shall reimburse the counties for all expenses they incur for such advertising.

(H) The cost of renting, heating, and lighting registration places; the cost of the necessary books, forms, and supplies for the conduct of registration; and the cost of printing and posting precinct registration lists shall be charged to the subdivision in which such registration is held.

(I) As used in this section, "statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3501.28. ~~Except as otherwise provided in section 3501.36 of the Revised Code, each~~(A) As used in this section:

(1) "Fair Labor Standards Act" or "Act" means the "Fair Labor Standards Act of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as amended.

(2) "Full election day" means the period of time between the opening of the polls and the completion of the procedures contained in section 3501.26 of the Revised Code.

(3) "Services" means services at each general, primary, or special election.

(B) For any election held in 1997 on or after the effective date of this amendment, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be ~~not less than that~~ the minimum hourly rate established by the ~~"~~Fair Labor Standards Act ~~of 1938," 52 Stat. 1062, 29 U.S.C.A. 201, as amended, for his services at each general, primary, or special election, provided that no election official shall be paid more than seventy dollars per day. No election official who works less than~~

~~the full election day shall be paid the maximum amount allowed under this section or the maximum amount as set by the board of elections, whichever is less. For purposes of this section "full election day" means the period of time between the opening of the polls and the completion of the procedures contained in section 3501.26 of the Revised Code~~.

(C) Beginning with calendar year 1998, each judge of an election in a county shall be paid for the judge's services at the same hourly rate, which shall be not less than the minimum hourly rate established by the Fair Labor Standards Act and not more than eighty-five dollars per diem.

(D) Beginning with calendar year 1998, the secretary of state shall establish, by rule adopted under section 111.15 of the Revised Code, the maximum amount of per diem compensation that may be paid to judges of an election under this section each time the Fair Labor Standards Act is amended to increase the minimum hourly rate established by the act. Upon learning of such an increase, the SECRETARY of state shall DETERMINE by what percentage the minimum hourly rate has been increased under the act and establish a new maximum amount of per diem compensation that judges of an election may be paid under this section that is increased by the same percentage that the minimum hourly rate has been increased under the act.

(E)(1) Beginning with calendar year 1990, no board of elections shall increase the pay of a judge of an election ~~official~~ under this section during a calendar year unless the board has given written notice of the proposed increase to the board of county commissioners not later than the first day of October of the preceding calendar year. ~~The~~ Beginning with calendar year 1998, except as otherwise provided in division (E)(2) of this section, no board of elections shall increase the pay of a judge of an election during a calendar year by more than nine per cent over the compensation paid to a judge of an election in the county where the board is located during the previous calendar year.

(2) The board of county commissioners may review and comment upon ~~the~~ a proposed increase and may enter into a written agreement with a board of elections to permit an increase in the compensation paid to judges of an election for their services during a calendar year that is greater than the nine per cent limitation described in division (E)(1) of this section.

(F) No judge of an election who works less than the full election day shall be paid the maximum amount allowed under this section or the maximum amount as set by the board of elections, WHICHEVER is less.

(G) The board of elections may withhold the compensation of any precinct official for failure to obey the instructions of the board or to comply

with the law relating to the duties of such precinct judge. any payment a judge of an election is ENTITLED to receive under section 3501.36 of the Revised Code is in addition to the compensation the judge is entitled to receive under this section.

Sec. 3701.031. (A) The director of health shall accept and administer grants received from the federal government or other sources, public or private, that are made available for use in monitoring, studying, and preventing pregnancy losses. To the extent that funding from grants is available, the director shall do the following:

(1) establish a population-based pregnancy loss registry to monitor the incidence of various types of pregnancy losses that occur in this state, make appropriate epidemiological studies to determine any causal relations of the pregnancy losses with occupational, nutritional, environmental, genetic, or infectious conditions, and determine what can be done to prevent such losses;

(2) advise, consult, cooperate with, and assist, by contract or otherwise, agencies of the state and federal government, agencies of governments of other states, agencies of political subdivisions of this state, universities, private organizations, corporations, and associations for the purpose of division (A)(1) of this section.

(B) The director may adopt rules pursuant to Chapter 119. of the Revised Code to specify the reporting requirements for physicians as necessary to accomplish the purposes of this section.

(C) As used in this section, "Pregnancy loss" means a termination of pregnancy within the first twenty weeks of pregnancy either spontaneously or by means other than the purposeful termination of a pregnancy as described in section 2919.11 of the Revised Code.

Sec. 3701.14. The director of health shall make inquiry as to the cause of disease, especially when contagious, infectious, epidemic, or endemic, and take prompt action to control and suppress it. The reports of births and deaths, the sanitary conditions and effects of localities and employments, the personal and business habits of the people and the relation of the diseases of man and beast, shall be subjects of study by the director. The director may make and execute orders necessary to protect the people against diseases of lower animals, and shall collect and preserve information in respect to such matters and kindred subjects as may be useful in the discharge of ~~his~~the director's duties, and for dissemination among the people. When called upon by the state or local governments, or the board of health of a general or city health district, ~~he~~ the director shall promptly investigate and report upon the water supply, sewerage, disposal of excreta of any locality, and the heating,

plumbing, and ventilation of a public building.

The director shall maintain registries of hospitals, clinics, physicians, or other care providers to whom the director shall refer persons who make inquiries to the department of health regarding possible exposure to tuberculosis.

Sec. 3701.261. (A) The director of health shall:

~~(A)~~(1) Establish a population-based cancer registry, which shall be known as the Ohio cancer incidence surveillance system, to monitor the incidence of various types of malignant diseases in Ohio, make appropriate epidemiologic studies to determine any causal relations of such diseases with occupational, nutritional, environmental, or infectious conditions, and alleviate or eliminate any such conditions;

~~(B)~~(2) Advise, consult, cooperate with, and assist, by contract or otherwise, agencies of the state and federal government, agencies of the governments of other states, agencies of political subdivisions of this state, universities, private organizations, corporations, and associations for the purposes of division (A)(1) of this section;

~~(C)~~(3) Accept and administer grants from the federal government or other sources, public or private, for carrying out any of the functions enumerated in divisions (A)(1) and ~~(B)~~(2) of this section.

(B) The Ohio cancer incidence surveillance system shall follow a model of cancer data collection as set forth by the survey epidemiology and end results system (SEERS).

Sec. 3701.502. The director of health shall do all of the following:

(A) Encourage and assist in the development of programs of education, detection, and treatment of genetic diseases and provide for habilitation, rehabilitation, and counseling of persons possessing a genetic trait of, or afflicted with, genetic disease;

(B) Advise, consult, cooperate with, and assist, by contract or otherwise, agencies of this state and the federal government, agencies of the governments of other states, agencies of political subdivisions of this state, and private organizations, corporations, and associations in the development and promotion of programs pertaining to the causes, detection, and treatment of genetic diseases, habilitation, rehabilitation, and counseling of persons possessing the trait of or afflicted with genetic disease;

(C) Accept and administer grants from the federal government or other sources, public or private, for carrying out any of the functions enumerated in divisions (A) and (B) of this section. All such moneys so received shall be deposited by the director in the state treasury and shall be kept in a separate fund by the treasurer of state. ~~The~~ Except as otherwise provided in section

3701.45 of the Revised Code, payments from the fund ~~may~~ shall be ~~drawn upon by~~ made pursuant to vouchers ~~signed~~ approved by the director.

Sec. 3701.74. (A) As used in this section:

(1) "Hospital" means any institution registered as a hospital with the department of health pursuant to section 3701.07 of the Revised Code.

(2) "Medical record" means any document or combination of documents that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained in the process of the patient's health care treatment at a hospital.

(3) "Finalized medical record" means a medical record that is complete according to a hospital's bylaws.

(4) "Patient" means any individual who received health care treatment at a hospital.

(B) A hospital shall prepare a finalized medical record for each patient who receives health care treatment at the hospital, within a reasonable time after treatment.

(C) A patient who wishes to examine or obtain a copy of part or all of a finalized medical record covering a prior inpatient stay or outpatient treatment shall submit to the hospital a signed, written request dated not more than sixty days before the date on which it is submitted. The patient who wishes to obtain a copy of the record shall indicate in the request whether the copy is to be sent to the patient's residence or held for the patient at the hospital. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, the hospital shall permit the patient to examine the record during regular business hours or shall provide a copy of the record in accordance with the request, except that if a physician who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the hospital shall provide the record to a physician designated by the patient. The hospital shall take reasonable steps to establish the identity of the patient examining, or requesting a copy of, the patient's record.

A hospital shall provide a copy of a patient's finalized medical record without charge to a physician practicing medicine, osteopathic medicine, or podiatry if the physician has obtained from the patient a properly executed medical records release form. For providing a copy of a finalized medical record pursuant to a request made by any other person, a hospital may charge, except as provided in section 4121.445 of the Revised Code, fees that do not exceed the following: an initial medical records search fee of fifteen dollars, one dollar per page for the first ten pages provided, fifty

cents for each page provided thereafter, and the actual cost incurred by the hospital of any related postage.

(D) If a hospital fails to furnish a finalized medical record as required by division (C) of this section, the patient who requested the record may bring a civil action to enforce the patient's right of access to the record.

(E) This section does not apply to medical records whose release is covered by Chapter 1347. or 5122. of the Revised Code or by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records." Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24 to 2305.251 of the Revised Code.

Sec. 3702.30. (A) As used in this section:

(1) "Ambulatory surgical facility" means a facility, whether or not part of the same organization as a hospital, that is located in a building distinct from another in which inpatient care is provided, and to which any of the following apply:

(a) Outpatient surgery is routinely performed in the facility and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists;

(b) Anesthesia is administered in the facility by an anesthesiologist or certified registered nurse anesthetist and the facility functions separately from a hospital's inpatient surgical service and from the offices of private physicians, podiatrists, and dentists;

(c) The facility applies to be certified by the United States health care financing administration as an ambulatory surgical center for purposes of reimbursement under Part B of the medicare program, Part B of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(d) The facility applies to be certified by a national accrediting body approved by the health care financing administration for purposes of deemed compliance with the conditions for participating in the medicare program as an ambulatory surgical center;

(e) The facility bills or receives from any third-party payer, governmental health care program, or other person or government entity any ambulatory surgical facility fee that is billed or paid in addition to any fee for professional services;

(f) The facility is held out to any person or government entity as an ambulatory surgical facility or similar facility by means of signage, advertising, or other promotional efforts.

"Ambulatory surgical facility" does not include a hospital emergency department.

(2) "Ambulatory surgical facility fee" means a fee for certain overhead costs associated with providing surgical services in an outpatient setting. A fee is an ambulatory surgical facility fee only if it directly or indirectly pays for costs associated with any of the following:

(a) Use of operating and recovery rooms, preparation areas, and waiting rooms and lounges for patients and relatives;

(b) Administrative functions, record keeping, housekeeping, utilities, and rent;

(c) Services provided by nurses, orderlies, technical personnel, and others involved in patient care related to providing surgery.

"Ambulatory surgical facility fee" does not include any additional payment in excess of a professional fee that is provided to encourage physicians, podiatrists, and dentists to perform certain surgical procedures in their office or their group practice's office rather than a health care facility, if the purpose of the additional fee is to compensate for additional cost incurred in performing office-based surgery.

(3) "Governmental health care program" has the same meaning as in section 4731.65 of the Revised Code.

(4) "Health care facility" means any of the following:

(a) An ambulatory surgical facility;

(b) A freestanding dialysis center;

(c) A freestanding inpatient rehabilitation facility;

(d) A freestanding birthing center;

(e) A freestanding radiation therapy center;

(f) A freestanding or mobile diagnostic imaging center.

(5) "Metropolitan statistical area" has the same meaning as in section 3702.51 of the Revised Code.

(6) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

(B) By rule adopted in accordance with sections 3702.12 and 3702.13 of the Revised Code, the director of health shall establish quality standards for health care facilities. The standards may incorporate accreditation standards or other quality standards established by any entity recognized by the director. The rules shall be adopted so as to cause the standards to take effect on March 31, 1996.

(C) The director shall issue a license to each health care facility that makes application for a license and demonstrates to the director that it meets the quality standards established under division (B) of this section, except that if a health care facility located in a metropolitan statistical area applies for a license on or after March 31, 1996, and at the time the license is to take

effect the quality standards are not yet in effect, the director shall issue the license without a demonstration that the health care facility meets quality standards.

(D) Effective March 31, 1996, no health care facility located in a metropolitan statistical area shall operate without a license issued under this section. Effective ~~May 1, 1997~~ April 1, 1998, no other health care facility shall operate without a license issued under this section.

(E) The rules adopted under division (B) of this section shall include provisions governing application for, renewal, suspension, and revocation of licenses.

90-DAY

SECTION Sec. 3702.31. (A) The quality monitoring and inspection fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce this section and sections 3702.11 to 3702.20 and 3702.30 of the Revised Code and rules adopted pursuant to those sections. The director shall deposit in the fund any moneys collected pursuant to this section. All investment earnings of the fund shall be credited to the fund.

(B) The director of health shall adopt rules pursuant to Chapter 119. of the Revised Code establishing fees for both of the following:

(1) Initial and renewal license applications submitted under section 3702.30 of the Revised Code. The fees established under division (B)(1) of this section shall not exceed the actual and necessary costs of performing the activities described in division (A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of the Revised Code. The fees established under division (B)(2) of this section shall not exceed the actual and necessary costs incurred during an inspection, including any indirect costs incurred by the department for staff, salary, or other administrative costs. The director of health shall provide to each health care facility or provider inspected pursuant to section 3702.15 or 3702.30 of the Revised Code a written statement of the fee. The statement shall itemize and total the costs incurred. Within fifteen days after receiving a statement from the director, the facility or provider shall forward the total amount of the fee to the director.

(3) The fees described in divisions (B)(1) and (2) of this section shall meet both of the following requirements:

(a) For each service described in section 3702.11 of the Revised Code, the fee shall not exceed one thousand dollars two hundred fifty annually, except that the total fees charged to a health care provider under this section shall not exceed five thousand dollars annually.

(b) The fee shall Exclude any costs REIMBURSABLE by the United States health care financing administration as part of the certification process for the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the medicaid program established under Title XIX of that act.

(4) The director shall not establish a fee for any service for which a licensure or inspection fee is paid by the health care provider to a state agency for the same or similar licensure or inspection.

Sec. 3702.511. Activities specified in division (R) of section 3702.51 of the Revised Code shall cease to be reviewable activities in accordance with this section.

(A) The activities specified in divisions (R)(1)(a) to (c), (2), (4)(b), (5)(b), (7), (10)(a), and (11) of section 3702.51 of the Revised Code cease to be reviewable activities as follows:

(1) ~~Except as provided in division (A)(2) of this section, if~~ If initial rules adopted under section 3702.11 of the Revised Code take effect prior to May 1, 1997, for any service specified in that section, all activities related to that service cease to be reviewable activities one year after the effective date of the rules if conducted within a metropolitan statistical area and April 1, 1998, if conducted within a rural area;

(2) ~~If the director of health fails to file proposed initial rules in accordance with section 119.03 of the Revised Code prior to May 1, 1996, for any service specified in section 3702.11 of the Revised Code, all activities related to that service cease to be reviewable activities May 1, 1997;~~

~~(3)~~ If initial rules for any service specified in section 3702.11 of the Revised Code do not take effect prior to May 1, 1997, all activities related to that service cease to be reviewable activities May 1, 1997.

(B) The activities specified in divisions (R)(1)(d), (3)(b), (3)(c), (4)(a), (5)(a), and (10)(b) of section 3702.51 of the Revised Code cease to be reviewable activities May 1, 1997, except that if conducted within a rural area, the activities are again reviewable activities from the effective date of this amendment to April 1, 1998.

(C) The activity specified in division (R)(3)(a) of section 3702.51 of the Revised Code ceases to be a reviewable activity March 31, 1996, if conducted within a metropolitan statistical area, and May 1, 1997, if conducted within a rural area, except that if conducted within a rural area, the activity is again a reviewable activity from the effective date of this amendment to April 1, 1998.

(D) The activities specified in divisions (R)(6), (8), and (9) of section

3702.51 of the Revised Code pertain to implementation of reviewable activities for which a certificate of need has been granted. When an activity described in division (R)(1), (2), (3), (4), (5), (7), (10), or (11) of that section ceases to be a reviewable activity, divisions (R)(6), (8), and (9) cease to pertain to that activity.

Sec. 3702.5211. Notwithstanding sections 3702.51 to 3702.68 of the Revised Code, the Ohio veteran's home, including the Secrest nursing home and Giffin care facility, is not required to obtain a certificate of need for the addition of up to fifty-two additional nursing home beds to be licensed under Chapter 3721. of the Revised Code if the additional beds are placed in service prior to June 30, 1999.

Sec. 3702.5212. As used in this section, "county nursing home," "public hospital agency," and "nonprofit hospital agency" have the same meanings as in section 5155.311 of the Revised Code.

Notwithstanding sections 3702.51 to 3702.62 and section 3702.68 of the Revised Code, a county nursing home, public hospital agency, or nonprofit hospital agency is not required to obtain a certificate of need for the construction of a new health care facility, expansion of an existing health care facility, or creation or recategorization of hospital beds as nursing home beds licensed under Chapter 3721. of the Revised Code if such activities are conducted pursuant to an agreement entered into under section 5155.311 of the Revised Code. The number of hospital beds created or recategorized as nursing home beds licensed under Chapter 3721. of the Revised Code shall not exceed the number of beds in the county nursing home at the time the home and hospital agency enter into an agreement under section 5155.311 of the Revised Code.

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 of the Revised Code, this section applies to the review of certificate of need applications during the period beginning July 1, 1993, and ending June 30, ~~1997~~1999.

(B)(1) Except as provided in division (B)(2) of this section, the director of health shall neither grant nor deny any application for a certificate of need submitted prior to July 1, 1993, if the application was for any of the following and the director had not issued a written decision concerning the application prior to that date:

(a) Approval of beds in a new health care facility or an increase of beds in an existing health care facility, if the beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code;

(b) Approval of beds in a new county home or new county nursing home as defined in section 5155.31 of the Revised Code, or an increase of

beds in an existing county home or existing county nursing home, if the beds are proposed to be certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(c) Recategorization of hospital beds as described in section 3702.522 of the Revised Code, an increase of hospital beds registered pursuant to section 3701.07 of the Revised Code as long-term care beds or skilled nursing facility beds, or a recategorization of hospital beds that would result in an increase of beds registered pursuant to that section as long-term care beds or skilled nursing facility beds.

On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~1997~~ 1999.

(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~1997~~ 1999, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(2) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. The director also shall accept for review any application that seeks certificate of need approval for existing beds located in an infirmary that is operated exclusively by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and was providing care exclusively to members of such a religious order on January 1, 1994.

(D) The director shall issue a decision regarding any case remanded by

a court as the result of a decision issued by the director prior to July 1, 1993, to grant, deny, or withdraw a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

(E) The director shall not project the need for beds listed in division (B)(1) of this section for the period beginning July 1, 1993, and ending June 30, ~~1997~~ 1999.

This section is an interim section effective until July 1, ~~1997~~ 1999.

Sec. 3705.24. (A) Except as otherwise provided in this division or division ~~(H)~~(G) of this section, the fee for a certified copy of a vital record or for a certification of birth shall be five dollars plus any fee required by section 3109.14 of the Revised Code. Except as provided in section 3705.241 of the Revised Code, the fee for a certified copy of a vital record or for a certification of birth issued by the office of vital statistics shall be an amount prescribed by the public health council plus any fee required by section 3109.14 of the Revised Code. The fee for a certified copy of a vital record or for a certification of birth issued by a health district shall be an amount prescribed in accordance with section 3709.09 of the Revised Code plus any fee required by section 3109.14 of the Revised Code. No certified copy of a vital record or certification of birth shall be issued without payment of the fee unless otherwise specified by statute.

For a special search of the files and records to determine a date or place contained in a record on file, the office of vital statistics shall charge a fee of three dollars for each hour or fractional part of an hour required for the search.

(B) Except as otherwise provided in division ~~(H)~~(G) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(C) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of

the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(D) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(E) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(F) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(G) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section

3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division ~~(H) of this section~~ shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

Sec. 3719.02. A person may cultivate, grow, or by other process produce or manufacture, and a person on land owned, occupied, or controlled by such person may knowingly allow to be cultivated, grown, or produced, any controlled substance if the person first obtains a license as a manufacturer of controlled substances from the state board of pharmacy.

All licenses issued pursuant to this section shall be for a period of one year from the last day of June and may be renewed for a like period annually according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

The annual license fee shall be ~~twenty-five~~ thirty-seven dollars and fifty cents and shall accompany each application for a license or renewal thereof. A license that has not been renewed by the first day of August in any year may be reinstated upon payment of the renewal fee and a penalty of ~~thirty-seven~~ fifty-five dollars ~~and fifty cents~~.

The state board of pharmacy, subject to the approval of the controlling board, may establish a fee in excess of the amount provided in this section, provided that the fee does not exceed the amount established by this section by more than fifty per cent.

Sec. 3719.021. Persons other than a licensed manufacturer, pharmacist, or owner of a pharmacy who possess for sale, sell, or dispense controlled substances at wholesale shall first obtain a license as a wholesaler of controlled substances from the state board of pharmacy.

All licenses issued pursuant to this section shall be for a period of one year from the thirtieth day of June and may be renewed for a like period annually according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.

The annual license fee shall be ~~twenty-five~~ thirty-seven dollars and fifty cents and shall accompany each application for such license or renewal thereof. All such renewal fees shall be paid in advance by the renewal

applicant to the treasurer of state, and entered by the treasurer of state on the records of the state board of pharmacy. A license that has not been renewed by the first day of August in any year may be reinstated upon payment of the renewal fee and a penalty of ~~thirty-seven~~ fifty-five dollars ~~and fifty cents~~.

The state board of pharmacy, subject to the approval of the controlling board, may establish a fee in excess of the amount provided in this section, provided that the fee does not exceed the amount established by this section by more than fifty per cent.

Sec. 3729.40. (A) The Ohio health care data center shall conduct annually a survey of the educational background, demographic characteristics, and professional practices of persons licensed, certified, or registered by the following: the chiropractic examining board; the counselor and social worker board; the state medical board; the board of nursing; the Ohio occupational therapy, physical therapy, and athletic trainers board; the state board of optometry; and the state board of psychology. The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code governing the information to be included in the survey and the process for conducting it. The department of administrative services shall provide the Ohio health care data center with the full names, types of licenses, and business addresses, that the central service agency maintains under section 125.22 of the Revised Code regarding persons licensed, certified, or registered by the boards specified in this division. The state medical board shall provide the center with similar information regarding persons licensed, certified, or registered by the board. The survey results shall be used exclusively for statistical purposes and shall be released only in their entirety.

(B) Each medical school in this state shall disclose annually to the center, in the form and manner prescribed by the center, all of the following information:

(1) The number of entering medical students, according to state and county of residence prior to entering;

(2) The number of graduates entering primary care medical residencies in comparison with those entering specialized fields, according to location and type of residency;

(3) The number of its graduates completing either primary care or specialty residencies who:

(a) Proceed directly to practice, according to state and county of practice;

(b) Proceed directly to specialty residency or fellowships.

(4) The number of its graduates completing specialty residency

hips who proceed to practice, according to state and county of practice.

(C) Each school of nursing and school of allied health education in this state that awards baccalaureate degrees shall disclose annually to the center, in the form and manner prescribed by the center, all of the following information:

(1) The number of baccalaureate graduates who proceed directly to practice, according to state and county of practice;

(2) The number of baccalaureate graduates who proceed directly to post-baccalaureate training;

(3) The number of its baccalaureate graduates who complete post-baccalaureate training and proceed to practice, according to state and county of practice.

Sec. 3734.18. (A) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which the hazardous waste facility board has issued a hazardous waste facility installation and operation permit or the director of environmental protection has issued a renewal permit pursuant to section 3734.05 of the Revised Code:

(1) For disposal facilities that are off-site facilities as defined in division (E) of section 3734.02 of the Revised Code, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, as defined in division (E) of section 3734.02 of the Revised Code, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty thousand dollars, and the maximum annual fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by deep well injection is one hundred thousand dollars. The maximum annual disposal fee for a satellite facility that disposes of one hundred thousand tons or less of hazardous waste in a year is thirty-seven thousand five hundred dollars, and the maximum annual

disposal fee for a satellite facility that disposes of more than one hundred thousand tons of hazardous waste in a year is seventy-five thousand dollars, except that a satellite facility defined under division (E)(3)(b) of section 3734.02 of the Revised Code that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The owner or operator shall pay the fee to the director each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that it is late.

(B) There are hereby levied fees at the rate of two dollars per ton on hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities, as defined in division (E) of section 3734.02 of the Revised Code, to which the hazardous waste facility board has issued a hazardous waste facility installation and operation permit or the director has issued a renewal permit, or that are not subject to the hazardous waste facility installation and operation permit requirements under rules adopted by the director.

(C) ~~Notwithstanding the fees specified in divisions (A) and (B) of this section, the fees levied on hazardous waste generated outside the boundaries of this state that is treated or disposed of at a facility within this state shall be an amount equal to the fee applicable to the waste if it were treated or disposed of in the state where it was generated.~~

~~(D)~~ There are hereby levied additional fees on the treatment and disposal of hazardous waste at the rate of ten per cent of the applicable ~~fee~~ fees prescribed in division (A)~~,~~ or (B)~~, or (C)~~ of this section for the purposes of paying the costs of municipal corporations and counties for conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an

unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit ~~was~~ during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs within the municipal corporation through employees of the municipal corporation or pursuant to contracts entered into with persons or political subdivisions. Moneys received by a board of county commissioners under this division shall be paid into a special fund of the county and used exclusively for those purposes within the unincorporated area of the county through employees of the county or pursuant to contracts entered into with persons or political subdivisions.

~~(E)~~(D) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by ~~divisions~~ division (B) ~~and (C)~~ of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

~~(F)~~(E) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (A)~~,~~ and (B)~~, and (C)~~ of this section into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code, to

the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (A)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency and the hazardous waste facility board may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board for ~~such~~ that use on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund.

~~During the period ending two years after the effective date of this amendment~~ until September 28, 1996, the director also may use moneys in the fund to pay the start-up costs of administering Chapter 3746. of the Revised Code. Not later than ~~three~~ thirteen years after so using any such moneys, ending on June 30, 2008, the director shall reimburse the fund in the amount of moneys so used with moneys from the voluntary action program administration fund created in section 3746.16 of the Revised Code. Beginning in fiscal year 1999, the amount that is reimbursed in each fiscal year shall not exceed two hundred eighty thousand three hundred twenty-eight dollars.

If moneys in the hazardous waste facility management fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund. If moneys in the fund that the agency uses to pay the state's long-term operation and maintenance costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, are reimbursed by grants or other moneys from any person, the reimbursed moneys shall be placed in the fund for reuse as the state's long term operation and maintenance costs or matching share for such actions and not in the general revenue fund or the hazardous waste

clean-up fund created in section 3734.28 of the Revised Code.

Before the agency makes any expenditure from the hazardous waste facility management fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency in accordance with this section, the controlling board shall approve the expenditure.

Sec. 3734.57. (A) For the purposes of paying the state's long-term operation costs or matching share for actions taken under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended; paying the costs of measures for proper clean-up of sites where polychlorinated biphenyls and substances, equipment, and devices containing or contaminated with polychlorinated biphenyls have been stored or disposed of; paying the costs of conducting surveys or investigations of solid waste facilities or other locations where it is believed that significant quantities of hazardous waste were disposed of and for conducting enforcement actions arising from the findings of such surveys or investigations; and paying the costs of acquiring and cleaning up, or providing financial assistance for cleaning up, any hazardous waste facility or solid waste facility containing significant quantities of hazardous waste, that constitutes an imminent and substantial threat to public health or safety or the environment; and, from July 1, 1995, through June 30, 1997, for the purposes of paying the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code, the following fees are hereby levied on the disposal of solid wastes in this state:

(1) One dollar per ton on and after July 1, 1993;

(2) An additional seventy-five cents per ton on and after July 1, ~~1995~~ 1997, through June 30, ~~1997~~ 1999.

The owner or operator of a solid waste disposal facility shall collect the fees levied under this division as a trustee for the state and shall prepare and file with the director of environmental protection monthly returns indicating the total tonnage of solid wastes received for disposal at the gate of the facility and the total amount of the fees collected under this division. Not later than thirty days after the last day of the month to which such a return applies, the owner or operator shall mail to the director the return for that

month together with the fees collected during that month as indicated on the return. The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within sixty days after the last day of the month during which they were collected, the owner or operator shall pay an additional fifty per cent of the amount of the fees for each month that they are late.

One-half of the moneys remitted to the director under division (A)(1) of this section shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, and one-half shall be credited to the hazardous waste clean-up fund created in section 3734.28 of the Revised Code. The moneys remitted to the director under division (A)(2) of this section shall be credited to the solid waste fund, which is hereby created in the state treasury. The environmental protection agency shall use moneys in the solid waste fund only to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and rules adopted under them and to pay a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be added to any other fee or amount specified in a contract that is charged by the owner or operator of a solid waste disposal facility or to any other fee or amount that is specified in a contract entered into on or after March 4, 1992, and that is charged by a transporter of solid wastes.

(B) For the purpose of preparing, revising, and implementing the solid waste management plan of the county or joint solid waste management district, including, without limitation, the development and implementation of solid waste recycling or reduction programs; providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for the enforcement of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits

issued under those provisions; providing financial assistance to the county to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan; paying the costs incurred by boards of health for collecting and analyzing water samples from public or private wells on lands adjacent to solid waste facilities that are contained in the approved or amended plan of the district; paying the costs of developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan; providing financial assistance to boards of health within the district for enforcing laws prohibiting open dumping; providing financial assistance to local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

If any such fees are levied prior to January 1, 1994, fees levied under

division (B)(1) of this section always shall be equal to one-half of the fees levied under division (B)(2) of this section, and fees levied under division (B)(3) of this section, which shall be in addition to fees levied under division (B)(2) of this section, always shall be equal to fees levied under division (B)(1) of this section, except as otherwise provided in this division. The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. Although the fees under divisions (A)(1) and (2) of this section are levied on the basis of tons as the unit of measurement, the solid waste management plan of the district and any amendments to it or the solid waste management policy committee in its resolution levying fees under this division may direct that the fees levied under those divisions be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes if the fees under divisions (B)(1) to (3) of this section are being levied on the basis of cubic yards as the unit of measurement under the plan, amended plan, or resolution.

On and after January 1, 1994, the fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section, except as otherwise provided in this division and notwithstanding any schedule of those fees established in the solid waste management plan of a county or joint district approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that is in effect on that date. If the fee that a district is levying under division (B)(1) of this section on that date under its approved plan or such a resolution is less than one dollar per ton, the fee shall be one dollar per ton on and after January 1, 1994, and if the fee that a district is so levying under that division exceeds two dollars per ton, the fee shall be two dollars per ton on and after that date. If the fee that a district is so levying under division (B)(2) of this section is less than two dollars per ton, the fee shall be two dollars per ton on and after that date, and if the fee that the district is so levying under that division exceeds four dollars per ton, the fee shall be four dollars per ton on and after that date. On that date, the fee

levied by a district under division (B)(3) of this section shall be equal to the fee levied under division (B)(1) of this section. Except as otherwise provided in this division, the fees established by the operation of this amendment shall remain in effect until the district's resolution levying fees under this division is amended or repealed in accordance with this division to amend or abolish the schedule of fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so established commences, or collection of the fees ceases, in accordance with this division.

The solid waste management policy committee of a district levying fees under divisions (B)(1) to (3) of this section on October 29, 1993, under its solid waste management plan approved under section 3734.55 of the Revised Code or a resolution adopted and ratified under this division that are within the ranges of rates prescribed by this amendment, by adoption of a resolution not later than December 1, 1993, and without the necessity for ratification of the resolution under this division, may amend those fees within the prescribed ranges, provided that the estimated revenues from the amended fees will not substantially exceed the estimated revenues set forth in the district's budget for calendar year 1994. Not later than seven days after the adoption of such a resolution, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the adoption of the resolution and of the amount of the amended fees. Collection of the amended fees shall take effect on the first day of the first month following the month in which the notification is sent to the owner or operator. The fees established in such a resolution shall remain in effect until the district's resolution levying fees that was adopted and ratified under this division is amended or repealed, and the amendment or repeal of the resolution is ratified, in accordance with this division, to amend or abolish the fees, the schedule of fees is amended or abolished in an amended plan of the district approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or the schedule of fees is amended or abolished through an amendment to the district's plan under division (E) of section 3734.56 of the Revised Code; the notification of the amendment or abolishment of the fees has been given in accordance with this division; and collection of the amended fees so

established commences, or collection of the fees ceases, in accordance with this division.

Prior to the approval of the solid waste management plan of the district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees.

In the case of a county district or a joint district formed by two or three counties, the committee shall declare the proposed revised fees to be ratified

as the fee schedule of the district upon determining that the board of county commissioners of each county forming the district has approved the proposed revised fees and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the district comprising at least sixty per cent of the total population of the district have approved the proposed revised fees, provided that in the case of a county district, that combination shall include the municipal corporation having the largest population within the boundaries of the district, and provided further that in the case of a joint district formed by two or three counties, that combination shall include for each county forming the joint district the municipal corporation having the largest population within the boundaries of both the county in which the municipal corporation is located and the joint district. In the case of a joint district formed by four or more counties, the committee shall declare the proposed revised fees to be ratified as the fee schedule of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.

For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

The committee may amend the schedule of fees levied pursuant to a resolution or amended resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may abolish the fees levied pursuant to such a resolution or amended resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the fees or amended fees to

be ratified under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees. Collection of any fees or amended fees ratified on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after declaring the repeal of the district's schedule of fees to be ratified under this division, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the repeal. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees levied by the district, or the ratification of an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code that establishes or amends a schedule of fees, as appropriate, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees or amended fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that establishes or amends a schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees or amended fees. Collection of any fees set forth in a plan or amended plan approved by the director on or after April 16, 1993, or an amendment of a plan or amended plan under division (E) of section 3734.56 of the Revised Code that is ratified on or after April 16, 1993, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

Not later than fourteen days after the director issues an order approving a district's plan under section 3734.55 of the Revised Code or amended plan under division (A) or (D) of section 3734.56 of the Revised Code that

abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section, or an amendment to the district's approved plan or amended plan abolishing the schedule of fees is ratified pursuant to division (E) of section 3734.56 of the Revised Code, as appropriate, the committee shall notify by certified mail the owner or operator of each facility that is collecting the fees of the approval of the plan or amended plan, or the amendment of the plan or amended plan, as appropriate, and the abolishment of the fees. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, that abolishes the schedule of fees levied under divisions (B)(1) to (3) of this section by a district resulting from the change, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the abolishment of the fees. Collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Except as otherwise provided in this division, if the schedule of fees that a district is levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of the district approved under section 3734.55 of the Revised Code, an amended plan approved under division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to the district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, is amended by the adoption and ratification of an amendment to the resolution or amended resolution or an amendment of the district's approved plan or amended plan, the fees in effect immediately prior to the approval of the plan or the amendment of the resolution, amended resolution, plan, or amended plan, as appropriate, shall continue to be collected until collection of the amended fees commences pursuant to this division.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail

e owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the abolishment of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of the notice. If such an initial or amended plan abolishes a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the abolishment of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan abolishes a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

In the case of a change in district composition, the schedule of fees that the former districts that existed prior to the change were levying under divisions (B)(1) to (3) of this section pursuant to a resolution or amended resolution adopted and ratified under this division, the solid waste management plan of a former district approved under section 3734.521 or 3734.55 of the Revised Code, an amended plan approved under section 3734.521 or division (A) or (D) of section 3734.56 of the Revised Code, or an amendment to a former district's approved plan or amended plan under division (E) of section 3734.56 of the Revised Code, and that were in effect on the date that the director completed the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code shall continue to be

collected until the collection of the fees or amended fees of the districts resulting from the change is required to commence, or if an initial or amended plan of a resulting district abolishes a schedule of fees, collection of the fees is required to cease, under this division. Moneys so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or abolished is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its

ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) Are disposed of at facilities that exclusively dispose of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment

facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under division (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility where the ash or other solid wastes are disposed of.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the clerk of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or such other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the clerk of the township under that division shall be paid into the general fund of the township. The treasurer or such other officer of the municipal corporation or the clerk, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate

and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from such fees shall be expended for such purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to

(10) of this section.

(H) The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations or to the clerks of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section. Collection of the fees levied under division (A)(1) of this section shall commence on July 1, 1993. Collection of the fees levied under division (A)(2) of this section shall commence on January 1, 1994.

Sec. 3734.82. (A) The annual fee for a scrap tire recovery facility license issued under section 3734.81 of the Revised Code shall be in accordance with the following schedule:

Daily Design Input Capacity (Tons)	Annual License Fee
1 or less	$ 100
2 to 25	500
26 to 50	1,000
51 to 100	1,500
101 to 200	2,500
201 to 500	3,500
501 or more	5,500

For the purpose of determining the applicable license fee under this division, the daily design input capacity shall be the quantity of scrap tires the facility is designed to process daily as set forth in the registration certificate or permit for the facility, and any modifications to the permit, if applicable, issued under section 3734.78 of the Revised Code.

(B) The annual fee for a scrap tire monocell or monofill facility license shall be in accordance with the following schedule:

Authorized Maximum Daily Waste Receipt (Tons)	Annual License Fee
100 or less	$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under this

division, the authorized maximum daily waste receipt shall be the maximum amount of scrap tires the facility is authorized to receive daily that is established in the permit for the facility, and any modification to that permit, issued under section 3734.77 of the Revised Code.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the annual fee for a scrap tire storage facility license shall equal one thousand dollars times the number of acres on which scrap tires are to be stored at the facility during the license year, as set forth on the application for the annual license, except that the total annual license fee for any such facility shall not exceed three thousand dollars.

(2) The annual fee for a scrap tire storage facility license for a storage facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is one hundred dollars.

(D)(1) Except as otherwise provided in division (D)(2) of this section, the annual fee for a scrap tire collection facility license is two hundred dollars.

(2) The annual fee for a scrap tire collection facility license for a collection facility that is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code is fifty dollars.

(E) Except as otherwise provided in divisions (C)(2) and (D)(2) of this section, the same fees apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after the issuance of a license. The fees include the cost of licensing, all inspections, and other costs associated with the administration of the scrap tire provisions of this chapter and rules adopted under them. Each license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director of environmental protection, as appropriate, within thirty days after the issuance of the license.

(F) The board of health shall retain fifteen thousand dollars of each license fee collected by the board under division (B) of this section, or the entire amount of any such fee that is less than fifteen thousand dollars, and the entire amount of each license fee collected by the board under divisions (A), (C), and (D) of this section. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the scrap tire provisions of this chapter and rules adopted under them. The remainder, if any, of each license fee collected by the board under division (B) of this section shall be transmitted to the director within forty-five days after receipt of the fee.

(G) The director shall transmit the moneys received by ~~him~~ the director from license fees collected under division (B) of this section to the treasurer

of state to be credited to the scrap tire management fund, which is hereby created in the state treasury. The fund shall consist of all federal moneys received by the environmental protection agency for the scrap tire management program; all grants, gifts, and contributions made to the director for that program; and all other moneys that may be provided by law for that program. The director shall use moneys in the fund as follows:

(1) Expend ~~not more than sixty-eight thousand dollars during fiscal year 1994, and~~ not more than seven hundred fifty thousand dollars during each fiscal year ~~thereafter,~~ to implement, administer, and enforce the scrap tire provisions of this chapter and rules adopted under them;

(2) ~~Beginning six months after the effective date of this section, and annually thereafter for five~~ for fiscal years 1998 and 1999, grant not more than one hundred fifty thousand dollars during each fiscal year to the polymer institute at the university of Akron for the purpose of expediting research concerning and evaluation of alternative methods of recycling scrap tires. The institute shall report to the director annually concerning research programs under review, and the results of scrap tire recycling experiments conducted, by or in conjunction with the institute. The university shall report to the director biennially concerning the expenditures of moneys received by the institute under ~~this~~ division (G)(2) of this section.

(3) ~~Annually~~ During each of fiscal years 1998, 1999, and 2000, request the ~~office~~ director of budget and management to, and the ~~office~~ director of budget and management shall, transfer one million dollars to the facilities establishment fund created in section 166.03 of the Revised Code for the purposes specified in that section ~~the following amounts:~~

~~(a) During fiscal year 1994, one million dollars;~~

~~(b) During fiscal year 1995, one million six hundred thousand dollars. If, during fiscal year 1995, more than three million five hundred thousand dollars are credited to the scrap tire management fund, any moneys in excess of that amount also shall be so transferred to the facilities establishment fund.~~

~~(c) During fiscal year 1996, no moneys~~;

~~(d) During fiscal year 1997 and each subsequent fiscal year, one million dollars.~~

(4) ~~Expend no moneys during fiscal year 1994 to conduct removal operations under section 3734.85 of the Revised Code. During fiscal year 1995, the director shall expend not more than one million dollars to conduct removal operations under that section. During fiscal year 1996, the director shall expend not more than two million six hundred thousand dollars to conduct removal operations under that section, provided that if, during fiscal~~

~~year 1996, more than three million five hundred thousand dollars are credited to the fund, the director shall expend during fiscal year 1996 any moneys in excess of that amount to conduct removal operations under that section.~~ Except as otherwise provided in division (H)(2) of this section, ~~the director shall~~ expend not more than ~~one~~ three million ~~six hundred thousand~~ dollars during each of fiscal ~~year 1997 and any subsequent fiscal year~~ years 1998, 1999, and 2000 to conduct removal actions under ~~that~~ section 3734.85 of the Revised Code. Prior to using any moneys in the fund for that purpose in a fiscal year, the director shall request the approval of the controlling board for that use of the moneys. The request shall be accompanied by a plan describing the removal actions to be conducted during the fiscal year and an estimate of the costs of conducting them. The controlling board shall approve the plan only if the board finds that the proposed removal actions are in accordance with the priorities set forth in division (B) of section 3734.85 of the Revised Code and that the costs of conducting them are reasonable.

(5) Annually transfer to the central support indirect fund created in section 3745.014 of the Revised Code an amount equal to not more than twelve per cent of each fiscal year's appropriation to the scrap tire management fund.

(H)(1) If, during fiscal year ~~1997 or a subsequent fiscal year~~ 1998, 1999, or 2000, more than three million five hundred thousand dollars are credited to the scrap tire management fund, the director, at the conclusion of the fiscal year, shall request the ~~office~~ director of budget and management to, and the ~~office~~ director of budget and management shall, transfer to the facilities establishment fund one-half of the moneys credited to the scrap tire management fund in excess of that amount.

(2) ~~If, during fiscal year 1997, more than three million five hundred thousand dollars are credited to the scrap tire management fund, the director, in addition to the amount authorized under division (G)(4) of this section, shall expend one-half of the excess amount credited to the fund to conduct removal operations under section 3734.85 of the Revised Code. Thereafter~~ In each of fiscal years 1998, 1999, and 2000, if~~, during the preceding fiscal year,~~ more than three million five hundred thousand dollars are credited to the scrap tire management fund during the preceding fiscal year, the director, in addition to the amount authorized under division (G)(4) of this section, shall expend during the current fiscal year one-half of that excess amount to conduct removal operations under ~~that~~ section 3734.85 of the Revised Code.

Sec. 3734.904. (A) By the twentieth day of each month, each person

required to pay the fee imposed by section 3734.901 of the Revised Code shall file with the treasurer of state a return as prescribed by the tax commissioner and shall make payment of the full amount of the fee due for the preceding month after deduction of any discount provided for under division (E) of this section. The return shall be signed by the person required to file it, or an authorized employee, officer, or agent. The treasurer shall mark on the return the date it was received and indicate payment or nonpayment of the fee shown to be due on the return. The treasurer immediately shall transmit all returns to the tax commissioner. The return shall be deemed filed when received by the treasurer of state.

(B) Any person required by this section to file a return who fails to file such a return within the period prescribed shall pay an additional charge of fifty dollars or ten per cent of the fee required to be paid for the reporting period, whichever is greater. The commissioner may collect the additional charge by assessment pursuant to section 3734.907 of the Revised Code. The commissioner may remit all or a portion of the additional charge and may adopt rules relating thereto.

(C) If any fee due is not paid timely in accordance with this section, the person liable for the fee shall pay interest, calculated at the rate per annum as prescribed by section 5703.47 of the Revised Code, from the date the fee payment was due to the date of payment~~. The~~ or to the date an assessment is issued, whichever occurs first. Interest shall be paid in the same manner as the fee, and the commissioner may collect the interest by assessment pursuant to section 3734.907 of the Revised Code.

(D) If, in the estimation of the tax commissioner, the average liability of the person liable for the fee is such as not to merit monthly filing, the commissioner may authorize the person to file and pay at less frequent intervals. Returns are due by the twentieth day of the month following the close of the applicable reporting period authorized under this division.

(E) If a return is filed and the amount of the fee shown to be due on the return is paid on or before the date that the return is required to be filed under division (A) of this section or pursuant to division (D) of this section, whichever is applicable, the person liable for the fee is entitled to a discount of four per cent of the amount shown to be due on the return.

Sec. 3734.907. (A) Any person required to pay the fee imposed by section 3734.901 of the Revised Code is personally liable for the fee. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any fee, interest, or additional charge as required by sections 3734.90 to 3734.9014 of the Revised Code. The commissioner shall give the person

assessed written notice of the assessment by personal service or certified mail. ~~Any fee assessed shall continue to accrue interest as prescribed in division (C) of section 3734.904 of the Revised Code.~~

(B) When the information in the possession of the tax commissioner indicates that a person liable for the fee imposed by section 3734.901 of the Revised Code has not paid the full amount of fee due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on the audit.

(C) A penalty of fifteen per cent shall be added to all amounts assessed under this section. The commissioner may adopt rules providing for the remission of the penalties.

(D) Unless the person assessed files with the tax commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing by the person assessed or ~~his~~ the person's authorized agent having knowledge of the facts, the assessment becomes ~~conclusive~~ final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections to the assessment of the person assessed, but additional objections may be raised in writing prior to the date shown on the final determination of the tax commissioner. The commissioner shall grant the petitioner a hearing on the petition, unless waived by the petitioner.

The commissioner may make any correction to the assessment that ~~he~~ the commissioner finds proper and shall issue ~~his~~ A final determination thereon. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner either by personal service or by certified mail, and ~~his~~ the commissioner's decision in the matter is final, subject to appeal under section 5717.02 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which ~~his~~ the person's business is conducted. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state against the person assessed in the amount shown to be due. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state tire fee~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request

of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~

The portion of the assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner and all laws applicable to sales on execution are applicable to sales made under the judgment~~ From the day the tax commissioner issues the assessment until the day the assessment is paid. Interest shall be paid in the same manner as the fee and may be collected by the issuance of an assessment under this section.

(F) If the commissioner believes that collection of the fee will be jeopardized unless proceedings to collect or secure collection of the fee are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the fee. Upon issuance of the jeopardy assessment, the commissioner immediately shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or ~~his~~ the person's legal representative within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the commissioner under this section shall be paid to the treasurer of state as revenue arising from the fee imposed by section 3734.901 of the Revised Code.

Sec. 3737.02. (A) The fire marshal may collect fees to cover the costs of performing inspections and other duties that ~~he~~the fire marshal is authorized or required by law to perform. Except as provided in division (B) of this section, all fees collected by the fire marshal shall be deposited to the credit of the fire marshal's fund.

(B) Fees collected under sections 3737.88 and 3737.881 of the Revised Code for operation of the underground storage tank and underground storage tank installer certification programs, moneys recovered under section 3737.89 of the Revised Code for the state's costs of undertaking corrective or enforcement actions under that section or section 3737.882 of

the Revised Code, and fines and penalties collected under section 3737.882 of the Revised Code shall be credited to the underground storage tank administration fund, which is hereby created in the state treasury. All interest earned on moneys credited to the underground storage tank administration fund shall be credited to the fund. Moneys credited to the underground storage tank administration fund shall be used by the fire marshal for implementation and enforcement of underground storage tank, corrective action, and installer certification programs under sections 3737.88 to 3737.89 of the Revised Code.

(C) The fire marshal shall take all actions necessary to obtain any federal funding available to carry out ~~his~~ the fire marshal's responsibilities under sections 3737.88 to 3737.89 of the Revised Code and federal laws regarding the cleaning up of releases of petroleum, as "release" is defined in section 3737.87 of the Revised Code, including, without limitation, any federal funds that are available to reimburse the state for the costs of undertaking corrective actions for such releases of petroleum. The state may, when appropriate, return to the United States any federal funds recovered under sections 3737.882 and 3737.89 of the Revised Code.

Sec. 3743.01. As used in this chapter:

(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.

(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(D) ~~"Class C fireworks" means fireworks classified as Class C fireworks by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code~~ (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.

(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion,

deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.

(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(H) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to sections 3743.50 to 3743.55 of the Revised Code.

(J) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to sections 3743.02 to 3743.08 of the Revised Code.

(K) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to sections 3743.15 to 3743.21 of the Revised Code.

(L) "List of licensed exhibitors" means the list required by division (C) of section 3743.51 of the Revised Code.

(M) "List of licensed manufacturers" means the list required by division (C) of section 3743.03 of the Revised Code.

(N) "List of licensed wholesalers" means the list required by division (C) of section 3743.16 of the Revised Code.

(O) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(P) "Navigable waters" means any body of water susceptible of being used in its ordinary condition as a highway of commerce over which trade and travel is or may be conducted in the customary modes, but does not include a body of water that is not capable of navigation by barges, tugboats, and other large vessels.

(Q) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which

paper streamers are expelled when the item is ignited.

(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(Z) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

(AA) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks ~~that he purchases~~ so purchased.

(BB) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(CC) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

Sec. 3743.02. (A) Any person who wishes to manufacture fireworks in this state shall submit to the fire marshal an application for licensure as a manufacturer of fireworks before the first day of ~~December~~October of each year. The application shall be submitted prior to the operation of a fireworks plant, shall be on a form prescribed by the fire marshal, shall contain all information required by this section or requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and ~~bond, letter of credit, certificate of deposit, or~~ proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a manufacturer of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a manufacturer of fireworks shall submit with the application ~~both~~ all of the following:

(1) A license fee of ~~one~~ two thousand ~~five~~ seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections;

(2) ~~An indemnity bond, with surety satisfactory to the fire marshal, or a letter of credit or certificate of deposit, in such amounts as may be determined by the fire marshal not in excess of fifty thousand dollars nor less than twenty thousand dollars, conditioned for the payment of all final judgments that may be rendered against the manufacturer on account of an explosion at the fireworks plant, or proof of insurance coverage of at least five hundred thousand dollars for liability arising from an explosion at the fireworks plant~~ Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises and products, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at the fireworks plant. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A separate application for licensure as a manufacturer of fireworks shall be submitted for each fireworks plant that a person wishes to operate in this state.

(D) If an applicant intends to include the processing of fireworks as any part of its proposed manufacturing of fireworks, a statement indicating that intent shall be included in its application for licensure.

Sec. 3743.03. (A) If a person submits an application for licensure as a manufacturer of fireworks, together with the license fee, fingerprints, and ~~bond, letter of credit, certificate of deposit, or~~ proof of the insurance coverage, as required by section 3743.02 of the Revised Code, the fire marshal shall review the application and accompanying matter, request the criminal records check described in division (E) of this section, inspect the premises of the fireworks plant described in the application, and determine whether the applicant will be issued the license. In determining whether to issue the license, the fire marshal shall consider the results of the criminal records check and the inspection, and the information set forth in the application, and shall decide whether the applicant and the fireworks plant described in the application conform to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code, and are in full compliance with Chapters 3781. and 3791. of the Revised Code, and any applicable building or zoning regulations.

(B) ~~The~~ Subject to section 3743.70 of the Revised Code, the fire marshal shall issue a license ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code to an applicant for licensure as a manufacturer of fireworks only if the applicant and the fireworks plant described in the application conform to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code, only if the fireworks plant described in the application complies with the Ohio building code adopted under Chapter 3781. of the Revised Code, if that fireworks plant was constructed after May 30, 1986, and only if the fire marshal is satisfied that the application and accompanying matter are complete and in conformity with section 3743.02 of the Revised Code. The requirements of this chapter and of the rules adopted under this chapter as applicable to the structure of a building do not apply to a building in a fireworks plant if the building was inspected and approved by the department of industrial relations or by any building department certified pursuant to division (E) of section 3781.10 of the Revised Code prior to May 30, 1986.

(C) Each license issued pursuant to this section shall contain a distinct number assigned to the licensed manufacturer and, if the licensed manufacturer will engage in the processing of fireworks as any part of its manufacturing of fireworks at the fireworks plants, a notation indicating that fact. The fire marshal shall maintain a list of all licensed manufacturers of fireworks. In the list next to each manufacturer's name, the fire marshal shall insert the period of licensure, the license number of the manufacturer, and, if

applicable, a notation that the manufacturer will engage in the processing of fireworks as part of its manufacturing of fireworks.

(D) The holder of a license issued pursuant to this section may request the fire marshal to cancel that license and issue in its place a license to sell fireworks at wholesale under section 3743.16 of the Revised Code. Upon receipt of such a request, the fire marshal shall cancel the license issued under this section and issue a license under section 3743.16 of the Revised Code if the applicant meets the requirements of that section.

(E) Upon receipt of an application and the required accompanying matter under section 3743.02 of the Revised Code, the fire marshal shall forward to the superintendent of the bureau of criminal identification and investigation a request that the bureau conduct an investigation of the applicant and, if applicable, additional individuals who hold, own, or control a five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted OF OR pled guilty to a felony under the laws of this state, another state, or the United States.

If the applicant for initial licensure has resided in this state for less than five continuous years immediately prior to the date the applicant submits an initial application, the superintendent also shall request that the federal bureau of investigation conduct an investigation of the applicant and, if applicable, additional individuals who hold, own, or control a five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted OF OR pled guilty to a felony under the laws of this state, another state, or the United States.

The superintendent shall forward the results of an investigation conducted pursuant to this division to the fire marshal and may charge a reasonable fee for providing the results. The fire marshal shall assess any fee charged by the superintendent for the results to the applicant.

Sec. 3743.04. (A) The license of a manufacturer of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a manufacturer of fireworks wishes to continue manufacturing fireworks at the designated fireworks plant after its then effective license expires, it shall apply no later than the first day of October for a new license pursuant to section 3743.02 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed manufacturer at least ~~two~~ three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed manufacturer of fireworks wishes to construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, to make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or to change the nature of its manufacturing of fireworks so as to include the processing of fireworks, the manufacturer shall notify the fire marshal in writing. The fire marshal may require a licensed manufacturer also to submit documentation, including, but not limited to, plans covering the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks, if ~~he~~ the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises of the fireworks plant to determine if the proposed construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to sections 3743.02 to 3743.08 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code. The fire marshal shall issue a written authorization to the manufacturer for the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks if ~~he~~ the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction, location, relocation, structural change or renovation, or change in manufacturing of fireworks conforms to those sections and rules. Upon authorizing a change in manufacturing of fireworks to include the processing of fireworks, the fire marshal shall make notations on the manufacturer's license and in the list of licensed manufacturers in accordance with section 3743.03 of the Revised Code.

On or before June 1, 1998, a licensed manufacturer shall install, in every licensed building in which fireworks are manufactured, stored, or displayed

and to which the public has access, interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance, and shall comply with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the fire marshal and superintendent, and that are submitted under seal as required by section 3791.04 of the Revised Code. Notwithstanding section 3743.59 of the Revised Code, the construction and safety requirements established in this division are not subject to any variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on ~~the effective date of this amendment may~~ JUNE 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those ~~he~~ the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from ~~those premises~~ the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than ~~Class C~~ 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including ~~such Class C~~ 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state

provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on ~~the effective date of this amendment~~ JUNE 14, 1988, may also possess for sale and sell pursuant to division (C)(3) of this section fireworks other than those ~~he~~ the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from ~~those premises~~ the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

A licensed manufacturer of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D) The license of a manufacturer of fireworks shall be protected under glass and posted in a conspicuous place on the premises of the fireworks plant. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same fireworks plant for which the license was issued if the assets of the plant are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.08 of the Revised Code.

(E) The fire marshal shall not place the license of a manufacturer of fireworks in a temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed manufacturer of fireworks that possesses fireworks for sale and sells fireworks under division (C) of section 3743.04 of the Revised Code, or a designee of the manufacturer, whose identity is provided to the fire marshal by the manufacturer, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed manufacturer or the manufacturer's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed manufacturer regarding the information obtained in the program. A licensed manufacturer shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

(G) A licensed manufacturer shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.02 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to CANCELING or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed manufacturer shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed manufacturer who secures supplemental insurance shall file evidence of the SUPPLEMENTAL insurance with the fire marshal prior to CANCELING or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

Sec. 3743.05. The fire marshal shall adopt rules ~~pursuant to~~in accordance with Chapter 119. of the Revised Code governing the classification of fireworks that are consistent with the classification of fireworks by the United States department of transportation as set forth in Title 49, Code of Federal Regulations, and the manufacture of fireworks and the storage of manufactured fireworks by licensed manufacturers of fireworks. The rules shall be designed to promote the safety and security of employees of manufacturers, members of the public, and the fireworks plant.

The rules shall be consistent with sections 3743.02 to 3743.08 of the Revised Code, shall be ~~limited~~ substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

(A) A classification of fireworks by number and letter designation, including, specifically, a ~~Class C~~ 1.4G designation of fireworks. The classes of fireworks established by the fire marshal shall be substantially equivalent to those defined by the United States department of transportation by regulation, except that, if the fire marshal determines that a type of fireworks designated as common fireworks by the United States department of transportation meets the criteria of any class of fireworks, other than ~~Class C~~ 1.4G fireworks, as adopted by the fire marshal pursuant to this section, the fire marshal may include the type of fireworks in the other class instead of ~~Class C~~ 1.4G.

(B) Appropriate standards for the manufacturing of types of fireworks that are consistent with standards adopted by the United States department of transportation and the consumer product safety commission, including, but not limited to, the following:

(1) Permissible amounts of pyrotechnic or explosive composition;

(2) Interior and exterior dimensions;

(3) Structural specifications.

(C) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures located on the premises of a fireworks plant.

(D) Appropriate uniforms to be worn by employees of manufacturers in the course of the manufacturing, handling, and storing of fireworks, and the use of protective clothing and equipment by the employees.

(E) The manner in which fireworks are to be packed, packaged, and

stored.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the premises.

(C) Smoking or the carrying of ~~lighted~~ pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks ~~take~~ takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) No building used in the manufacture, storage, or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks manufacturer, or nearer than three hundred feet to any highway or railroad, or nearer than one hundred feet to any building used for the storage of explosives or fireworks, or nearer than fifty feet to any factory building. This division does not apply to factory buildings in fireworks plants that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire

marshal as of December 1, 1990, pursuant to sections 3743.03 and 3743.04 of the Revised Code.

(H) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(I) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(J) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as

to prevent ignition prior to sale.

(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. the officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

(1) a deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;

(3) a private uniformed security guard registered under section 4749.06 of the Revised Code.

(N) all doors of all buildings on the licensed premises shall swing outward.

(O) all wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. for purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.07. (A) Licensed manufacturers of fireworks shall keep complete records of all fireworks in their inventory.

(B) Licensed manufacturers of fireworks shall keep the following records with respect to fireworks sold at wholesale or retail for a period of three years after the date of their sale:

(1) In the case of a wholesale sale, the name and address of the purchaser; the destination to which the fireworks will be transported; if applicable, the number of the purchaser's wholesale license; the date of purchase; when the fireworks are to be shipped directly out of this state by a manufacturer to a purchaser, the manner in which the fireworks were shipped to the purchaser; and such other information as the fire marshal may require.

(2) In the case of a retail sale, the name and address of the purchaser; the destination to which the fireworks will be transported; if applicable, the number of the purchaser's exhibitor's license and the number and political subdivision designation of the purchaser's permit for a fireworks exhibition; the date of purchase; when the fireworks are shipped directly out of this state by a manufacturer to a purchaser, the manner in which the fireworks were shipped to the purchaser; and such other information as the fire marshal may require.

(C) The seller shall require each purchaser described in division (B) of this section to complete a purchaser's form, which shall be ~~furnished~~ prescribed by the fire marshal and furnished by the seller. On this form the purchaser shall include the information described in division (B) of this section and the purchaser's signature. Each purchaser's form shall contain a statement printed in bold letters indicating that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code and is a misdemeanor of the first degree. Each seller shall keep each purchaser's form for a period of three years after the date of the purchase, and such forms shall be open to inspection by the fire marshal or the fire marshal's designated authority.

(D) A licensed manufacturer of fireworks shall keep its wholesale sale and retail sale records in separate books. These records and the inventory records shall be open to inspection by the fire marshal or the fire marshal's designated authority.

Sec. 3743.08. (A) The fire marshal may inspect the premises of a fireworks plant, and the inventory, wholesale sale, and retail sale records, of a licensed manufacturer of fireworks during the manufacturer's period of licensure to determine whether the manufacturer is in compliance with ~~sections 3743.02 to 3743.08~~Chapter 3743. of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code.

(B) If the fire marshal determines during an inspection conducted pursuant to division (A) of this section that a manufacturer is not in compliance with ~~sections 3743.02 to 3743.08~~ Chapter 3743. of the Revised Code or the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code, ~~he~~ the fire marshal may take one or more of the following actions, whichever ~~he~~ the fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the manufacturer to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the manufacturer to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the fireworks plant is located an injunction restraining the manufacturer from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) Revoke or deny renewal of the license of the manufacturer ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a manufacturer of fireworks is revoked or renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the Revised Code, the manufacturer shall cease its operations immediately. The manufacturer may not reapply for licensure as a manufacturer of fireworks until two years expire from the date of revocation.

The fire marshal shall remove from the list of licensed manufacturers the name of a manufacturer whose license has been revoked, and shall notify

the law enforcement authorities for the political subdivision in which the manufacturer's fireworks plant is located, of the revocation or denial of renewal.

Sec. 3743.15. (A) Except as provided in division (C) of this section, any person who wishes to be a wholesaler of fireworks in this state shall submit to the fire marshal an application for licensure as a wholesaler of fireworks before the first day of ~~December~~October of each year. The application shall be submitted prior to commencement of business operations, shall be on a form prescribed by the fire marshal, shall contain all information requested by the fire marshal, and shall be accompanied by the license fee, fingerprints, and ~~bond, letter of credit, certificate of deposit, or~~ proof of insurance coverage described in division (B) of this section.

The fire marshal shall prescribe a form for applications for licensure as a wholesaler of fireworks and make a copy of the form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a wholesaler of fireworks shall submit with the application ~~both~~ all of the following:

(1) A license fee of ~~one~~ two thousand ~~five~~ seven hundred fifty dollars, which the fire marshal shall use to pay for fireworks safety education, training programs, and inspections;

(2) ~~An indemnity bond, with surety satisfactory to the fire marshal, or a letter of credit or certificate of deposit, in such amounts as may be determined by the fire marshal not in excess of fifty thousand dollars nor less than twenty thousand dollars, conditioned for the payment of all final judgments that may be rendered against the wholesaler on account of an explosion at its business location, or proof of insurance coverage of at least five hundred thousand dollars for liability arising from an explosion at its business location~~ Proof of comprehensive general liability insurance coverage, specifically including fire and smoke casualty on premises, in an amount not less than one million dollars for each occurrence for bodily injury liability and wrongful death liability at its business location. Proof of such insurance coverage shall be submitted together with proof of coverage for products liability on all inventory located at the business location. All applicants shall submit evidence of comprehensive general liability insurance coverage verified by the insurer and certified as to its provision of the minimum coverage required under this division.

(3) One complete set of the applicant's fingerprints and a complete set of fingerprints of any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license.

(C) A licensed manufacturer of fireworks is not required to apply for and obtain a wholesaler of fireworks license in order to engage in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code. A business which is not a licensed

manufacturer of fireworks may engage in the wholesale and retail sale of fireworks in the same manner as a licensed manufacturer of fireworks is authorized to do under this chapter without the necessity of applying for and obtaining a license pursuant to this section, but only if the business sells the fireworks on the premises of a fireworks plant covered by a license issued under section 3743.03 of the Revised Code and the holder of that license owns at least a majority interest in that business. However, if a licensed manufacturer of fireworks wishes to engage in the wholesale sale of fireworks in this state at a location other than the premises of the fireworks plant described in its application for licensure as a manufacturer or in a notification submitted under division (B) of section 3743.04 of the Revised Code, the manufacturer shall first apply for and obtain a wholesaler of fireworks license before engaging in wholesale sales of fireworks at the other location.

(D) A separate application for licensure as a wholesaler of fireworks shall be submitted for each location at which a person wishes to engage in wholesale sales of fireworks.

Sec. 3743.16. (A) If a person submits an application for licensure as a wholesaler of fireworks, together with the license fee, fingerprints, and ~~bond, letter of credit, certificate of deposit, or~~ proof of the insurance coverage, as required by section 3743.15 of the Revised Code, the fire marshal shall review the application and accompanying matter, request the criminal records check described in division (D) of this section, inspect the premises on which the fireworks would be sold, and determine whether the applicant will be issued the license. In determining whether to issue the license, the fire marshal shall consider the results of the criminal records check and the inspection, and the information set forth in the application, and shall decide whether the applicant and the premises on which the fireworks will be sold conform to sections 3743.15 to 3743.21 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code, and are in full compliance with Chapters 3781. and 3791. of the Revised Code, and any applicable building or zoning regulations.

(B) ~~The~~ Subject to section 3743.70 of the Revised Code, the fire marshal shall issue a license ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code to the applicant for licensure as a wholesaler of fireworks only if the applicant and the premises on which the fireworks will be sold conform to sections 3743.15 to 3743.21 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code, only if the premises on which the fireworks will be sold complies with the Ohio building code adopted under Chapter 3781. of the Revised Code, if that premises was constructed after May 30, 1986, and only if the fire marshal is satisfied that the application and accompanying matter are complete and in conformity with section 3743.15 of the Revised Code. The requirements of this chapter and of the rules adopted under this chapter as applicable to the structure of a building do not apply to a building used by a wholesaler if the building was inspected and approved by the department of industrial relations or by any building department certified pursuant to division (E) of section 3781.10 of the Revised Code prior to May 30, 1986.

(C) Each license issued pursuant to this section shall contain a distinct number assigned to the particular wholesaler. The fire marshal shall maintain a list of all licensed wholesalers of fireworks. In this list next to each wholesaler's name, the fire marshal shall insert the period of licensure and the license number of the particular wholesaler.

(D) Upon receipt of an application and the required accompanying matter under section 3743.15 of the Revised Code, the fire marshal shall forward to the superintendent of the bureau of criminal identification and

investigation a request that the bureau conduct an investigation of the applicant and, if applicable, additional individuals who hold, own, or control a five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted OF OR pled guilty to a felony under the laws of this state, another state, or the United States.

If the applicant for initial licensure has resided in this state for less than five continuous years immediately prior to the date the applicant submits an initial application, the superintendent also shall request that the federal bureau of investigation conduct an investigation of the applicant and, if applicable, additional individuals who hold, own, or control a five per cent or greater beneficial or equity interest in the applicant, to determine whether the applicant or the additional associated individuals have been convicted OF OR pled guilty to a felony under the laws of this state, another state, or the United States.

The superintendent shall forward the results of an investigation conducted pursuant to this division to the fire marshal and may charge a reasonable fee for providing the results. The fire marshal shall assess any fee charged by the superintendent for the results to the applicant.

Sec. 3743.17. (A) The license of a wholesaler of fireworks is effective for one year beginning on the first day of December. The fire marshal shall issue or renew a license only on that date and at no other time. If a wholesaler of fireworks wishes to continue engaging in the wholesale sale of fireworks at the particular location after its then effective license expires, it shall apply not later than the first day of October for a new license pursuant to section 3743.15 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed wholesaler at least ~~two~~ three months before the expiration date.

(B) If, during the effective period of its licensure, a licensed wholesaler of fireworks wishes to perform any construction, or make any structural change or renovation, on the premises on which the fireworks are sold, the wholesaler shall notify the fire marshal in writing. The fire marshal may require a licensed wholesaler also to submit documentation, including, but not limited to, plans covering the proposed construction or structural change or renovation, if the fire marshal determines the documentation is necessary for evaluation purposes in light of the proposed construction or structural change or renovation.

Upon receipt of the notification and additional documentation required by the fire marshal, the fire marshal shall inspect the premises on which the fireworks are sold to determine if the proposed construction or structural change or renovation conforms to sections 3743.15 to 3743.21 of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code. The fire marshal shall issue a written authorization to the wholesaler for the construction or structural change or renovation if ~~he~~ the fire marshal determines, upon the inspection and a review of submitted documentation, that the construction or structural change or renovation conforms to those sections and rules.

(C) The license of a wholesaler of fireworks authorizes the wholesaler to engage only in the following activities:

(1) Possess for sale at wholesale and sell at wholesale fireworks to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from ~~that location~~ the inside of a licensed building and from no structure or device outside a licensed building. At no time shall a licensed wholesaler sell any

class of fireworks outside a licensed building.

(2) Possess for sale at retail and sell at retail fireworks, other than ~~Class C~~ 1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail fireworks, including ~~such Class C~~ 1.4G fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the wholesaler. The possession for sale shall be at the location described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from ~~that location~~ the inside of the licensed building and from no other structure or device outside this licensed building. At no time shall a licensed wholesaler sell any class of fireworks outside a licensed building.

A licensed wholesaler of fireworks shall sell under division (C) of this section only fireworks that meet the standards set by the consumer product safety commission or by the American fireworks standard laboratories or that have received an EX number from the United States department of transportation.

(D)(1) The license of a wholesaler of fireworks shall be protected under glass and posted in a conspicuous place at the location described in the application for licensure or in the notification submitted under division (B) of this section. Except as otherwise provided in this division, the license is not transferable or assignable. A license may be transferred to another person for the same location for which the license was issued if the assets of the wholesaler are transferred to that person by inheritance or by a sale approved by the fire marshal. The license is subject to revocation in accordance with section 3743.21 of the Revised Code.

(2) upon application by a licensed wholesaler of fireworks, a wholesaler license may be transferred from one geographic location to another within the same municipal corporation or within the unincorporated area of the same township, but only if all of the following apply:

(a) the identity of the holder of the license remains the same in the new location.

(b) the former location is closed prior to the opening of the new location and no fireworks business of any kind is conducted at the former location after the transfer of the license.

(c) the new location has received a local certificate of zoning

e and a local certificate of occupancy, and otherwise is in compliance with all local building regulations.

(d) the transfer of the license is requested by the licensee because the existing facility poses an immediate hazard to the public.

(e) any building at the new location is situated no closer than one thousand feet to any property line or structure that does not belong to the licensee requesting the transfer, no closer than three hundred feet to any highway or railroad, no closer than one hundred feet to any building used for the storage of explosives or fireworks by the licensee, no closer than fifty feet to any factory building owned or used by the licensee, and no closer than two thousand feet to any building used for the sale, storage, or manufacturing of fireworks that does not belong to the licensee. If the licensee fails to comply with the requirements of division (D)(2)(e) of this section by the licensee's own act, the license at the new location is forfeited.

(f) neither the licensee nor any person holding, owning, or controlling a five per cent or greater beneficial or equity interest in the licensee has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United states after the effective date of this amendment.

(g) the fire marshal approves the request for the transfer.

the new location shall comply with the requirements specified in divisions (A)(1) and (2) of section 3743.25 of the Revised Code whether or not the fireworks showroom at the new location is constructed, expanded, or first begins operating on and after the effective date of this amendment.

(E) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

(F) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

(G) A licensed wholesaler shall maintain comprehensive general

liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this division shall contain a provision requiring the insurer to give not less than fifteen days' prior written notice to the fire marshal before termination, lapse, or cancellation of the policy, or any change in the policy that reduces the coverage below the minimum required under this division. Prior to CANCELING or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division, a licensed wholesaler shall secure supplemental insurance in an amount and type that satisfies the requirements of this division so that no lapse in coverage occurs at any time. A licensed wholesaler who secures supplemental insurance shall file evidence of the SUPPLEMENTAL insurance with the fire marshal prior to CANCELING or reducing the amount of coverage of any comprehensive general liability insurance coverage required under this division.

Sec. 3743.18. The fire marshal shall adopt rules pursuant to Chapter 119. of the Revised Code governing the storage of fireworks by and the business operations of licensed wholesalers of fireworks. These rules shall be designed to promote the safety and security of employees of wholesalers, members of the public, and the premises upon which fireworks are sold.

The rules shall be consistent with sections 3743.15 to 3743.21 of the Revised Code, shall be ~~limited~~ substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and shall apply to, but not be limited to, the following subject matters:

(A) Cleanliness and orderliness in, the heating, lighting, and use of stoves and flame-producing items in, smoking in, the prevention of fire and explosion in, the availability of fire extinguishers or other fire-fighting equipment and their use in, and emergency procedures relative to the buildings and other structures on a wholesaler's premises.

(B) Appropriate uniforms to be worn by employees of wholesalers in the course of handling and storing of fireworks, and the use of protective clothing and equipment by the employees.

(C) The manner in which fireworks are to be stored.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of ~~lighted~~ pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) No building used in the storage or sale of fireworks shall be situated nearer than one thousand feet to any structure that is not located on the property of and that does not belong to the licensed fireworks wholesaler, nearer than three hundred feet to any highway or railroad, or nearer than one hundred feet to any building used for the storage of explosives or fireworks. This division does not apply to buildings that were erected on or before May 30, 1986, and that were legally being used for fireworks activities under authority of a valid license issued by the fire marshal as of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of the Revised Code.

(I) Each building used in the ~~storage or~~ sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon

application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

(J) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(K) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(L) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(M) if any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(N) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to

the extent the officer is authorized by law, and be one of the following:

(1) A deputy sheriff;

(2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(O) All doors of all buildings on the licensed premises shall swing outward.

(P) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. for purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.20. (A) Licensed wholesalers of fireworks shall keep complete records of all fireworks in their inventory.

(B) Licensed wholesalers of fireworks shall keep the following records with respect to fireworks sold at wholesale or retail for a period of three years after the date of their sale:

(1) In the case of a wholesale sale, the name and address of the purchaser; the destination to which the fireworks will be transported; if applicable, the number of the purchaser's wholesale license; the date of the purchase; when the fireworks are to be shipped directly out of this state by a wholesaler to a purchaser, the manner in which the fireworks were shipped to the purchaser; and such other information as the fire marshal may require;

(2) In the case of a retail sale, the name and address of the purchaser; the destination to which the fireworks will be transported; if applicable, the number of the purchaser's exhibitor's license and the number and political subdivision designation of the purchaser's permit for a fireworks exhibition; the date of purchase; when the fireworks are shipped directly out of this state by a wholesaler to a purchaser, the manner in which the fireworks were shipped to the purchaser; and such other information as the fire marshal may require.

(C) The seller shall require each purchaser described in division (B) of this section to complete a purchaser's form, which shall be ~~furnished~~ prescribed by the fire marshal and furnished by the seller. On this form the purchaser shall include the information described in division (B) of this section and the purchaser's signature. Each purchaser's form shall contain a statement printed in bold letters indicating that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code and is a misdemeanor of the first degree. Each seller shall keep each purchaser's form for a period of three years after the date of the purchase, and such forms shall be open to inspection by the fire marshal or the fire marshal's designated authority.

(D) A licensed wholesaler of fireworks shall keep its wholesale sale and retail sale records in separate books. These records and the inventory records shall be open to inspection by the fire marshal or the fire marshal's designated authority.

Sec. 3743.21. (A) The fire marshal may inspect the premises, and the inventory, wholesale sale, and retail sale records, of a licensed wholesaler of fireworks during the wholesaler's period of licensure to determine whether the wholesaler is in compliance with ~~sections 3743.15 to 3743.21~~ Chapter 3743. of the Revised Code and the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code.

(B) If the fire marshal determines during an inspection conducted pursuant to division (A) of this section that a wholesaler is not in compliance with ~~sections 3743.15 to 3743.21~~ Chapter 3743. of the Revised Code or the rules adopted by the fire marshal pursuant to section 3743.18 of the Revised Code, ~~he~~ the fire marshal may take one or more of the following actions, whichever ~~he~~ the fire marshal considers appropriate under the circumstances:

(1) Order, in writing, the wholesaler to eliminate, correct, or otherwise remedy the nonconformities within a specified period of time;

(2) Order, in writing, the wholesaler to immediately cease its operations, if a fire or explosion hazard exists that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons. The order shall be effective until the nonconformities are eliminated, corrected, or otherwise remedied or for a period of seventy-two hours from the time of issuance, whichever first occurs. During the seventy-two hour period, the fire marshal may obtain from the court of common pleas of Franklin county or of the county in which the premises of the wholesaler are located an injunction restraining the wholesaler from continuing its operations after the seventy-two hour period expires until the nonconformities are eliminated, corrected, or otherwise remedied.

(3) Revoke, or deny renewal of, the license of the wholesaler ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code;

(4) Take action as authorized by section 3743.68 of the Revised Code.

(C) This section does not affect the authority conferred by Chapters 3781. and 3791. of the Revised Code to conduct inspections to determine conformity with those chapters or the rules adopted pursuant to them.

(D) If the license of a wholesaler of fireworks is revoked or renewal is denied pursuant to division (B)(3) of this section or section 3743.70 of the Revised Code, the wholesaler shall cease its operations immediately. The wholesaler may not reapply for licensure as a wholesaler of fireworks until two years expire from the date of revocation.

The fire marshal shall remove from the list of licensed wholesalers the name of a wholesaler whose license has been revoked ~~or renewal denied~~, and shall notify the law enforcement authorities for the political subdivision

in which the wholesaler's premises are located, of the revocation or denial of renewal.

Sec. 3743.25. (A) A licensed manufacturer, wholesaler, or exhibitor shall bring fireworks showroom structures, to which the public may have any access and in which employees are required to work, on all licensed premises, into compliance with the following safety requirements:

(1) A fireworks showroom that is constructed or upon which expansion is undertaken on and after the effective date of this section, shall be equipped with interlinked fire detection, fire suppression, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance in the department of commerce.

(2) A fireworks showroom that first begins to operate on or after the effective date of this section and to which the public has access for retail purposes shall not exceed five thousand square feet in floor area.

(3) A fireworks showroom structure that exists on the effective date of this section but that, on or after the effective date of this section, is altered or added to in a manner requiring the submission of plans, drawings, specifications, or data pursuant to section 3791.04 of the Revised Code, shall comply with a graphic floor plan layout that is approved by the fire marshal and superintendent of the division of industrial compliance showing width of aisles, parallel arrangement of aisles to exits, number of exits per wall, maximum occupancy load, evacuation plan for occupants, height of storage or display of merchandise, and other information as may be required by the fire marshal and superintendent.

(4)(a) Except as provided in division (A)(4)(b) of this section, a fireworks showroom structure that exists on the effective date of this section shall be retrofitted on or before June 1, 1998, with interlinked fire detection, smoke exhaust, and smoke evacuation systems that are approved by the superintendent of the division of industrial compliance.

(b) If meeting the retrofitting requirements set forth in division (A)(4)(a) of this section would constitute an extreme financial hardship that would force a licensee to terminate business operations, the licensee shall conduct sales only on the basis of de-fused representative samples in closed and covered displays within the fireworks showroom.

(5) A fireworks showroom structure that exists on the effective date of this section shall be in compliance on or before june 1, 1998, with floor plans showing occupancy load limits and internal circulation and egress patterns that are approved by the fire marshal and superintendent of industrial compliance, and that are submitted under seal as required by section 3791.04 of the Revised Code.

(B) The safety requirements established in division (A) of this section are not subject to any variance, waiver, or exclusion pursuant to this chapter

or any applicable building code.

Sec. 3743.40. (A) Any person who resides in another state and who intends to ship fireworks into this state shall submit to the fire marshal an application for a shipping permit. As used in this section, "fireworks" includes only ~~class B~~1.3G and ~~class C~~ 1.4G fireworks. The application shall be submitted prior to shipping fireworks into this state, shall be on a form prescribed by the fire marshal, shall contain the information required by division (B) of this section and all information requested by the fire marshal, and shall be accompanied by the fee and the documentation described in division (C) of this section.

The fire marshal shall prescribe a form for applications for shipping permits and make a copy of the form available, upon request, to persons who seek such a permit.

(B) In an application for a shipping permit, the applicant shall specify the types of fireworks to be shipped into this state.

(C) An application for a shipping permit shall be accompanied by a fee of ~~one~~ two thousand ~~five~~ seven hundred fifty dollars.

An application for a shipping permit shall be accompanied by a certified copy of the applicant's license or permit issued in ~~his~~ the applicant's state of residence and authorizing ~~him~~ the applicant to engage in the manufacture, wholesale sale, or transportation of fireworks in that state, if that state issues such a license or permit, and by a statement by the applicant that ~~he~~ the applicant understands and will abide by rules adopted by the fire marshal pursuant to section 3743.58 of the Revised Code for transporting fireworks.

(D) Except as otherwise provided in this division, and subject to section 3743.70 of the Revised Code, the fire marshal shall issue a shipping permit to an applicant only if the fire marshal determines that the applicant is a resident of another state and is the holder of a license or permit issued by that state authorizing it to engage in the manufacture, wholesale sale, or transportation of fireworks in that state, and the fire marshal is satisfied that the application and documentation are complete and in conformity with this section and that the applicant will transport fireworks into this state in accordance with rules adopted by the fire marshal pursuant to section 3743.58 of the Revised Code. The fire marshal shall issue a shipping permit to an applicant if the applicant meets all of the requirements of this section for the issuance of a shipping permit except that the applicant does not hold a license or permit issued by the state of residence authorizing the applicant to engage in the manufacture, wholesale sale, or transportation of fireworks in that state because that state does not issue such a license or permit.

(E) Each permit issued pursuant to this section shall contain a distinct number assigned to the particular permit holder, and contain the information

described in division (B) of this section.

The fire marshal shall maintain a list of all persons issued shipping permits. In this list next to each person's name, the fire marshal shall insert the date upon which the permit was issued and the information described in division (B) of this section.

(F) A shipping permit is valid for one year from the date of issuance by the fire marshal and only if the permit holder ships the fireworks directly into this state to the holder of a license issued under section 3743.03 or 3743.16 of the Revised Code. The permit authorizes the permit holder to ship fireworks directly to the holder of a license issued under section 3743.03 or 3743.16 of the Revised Code, and to possess the fireworks in this state while the permit holder is in the course of shipping them directly into this state.

The holder of a shipping permit shall have the permit in ~~his~~ the holder's possession in this state at all times while in the course of shipping the fireworks directly into this state. A shipping permit is not transferable or assignable.

Sec. 3743.44. (A) Any person who resides in another state and who intends to obtain possession in this state of fireworks purchased in this state shall obtain possession of the fireworks only from a licensed manufacturer or licensed wholesaler and only possess the fireworks in this state while in the course of directly transporting them out of this state. No licensed manufacturer or licensed wholesaler shall sell ~~Class B~~1.3G fireworks to a person who resides in another state unless that person has been issued a license or permit in the state of the person's residence that authorizes the person to engage in the manufacture, wholesale sale, or retail sale of ~~Class B~~ 1.3G fireworks or that authorizes the person to conduct ~~Class B~~ 1.3G fireworks exhibitions in that state and that person presents a certified copy of the license. No licensed manufacturer or licensed wholesaler shall sell fireworks to a person who resides in another state unless that person has been issued a license or permit in the state of the person's residence that authorizes the person to engage in the manufacture, wholesale sale, or retail sale of fireworks in that state or that authorizes the person to conduct fireworks exhibitions in that state and that person presents a certified copy of the license, or, if that person does not possess a license or permit of that nature, only if the person presents a current valid motor vehicle operator's license issued to the person in the person's state of residence, or, if that person does not possess a motor vehicle operator's license issued in that state, an identification card issued to the person by a governmental agency in the person's state of residence indicating that the person is a resident of that state. If a person who is required to present a motor vehicle operator's license or other identification card intends to transport the fireworks purchased directly out of this state by a motor vehicle and the person will not also be the operator of that motor vehicle while so transporting the fireworks, the operator of the motor vehicle also shall present the operator's motor vehicle operator's license.

(B) A licensed manufacturer or licensed wholesaler selling fireworks under this section shall require the purchaser to complete a purchaser's form. The ~~state~~ fire marshal shall prescribe the form, and the licensed manufacturer or licensed wholesaler shall furnish the form. On this form the purchaser shall include the purchaser's name and address; the date of the purchase; the destination to which the fireworks will be transported; the number of the purchaser's license or permit authorizing the purchaser to manufacture, sell at wholesale, or sell at retail fireworks or to conduct fireworks exhibitions, or the number of the purchaser's motor vehicle operator's license or other identification card, as applicable; such other information as the fire marshal may require; and the purchaser's signature.

Each purchaser's form shall contain a statement printed in bold letters indicating that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code and is a misdemeanor of the first degree.

Each licensed manufacturer and licensed wholesaler shall keep each purchaser's form for a period of three years after the date of the purchase, and such forms shall be open to inspection by the fire marshal or the fire marshal's designated authority.

(C) Each purchaser of fireworks under this section shall transport the fireworks so purchased directly out of this state within seventy-two hours after the time of their purchase.

This section regulates wholesale sales and retail sales of fireworks in this state only insofar as purchasers of fireworks are residents of other states and will be obtaining possession in this state of purchased fireworks. This section does not prohibit licensed manufacturers or wholesalers from selling fireworks, in accordance with section 3743.04 or 3743.17 of the Revised Code, to a resident of another state and from shipping the purchased fireworks directly out of this state to the purchaser.

Sec. 3743.45. (A) Any person who resides in this state and who intends to obtain possession in this state of ~~Class C~~ 1.4G fireworks purchased in this state shall obtain possession of the ~~Class C~~ 1.4G fireworks only from a licensed manufacturer or licensed wholesaler.

A licensed manufacturer or licensed wholesaler selling ~~Class C~~ 1.4G fireworks under this division shall require the purchaser to complete a purchaser's form, which shall be ~~furnished~~ prescribed by the state fire marshal and furnished by the licensed manufacturer or licensed wholesaler. On this form the purchaser shall include the purchaser's name and address~~;~~, the date of the purchase~~;~~, the destination to which the fireworks will be transported~~;~~, such other information as the fire marshal may require~~;~~, and the purchaser's signature. Each purchaser's form shall contain a statement printed in bold letters indicating that knowingly making a false statement on the form is falsification under section 2921.13 of the Revised Code and is a misdemeanor of the first degree.

Each licensed manufacturer and licensed wholesaler shall keep each purchaser's form for a period of three years after the date of the purchase, and such forms shall be open to inspection by the fire marshal or the fire marshal's designated authority.

Each purchaser of ~~Class C~~ 1.4G fireworks under this division shall transport the fireworks so purchased directly out of this state within forty-eight hours after the time of their purchase.

This division does not apply to a person who resides in this state and who is also a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

(B) No licensed manufacturer or licensed wholesaler shall sell ~~Class B~~ 1.3G fireworks to a person who resides in this state unless that person is a licensed manufacturer, licensed wholesaler, or licensed exhibitor of fireworks in this state.

Sec. 3743.50. Any person who wishes to be an exhibitor of fireworks in this state shall submit to the fire marshal an application for licensure as an exhibitor of fireworks. Except as otherwise provided in this section, the application shall be on a form prescribed by the fire marshal, ~~shall~~ contain all information requested by the fire marshal, and ~~shall~~ be accompanied by a fee of one hundred fifty dollars, except that the application of an applicant who is employed by a licensed manufacturer or wholesaler of fireworks shall be accompanied by a fee of fifty dollars. ~~The fire marshal may issue a temporary exhibitor's license to conduct a public fireworks exhibition on only one date to an otherwise qualified applicant for a fee of ten dollars. The temporary exhibitor's license authorizes the person to whom it is issued to conduct a public fireworks exhibition only on the date for which it is issued.~~ The fire marshal shall prescribe a form for applications for licensure as an exhibitor of fireworks and make a copy of the form available, upon request, to persons who seek that licensure. An applicant for licensure as an exhibitor of fireworks shall be at least twenty-one years of age and be in compliance with Chapter 4123. of the Revised Code.

Sec. 3743.51. (A) If a person submits an application for licensure as an exhibitor of fireworks, together with the fee, as required by section 3743.50 of the Revised Code, the fire marshal shall review the application and determine whether the applicant satisfies sections 3743.50 to 3743.55 of the Revised Code and the rules adopted by the fire marshal pursuant to division (A) of section 3743.53 of the Revised Code.

(B) ~~The~~ Subject to section 3743.70 of the Revised Code, the fire marshal shall issue a license ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code to the applicant for licensure as an exhibitor of fireworks only if the applicant satisfies sections 3743.50 to 3743.55 of the Revised Code and the rules adopted by the fire marshal pursuant to division (A) of section 3743.53 of the Revised Code, and only if the fire marshal is satisfied that the application is complete and in conformity with section 3743.50 of the Revised Code.

(C) Each license issued pursuant to this section shall contain a distinct number assigned to the particular exhibitor. The fire marshal shall maintain a list of all licensed exhibitors of fireworks. In this list next to each exhibitor's name, the fire marshal shall insert the period of licensure and the license number of the particular exhibitor.

Sec. 3743.52. (A) The license of an exhibitor of fireworks~~, except for a temporary license,~~ is effective for one year from the date of its issuance by the fire marshal. If an exhibitor of fireworks wishes to continue as an exhibitor after its then effective license expires, it shall apply for a new license pursuant to section 3743.50 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed exhibitor~~, except for a licensed exhibitor who has been issued a temporary license,~~ at least two months before the expiration date.

(B) The license of an exhibitor of fireworks authorizes the exhibitor to conduct public fireworks exhibitions in this state if it complies with sections 3743.50 to 3743.55 of the Revised Code and with the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

The license is not transferable or assignable, and is subject to revocation as provided in section 3743.70 of the Revised Code or pursuant to Chapter 119. of the Revised Code if the exhibitor fails to comply with sections 3743.50 to 3743.55 of the Revised Code or the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

If the license of an exhibitor is revoked, the exhibitor shall cease conducting public fireworks exhibitions immediately. The exhibitor may not reapply for licensure as an exhibitor of fireworks until two years expire from the date of revocation. The fire marshal shall remove from the list of licensed exhibitors the exhibitor's name, and shall notify fire chiefs, fire prevention officers, and police chiefs in this state of the revocation.

(C) Each licensed exhibitor of fireworks or a designee of the exhibitor, whose identity is provided to the fire marshal by the exhibitor, shall attend a continuing education program consisting of not less than six hours of instruction once every three years. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed exhibitor or the exhibitor's designee who attends a program as required under this division, within one year after attending the program, and on an annual basis during the following two years, shall conduct in-service training for other employees of the licensee regarding the information obtained in the program. A licensed exhibitor shall provide the fire marshal with certified proof of full compliance with all applicable annual training requirements of the United States department of transportation and of the occupational safety and health administration. A licensed exhibitor shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event. An individual exhibitor who has no employees shall not fulfill continuing education requirements through a designee.

Sec. 3743.53. (A) The fire marshal shall adopt rules ~~pursuant to~~in accordance with Chapter 119. of the Revised Code that establish qualifications that all applicants for licensure as an exhibitor of fireworks shall satisfy. These rules shall be designed to provide a reasonable degree of assurance that individuals conducting public fireworks exhibitions in this state are proficient in handling and discharging fireworks, are capable of handling the responsibilities associated with exhibitions as prescribed by rule of the fire marshal pursuant to division (B) of this section or as prescribed by sections 3743.50 to 3743.55 of the Revised Code, and will conduct fireworks exhibitions in a manner that emphasizes the safety and security of the public. The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code and may include, in addition to other requirements prescribed by the fire marshal, a requirement that the applicant for licensure successfully complete a written examination or otherwise successfully demonstrate its proficiency in the handling and discharging of fireworks in a safe manner and its ability to handle the responsibilities associated with exhibitions.

(B) The fire marshal shall adopt rules ~~pursuant to~~ in accordance with Chapter 119. of the Revised Code that govern the nature and conduct of public fireworks exhibitions by licensed exhibitors of fireworks. These rules shall be designed to promote the safety and security of persons viewing a fireworks exhibition, to promote the safety of persons who, although not viewing an exhibition, could be affected by fireworks used at it, and to promote the safety and security of exhibitors and their assistants.

The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code, be ~~limited~~ substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards, and apply to, but not be limited to, the following subject matters:

(1) The construction of shells used in a fireworks exhibition;

(2) The storage and supervision of fireworks pending their use in, and during the course of, a fireworks exhibition, and inspections by exhibitors of fireworks to be used in an exhibition prior to their use. These rules shall regulate, among other relevant matters, the storage of fireworks in manners that will effectively eliminate or reduce the likelihood of the fireworks becoming wet or being exposed to flame, and appropriate distances between storage sites and the sites at which fireworks will be discharged.

(3) The installation and nature of mortars used in a fireworks exhibition, and inspections by exhibitors of mortars prior to their use;

(4) Minimum distances between storage sites, discharge sites, spectator

viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures;

(5) The nature of discharge sites and potential landing sites;

(6) Fire protection, the use and location of monitors for crowd control, the use of fences and rope barriers for crowd control, illumination, smoking and the use of open flame, and posting of warning signs concerning smoking or the use of open flame in connection with fireworks exhibitions. These rules may provide some authority to local officials in determining adequate fire protection, and numbers and locations of monitors.

(7) Procedures to be followed in the discharging of fireworks;

(8) Weather and crowd-related conditions under which fireworks may and may not be discharged, including circumstances under which exhibitions should be postponed;

(9) Inspections of premises following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. Inspections shall be required immediately following an exhibition, and, if an exhibition is conducted at night, also at sunrise the following morning.

(C) All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with chapter 1123 of the most recent edition of the national fire protection association standards.

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code. A licensed exhibitor shall not acquire, for any purpose, ~~Class C~~1.4G fireworks as designated by the fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief and the police chief of the particular municipal corporation;

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the approval shall be obtained from the fire chief of the particular township or township fire district and the police chief of the particular township or township police district;

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and the police chief of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief of the political subdivision providing the police services and the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief and police chief of the political subdivisions providing the police and fire protection services;

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township police district police department, and no contract for police or fire protection services between political subdivisions covering the premises on which the exhibition will take place, the approval shall be obtained from the fire prevention officer and law enforcement officer having jurisdiction over the

premises.

(2) The approval required by division (B)(1) of this section shall be evidenced by the fire chief or fire prevention officer and the police chief signing a permit for the exhibition. The fire marshal shall prescribe the form of exhibition permits and distribute copies of the form to fire chiefs, fire prevention officers, and police chiefs in this state. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the fire marshal or, if it is available, from a fire chief, fire prevention officer, or police chief.

(C) Before signing a permit and issuing it to a licensed exhibitor of fireworks, a fire chief or fire prevention officer and the police chief shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show ~~his~~ the applicant's license as an exhibitor of fireworks to the fire chief or fire prevention officer and the police chief.

The fire chief or fire prevention officer and the police chief shall give ~~his~~ approval to conduct a public fireworks exhibition only if ~~he is~~ satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the fire marshal pursuant to division (B) of section 3743.53 of the Revised Code and that the applicant is, in fact, a licensed exhibitor of fireworks. The fire chief or fire prevention officer and the police chief may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(D) If the legislative authorities of their political subdivisions have prescribed a fee for the issuance of a permit for a public fireworks exhibition, fire chiefs or fire prevention officers and police chiefs shall not issue a permit until the exhibitor pays the requisite fee.

Each exhibitor shall provide an indemnity bond in the amount of at least one ~~hundred thousand~~ million dollars, with surety satisfactory to the fire chief or fire prevention officer and the police chief, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one ~~hundred thousand~~ million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition. The legislative authority of a political subdivision in which a public fireworks exhibition will take place may require the exhibitor to provide an indemnity bond or

proof of insurance coverage in amounts greater than those required by this division. Fire chiefs or fire prevention officers and police chiefs shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the political subdivision in which the fireworks exhibition will take place.

(E)(1) Each permit for a fireworks exhibition issued by a fire chief or fire prevention officer and the police chief shall contain a distinct number, ~~together with a designation of~~ designate the municipal corporation, township, or township fire or police district of the fire chief or fire prevention officer and the police chief, and identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the fire chief or fire prevention officer and the police chief issuing it to the fire marshal, who shall keep a record of the permits ~~he receives~~ received. A permit is not transferable or assignable.

(2) Each fire chief, fire prevention officer, and police chief shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief, fire prevention officer, or police chief shall list the name of the exhibitor, ~~his~~ the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(F) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified fire safety inspector, fire chief, or fire prevention officer be present before, during, and after the exhibition, and shall require the certified fire safety inspector, fire chief, or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter.

Sec. 3743.56. Each fireworks exhibitor licensed under section 3743.51 of the Revised Code shall register with the fire marshal all employees who assist the licensed exhibitor in conducting fireworks exhibitions. The fire marshal shall maintain a record of each licensed exhibitor and registered employee and make it available, upon request, to any law enforcement agency. The fire marshal shall adopt rules that establish appropriate fees for the registration of employees of a licensed exhibitor. A licensed exhibitor shall file an application to register a new employee not later than seven days after the date on which the employee is hired.

Sec. 3743.58. The fire marshal shall adopt rules governing the transportation of fireworks on the highways of this state. These rules shall be substantially equivalent to regulations of the United States department of transportation governing the transportation of fireworks, and to the fireworks transportation provisions of the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards. Fireworks shall be transported on the highways of this state only in accordance with such rules. Such rules shall not require that shipments of fireworks required by this Chapter to be made directly out of state be made solely by common carriers licensed by the federal government. No requirements of this Chapter that fireworks be shipped or transported directly out of this state require that these shipments be made personally by the seller or solely by common carriers licensed by the federal government.

Sec. 3743.59. (A) Upon application by an affected party, the ~~state~~ fire marshal may grant variances from the requirements of this chapter or from the requirements of rules adopted pursuant to this chapter if ~~he~~ the fire marshal determines that a literal enforcement of the requirement will result in unnecessary hardship and that the variance will not be contrary to the public health, safety, or welfare. A variance shall not be granted to a person who is initially licensed as a manufacturer or wholesaler of fireworks after ~~the effective date of this amendment~~ June 14, 1988.

(B) The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who submits proof that the person is certified and in good standing with the Ohio state board of education, provided that the pyrotechnic compounds are used for educational PURPOSES only, or are used only at an authorized educational function approved by the governing board that exercises authority over the educational function.

(C) The fire marshal may authorize a variance from the prohibitions in this chapter against the possession and use of pyrotechnic compounds to a person who possesses and uses the pyrotechnic compounds for personal and noncommercial purposes as a hobby. The fire marshal may rescind a variance authorized under this division at any time, exclusively at the fire marshal's discretion.

Sec. 3743.60. (A) No person shall manufacture fireworks in this state unless it is a licensed manufacturer of fireworks, and no person shall operate a fireworks plant in this state unless it has been issued a license as a manufacturer of fireworks for the particular fireworks plant.

(B) No person shall operate a fireworks plant in this state after its license as a manufacturer of fireworks for the particular fireworks plant has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed manufacturer of fireworks, during the effective period of its licensure, shall construct, locate, or relocate any buildings or other structures on the premises of its fireworks plant, make any structural change or renovation in any building or other structure on the premises of its fireworks plant, or change the nature of its manufacturing of fireworks so as to include the processing of fireworks without first obtaining a written authorization from the fire marshal pursuant to division (B) of section 3743.04 of the Revised Code.

(D) No licensed manufacturer of fireworks shall manufacture fireworks, possess fireworks for sale at wholesale or retail, or sell fireworks at wholesale or retail, in a manner not authorized by division (C) of section 3743.04 of the Revised Code.

(E) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the fire marshal pursuant to section 3743.05 of the Revised Code or the requirements of section 3743.06 of the Revised Code.

(F) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale, and retail records as required by section 3743.07 of the Revised Code, or to permit inspection of these records or the premises of a fireworks plant pursuant to section 3743.08 of the Revised Code.

(G) No licensed manufacturer of fireworks shall fail to comply with an order of the fire marshal issued pursuant to division (B)(1) of section 3743.08 of the Revised Code, within the specified period of time.

(H) No licensed manufacturer of fireworks shall fail to comply with an order of the fire marshal issued pursuant to division (B)(2) of section 3743.08 of the Revised Code until the nonconformities are eliminated, corrected, or otherwise remedied or the seventy-two hour period specified in that division has expired, whichever first occurs.

(I) No person shall smoke or shall carry a ~~lighted~~ pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks

plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to division (C) of section 3743.06 of the Revised Code.

(J) No person shall have ~~in his~~ possession or ~~under his~~ control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance, while ~~he is~~ on the premises of a fireworks plant.

Sec. 3743.61. (A) No person, except a licensed manufacturer of fireworks engaging in the wholesale sale of fireworks as authorized by division (C)(2) of section 3743.04 of the Revised Code, shall operate as a wholesaler of fireworks in this state unless it is a licensed wholesaler of fireworks, or shall operate as a wholesaler of fireworks at any location in this state unless it has been issued a license as a wholesaler of fireworks for the particular location.

(B) No person shall operate as a wholesaler of fireworks at a particular location in this state after its license as a wholesaler of fireworks for the particular location has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed wholesaler of fireworks, during the effective period of its licensure, shall perform any construction, or make any structural change or renovation, on the premises on which the fireworks are sold without first obtaining a written authorization from the fire marshal pursuant to division (B) of section 3743.17 of the Revised Code.

(D) No licensed wholesaler of fireworks shall possess fireworks for sale at wholesale or retail, or sell fireworks at wholesale or retail, in a manner not authorized by division (C) of section 3743.17 of the Revised Code.

(E) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the fire marshal pursuant to section 3743.18 or the requirements of section 3743.19 of the Revised Code.

(F) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale, and retail records as required by section 3743.20 of the Revised Code, or to permit inspection of these records or the premises of the wholesaler pursuant to section 3743.21 of the Revised Code.

(G) No licensed wholesaler of fireworks shall fail to comply with an order of the fire marshal issued pursuant to division (B)(1) of section 3743.21 of the Revised Code, within the specified period of time.

(H) No licensed wholesaler of fireworks shall fail to comply with an order of the fire marshal issued pursuant to division (B)(2) of section 3743.21 of the Revised Code until the nonconformities are eliminated, corrected, or otherwise remedied or the seventy-two hour period specified in that division has expired, whichever first occurs.

(I) No person shall smoke or shall carry a ~~lighted~~ pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to division (D) of section 3743.19 of the Revised Code.

(J) No person shall have ~~in his~~ possession or ~~under his~~ control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance, while ~~he is~~ on the premises of a wholesaler of fireworks.

Sec. 3743.64. (A) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state unless ~~it~~the person is a licensed exhibitor of fireworks.

(B) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state after ~~its~~ the person's license as an exhibitor of fireworks has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed exhibitor of fireworks shall fail to comply with the rules adopted by the fire marshal pursuant to division (B) of section 3743.53 of the Revised Code or to comply with divisions (C) and (D) of that section.

(D) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to section 3743.54 of the Revised Code or if a permit so secured is revoked by a fire chief or fire prevention officer and police chief pursuant to that section.

(E) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with sections 3743.54 and 3743.55 of the Revised Code.

(F) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have ~~in his~~ possession or ~~under his~~ control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(G) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the fire marshal under section 3743.56 of the Revised Code.

Sec. 3743.65. (A) No person shall possess fireworks in this state or shall possess for sale or sell fireworks in this state, except a licensed manufacturer of fireworks as authorized by sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by section 3743.40 of the Revised Code, an out-of-state resident as authorized by section 3743.44 of the Revised Code, a resident of this state as authorized by section 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by sections 3743.50 to 3743.55 of the Revised Code, and except as provided in section 3743.80 of the Revised Code.

(B) Except as provided in section 3743.80 of the Revised Code and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to sections 3743.50 to 3743.55 of the Revised Code, no person shall discharge, ignite, or explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(D) No person shall sell fireworks of any kind to a person under eighteen years of age.

(E) No person shall advertise ~~Class C~~ 1.4G fireworks for sale. A sign located on a seller's premises identifying the seller as a seller of fireworks is not the advertising of fireworks for sale.

(F) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess ~~class B~~ 1.3G fireworks in this state.

(G) Except as otherwise provided in division (K) of section 3743.06 and division (L) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

Sec. 3743.66. (A) No person shall transport fireworks in this state except in accordance with rules adopted by the fire marshal pursuant to section 3743.58 of the Revised Code.

(B) As used in this division, "fireworks" includes only ~~Class B~~ 1.3G and ~~Class C~~ 1.4G fireworks. No person shall ship fireworks into this state by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under section 3743.40 of the Revised Code, and the fireworks are shipped directly to the holder of a license issued under section 3743.03, 3743.16, or 3743.51 of the Revised Code.

No person shall ship fireworks within this state by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under section 3743.03, 3743.16, or 3743.51 of the Revised Code.

Sec. 3743.68. (A) The fire marshal, an assistant fire marshal, or a certified fire safety inspector may arrest, or may cause the arrest of, any person ~~who~~whom the fire marshal, assistant fire marshal, or certified fire safety inspector finds in the act of violating, or who the fire marshal, assistant fire marshal, or certified fire safety inspector has reasonable cause to believe has violated, sections 3743.60 to 3743.66 of the Revised Code. Any arrest shall be made in accordance with statutory and constitutional provisions governing arrests by law enforcement officers.

(B) If the fire marshal, an assistant fire marshal, or certified fire safety inspector has probable cause to believe that fireworks are being manufactured, sold, possessed, transported, or used in violation of this chapter, the fire marshal, assistant fire marshal, or certified fire safety inspector may seize the fireworks. Any seizure of fireworks shall be made in accordance with statutory and constitutional provisions governing searches and seizures by law enforcement officers. The fire marshal's or certified fire safety inspector's office shall impound at the site or safely keep seized fireworks pending the time they are no longer needed as evidence. A sample of the seized fireworks is sufficient for evidentiary purposes. The remainder of the seized fireworks may be disposed of pursuant to an order from a court of competent jurisdiction after notice and a hearing.

Fireworks manufactured, sold, possessed, transported, or used in violation of this chapter shall be forfeited by the violator. The fire marshal's or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in section 2933.41 of the Revised Code for the disposal of forfeited property by law enforcement agencies, and the fire marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(C) This section does not affect the authority of a peace officer, as defined in section 2935.01 of the Revised Code, to make arrests for violations of this chapter or to seize fireworks manufactured, sold, possessed, transported, or used in violation of this chapter.

(D) Any fines imposed for a violation of this chapter relating to the sale, purchase, possession, or discharge of fireworks shall be distributed in the following manner if a municipal corporation, county, or township either filed or enforced the complaint regarding the violation. One-half of the amount of the fine shall be distributed to the municipal corporation, county, or township which filed the complaint regarding the violation and one-half of the amount of the fine shall be distributed to the municipal corporation, county, or township which enforced the complaint. If the same municipal corporation, county, or township both filed the complaint regarding the

violation and enforced the complaint, the entire amount of the fine shall be distributed to that municipal corporation, county, or township.

Sec. 3743.70. The fire marshal shall not issue an initial license or permit under this chapter on or after the effective date of this section if the applicant for the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the applicant for the license or permit, has been convicted of or pleaded guilty to a felony under the laws of this state, another state, or the United States. The fire marshal shall revoke or deny renewal of a license or permit first issued under this chapter on or after the effective date of this section if the holder of the license or permit, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the holder of the license or permit, is convicted of or pleads guilty to a felony under the laws of this state, another state, or the United States.

Sec. 3743.80. This chapter does not prohibit or apply to the following:

(A) The manufacture, sale, possession, transportation, storage, or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;

(B) The manufacture, sale, possession, transportation, storage, or use of fusees, ~~torpedos~~ TORPEDOES, or other signals necessary for the safe operation of railroads;

(C) The manufacture, sale, possession, transportation, storage, or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(D) The manufacture for, the transportation, storage, possession, or use by, or sale to the armed forces of the United States and the militia of this state of pyrotechnic devices;

(E) The manufacture, sale, possession, transportation, storage, or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage, or use of those caps;

(F) The manufacture, sale, possession, transportation, storage, or use of novelties and trick noisemakers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(G) The manufacture, sale, possession, transportation, storage, or use of wire sparklers ~~on a wire stick, as this term is defined in the regulations of the United States department of transportation~~.

(H) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:

(1) No explosive aerial display is conducted in the exhibition;

(2) The exhibition is separated from spectators by not less than two hundred feet;

(3) The person conducting the exhibition complies with regulations of the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and the United States department of transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

Sec. 3743.99. (A) Whoever violates division (A) or (B) of section 3743.60 of the Revised Code is guilty of a felony of the third degree.

(B) Whoever violates division (C) or (D) of section 3743.60, division (A), (B), (C), or (D) of section 3743.61, or division (A) or (B) of section 3743.64 of the Revised Code is guilty of a felony of the fourth degree.

(C) Whoever violates division (E), (F), (G), (H), (I), or (J) of section 3743.60, division (E), (F), (G), (H), (I), or (J) of section 3743.61, section 3743.63, division (C), (D), (E), ~~or~~ (F), or (G) of section 3743.64, division (A), (B), (C), (D), or (F) of section 3743.65, or section 3743.66 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of division (I) of section 3743.60 or 3743.61 of the Revised Code, a violation of either of these divisions is a felony of the fifth degree.

(D) Whoever violates division (G) of section 3743.65 of the Revised Code is guilty of a felony of the fifth degree.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Prior to January 1, 1994, each person issued a permit to operate, variance, or permit to install under section 3704.03 of the Revised Code shall pay the fees specified in the following schedule:

(1) Fuel-Burning Equipment

Input capacity (million British thermal units per hour)	Permit to operate	Variance	Permit to install
0 or more, but less than 10	$ 75	$225	$ 100
10 or more, but less than 100	210	450	390
100 or more, but less than 300	270	675	585
300 or more, but less than 500	330	900	780
500 or more	500	975	1000

Any fuel-burning equipment using only natural gas, propane, liquefied petroleum gas, or number two or lighter fuel oil shall be assessed a fee

one-half of that shown.

(2) Incinerators

Input capacity (pounds per hour)			Permit to operate	Permit to install
0 to 50	$ 50	$225	$ 65	
51 to 500	210	450	390	
501 to 2000	270	675	585	
2001 to 30,000	330	900	780	
more than 30,000	500	975	1000	

(3) Process

Process weight rate (pounds per hour)			Permit to operate	Permit to Variance install
0 to 1000	$100	$225	$ 200	
1001 to 5000	210	450	390	
5001 to 10,000	270	675	585	
10,001 to 50,000	330	900	780	
more than 50,000	500	975	1000	

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(4) Storage tanks

Gallons (capacity)	Permit to operate	Variance	Permit to install
less than 40,000	$150	$225	$ 195
40,000 or more, but less than 100,000	210	450	390
100,000 or more, but less than 400,000	270	675	585
400,000 or more, but less than 1,000,000	330	900	780
1,000,000 or more	500	975	1000

(5) Gasoline

Gasoline dispensing facilities	Permit to operate	Variance	Permit to install
For each gasoline dispensing facility	$20	$100	$50

(6) Dry cleaning

Dry cleaning facilities	Permit to operate	Variance	Permit to install

For each dry cleaning facility	$50	$200	$100

(7) Coal mining operations regulated under Chapter 1513. of the Revised Code shall be assessed a fee of two hundred fifty dollars per mine or location.

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than

the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D) Beginning January 1, 1994, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	$ 75
50 or more, but less than 100	300
100 or more	700

The fees assessed under this division shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fee assessed under this division in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of this division, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under this division to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by this division, the director shall compile revised fee schedules for the purposes of that division and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the

consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year;

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after January 1, 1994, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers)

Input capacity (maximum) (million British thermal units per hour)	Permit to install $
Greater than 0, but less than 10	200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install $
0 to 100	100
101 to 500	400
501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install

0 to 1000	$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (F)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees set forth in division (F)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

1211 Bituminous coal and lignite mining;

1213 Bituminous coal and lignite mining services;

1411 Dimension stone;

1422 Crushed and broken limestone;

1427 Crushed and broken stone, not elsewhere classified;

1442 Construction sand and gravel;

1446 Industrial sand;

3281 Cut stone and stone products;

3295 Minerals and earth, ground or otherwise treated.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	$200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks

Gallons (maximum useful capacity)	Permit to install

0 to 20,000	$100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750
(5) Gasoline/fuel dispensing facilities	
For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install $100
(6) Dry cleaning facilities	
For each dry cleaning facility (includes all units at the facility)	Permit to install $100
(7) Registration status	
For each source covered by registration status	Permit to install $75

(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	$75
Asbestos removal	$3/unit
Asbestos cleanup	$4/cubic yard

For purposes of this division, a unit means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who

applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to	525

300,000
over 300,000 750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~1998~~ 2000, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~1998~~ 2000, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~1998~~ 2000, and five thousand dollars on and after July 1, ~~1998~~ 2000. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4)(a)(i) Not later than January 30, ~~1996~~ 1998, and January 30, ~~1997~~ 1999, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

~~The~~ (ii) The billing year for the annual discharge fee established in division (L)(4)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(4)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of

charge.

(iii) The annual discharge fee established in division (L)(4)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(4)(c) of this section, shall be based upon the average daily discharge flow in gallons per day ~~shall be~~ calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee ~~for the first two years of operations~~ shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(4)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(4)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~1996~~ 1998, and January 30, ~~1997~~ 1999
5,000 to 49,999	$ 180
50,000 to 100,000	450
100,001 to 250,000	900
250,001 to 1,000,000	2,250
1,000,001 to 5,000,000	4,500
5,000,001 to 10,000,000	9,000
10,000,001 to 20,000,000	13,500
20,000,001 to 50,000,000	22,500
50,000,001 to 100,000,000	36,000
100,000,001 or more	54,000

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand ~~through the operation of two or more publicly owned treatment works serving the same political subdivision~~ shall pay an annual discharge fee under division (L)(4)(b) of this section that is based on the combined average daily discharge flow of the treatment works ~~rather than on the average daily discharge flow of individual facilities comprising the treatment works~~.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the

's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, ~~1996~~ 1998, and January 30, ~~1997~~ 1999
5,000 to 49,999	$ 180
50,000 to 250,000	900
250,001 to 1,000,000	2,250
1,000,001 to 5,000,000	4,500
5,000,001 to 10,000,000	6,750
10,000,001 to 20,000,000	9,000
20,000,001 to 100,000,000	10,800
100,000,001 to 250,000,000	12,600
250,000,001 or more	14,400

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(4)(a)(ii) of this section shall pay a nonrefundable annual surcharge of six thousand seven hundred fifty dollars not later than January 30, ~~1996~~ 1998, and not later than January 30, ~~1997~~ 1999. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(4)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~1996~~ 1998, and not later than January 30, ~~1997~~ 1999. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(5) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(6) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~1998~~ 2000, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~1998~~ 2000, the fee is:

Number of service connections	Fee amount
Not more than 49	$ 56
50 to 99	88
Number of service connections	**Average cost per connection**
100 to 2,499	$ .96
2,500 to 4,999	.92
5,000 to 7,499	.88
7,500 to 9,999	.84
10,000 to 14,999	.80
15,000 to	.76

24,999	
25,000 to 49,999	.72
50,000 to 99,999	.68
100,000 to 149,999	.64
150,000 to 199,999	.60
200,000 or more	.56

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~1998~~ 2000, the fee is:

Population served	Fee amount
Fewer than 150	$ 56
150 to 299	88
300 to 749	192
750 to 1,499	392
1,500 to 2,999	792
3,000 to 7,499	1,760
7,500 to	3,800

14,999	
15,000 to 22,499	6,240
22,500 to 29,999	8,576
30,000 or more	11,600

As used in division (M)(2) of this section, "population served" means the total number of individuals receiving water from the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~1998~~ 2000, the fee is:

Number of wells supplying system	Fee amount
1	$ 56
2	56
3	88
4	192
5	392
System supplied by surface springs or dug wells	792

As used in division (M)(3) of this section, "number of wells supplying system" means those wells that are physically connected to the plumbing system serving the public water system.

(N) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred dollars plus two-tenths of one per cent of the estimated project cost, except that the total fee shall not exceed fifteen thousand dollars through

June 30, ~~1998~~ 2000, and five thousand dollars on and after July 1, ~~1998~~ 2000. The fee shall be paid at the time the application is submitted.

Through June 30, ~~1998~~ 2000, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	~~$1,650~~
organic chemical	~~4,500~~ 3,500
inorganic chemical	~~3,500~~
standard chemistry	~~1,800~~
limited chemistry	~~1,500~~ 1,000

On and after July 1, ~~1998~~ 2000, the following fee, on a per survey basis, shall be charged any such person:

microbiological	$250
chemical/radiological	250
nitrate/turbidity (only)	150

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~1998~~ 2000, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of twenty-five dollars through June 30, ~~1998~~ 2000, and ten dollars on and after July 1, ~~1998~~ 2000. Upon approval from the director that the applicant is eligible to take the examination therefor~~,~~: the applicant shall pay a fee in accordance with the following schedule through June 30, ~~1998~~ 2000:

Class I operator	~~$45~~

Class II operator	55
Class III operator	65
Class IV operator	75

On and after July 1, ~~1998~~ 2000, the applicant shall pay a fee in accordance with the following schedule:

Class I operator	$25
Class II operator	35
Class III operator	45
Class IV operator	55

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(P) Through June 30, ~~1998~~ 2000, any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised

Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall

pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted, and any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~1998~~ 2000, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~1998~~ 2000.

The director shall transmit all moneys collected under this division pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under this division pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review

on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including

any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

Sec. 3745.21. (A) There is hereby created within the environmental protection agency the environmental education council consisting of the directors of environmental protection and natural resources and the superintendent of public instruction, or their designees, as members ex officio, one member of the house of representatives to be appointed by the speaker of the house of representatives or the member's designee, one member of the senate to be appointed by the president of the senate or the member's designee, one member to be appointed by the Ohio board of regents who shall have experience in providing environmental education at the university or college level, and six members to be appointed by the governor with the advice and consent of the senate. Of the members appointed by the governor, two shall be from statewide environmental advocacy organizations, one shall represent the interests of the industrial community in this state, one shall represent the interests of employers in this state with one hundred fifty or fewer employees, one shall represent municipal corporations, and one shall represent the interests of elementary and secondary school teachers in this state. Within thirty days after October 1, 1990, the appointing authorities shall make their initial appointments to the council. The initial appointment to the council by the Ohio board of regents shall be for a term ending two years after October 1, 1990. Of the initial appointments made to the council by the governor, three shall be for a term ending one year after October 1, 1990, and three shall be for a term ending two years after October 1, 1990. Thereafter, the terms of office of the members appointed by the Ohio board of regents and the governor shall be for two years, with each term ending on the same day of the same month as the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's

predecessor was appointed shall hold office as a member of the board of trustees for the remainder of that term. A member of the council appointed by the Ohio board of regents or the governor shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The council shall hold at least two regular, semiannual meetings each year. Special meetings may be held at the behest of the chairperson or a majority of the members. The director of environmental protection shall serve as the chairperson of the council. The council annually shall select from among its members a vice-chairperson and a secretary to keep a record of its proceedings. A majority vote of the members of the council is necessary to take action on any matter.

Serving as a member of the council does not constitute holding a public office or a position of employment under the laws of this state and does not constitute grounds for the removal of public officers or employees from their offices or positions of employment. The Ohio board of regents may at any time remove a member of the council appointed by it for misfeasance, malfeasance, or nonfeasance in office. The governor may at any time remove a member of the council appointed by the governor for misfeasance, malfeasance, or nonfeasance in office.

Members of the council appointed by the Ohio board of regents and the governor shall serve without compensation. Members of the council shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council from moneys credited to the environmental education fund created in section 3745.22 of the Revised Code.

(B) The council shall advise and assist the director in the implementation and administration of section 3745.22 of the Revised Code and shall review and comment on all expenditures from the fund proposed by the director.

(C) The council may adopt bylaws for the regulation and conduct of the council's affairs and may propose to the director expenditures from the fund.

Sec. 3745.25. There is hereby created within the environmental protection agency the quality improvement council consisting of the director of environmental protection; one member of the house of representatives to be appointed by the speaker of the house of representatives; one member of the senate to be appointed by the president of the senate; and ten additional members. Of those ten members, four shall represent the interests of industry, one of which shall be appointed by the president of the senate and

one of which shall be appointed by the speaker of the house of representatives; four shall represent the interests of political subdivisions, one of which shall be appointed by the president of the senate and one of which shall be appointed by the speaker of the house of representatives; and two shall represent the interests of environmental advocacy organizations. The president of the senate and the speaker of the house of representatives shall make their nonlegislative appointments from a list of nominees provided by organizations representing the interests of counties and municipal corporations and industry. No more than three nominees shall be provided by any such organization. The governor shall appoint the remaining six members from a list of nominees provided by organizations representing the interests of counties and municipal corporations, industry, and environmental advocacy. No more than three nominees shall be provided by any such organization.

The council shall hold a minimum of four regularly scheduled meetings each year. Additional meetings shall be held at the request of a majority of the members or at the request of the director. The director shall serve as ~~chairman~~ chairperson of the council. The council annually shall select from among its members a ~~vice-chairman~~ vice-chairperson and a secretary to keep a record of its proceedings. A majority vote of the members is necessary to take action on any matter.

Serving as a member of the council does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment. The appointing authority or authorities may remove a member of the council at any time for misfeasance, nonfeasance, or malfeasance in office.

The council shall do both of the following:

(A) Measure the achievement of all of the following by the environmental protection agency:

(1) Improvement in the timeliness of review and issuance of permits under Chapters 3704., 3734., 6109., and 6111. of the Revised Code;

(2) Improvement in the consistency of permitting under those chapters to avoid overregulation;

(3) Efficient implementation of federal and state mandates;

(4) Enhancement of the agency's technical assistance capability;

(5) Development of customer service enhancement program strategies;

(6) Implementation of all of the recommendations contained in the report required under division (C) of this section as it existed prior to the effective date of this amendment.

(B) Report both of the following to the governor and the general assembly by not later than September ~~1996~~ 1998:

(1) The level of achievement by the agency in the areas identified in division (A) of this section, including progress made by the agency in implementing the recommendations contained in the report required under division (C) of this section as it existed prior to ~~the effective date of this amendment~~ September 29, 1995, and the status of the agency's development of customer service enhancements;

(2) A recommendation on the need to continue the council beyond June 30, ~~1997~~ 1999.

Sec. 3746.121. Upon receiving a request submitted under section ~~122.19~~ 122.16 of the Revised Code for verification of eligible costs associated with a voluntary action incurred by the applicant for the agreement under that section, a certified professional shall submit to the director of development verification of the eligible costs associated with the voluntary action as defined in section ~~122.19~~ 122.16 of the Revised Code. The verification shall be submitted in the form of an affidavit subject to section 3746.20 of the Revised Code, shall state that the information contained in the verification is true to the best of the knowledge, information, and belief of the certified professional, and shall be accompanied by any receipts, invoices, canceled checks, or other documents evidencing eligible costs associated with the voluntary action that are provided by the applicant. Verification submitted under this section does not constitute a finding or representation by the certified professional that eligible costs associated with the voluntary action are reasonable.

Sec. 3748.05. (A) The director of health shall do all of the following:

(1) Administer and enforce this chapter and rules adopted under it;

(2) Collect and make available information relating to sources of radiation;

(3) Ensure the review of plans and specifications, submitted in accordance with rules adopted by the public health council, for the control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment;

(4) Review reports of quality assurance audits performed by certified radiation experts under this chapter and rules adopted under it;

(5) Ensure that programs for the control of sources of radiation are developed with due regard for compatibility with federal programs for the regulation of byproduct, source, and special nuclear materials;

(6) In accordance with Chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules providing for the administrative

assessment and collection of monetary penalties for failure by any facility licensed under this chapter and rules adopted under it to comply with this chapter and those rules. The director may require the submission of compliance schedules and other related information. Any orders issued or payments or other requirements imposed pursuant to rules adopted under division (A)(6) of this section shall not affect any civil or criminal enforcement proceeding brought under this chapter or any other provision of state or local law. Moneys collected as administrative penalties imposed pursuant to rules adopted under division (A)(6) of this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The moneys shall be used solely to administer and enforce this chapter and rules adopted under it.

(7) Maintain files of both of the following:

(a) All license and registration applications, issuances, denials, amendments, renewals, suspensions, and revocations and any administrative or judicial action pertaining to them;

(b) All rules adopted under this chapter, or proposed to be adopted, relating to the regulation of sources of radiation and proceedings on them.

(8) In accordance with chapter 119. of the Revised Code, adopt, and subsequently may amend and rescind, rules of procedure to govern any adjudication conducted by the license review board under division (B)(3)(c) of section 3748.09 of the Revised Code. The rules adopted under division (A)(8) of this section shall be in substantial conformity with the procedural rules established in 10 C.F.R. 2.705-2.759.

(B) The director may do any or all of the following:

(1) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, industries, and other affected groups in furtherance of the purposes of this chapter and rules adopted under it;

(2) Accept and administer grants from the federal government and from other sources, public or private, for carrying out any of ~~his~~ the director's functions under this chapter and rules adopted under it;

(3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the detection and control of radiation that constitutes an unreasonable or unnecessary risk to human health or the environment, the measurement of radiation, the evaluation of potential effects on health of cumulative or acute exposure to radiation, the development and improvement of methods to limit and reduce the generation of radioactive waste, and related problems as ~~he~~ the director considers necessary or advisable;

(4) In accordance with Chapter 119. of the Revised Code, adopt rules establishing criteria under which other agencies of the state or private entities may perform inspections of x-ray equipment at registered dental facilites at the request of the facility or pursuant to contract with the department;

(5) Exercise all incidental powers necessary to carry out the purposes of this chapter and rules adopted under it, including, without limitation, the issuance of orders.

Sec. 3748.07. (A) Every facility that proposes to handle radioactive material or radiation-generating equipment for which licensure or registration, respectively, by its handler is required shall apply in writing to the director of health on forms prescribed and provided by the director for licensure or registration. Terms and conditions of licenses and certificates of registration may be amended in accordance with rules adopted under section 3748.04 of the Revised Code or orders issued by the director pursuant to section 3748.05 of the Revised Code.

(B) Until rules are adopted under section 3748.04 of the Revised Code, an application for a certificate of registration shall be accompanied by a biennial registration fee of one hundred ~~fifteen~~ fifty dollars. On and after the effective date of those rules, an applicant for a license, registration certificate, or renewal of either shall pay the appropriate fee established in those rules.

All fees collected under this section shall be deposited in the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) The director shall grant a license or registration to any applicant who has paid the required fee and is in compliance with this chapter and rules adopted under it.

Until rules are adopted under section 3748.04 of the Revised Code, certificates of registration shall be effective for two years from the date of issuance. On and after the effective date of those rules, licenses and certificates of registration shall be effective for the applicable period established in those rules. Licenses and certificates of registration shall be renewed in accordance with the standard renewal procedure established in

Chapter 4745. of the Revised Code.

Sec. 3748.12. The director of health shall certify radiation experts pursuant to rules adopted under division (C) of section 3748.04 of the Revised Code. ~~He~~The director shall issue a certificate to each person certified under this section. An individual certified by the director is qualified to develop, provide periodic review of, and conduct audits of the quality assurance program for sources of radiation for which such a program is required under division (A) of section 3748.13 of the Revised Code.

The public health council shall establish an application fee for applying for certification and a biennial certification renewal fee in rules adopted under division (C) of section 3748.04 of the Revised Code. Until those rules are adopted, the application fee for ~~applying for~~ initial certification shall be fifty dollars~~, and the~~ plus an additional twenty-five dollars for each type of radiation-generating equipment listed in division (B) of section 3748.13 of the Revised Code for which application is being made. The certification renewal fee shall be one hundred fifteen dollars. A certificate issued under this section shall expire two years after the date of its issuance. To maintain certification, a radiation expert shall apply to the director for renewal of certification in accordance with the standard renewal procedures established in Chapter 4745. of the Revised Code. The certification renewal fee is not required for initial certification, but shall be paid for every renewal of certification. Fees collected under this section shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it. Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

Sec. 3748.13. (A) The director of health shall inspect sources of radiation for which licensure or registration by the handler is required, and the sources' shielding and surroundings, according to the schedule established in rules adopted under division (D) of section 3748.04 of the Revised Code. In accordance with rules adopted under that section, the director shall inspect all records and operating procedures of handlers that install sources of radiation and all sources of radiation for which licensure of radioactive material or registration of radiation-generating equipment by the handler is required. The director may make other inspections upon receiving complaints or other evidence of violation of this chapter or rules adopted under it.

The director shall require any hospital registered under division (A) of section 3701.07 of the Revised Code to develop and maintain a quality assurance program for all sources of radiation-generating equipment. A certified radiation expert shall conduct oversight and maintenance of the program and shall file a report of audits of the program with the director on forms prescribed by the director. The audit reports shall become part of the inspection record.

(B) Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, a facility shall pay inspection fees according to the following schedule and categories:

First dental x-ray tube, gauging x-ray tube, or analytical x-ray equipment used in nonhealth care applications	$ ~~60.00~~ 80.00
Each additional dental x-ray tube, cabinet x-ray tube, gauging x-ray tube, or analytical x-ray equipment used in nonhealth care applications at the same location	$ ~~30.00~~ 40.00
First x-ray tube other than dental, cabinet, or gauging, or analytical x-ray equipment used in nonhealth care applications	$~~120.00~~ 160.00
Each additional x-ray tube other than dental, cabinet, or gauging, or analytical x-ray equipment used in nonhealth care applications at the same location	$ ~~60.00~~ 80.00
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	$~~240.00~~ 320.00
First nonionizing radiation-generating equipment of any kind	$~~120.00~~ 160.00
Each additional nonionizing radiation-generating equipment of any kind at the same location	$ ~~60.00~~ 80.00
Amount of radioactive material licensed or amount on hand at the	

time of inspection, whichever is greater:	
less than 100 microcuries	$100.00
100 microcuries or more, but less than one millicurie	$150.00
one millicurie or more, but less than 100 millicuries	$200.00
100 millicuries or more	$400.00
Test of a sealed source for leakage of radioactive material	$ 80.00
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	~~$150.00~~ 200.00

Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for an inspection to determine whether violations cited in a previous inspection have been corrected is fifty per cent of the fee applicable under the schedule in this division. Until those rules are adopted, the fee for the inspection of a facility that is not licensed or registered and for which no license or registration application is pending at the time of inspection is ~~one~~ two hundred ~~twenty-five~~ fifty dollars plus the fee applicable under the schedule in this division.

The director may conduct a review of shielding plans or the adequacy of shielding on the request of a licensee or registrant or an applicant for licensure or registration or during an inspection when the director considers a review to be necessary. Until rules are adopted under division (A)(8) of section 3748.04 of the Revised Code, the fee for the review is ~~three~~ four hundred dollars for each room where a source of radiation is used and is in addition to any other fee applicable under the schedule in this division.

All fees shall be paid to the department of health no later than thirty days after the invoice for the fee is mailed. Fees shall be deposited in the general operations fund created in section 3701.83 of the Revised Code. The fees shall be used solely to administer and enforce this chapter and rules adopted under it.

Any fee required under this section that has not been paid within ninety days after the invoice date shall be assessed at two times the original invoiced fee. Any fee that has not been paid within one hundred eighty days after the invoice date shall be assessed at five times the original invoiced fee.

(C) If the director determines that a board of health of a city or general health district is qualified to conduct inspections of radiation-generating equipment, the director may delegate to the board, by contract, the authority to conduct such inspections. In making a determination of the qualifications of a board of health to conduct those inspections, the director shall evaluate the credentials of the individuals who are to conduct the inspections of radiation-generating equipment and the radiation detection and measuring equipment available to them for that purpose. If a contract is entered into, the board shall have the same authority to make inspections of radiation-generating equipment as the director has under this chapter and rules adopted under it. The contract shall stipulate that only individuals approved by the director as qualified shall be permitted to inspect radiation-generating equipment under the contract's provisions. The contract shall provide for such compensation for services as is agreed to by the director and the board of health of the contracting health district. The director may reevaluate the credentials of the inspection personnel and their radiation detecting and measuring equipment as often as the director considers necessary and may terminate any contract with the board of health of any health district that, in the director's opinion, is not satisfactorily performing the terms of the contract.

(D) The director may enter at all reasonable times upon any public or private property to determine compliance with this chapter and rules adopted under it.

Sec. 3769.088. (A) If any permit holder required by this chapter to pay the taxes levied by sections 3769.08, 3769.087, ~~and~~ 3769.26, AND 3769.28 of the Revised Code fails to pay the taxes, the tax commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

A penalty of fifteen per cent shall be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~All assessments, exclusive of penalties, not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment

in writing, signed by the party assessed, or by ~~his~~ the party's authorized agent having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the tax commissioner. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the commissioner's final determination on the petitioner by personal service or certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place, track, or enclosure for which the permit was issued is located or the county in which the party assessed resides or has its principal place of business. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of such entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state horse racing tax~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, any unpaid~~ The portion of the assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the~~

~~commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until the day the assessment is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be treated as revenue arising from the taxes imposed by sections 3769.08, 3769.087, ~~and~~ 3769.26, AND 3769.28 of the Revised Code.

Sec. 3769.10. The state racing commission and the tax commissioner shall enforce ~~3769.28~~ this chapter and may incur such expenses as are necessary; provided, that the power of the tax commissioner shall extend only to enforcement and administration of the taxes levied by sections 3769.08, 3769.087, ~~and~~ 3769.26, AND 3769.28 of the Revised Code as provided in those sections and in sections 3769.088, 5703.05, 5703.17 to 5703.37, 5703.39, 5703.41, and 5703.45 of the Revised Code. The commissioner may adopt, in accordance with section 5703.14 of the Revised Code, such rules as ~~he~~ the commissioner considers necessary to administer sections 3769.08, ~~3768.087~~ 3769.087, 3769.088, ~~and~~ 3769.26, AND 3769.28 of the Revised Code.

Except as otherwise provided in section 3769.03 of the Revised Code, all taxes, fees, and moneys due the state under sections 3769.01 to 3769.071 and 3769.09 to 3769.14 of the Revised Code shall be paid to, and receipted for by, the secretary of the state racing commission, and shall be paid by ~~him~~ the secretary weekly into the state treasury to the credit of the general revenue fund. All taxes due the state under sections 3769.08, 3769.087, and 3769.26 of the Revised Code shall be paid to, and receipted for by, the tax commissioner, and shall be paid by ~~him~~ the commissioner weekly into the proper funds.

All vouchers of the commission shall be ~~signed~~ approved by the commission ~~chairman~~ chairperson or secretary, or both, as authorized by the commission.

Sec. 3770.01. There is hereby created the state lottery commission consisting of nine members appointed by the governor with the advice and consent of the senate. No more than five members of the commission shall be members of the same political party. Of the additional and new appointments made to the commission pursuant to the amendment of August 1, 1980, three shall be for terms ending August 1, 1981, three shall be for terms ending August 1, 1982, and three shall be for terms ending August 1, 1983. Thereafter, terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it

succeeds. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. The members of the commission shall represent the various geographic regions of the state. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

All members of the commission shall be citizens of the United States and residents of this state. No member shall have any pecuniary interest in any contract or license awarded by the commission. Each person appointed as a member of the commission shall have prior experience or education in business administration, management, sales, marketing, or advertising.

The commission shall elect annually one of its members to serve as ~~chairman~~ chairperson for a term of one year. Election as ~~chairman~~ chairperson shall not extend a member's appointive term. Each member of the commission shall receive ~~compensation pursuant to division (J) of section 124.15 of the Revised Code for each day he actually attends an official meeting of the commission, but shall not receive step advancements~~ an annual salary of five thousand dollars, payable in monthly installments. Each member shall also receive ~~his~~ actual and necessary expenses incurred in the discharge of ~~his~~ official duties.

Each member of the commission, before entering upon the discharge of ~~his~~ official duties, shall give a bond, payable to the treasurer of state, in the sum of ten thousand dollars with sufficient sureties to be approved by the treasurer of state, which bond shall be filed with the secretary of state.

The governor may remove any member of the commission for malfeasance, misfeasance, or nonfeasance in office, giving such member a copy of the charges against ~~him~~ the member and affording ~~him~~ the member an opportunity to be publicly heard in person or by counsel in ~~his~~ the member's own defense upon not less than ten days' notice. If such member is removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the governor's finding thereon, together with a complete report of the proceedings, and the governor's decision thereon is final.

The commission shall maintain offices at locations in the state as it may deem necessary for the efficient performance of its functions. The director shall maintain an office in Columbus to coordinate the activities of the state lottery commission with other state departments.

Sec. 3770.02. (A) Subject to the advice and consent of the senate, the governor shall appoint a director of the state lottery commission who shall serve at the pleasure of the governor. The director shall devote full time to the duties of the office and shall hold no other office or employment. The director shall meet all requirements for appointment as a member of the commission and shall by experience and training possess such management skills as would equip the director to administer an enterprise of the nature of a state lottery. The director shall receive an annual salary in accordance with pay range 48 of section 124.152 of the Revised Code.

(B)(1) The director shall attend all meetings of the commission and shall act as its secretary. The director shall keep a record of all commission proceedings and shall keep such records, files, and documents at the commission's principal office. All records of the commission's meetings shall be available for inspection by any member of the public, upon a showing of good cause and prior notification to the director.

(2) The director shall be the commission's executive officer and shall be responsible for keeping all commission records and supervising and administering the state lottery in accordance with this chapter, and carrying out all commission rules adopted under section 3770.03 of the Revised Code.

(C)(1) The director shall appoint an assistant director and deputy directors of marketing, operations, sales, finance, public relations, security, and administration, and as many regional managers as are required. The director may also appoint such professional, technical, and clerical assistants as are necessary. All such officers and employees shall be appointed and compensated pursuant to Chapter 124. of the Revised Code. Regional and assistant regional managers, sales representatives, and any lottery executive account representatives shall remain in the unclassified service.

(2) The director, in consultation with the director of administrative services, may establish standards of proficiency and productivity for commission field representatives.

(D) The director shall request the bureau of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency, to supply the director with the criminal records of any job applicant and may periodically request such criminal records of commission employees. At or prior to the time of making such a request, the director shall require a job applicant or commission employee to obtain fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency and the director shall cause these fingerprint cards to be forwarded to the bureau

of criminal identification and investigation and the federal bureau of investigation. The commission shall assume the cost of obtaining the fingerprint cards and shall pay to each agency supplying such records for each investigation under this division a reasonable fee, as determined by the agency.

(E) The director shall license lottery sales agents pursuant to section 3770.05 of the Revised Code, and when necessary may revoke or suspend the license of any lottery sales agent when such action is considered necessary.

(F) The director shall confer at least once each month with the commission at which time the director shall advise it of the operation and administration of the lottery. The director shall make available at the request of the commission all documents, files, and other records pertaining to the operation and administration of the lottery. The director shall prepare and make available to the commission each month a complete and accurate accounting of lottery revenues, prize money disbursements and the cost of goods and services awarded as prizes, operating expenses, and all other relevant financial information, including an accounting of all transfers made from any lottery funds in the custody of the treasurer of state to benefit education.

(G) The director may enter into contracts for the operation or promotion of the lottery pursuant to Chapter 125. of the Revised Code. The director may enter into agreements to assist organizations that deal with problem gambling.

(H)(1) Pursuant to rules adopted by the commission under section 3770.03 of the Revised Code, the director shall require any lottery sales agents to either mail directly to the state lottery commission or to deposit to the credit of the state lottery fund, in banking institutions designated by the treasurer of state, net proceeds due the lottery commission as determined by the director, and to file with the director or the director's designee reports of their receipts and transactions in the sale of lottery tickets in such form as required by the director.

(2) Pursuant to rules adopted by the commission under Chapter 119. of the Revised Code, the director may impose penalties for the failure of a sales agent to transfer funds to the commission in a timely manner. Penalties may include monetary penalties, immediate suspension or revocation of a license, or any other penalty the commission adopts by rule.

(I) The director may arrange for any person, or any banking institution, to perform such functions and services in connection with the operation of the lottery as the director may consider necessary to carry out this chapter.

Sec. 3770.06. (A) There is hereby created the state lottery gross revenue fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. All gross revenues received from sales of lottery tickets, fines, fees, and related proceeds shall be deposited into the fund. The treasurer of state shall invest any portion of the fund not needed for immediate use in the same manner as, and subject to all provisions of law with respect to the investment of, state funds. The treasurer of state shall disburse money from the fund on order of the director of the state lottery commission or the director's designee. All revenues of the state lottery gross revenue fund that are not paid to holders of winning lottery tickets, that are not required to meet short-term prize liabilities, that are not paid to lottery sales agents in the form of agent bonuses, commissions, or reimbursements, and that are not paid to financial institutions to reimburse such institutions for sales agent nonsufficient funds shall be transferred to the state lottery fund, which is hereby created in the state treasury. All investment earnings of the fund shall be credited to the fund. Moneys shall be disbursed from the state lottery fund pursuant to vouchers ~~signed~~approved by the director of the state lottery commission. Total disbursements for monetary prize awards to holders of winning lottery tickets and purchases of goods and services awarded as prizes to holders of winning lottery tickets shall be of an amount equal to at least fifty per cent of the total revenue accruing from the sale of lottery tickets.

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, there is hereby established in the state treasury the lottery profits education fund. Whenever, in the judgment of the director of budget and management, the amount to the credit of the state lottery fund is in excess of that needed to meet the maturing obligations of the commission and as working capital for its further operations, the director shall transfer the excess to the lottery profits education fund, provided that the amount to be transferred into the lottery profits education fund shall equal no less than thirty per cent of the total revenue accruing from the sale of lottery tickets. Investment earnings of the lottery profits education fund shall be credited to the fund. There shall also be credited to the fund any repayments of moneys loaned from the educational excellence investment fund. The lottery profits education fund shall be used solely for the support of elementary, secondary, vocational, and special education programs as determined in appropriations made by the general assembly. When determining the availability of money in the lottery profits education fund, the director of budget and management may consider all balances and estimated revenues of the fund.

From the amounts that the director of budget and management transfers

in any fiscal year from the state lottery fund to the lottery profits education fund, the director shall transfer the initial ten million dollars of such amounts from the lottery profits education fund to the school building program bond service fund created in division (R) of section 3318.26 of the Revised Code to be pledged for the purpose of paying bond service charges as defined in division (C) of section 3318.21 of the Revised Code on one or more issuances of obligations, which obligations are issued to provide moneys for the school building program assistance fund created in section 3318.25 of the Revised Code.

(C) There is hereby established in the state treasury the deferred prizes trust fund. With the approval of the director of budget and management, an amount sufficient to fund annuity prizes shall be transferred from the state lottery fund and credited to the trust fund. The treasurer of state shall credit all earnings arising from investments purchased under this division to the fund. Within sixty days after the end of each fiscal year, the director of budget and management shall certify the amount of investment earnings necessary to have been credited to the trust fund during the fiscal year just ending to provide for continued funding of deferred prizes. Any earnings credited in excess of this certified amount shall be transferred to the lottery profits education fund. To provide all or a part of the amounts necessary to fund deferred prizes awarded by the commission, the treasurer of state, in consultation with the commission, may invest moneys contained in the deferred prizes trust fund in accordance with section 135.143 of the Revised Code.

All purchases made under this division shall be effected on a delivery versus payment method and shall be in the custody of the treasurer of state.

The treasurer of state may retain an investment advisor, if necessary. The commission shall pay any costs incurred by the treasurer of state in retaining an investment advisor.

(D) The auditor of state shall conduct annual audits of all funds and such other audits as the auditor of state or the general assembly considers necessary. The auditor of state may examine all records, files, and other documents of the commission, and such records of lottery sales agents as pertain to their activities as agents, for purposes of conducting authorized audits.

The state lottery commission shall establish an internal audit program before the beginning of each fiscal year, subject to the approval of the auditor of state. At the end of each fiscal year, the commission shall prepare and submit an annual report to the auditor of state for the auditor of state's review and approval, specifying the internal audit work completed by the

end of that fiscal year and reporting on compliance with the annual internal audit program. The form and content of the report shall be prescribed by the auditor of state under division (C) of section 117.20 of the Revised Code.

Sec. 3773.43. The Ohio athletic commission shall charge the following fees:

(A) For an application for or renewal of a promoter's license for public boxing matches or exhibitions, fifty dollars.

(B) For an application for or renewal of a license to participate in a public boxing match or exhibition as a contestant, or as a referee, judge, matchmaker, manager, timekeeper, trainer, or second of a contestant, ten dollars.

(C) For a permit to conduct a public boxing match or exhibition, ten dollars.

(D) For an application for or renewal of a promoter's license for professional wrestling matches or exhibitions, one hundred dollars.

(E) For a permit to conduct a professional wrestling match or exhibition, fifty dollars.

The commission, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than twenty-five per cent.

The fees prescribed by this section shall be paid to the treasurer of state, who shall deposit the fees in the ~~general revenue~~ occupational licensing and regulatory fund.

Sec. 3773.56. The Ohio athletic commission may appoint an executive director and employ such persons as are necessary to administer sections 3773.31 to 3773.57 of the Revised Code and fix their compensation. Such executive director and employees shall serve in the unclassified status and at the pleasure of the commission.

~~The tax~~ All receipts received by the commission under ~~section 3773.54~~ sections 3773.31 to 3773.57 of the Revised Code shall be deposited in the ~~general revenue~~ occupational licensing and regulatory fund. All vouchers of the commission shall be ~~signed~~ approved by the chairperson of the commission.

Sec. 3781.061. Whenever a county zoning inspector under section 303.16 of the Revised Code, or a township zoning inspector under section 519.16 of the Revised Code, issues a zoning certificate that declares a specific building or structure is to be used in agriculture, such building is not subject to sections 3781.06 to ~~3781.21~~3781.20 or 3791.04 of the Revised Code.

Sec. 3781.182. No person shall complete any building, structure, or dwelling, for which rules establishing standards relating to the conservation of energy have been adopted pursuant to sections 3781.10 and 3781.181 of the Revised Code, that is newly constructed and that does not meet the standards established in those rules.

Whoever violates this section shall be ~~liable in damages, and may also be required to pay reasonable attorney's fees and court costs, to any person purchasing a dwelling newly constructed after the effective date of the rules adopted pursuant to section 3781.10 or 3781.181 of the Revised Code establishing standards relating to the conservation of energy in such dwellings and that does not meet the standards established in those rules~~ fined not more than one thousand dollars.

Sec. 3781.21. To encourage fuel conservation in dwellings the board of building standards, in accordance with Chapter 119. of the Revised Code and within the scope of the board's authority under section 3781.181 of the Revised Code, shall adopt rules setting forth thermal efficiency ~~and safety~~ standards ~~for attic insulation, wall insulation, heavy plastic for windows, weather stripping, caulking, and heat pumps, and restricting the use of these items in any new dwelling, or in any improvement made to conserve energy in any existing dwelling, to those that meet such standards~~. The board shall develop these rules in consultation with state and local building officials and builders who construct one-family, two-family, and three-family dwellings. The board shall consider the rules' cost-effectiveness and efficiency in developing these rules. The approval and implementation of ~~said~~ the standards shall be delegated to the local authority responsible for approving one-family, two-family, and three-family dwelling plans. ~~No person shall violate any such rule. Standards adopted by the board of building standards shall be based upon the latest minimum property standards for insulation promulgated by the United States department of housing and urban development.~~

Sec. 3793.10. A drivers' intervention program may be used as an alternative to a term of imprisonment for an offender sentenced pursuant to division (A)(1) of section 4511.99 of the Revised Code, if it is certified by the director of alcohol and drug addiction services pursuant to this section. No drivers' intervention program shall be used as an alternative to a term of imprisonment that is imposed pursuant to division (A)(2), (3), or (4) of section 4511.99 of the Revised Code.

To qualify for certification by the director and to receive funds from the ~~drivers' treatment~~ alcohol and ~~intervention~~ drug addiction services fund created by ~~division (L) of~~ section ~~4511.191~~ 3793.21 of the Revised Code in

any amounts and at any times that the director determines are appropriate, a drivers' intervention program shall meet state minimum standards that the director shall establish by rule. The rules shall include, but are not limited to, standards governing program course hours and content, qualifications of program personnel, methods of identifying and testing participants to isolate participants with alcohol and drug abuse problems, referral of such persons to alcohol and drug addiction programs, the prompt notification of courts by program operators of the completion of the programs by persons required by courts to attend them, and record keeping, including methods of tracking participants for a reasonable time after they have left the program.

The director shall issue a certificate to any qualified drivers' intervention program. The certificate shall be valid for three years.

Sec. 3793.21. There is hereby created in the state treasury the alcohol and drug addiction services fund. The fund shall consist of the money specified in division (B)(4) of section 4301.10, section 4301.30, divisions (L)(2)(a) and (c) of section 4511.191, and division (D)(1) of section 4511.83 of the Revised Code.

The director of alcohol and drug addiction services shall use the money in the fund for the programs and services provided pursuant to this chapter and for administrative, quality assurance, and planning purposes. Money in the fund attributable to division (L)(2)(a) or (c) of section 4511.191 or division (D)(1) of section 4511.83 of the Revised Code shall be used only for alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code and drivers' intervention programs authorized by section 3793.10 of the Revised Code. In planning for the allocation of and in allocating money in the fund, the director shall comply with the nondiscrimination provisions of Title VI of the "Civil Rights Act of 1964," 78 Stat. 241, 42 U.S.C.A. 1971, as amended, and any rules adopted thereunder.

Sec. 3901.17. (A) As used in this section:

(1) "Insurer" includes, but is not limited to, any person that is an affiliate of or affiliated with the insurer, as defined in division (A) of section 3901.32 of the Revised Code, and any person that is a subsidiary of the insurer as defined in division (F) of section 3901.32 of the Revised Code.

(2) "Laws of this state relating to insurance" has the meaning defined in division (A)(1) of section 3901.04 of the Revised Code.

(3) "Person" has the meaning defined in division (A) of section 3901.19 of the Revised Code.

(B) Any of the following acts in this state, effected by mail or otherwise, by any foreign or alien insurer not authorized to transact business within this

state, any nonresident person acting on behalf of an insurer, or any nonresident insurance agent subjects the insurer, person, or agent to the exercise of personal jurisdiction over the insurer, person, or agent to the extent permitted by the constitutions of this state and of the United States:

(1) Issuing or delivering contracts of insurance to residents of this state or to corporations authorized to do business therein;

(2) Making or proposing to make any insurance contracts;

(3) Soliciting, taking, or receiving any application for insurance;

(4) Receiving or collecting any premium, commission, membership fee, assessment, dues, or other consideration for any insurance contract or any part thereof;

(5) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, transacting any matters subsequent to effecting a contract of insurance and arising out of it;

(6) Doing any kind of business recognized as constituting the doing of an insurance business under Title XXXIX of the Revised Code or subject to regulation by the superintendent of insurance under the laws of this state relating to insurance.

Any such act shall be considered to be the doing of an insurance business in this state by such insurer, person, or agent and shall be its agreement that service of any lawful subpoena, notice, order, or process is of the same legal force and validity as personal service of ~~such~~ the subpoena, notice, order, or process in this state upon ~~such~~ the insurer, person, or agent.

(C) Service of process in judicial proceedings shall be as provided by the Rules of Civil Procedure. Service in or out of this state of notice, orders, or subpoenas in administrative proceedings before the superintendent ~~of insurance~~ shall be as provided in section 3901.04 of the Revised Code.

(D) Service of any notice, order, subpoena, or process in any such action, suit, or proceeding shall, in addition to the manner provided in division (C) of this section, be valid if served upon any person within this state who, in this state on behalf of such insurer, person, or agent is or has been:

(1) Soliciting, procuring, effecting, or negotiating for insurance;

(2) Making, issuing, or delivering any contract of insurance;

(3) Collecting or receiving any premium, membership fees, assessment, dues, or other consideration for insurance;

(4) Disseminating information as to coverage or rates, forwarding applications, inspecting risks, fixing rates, investigating or adjusting claims or losses, or transacting any matters subsequent to effecting a contract of

insurance and arising out of it.

(E) Nothing in this section shall limit or abridge the right to serve any subpoena, order, process, notice, or demand upon any insurer, person, or agent in any other manner permitted by law.

(F) Every person investigating or adjusting any loss or claim under a policy of insurance not excepted under division (I) of this section and issued by any such insurer and covering a subject of insurance ~~which~~ that was resident, located, or to be performed in this state at the time of issuance shall immediately report ~~such~~ the policy to the superintendent.

(G) Each such insurer ~~who~~ that does any of the acts set forth in division (B) of this section in this state by mail or otherwise shall be subject to a tax of five per cent on the gross premiums, membership fees, assessments, dues, and other considerations received on all contracts of insurance covering subjects of insurance resident, located, or to be performed within this state. Such insurer shall annually, on or before the first day of July, ~~or within ten days thereafter, return to the superintendent a statement under oath, in such detail as the superintendent may require, with respect to all such premiums, fees, assessments, dues, and other considerations for the preceding twelve-month period and shall at the same time~~ pay such tax to the ~~superintendent~~ treasurer of state, as calculated on a form prescribed by the treasurer of state. If ~~such~~ the tax is not paid when due, ~~such~~ the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date ~~such~~ the tax is due until it is paid. The ~~superintendent~~ treasurer of state shall determine and report all claims for penalties and interest accruing under this section to the attorney general for collection.

For purposes of this division, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(H) No contract of insurance effected in this state by mail or otherwise by any such insurer is enforceable by ~~such~~ the insurer.

(I) This section does not apply to:

(1) Insurance obtained pursuant to sections 3905.30 to 3905.36 of the Revised Code;

(2) The transaction of reinsurance by insurers;

(3) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided

such transactions are subsequent to the issuance of ~~such~~ the policy;

(4) Transactions in this state involving a policy of group life or group accident and sickness insurance solicited, written, and delivered outside this state;

(5) Transactions involving contracts of insurance independently procured through negotiations occurring entirely outside this state which are reported to the superintendent ~~of insurance~~ and with respect to which the tax provided by section 3905.36 of the Revised Code is paid;

(6) An attorney at law acting on behalf of ~~his~~ the attorney's clients in the adjustment of claims or losses;

(7) Any insurance company underwriter issuing contracts of insurance to employer insureds~~, employer insureds,~~ or contracts of insurance issued to an employer insured. For purposes of this section, an "employer insured" is an insured to whom all of the following apply:

(a) ~~He~~ The insured procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant~~;~~. As used in division (I)(7)(a) of this section, a "regularly and continuously QUALIFIED INSURANCE consultant" does not INCLUDE any person licensed under Chapter 3905. of the Revised Code.

(b) ~~His~~ The insured's aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(c) ~~He~~ The insured has at least twenty-five full-time employees.

(8) Ocean marine insurance.

Sec. 3905.30. The superintendent of insurance may issue ~~licenses~~a surplus line broker's license to any natural person who is a citizen of the United States and has been a resident of this state for at least two years prior to making application for ~~such~~ the license. ~~Such~~ The applicant shall also have met the standards and passed the test provided for the issuance of a multiple line agent's license. ~~Such license, which shall be known as a~~ A surplus line broker's license~~, shall permit~~ permits the person named ~~therein~~ in the license to negotiate for and obtain insurance, other than life insurance, on property or persons in this state in insurers not authorized to transact business in this state. Each such license expires on the thirty-first day of January next after the year in which it is issued, and may be then renewed ~~according to the standard renewal procedure of sections 4745.01 to 4745.03, inclusive, of the Revised Code~~.

Sec. 3905.33. (A) No person licensed under section 3905.30 of the Revised Code shall solicit, procure an application for, bind, issue, renew, or deliver a policy with any insurer that is not eligible to write insurance on a

surplus line basis in this state.

To establish the eligibility of an unauthorized insurer, the superintendent of insurance may request copies of the insurer's most recent financial statements; instruments such as domestic trust agreements, powers of attorney, and investment management contracts; biographies of the owners and managers of the insurer; and any other information the superintendent believes may be helpful in determining an insurer's suitability. The suitability of each unauthorized insurer is subject to the continuous scrutiny and discretion of the superintendent.

(B)(1) No insurance agent or surplus line broker shall solicit, procure, place, or renew any insurance with an unauthorized insurer unless the agent or surplus line broker has complied with the due diligence requirements of this section and is unable to procure the requested insurance from an authorized insurer.

Due diligence requires the agent or surplus line broker to contact at least five of the authorized insurers the agent or surplus line broker represents, or as many insurers as the agent or surplus line broker represents, that customarily write the kind of insurance required by the insured. Due diligence is presumed if declinations are received from each authorized insurer contacted. If any authorized insurer fails to respond within ten days after the initial contact, the agent or surplus line broker may assume the insurer has declined to accept the risk.

(2) An insurance agent or surplus line broker is exempt from the due diligence requirements of this section if the agent or surplus line broker is procuring insurance from a risk purchasing group or risk retention group as provided in Chapter 3960. of the Revised Code.

(C) An insurance agent who procures or places insurance through a surplus line broker shall obtain an affidavit from the insured acknowledging that the insurance policy is to be placed with a company or insurer not authorized to do business in this state and acknowledging that, in the event of the insolvency of the insurer, the insured is not entitled to any benefits or proceeds from the Ohio insurance guaranty association. The affidavit must be on a form prescribed by the superintendent. The agent shall submit the original affidavit to the surplus line broker within thirty days after the effective date of the policy. If no other agent is involved, the surplus line broker shall obtain the affidavit from the insured.

The surplus line broker shall keep the original affidavit, and the originating agent shall keep a copy of the affidavit, for at least five years after the EFFECTIVE date of the policy to which the affidavit pertains. A copy of the affidavit shall be given to the insured at the time the insurance is

bound or a policy is delivered.

(D) The superintendent may adopt rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of sections 3905.30 to 3905.38 of the Revised Code.

Sec. 3905.34. Each person licensed under section 3905.30 of the Revised Code shall keep a separate account of the business done under ~~his~~the person's license~~, a certified copy of which account he~~. Within thirty days after the end of each quarter, each surplus line broker shall ~~forthwith, on issuing any such policy,~~ file that account with the superintendent of insurance~~, showing~~. The account must show the amount of such insurance, the name of the insured, a brief description of the type of insurance, the location of the property, the gross premium charged, the name of the insurer, the date of the policy and term thereof, and a report in the same detail of all such policies canceled and the gross return premiums thereon.

Sec. 3905.35. Before receiving a license under section 3905.30 of the Revised Code, the person named ~~therein~~in the license shall execute and deliver to the superintendent of insurance a bond in the sum of twenty-five thousand dollars, payable to the state ~~with at least two sureties, approved by the superintendent~~ and conditioned that ~~such~~ the person will faithfully comply with sections 3905.30 to 3905.35~~, inclusive,~~ of the Revised Code~~, and will annually file with the superintendent in January, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross premiums on such insurance canceled under such license during the year ending on the thirty-first day of December last preceding, and at the time of filing such statement will pay to the superintendent an amount equal to five per cent of the balance of such gross premiums after deducting such return premiums so reported. Such tax shall be collected from the insured by the surplus line broker placing such policy of insurance at the time of the delivery of the policy to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until such reports and tax have been filed and paid in full~~. The bond required by this section shall be issued by an insurance company authorized to transact surety business in this state, be on a form prescribed by the superintendent, and be deposited with the superintendent and kept in ~~his~~ the superintendent's office.

Sec. 3905.36. Every insured association, company, ~~or~~ corporation, or other person that enters, directly or indirectly, into any agreements with any insurance company, association, individual, firm, underwriter, or Lloyd, not authorized to do business in this state, whereby the insured shall procure, continue, or renew contracts of insurance covering subjects of insurance resident, located, or to be performed within this state, with such

rized insurance company, association, individual, firm, underwriter, or Lloyd, for which insurance there is a premium, membership fee, assessment, dues, or other consideration charged or collected, shall annually, on or before the first day of July ~~or within ten days thereafter~~, return to the superintendent of insurance a statement under oath showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, and amount of premium, fee, assessment, dues, or other consideration for such insurance for the preceding twelve-month period and shall at the same time pay to the ~~superintendent~~ treasurer of state a tax of five per cent of such premium, fee, assessment, dues, or other consideration, as calculated on a form prescribed by the treasurer of state. All taxes collected under this section by the ~~superintendent~~ treasurer of state shall be paid into the general revenue fund. If ~~such~~ the tax is not paid when due, ~~such~~ the tax shall be increased by a penalty of twenty-five per cent. An interest charge ~~of six per cent per annum~~ computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date ~~such~~ the tax is due until it is paid. ~~The superintendent shall determine and report all claims for penalties and interest accruing under this section as provided in section 131.02 of the Revised Code~~ For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed. This section does not apply to:

(A) Insurance obtained pursuant to sections 3905.30 to 3905.35 of the Revised Code;

(B) Transactions in this state involving a policy solicited, written, and delivered outside this state covering only subjects of insurance not resident, located, or to be performed in this state at the time of issuance, provided such transactions are subsequent to the issuance of ~~such~~ the policy;

(C) Attorneys-at-law acting on behalf of their clients in the adjustment of claims or losses;

(D) Any insurance company underwriter issuing contracts of insurance to employer insureds~~, employer insureds,~~ or contracts of insurance issued to an employer insured. For purposes of this section an "employer insured" is an insured:

(1) Who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously qualified insurance consultant~~;~~. As used in division (D)(1) of this section, a "regularly and continuously

QUALIFIED INSURANCE consultant" does not INCLUDE any person licensed under Chapter 3905. of the Revised Code.

(2) Whose aggregate annual premiums for insurance on all risks total at least twenty-five thousand dollars; and

(3) Who has at least twenty-five full-time employees.

Each person licensed under section 3905.30 of the Revised Code shall pay to the treasurer of state, on or before the thirty-first day of January of each year, five per cent of the balance of the gross premiums charged for insurance placed or procured under the license after a deduction for return premiums, as reported on a form prescribed by the treasurer of state. The tax shall be collected from the INSURED by the surplus line broker who placed or procured the policy of insurance at the time the policy is delivered to the insured. No license issued under section 3905.30 of the Revised Code shall be renewed until payment is made. For purposes of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

Sec. 3905.37. No person, company, association, or corporation shall fail to make the report required in section 3905.36 of the Revised Code and to furnish all the information that is required by the ~~superintendent of insurance~~ treasurer of state to determine the amount due under ~~said~~ that section.

Sec. 3917.01. (A) Group life insurance is that form of life insurance covering not less than ten employees with or without medical examination, written under a policy issued to the employer, or to a trustee of a trust created by such employer, the premium on which is to be paid by the employer, by the employer and employees jointly, or by such trustee out of funds contributed by the employer or by the employer and employees jointly, and insuring only all of ~~his~~the employer's employees or all of any classes thereof, determined by sex, age, or conditions pertaining to the employment, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the employer; but when the premium is to be paid by the employer and employee jointly and the benefits of the policy are offered to all eligible employees, not less than seventy-five per cent of such employees may be so insured. Such group policy may provide that "employees" includes retired employees of the employer and the officers, managers, employees, and retired employees of subsidiary or affiliated corporations and the individual proprietors, partners, employees, and retired employees of affiliated individuals and firms, when the business of such subsidiary or affiliated

corporations, firms, or individuals is controlled by the common employer through stock ownership, contract, or otherwise. This section does not define as a group the lives covered by a policy issued on more than one life which provides for payments upon the death of any one or more or upon the death of each of the lives so insured, and upon which the premium rates charged are computed on the same basis as used by the issuing company on single life policies and upon its regular forms of insurance.

(B) As used in sections 3917.01 to 3917.06 of the Revised Code, the following forms of life insurance are group life insurance:

(1) Life insurance covering the members of one or more companies, batteries, troops, battalions, divisions, or other units of the national guard or naval militia of any state, written under a policy issued to the commanding general of the national guard or commanding officer of the naval militia, who is the employer for the purposes of such sections, the premium on which is to be paid by the members of such units for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible members of a unit of the national guard or naval militia, not less than seventy-five per cent of the members of such a unit may be insured;

(2) Life insurance covering the members of one or more troops or other units of the state troopers or state police of any state, written under a policy issued to the commanding officer of the state troopers or state police who is the employer for the purposes of such sections, the premium on which is to be paid by the members of such units for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible members of a unit of the state troopers or state police, not less than seventy-five per cent of the members of such a unit may be insured;

(3) Life insurance covering the members of any labor union, written under a policy issued to such union which is the employer for the purposes of such sections, the premium on which is to be paid by the union or by the union and its members jointly, and insuring only all of its members, who are actively engaged in the same occupation, for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the union or its officials; provided that in case the insurance policy is cancellable at the end of any policy year at the option of the insurance company and that the basis of premium rates may be changed by the insurance company at the beginning of any policy year, all members of a labor union may be insured; and provided that when the premium is to be paid by the union and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members

may be insured; and provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability;

(4) Life insurance written under a policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor ~~whose indebtedness is repayable in installments over a period of not more than ten years, or, in the case of debtors of the creditor whose indebtedness has been incurred in the acquisition of a mobile home, fifteen years~~, excepting that no debtor is eligible unless the indebtedness constitutes an obligation to repay ~~which~~ that is binding upon ~~him~~ the debtor during ~~his~~ the debtor's lifetime at and from the date the insurance becomes effective upon ~~his~~ the debtor's life. The policy may provide that "debtors" includes the debtors of one or more subsidiary corporations and the debtors of one or more affiliated corporations, proprietors, or partnerships if the business of the policyholder and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract, or otherwise.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly, or may reasonably be expected to receive at least one hundred new entrants during the first policy year, and continues to receive not less than one hundred new entrants to the group yearly, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five per cent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(d) The amount of insurance on the life of any debtor may be determined by the age of the debtor based upon a plan which will preclude individual selection and shall at no time exceed the amount owed by ~~him which~~ the debtor that is repayable in installments to the creditor~~, or fifty thousand dollars, whichever is less~~.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(5) Life insurance covering the members of any duly organized corporation or association of veterans or veteran society or association of the World War veterans, written under a policy issued to such corporation, association, or society which is the employer for the purpose of such sections, the premium on which is to be paid by the corporation, association, society, and its members jointly, and insuring all of its members who are actively engaged in any occupation for amounts of insurance based upon some plan which will preclude individual selection for the benefit of persons other than the corporation, association, or society or its officials; provided that when the premium is to be paid by the corporation, association, or society and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be insured; and provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability;

(6) Life insurance covering the members of any organization of agriculturists or horticulturists organized under the co-operative laws of this state, written under a policy issued to such co-operative association which is the employer for the purpose of such sections, the premium on which is to be paid by the association or by the association and its members jointly, and insuring all of its members who are actively engaged in agricultural or horticultural pursuits, for an amount of insurance based upon some plan which will preclude individual selection, and for the benefit of persons other than the association or its officials; provided that when the premium is to be paid by the corporation, association, or society and its members jointly and the benefits are offered to all eligible members, not less than seventy-five per cent of such members may be insured; provided that when members apply and pay for additional amounts of insurance, a smaller percentage of members may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability;

(7) Life insurance covering employees of a political subdivision or district of this state, or of an educational or other institution supported in whole or in part by public funds, or of any classes thereof, determined by conditions pertaining to employment, or of this state or any department or division thereof, written under a policy issued to such political subdivision, district, or institution, or the proper official or board of this state or of such state department or division thereof, which is the employer for the purpose of such sections, the premium on which is to be paid by such employees, unless otherwise provided by law, charter, or ordinance, for the benefit of persons other than the employer; provided that when the benefits of the policy are offered to all eligible employees of a political subdivision or district of the state or of an educational or other institution supported in whole, or in part by public funds, or of this state or a state department or division thereof, not less than seventy-five per cent of such employees may be insured; and provided that when employees apply and pay for additional amounts of insurance, a smaller percentage of employees may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability; and provided that upon acquisition by a political subdivision of any privately owned property or enterprise, the employees of which have been covered by a group policy of life or other insurance as employees of such private employer, such political subdivision and insurance company may continue such contract in force upon similar conditions as the last preceding private employer;

(8) Life insurance covering the members, or the members and the employees of members of any duly organized association, other than an association subject to any other provision of this division, written under a policy issued to such association, which association is the employer for the purpose of such sections, the premium on which is to be paid by the insured members or their employees, insuring members and their employees for amounts of insurance based upon some plan which will preclude individual selection except as provided in this section, for the benefit of persons other than the association; provided the association has been in existence for at least two years immediately preceding the purchase of the insurance; provided that there must be at least fifty insured members in any group; and provided that the association has been organized and is maintained in good faith for purposes other than that of obtaining insurance;

(9) Life insurance issued to trustees of a trust fund established jointly by one or more employers in the same industry, on the one hand, and one or more labor unions representing as bargaining agents employees of such employers, on the other hand, or by two or more employers in the same

industry, or by two or more labor unions, which trustees shall be deemed the policyholder to insure employees of the employers or members of unions for the benefit of persons other than the employers or the unions or the trustees, subject to the following requirements:

(a) The persons eligible for such insurance shall be all of the employees of the employers, or all of the members of the unions, or all of any class of such employees determined by sex, age, or conditions pertaining to their employment, or to membership in the unions, or to any or all of them. The policy may provide that "employees" includes the retired employees of the employer and the officers, managers, employees, and retired employees of subsidiary or affiliated corporations and the individual proprietors, partners, employees, and retired employees of affiliated individuals and firms, when the business of such subsidiary or affiliated corporations, firms, or individuals is controlled by the common employer through stock ownership, contract, or otherwise. The policy may provide that "employees" includes the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that "employees" includes the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees, either wholly from funds contributed by the employers of the insured persons, or partly from such funds and partly from funds contributed by the insured employees. If part of the premium is to be derived from funds contributed by the insured employees, then such policy may be placed in force only if it covers at least seventy-five per cent of the then eligible employees. A policy on which no part of the premium is derived from funds contributed by the insured employees must insure all eligible employees.

(c) Any policy must insure at least ten persons at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection by the insured persons or the policyholder or the employers or the unions or the trustees.

(10) Life insurance covering the members of a credit union, which shall be deemed to be the employer for the purposes of this section, the premium on which is to be paid by the credit union or by the credit union and its members jointly, and insuring all of its eligible members for amounts of insurance not in excess of the share balance as to each member, and for the benefit of persons other than the credit union or its officers; provided that in the determination of the eligibility of members there may be classifications and limitations based upon age; provided also that when the premium is to be paid by the credit union and its members jointly and the benefits are

offered to all eligible members, not less than seventy-five per cent of such members may be so insured; provided also that in obtaining such insurance, the officers of the credit union shall consider proposals from any licensed insurer; provided also that members may be required to provide evidence of insurability satisfactory to the insurer.

(11) Life insurance covering the members of any duly organized corporation or association of members of the Ohio national guard, the Ohio naval militia, and the Ohio military reserve, which shall have been in existence for at least two years immediately preceding the purchase of such insurance, written under a policy issued to such corporation or association, which corporation or association is the employer for the purpose of such sections, the premium on which is to be paid by the insured members, insuring members for amounts of insurance based upon some plan which will preclude individual selection, except as provided in this section, for the benefit of persons other than the corporation or association, provided that there must be at least fifty insured members in any group, and provided further that unless seventy-five per cent of all members or one thousand members, whichever is the lesser number, are insured, each member must pass a satisfactory medical examination in order to be insured; and provided that, when members apply and pay for additional amounts of insurance, they may be insured for such additional amounts if they pass satisfactory medical examinations or submit satisfactory evidence of insurability.

(C) Any policy issued pursuant to this section, except a policy issued to a creditor pursuant to division (B) (4) of this section, may be extended, in the form of group term life insurance only, to insure the spouse and dependent children of an insured employee or member, or any class or classes thereof, subject to the following requirements:

(1) The premiums for the group term life insurance shall be paid by the policyholder, either from the employer, union or association funds, or from funds contributed by the employer, union, or association, or from funds contributed by the insured employee or member, or from both.

(2) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured employee or member or by the policyholder, provided that group term life insurance upon the life of a spouse or dependent child shall not exceed the lesser of (a) ten thousand dollars, or (b) one-half of the amount of insurance on the life of the insured employee or member under the group policy.

(3) Upon termination of the group term life insurance with respect to the spouse of any insured employee or member by reason of such person's termination of employment or membership or death, the spouse insured

pursuant to this section shall have the same conversion rights as to the group term life insurance on ~~his or her~~ the spouse's life as is provided for the insured employee or member.

(4) Only one certificate need be issued for delivery to an insured employee or member if a statement concerning any dependent's coverage is included in such certificate.

Sec. 3918.01. All ~~life~~consumer credit insurance ~~and all accident and health insurance~~ issued or sold in connection with loans or other credit transactions ~~of less than ten years duration and all loans or other credit transactions in connection with the acquisition of mobile homes of not more than fifteen years duration are~~ for personal, family, or household purposes is subject to sections 3918.01 to 3918.13 of the Revised Code~~. Except as otherwise provided in this section such insurance sold in connection with a loan or other credit transactions of ten years duration or more is not subject to sections 3918.01 to 3918.13 of the Revised Code~~, except for all of the following:

(A) Insurance written in connection with a credit transaction that is secured by a first mortgage or deed of trust and is made to finance the purchase of real property, or the construction of a dwelling on such property, or to refinance a prior credit transaction made for such a purpose;

(B) Insurance that is sold as an isolated transaction on the part of the insurer and is not related to an agreement or plan for insuring debtors of the creditor;

(C) Insurance for which no identifiable charge is made to the debtor;

(D) Insurance on accounts receivable.

Sec. 3918.02. As used in sections 3918.01 to 3918.13~~, inclusive,~~ of the Revised Code:

(A) "Consumer credit insurance" means credit life insurance and credit accident and health insurance.

(B) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction.

~~(B)~~(C) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

~~(C)~~(D) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction or any successor to the right, title, or interest of any such lender, vendor, or lessor, and an affiliated, associate, or subsidiary of any of them or any director, officer, or employee of any of

them or any other person in any way associated with any of them.

~~(D)~~(E) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

~~(E)~~(F) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction.

~~(F)~~(G) "Superintendent" means the superintendent of insurance.

Sec. 3921.30. (A) If the superintendent of insurance finds, upon investigation, that a domestic fraternal benefit society has exceeded its powers, has failed to comply with any provision of this chapter, is not fulfilling its contracts in good faith, has a membership of less than four hundred after an existence of one year or more, or is conducting business fraudulently or in a manner hazardous to its members, creditors, the public, or the business, the superintendent shall issue a written notice to the society that sets forth the deficiency and the reasons for the superintendent's dissatisfaction, and that requires the society to correct the deficiency within thirty days after receipt of the notice. If the society fails to correct the deficiency within that thirty-day period, the superintendent shall notify the society of its failure to correct the deficiency and shall require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of has been corrected, or why an action in quo warranto should not be commenced against the society.

If on that date the society does not present good and sufficient reasons why it should not be enjoined or why such action should not be commenced, the superintendent may present the facts relating thereto to the attorney general. If the attorney general determines that the circumstances warrant, the attorney general shall commence an action to enjoin the society from transacting business or in quo warranto.

The court shall thereupon notify the officers of the society of a hearing. If after a full hearing it appears that the society should be enjoined or liquidated or a receiver appointed, the court shall enter the necessary order.

(B) A society enjoined pursuant to division (A) of this section shall not have the authority to do business until all of the following occur:

(1) The superintendent finds that the violation complained of has been corrected.

(2) The costs of the action have been paid by the society if the court finds that the society was in default as charged.

(3) The court has dissolved its injunction.

(4) The superintendent has reinstated the certificate of authority.

(C) If the court orders the society liquidated, the society shall be

enjoined from carrying on any further business, whereupon the receiver of the society shall proceed at once to take possession of the books, papers, money, and other assets of the society and, under the direction of the court, shall close the affairs of the society and distribute its funds to those entitled to them.

(D) No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the superintendent. Whenever a receiver is to be appointed for a domestic society, the court shall appoint the superintendent as the receiver.

(E) The provisions of this section relating to a hearing by the superintendent, action by the attorney general at the request of the superintendent, hearing by the court, injunction, and receivership shall apply to any society that voluntarily determines to discontinue business.

(F) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS PREVENTING THE LODGES AND MEMBERS OF A SOCIETY FROM COMMENCING A CIVIL ACTION AGAINST a SOCIETY FOR THE ENFORCEMENT OF A CONTRACT PROVISION OR FOR THE RESOLUTION OF A DISPUTE CONCERNING AN INTERPRETATION OF THE SOCIETY'S LAWS, which action is not based on the superintendent's exercise of authority under this section. A SOCIETY SHALL NOT PROHIBIT A LODGE OR MEMBER FROM COMMENCING such AN ACTION AGAINST IT.

Sec. 3960.03. All of the following apply to risk retention groups chartered and licensed in states other than this state, ~~which~~that seek to do business as a risk retention group in this state:

(A) No risk retention group shall offer insurance in this state unless it has submitted to the superintendent of insurance, in a form satisfactory to the superintendent, all of the following:

(1) A statement identifying the state or states in which it is chartered and licensed as a liability insurance company, the date of chartering, its principal place of business, and any other information, including but not limited to, information on its membership, that the superintendent may require to verify that it is qualified under division (J) of section 3960.01 of the Revised Code;

(2) A copy of its plan of operation or a feasibility study and revisions of the plan or study submitted to the state in which the risk retention group is chartered and licensed. Division (A)(2) of this section does not apply to any line or classification of liability insurance that was defined in the federal "Product Liability Risk Retention Act of 1981," 95 Stat. 949, 15 U.S.C.A. 3901, as amended, before October 27, 1986, and was offered before that date by any risk retention group that had been chartered and operating for

not less than three years before that date. The risk retention group shall submit a copy of any revision to its plan of operation or feasibility study required by division (A)(2) of section 3960.02 of the Revised Code at the same time that the revision is submitted to the Commissioner of Insurance of its chartering state.

(3) A statement of registration, for which a filing fee shall be determined by the superintendent, that submits it to the jurisdiction of the superintendent and the courts of this state. The fee shall be paid into the state treasury to the credit of the department of insurance operating fund pursuant to section 3901.021 of the Revised Code.

(B) A risk retention group doing business in this state shall submit to the superintendent all of the following:

(1) A copy of its financial statement submitted to the state in which the risk retention group is chartered and domiciled, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American academy of actuaries or a qualified loss reserve specialist under criteria established by the national association of insurance commissioners;

(2) A copy of each examination of the group as certified by the commissioner or public official conducting the examination;

(3) Upon request by the superintendent, a copy of any information or document pertaining to any outside audit performed with respect to the group;

(4) Any information that may be required to verify, to the superintendent's satisfaction, its continuing qualification as a risk retention group under division (J) of section 3960.01 of the Revised Code.

(C)(1) Agents or brokers for the risk retention group shall report to the superintendent the premiums for direct business for risks resident or located within this state that they have placed with or on behalf of a risk retention group not chartered in this state.

(2) The agent or broker shall keep a complete and separate record of all policies procured from each risk retention group, which record shall be open to examination by the superintendent. These records shall, for each policy and each kind of insurance provided, include the following:

(a) The limit of liability;

(b) The time period covered;

(c) The effective date;

(d) The name of the risk retention group that issued the policy;

(e) The gross premium charged;

(f) The amount of return premiums.

(D) Every risk retention group that is not chartered in this state shall ~~return on~~ do both of the following:

(1) On or before the first day of July ~~to the superintendent a statement under oath showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, and the amount of premium, fee, assessment, dues, or other consideration for the insurance for the preceding one-year period for risks resident or located in this state and shall at the time~~, pay to the ~~superintendent a tax~~ treasurer of state five per cent of ~~the premium, fee, assessment~~ all premiums, fees, assessments, dues, or other consideration for the preceding one-year period for risks resident or located in this state, as calculated on a form prescribed by the treasurer of state. If such tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge computed as set forth in section 5725.221 of the Revised Code shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. All taxes collected under this section ~~by the superintendent~~ shall be paid into the general revenue fund. ~~If the tax is not paid when due, the tax shall be increased by a penalty of twenty-five per cent. An interest charge of six per cent per year shall be made on the entire sum of the tax plus penalty, which interest shall be computed from the date the tax is due until it is paid. The superintendent shall determine and report all claims for penalties and interest accruing under this section as provided in section 131.02 of the Revised Code~~ For purposes of division (D)(1) of this section, payment is considered made when it is received by the treasurer of state, irrespective of any United States postal service marking or other stamp or mark indicating the date on which the payment may have been mailed.

(2) Within thirty days after the end of each quarter, file a statement with the superintendent, on a form prescribed by the superintendent, showing the name and address of the insured, name and address of the insurer, subject of the insurance, general description of the coverage, the amount of premium, fee, assessment, dues, or other consideration for the INSURANCE, and any other information the superintendent requires.

(E) The superintendent may examine the financial condition of a risk retention group if the commissioner of insurance in the state in which it is chartered and licensed has not initiated an examination or does not initiate an examination within sixty days after the superintendent has requested an examination. The examination shall be conducted in an expeditious manner and in accordance with the national association of insurance commissioners' examiner handbook.

(F) The superintendent may issue any order appropriate in voluntary dissolution proceedings or commence delinquency proceedings against a risk retention group not chartered in this state that does business in this state if the superintendent finds, after an examination of the group under division (E) of this section, that its financial condition is impaired. A risk retention group that violates any provision of this chapter is subject to fines and penalties, including revocation of its right to do business in this state, applicable to licensed insurers generally. In addition to complying with the requirements of this section, any risk retention group operating in this state prior to enactment of this section shall comply with division (A)(1) of this section within thirty days after ~~the effective date of this section~~ OCTOBER 26, 1989.

Sec. 4111.01. As used in sections 4111.01 to 4111.17 of the Revised Code:

(A) "Wage" means compensation due to an employee by reason of ~~his~~ employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the deductions, charges, or allowances permitted by rules of the administrator of the bureau of employment services under section 4111.05 of the Revised Code. "Wage" includes an employee's commissions of which ~~his~~ the employee's employer keeps a record, but does not include gratuities, except as provided by rules issued under section 4111.05 of the Revised Code.

"Wage" also includes the reasonable cost to the employer of furnishing to an employee board, lodging, or other facilities, if the board, lodging, or other facilities are customarily furnished by the employer to ~~his~~ the employer's employees. The cost of board, lodging, or other facilities shall not be included as part of wage to the extent excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the employee.

(B) "Employ" means to suffer or to permit to work.

(C) "Employer" means the state of Ohio, its instrumentalities, and its political subdivisions and their instrumentalities, any individual, partnership, association, corporation, business trust, or any person or group of persons, acting in the interest of an employer in relation to an employee, but does not include an employer whose annual gross volume of sales made for business done is less than one hundred fifty thousand dollars, exclusive of excise taxes at the retail level which are separately stated.

(D) "Employee" means any individual employed by an employer but does not include:

(1) Any individual employed by the United States;

(2) Any individual employed as a baby-sitter in the employer's home, or a live-in companion to a sick, convalescing, or elderly person whose principal duties do not include housekeeping;

(3) Any individual engaged in the delivery of newspapers to the consumer;

(4) Any individual employed as an outside ~~salesman~~ salesperson compensated by commissions or in a bona fide executive, administrative, or professional capacity as such terms are defined by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29 U.S.C.A. 201, as amended;

(5) Any employee employed in agriculture if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred ~~man-days~~ worker-days of agricultural labor, or if the employee is the parent, spouse, child, or other member of ~~his~~ the employer's immediate family;

(6) Any individual who works or provides personal services of a charitable nature in a hospital or health institution for which compensation is not sought or contemplated;

(7) A member of a police or fire protection agency or student employed on a part-time or seasonal basis by a political subdivision of this state;

(8) Any individual in the employ of a camp or recreational area for children under eighteen years of age and owned and operated by a nonprofit organization or group of organizations described in Section 501 (c)(3) of the "Internal Revenue Code of 1954," and exempt from income tax under Section 501 (a) of that code;

(9) Any individual employed directly by the house of representatives or directly by the senate.

(E) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which individuals are employed.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under

Chapter 3314. of the Revised Code; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

(1) Persons holding elective office;

(2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;

(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;

(4) Persons who are members of the organized militia, while on active duty;

(5) Employees of the state employment relations board;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Employees of the state personnel board of review;

(16) Employees of the board of directors of the Ohio low-level radioactive waste facility development authority created in section 3747.05 of the Revised Code.

(17) Participants of the subsidized employment program established under section 5101.82 of the Revised Code or the work experience program established under section 5101.83 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department ~~chairmen~~ chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall

be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced

type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular fire fighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under

section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

Sec. 4117.02. (A) There is hereby created the state employment relations board, consisting of three members to be appointed by the governor with the advice and consent of the senate. Members shall be knowledgeable about labor relations or personnel practices. No more than two of the three members shall belong to the same political party. A member of the board during ~~his~~the member's period of service shall hold no other public office or public or private employment and shall allow no other responsibilities to interfere or conflict with ~~his~~ the member's duties as a full-time board member. Of the initial appointments made to the board, one shall be for a term ending October 6, 1984, one shall be for a term ending October 6, 1985, and one shall be for a term ending October 6, 1986. Thereafter, terms of office shall be for six years, each term ending on the same day of the same month of the year as did the term that it succeeds. Each member shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member is appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of the term. Any member shall continue in office subsequent to the expiration of ~~his~~ the member's term until ~~his~~ the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

The governor shall designate one member to serve as chairperson of the board. The governor may remove any member of the board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(B) A vacancy on the board does not impair the right of the remaining members to exercise all the powers of the board, and two members of the board, at all times, ~~constitutes~~ constitute a quorum. The board shall have an official seal of which courts shall take judicial notice.

(C) The board shall make an annual report in writing to the governor and to the general assembly, stating in detail the work it has done.

(D) Compensation of the chairperson and members shall be in accordance with division (J) of section 124.15 of the Revised Code. The chairperson and the members are eligible for reappointment. In addition to such compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

(E) The board shall appoint an executive director and attorneys, attorney-trial examiners, mediators, arbitrators, members of fact-finding

els, directors for local areas, and other employees as it finds necessary for the proper performance of its duties and may prescribe their duties. The attorney general shall be the legal adviser of the board and shall appear for and represent the board and its agents in all legal proceedings. The board may utilize regional, local, or other agencies, and utilize voluntary and uncompensated services as needed. The board may contract with the federal mediation and conciliation service for the assistance of mediators, arbitrators, and other personnel the service makes available. The board shall appoint all employees on the basis of training, practical experience, education, and character, notwithstanding the requirements established by section 119.09 of the Revised Code. The board shall give special regard to the practical training and experience that employees have for the particular position involved. All full-time employees of the board excepting the executive director, the head of the bureau of mediation, and the personal secretaries and assistants of the board members are in the classified service. All employees of the board shall be paid in accordance with Chapter 124. of the Revised Code.

(F) The board shall select and assign examiners and other agents whose functions are to conduct hearings with due regard to their impartiality, judicial temperament, and knowledge. If in any proceeding under this chapter, any party prior to five days before the hearing thereto files with the board a sworn statement charging that the examiner or other agent designated to conduct the hearing is biased or partial in the proceeding, the board may disqualify the person and designate another examiner or agent to conduct the proceeding. At least ten days before any hearing, the board shall notify all parties to a proceeding of the name of the examiner or agent designated to conduct the hearing.

(G) The principal office of the board is in Columbus, but it may meet and exercise any or all of its powers at any other place within the state. The board may, by one or more of its employees, or any agents or agencies it designates, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions; provided, that no person so designated may later sit in determination of an appeal of the decision of that cause or matter.

(H) In addition to the powers and functions provided in other sections of this chapter, the board shall do all of the following:

(1) Create a bureau of mediation within the state employment relations board, to perform the functions provided in section 4117.14 of the Revised Code. This bureau shall also establish, after consulting representatives of employee organizations and public employers, panels of qualified persons to

be available to serve as members of fact-finding panels and arbitrators.

(2) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;

(3) Hold hearings pursuant to this chapter and, for the purpose of the hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any members of the board or any attorney-trial examiner appointed by the board for the performance of its functions;

(4) Train representatives of employee organizations and public employers in the rules and techniques of collective bargaining procedures;

(5) Make studies and analyses of, and act as a clearinghouse of information relating to, conditions of employment of public employees throughout the state and request assistance, services, and data from any public employee organization, public employer, or governmental unit. Public employee organizations, public employers, and governmental units shall provide such assistance, services, and data as will enable the board to carry out its functions and powers.

(6) Make available to employee organizations, public employers, mediators, fact-finding panels, arbitrators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them to resolve issues in negotiations;

(7) Notwithstanding section 119.13 of the Revised Code, establish standards of persons who practice before it;

(8) Adopt, amend, and rescind rules and procedures and exercise other powers appropriate to carry out this chapter. Before the adoption, amendment, or rescission of rules and procedures under this section, the board shall do all of the following:

(a) Maintain a list of interested public employers and employee organizations and mail notice to such groups of any proposed rule or procedure, amendment thereto, or rescission thereof at least thirty days before any public hearing thereon;

(b) Mail a copy of each proposed rule or procedure, amendment thereto, or rescission thereof to any person who requests a copy within five days after receipt of the request therefor;

(c) Consult with appropriate statewide organizations representing public employers or employees who would be affected by the proposed rule or procedure.

Although the board is expected to discharge these duties diligently,

failure to mail any notice or copy, or to so consult with any person, is not jurisdictional and shall not be construed to invalidate any proceeding or action of the board.

(I) In case of neglect or refusal to obey a subpoena issued to any person, the court of common pleas of the county in which the investigation or the public hearing occurs, upon application by the board, may issue an order requiring the person to appear before the board and give testimony about the matter under investigation. The court may punish a failure to obey the order as contempt.

(J) Any subpoena, notice of hearing, or other process or notice of the board issued under this section may be served personally, by certified mail, or by leaving a copy at the principal office or personal residence of the respondent required to be served. A return, made and verified by the individual making the service and setting forth the manner of service, is proof of service, and a return post office receipt, when certified mail is used, is proof of service. All process in any court to which application is made under this chapter may be served in the county wherein the persons required to be served reside or are found.

(K) All expenses of the board, including all necessary traveling and subsistence expenses incurred by the members or employees of the board under its orders, shall be paid pursuant to itemized vouchers ~~signed~~ approved by the chairperson of the board, the executive director, or both, or such other person as the board designates for that purpose.

(L) Whenever the board determines that a substantial controversy exists with respect to the application or interpretation of this chapter and the matter is of public or great general interest, the board shall certify its final order directly to the court of appeals having jurisdiction over the area in which the principal office of the public employer directly affected by the application or interpretation is located. The chairperson shall file with the clerk of the court a certified copy of the transcript of the proceedings before the board pertaining to the final order. If upon hearing and consideration the court decides that the final order of the board is unlawful or is not supported by substantial evidence on the record as a whole, the court shall reverse and vacate the final order or modify it and enter final judgment in accordance with the modification; otherwise, the court shall affirm the final order. The notice of the final order of the board to the interested parties shall contain a certification by the chairperson of the board that the final order is of public or great general interest and that a certified transcript of the record of the proceedings before the board had been filed with the clerk of the court as an appeal to the court. For the purposes of this division, the board has standing

to bring its final order properly before the court of appeals.

(M) Except as otherwise specifically provided in this section, the board is subject to Chapter 119. of the Revised Code, including the procedure for submission of proposed rules to the general assembly for legislative review under division (H) of section 119.03 of the Revised Code.

Sec. 4117.06. (A) The state employment relations board shall decide in each case the unit appropriate for the purposes of collective bargaining. The determination is final and conclusive and not appealable to the court.

(B) The board shall determine the appropriateness of each bargaining unit and shall consider among other relevant factors: the desires of the employees; the community of interest; wages, hours, and other working conditions of the public employees; the effect of over-fragmentation; the efficiency of operations of the public employer; the administrative structure of the public employer; and the history of collective bargaining.

(C) The board may determine a unit to be the appropriate unit in a particular case, even though some other unit might also be appropriate.

(D) In addition, in determining the appropriate unit, the board shall not:

(1) Decide that any unit is appropriate if the unit includes both professional and nonprofessional employees, unless a majority of the professional employees and a majority of the nonprofessional employees first vote for inclusion in the unit;

(2) Include guards or correction officers at correctional or mental institutions, special ~~policemen or policewomen~~ police officers appointed in accordance with sections 5119.14 and 5123.13 of the Revised Code, psychiatric attendants employed at mental health forensic facilities, youth leaders employed at juvenile correction facilities, or any public employee employed as a guard to enforce against other employees rules to protect property of the employer or to protect the safety of persons on the employer's premises in a unit with other employees;

(3) Include members of a police or fire department or members of the state highway patrol in a unit with other classifications of public employees of the department;

(4) Designate as appropriate a bargaining unit that contains more than one institution of higher education; nor shall it within any such institution of higher education designate as appropriate a unit where such designation would be inconsistent with the accreditation standards or interpretations of such standards, governing such institution of higher education or any department, school, or college thereof. For the purposes of this division, any branch or regional campus of a public institution of higher education is part of that institution of higher education.

(5) Designate as appropriate a bargaining unit that contains employees within the jurisdiction of more than one elected county office holder, unless the county-elected office holder and the board of county commissioners agree to such other designation;

(6) With respect to members of a police department, designate as appropriate a unit that includes rank and file members of the department with members who are of the rank of sergeant or above;

(7) Except as otherwise provided by division (A)(3) of section 3314.10 of the Revised Code, designate as appropriate a bargaining unit that contains employees from multiple community schools established under Chapter 3314. of the Revised Code. For purposes of this division, more than one unit may be designated within a single community school.

This section shall not be deemed to prohibit multiunit bargaining.

Sec. 4117.101. Notwithstanding sections 4117.08 and 4117.10 of the Revised Code, no agreement entered into under this chapter may contain any provision that in any way limits the effect or operation of Chapter 3314. of the Revised Code or limits the authority of a school district board of education to enter into a contract with a community school under that chapter. HOWEVER, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT AN AGREEMENT ENTERED INTO UNDER THIS CHAPTER FROM CONTAINING REQUIREMENTS AND PROCEDURES GOVERNING THE REASSIGNMENT OF TEACHERS WHO ARE EMPLOYED IN A SCHOOL AT THE TIME IT IS CONVERTED TO A COMMUNITY SCHOOL PURSUANT TO CHAPTER 3314. OF THE REVISED CODE AND WHO DO NOT CHOOSE OR ARE NOT CHOSEN TO TEACH IN THAT COMMUNITY SCHOOL.

Sec. 4121.39. The administrator of workers' compensation shall do all of the following:

(A) ~~Review~~ Except as provided in section 4123.402 of the Revised Code, review and process all applications for claims;

(B) Award compensation and make payment on all noncontested claims;

(C) Make payment on orders of the industrial commission and district and staff hearing officers as provided in section 4123.511 of the Revised Code;

(D) Serve as representative of the state insurance fund;

(E) Establish a legal section within the bureau to provide legal advice and assistance to the administrator and ~~his~~ the administrator's staff as to claims procedure and policy; appeals to be lodged on behalf of the state insurance fund; and other legal issues. The bureau legal section shall act as

attorney for the state fund in administrative appeals.

(F) Establish a program for quality control, systems design, and internal auditing. In the operation of the program, the administrator shall ensure that audits are performed at least annually to determine whether or not the bureau meets the performance goals the administrator establishes.

(G) Ensure that there exists the coordination between the central office and the service offices necessary to facilitate open lines of communication and the standardized procedures in conformity with the requirements set forth in the operating manuals of the bureau. The administrator shall establish a line of authority from the central office to the service offices of the bureau sufficient to avoid ambiguity in the performance of any management or policy function.

Sec. 4121.446. THE DEPARTMENT OF ADMINISTRATIVE SERVICES SHALL SELECT ONE OR MORE MANAGED CARE ORGANIZATIONS FOR EACH STATE OFFICE, AGENCY, INSTITUTION, BOARD, OR COMMISSION, EXCEPT FOR A PUBLIC COLLEGE OR UNIVERSITY, UNLESS OTHERWISE AGREED TO BETWEEN THE DEPARTMENT AND A STATE OFFICE, AGENCY, INSTITUTION, BOARD, OR COMMISSION.

Sec. 4123.31. The moneys in the state treasury for the use of the bureau of workers' compensation and the industrial commission shall be known as the workers' compensation fund and shall be disbursed pursuant to vouchers ~~signed~~approved by the administrator of workers' compensation or ~~his~~ the administrator's designee.

The bureau and the commission shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying the moneys, checks, and drafts to the treasurer of state as provided by section 113.08 of the Revised Code.

Sec. 4123.402. THE DEPARTMENT OF ADMINISTRATIVE SERVICES SHALL ACT AS EMPLOYER FOR WORKERS' COMPENSATION CLAIMS ARISING UNDER THIS CHAPTER AND CHAPTERS 4121., 4127., AND 4131. OF THE REVISED CODE FOR ALL STATE agencies, offices, institutions, boards, or commissions EXCEPT FOR PUBLIC COLLEGES AND UNIVERSITIES. THE DEPARTMENT SHALL review, process, certify or contest, and administer WORKERS' COMPENSATION CLAIMS FOR EACH STATE agencY, office, institution, board, and commission, except for a public college or university, UNLESS OTHERWISE AGREED TO BETWEEN THE DEPARTMENT AND A STATE agency, office, institution, board, or

commission.

THE DEPARTMENT MAY ENTER INTO A CONTRACT WITH ONE OR MORE THIRD PARTY ADMINISTRATORS FOR CLAIMS MANAGEMENT OF A STATE agency, office, institution, board, or commission, EXCEPT FOR a PUBLIC COLLEGE or UNIVERSITy, FOR WORKERS' COMPENSATION CLAIMS AND FOR CLAIMS COVERED BY THE OCCUPATIONAL INJURY LEAVE PROGRAM ADOPTED PURSUANT TO SECTION 124.381 OF THE REVISED CODE.

Sec. 4123.418. The administrator of workers' compensation shall employ employees as is necessary to the discharge of ~~his~~the administrator's duties and responsibilities hereunder. The salaries and expenses of the employees shall be paid by the treasurer of the state from the fund created by section 4123.412 of the Revised Code ~~upon vouchers authorized and signed~~ as provided in section 4123.42 of the Revised Code.

90-DAY

Sec. 4141.131. (A) The administrator of the bureau of employment services may enter into contracts for the sale of real property no longer needed by the bureau of employment services for the operations of the bureau. Any costs attributable to the bureau that are associated with the sale of real property under this section shall be paid out of the unemployment compensation special administrative fund established pursuant to section 4141.11 of the Revised Code.

(B)(1) Earnest moneys from the sale of real property pursuant to division (A) of this section shall be deposited into the bureau of employment services building consolidation fund, which is hereby created in the state treasury. The balance of the purchase price shall be deposited into the bureau of employment services building enhancement fund, which is hereby created in the state treasury. The building enhancement fund shall retain its own interest. Upon completion of the sale and the request of the administrator, the treasurer of state shall transfer the earnest moneys in the building consolidation fund into the building enhancement fund. The administrator shall use the interest earned on the moneys in the building enhancement fund only in accordance with division (C) of this section.

(2) The Administrator shall deposit sufficient moneys from the sale of real property pursuant to division (A) of this section into the unemployment compensation special administrative fund to reimburse the fund for all costs associated with the sale of that real property.

(C) The bureau shall use the moneys in the building enhancement fund from the sale of real property pursuant to division (A) of this section, less

the costs of the sale as specified in division (B)(2) of this section, in accordance with the provisions and requirements of the "Social Security Act," 49 Stat. 626 (1935), 52 U.S.C. 502(a) and 1103(c)(2), and the instructions of the united states department of labor, to improve buildings owned by or under the control of the bureau. if the administrator determines that there are no buildings for which money in the building enhancement fund may be used, the money shall be returned to the United States department of labor.

(D) The auditor of state, with the assistance of the attorney general, shall prepare a deed to the real property being sold upon notice from the administrator that a contract for the sale of that property has been executed in accordance with this section. The deed shall state the consideration and any conditions placed upon the sale. The deed shall be executed by the governor in the name of the state, countersigned by the secretary of state, sealed with the great seal of the state, presented in the office of the auditor of state for recording, and delivered to the buyer upon payment of the balance of the purchase price.

The buyer shall present the deed for recording in the county recorder's office of the county in which the real property is located.

Sec. 4301.10. (A) The department or, beginning on July 1, 1997, the division of liquor control shall:

(1) Control the traffic in beer and intoxicating liquor in this state, including the manufacture, importation, and sale of beer and intoxicating liquor;

(2) Grant or refuse permits for the manufacture, distribution, transportation, and sale of beer and intoxicating liquor and the sale of alcohol, as authorized or required by this chapter and Chapter 4303. of the Revised Code; and a certificate signed by the director or, beginning on July 1, 1997, the superintendent of liquor control to which is affixed the official seal of the department or division stating that it appears from the records of the department or division that no permit has been issued to the person specified in the certificate, or that a permit, if issued, has been revoked, canceled, or suspended shall be received as prima-facie evidence of the facts recited in the certificate in any court, or before any officer of this state;

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the department or division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish

and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the director or superintendent of liquor control pursuant to those chapters; lease, or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the department or division created under authority of this division shall be a charge only upon the moneys received by the department or division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the director or superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors; and the attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the department or division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquor;

(5) Determine the locations of all state liquor stores and manufacturing, distributing, and bottling plants required in connection therewith, subject to this chapter and Chapter 4303. of the Revised Code;

(6) Conduct inspections of liquor permit premises to determine compliance with the administrative provisions of this chapter and Chapter 4303. of the Revised Code and the rules adopted under those provisions by the liquor control commission.

Except as otherwise provided in division (A)(6) of this section, those inspections may be conducted only during those hours in which the permit holder is open for business and only by authorized agents or employees of the department or division or by any peace officer, as this term is defined in section 2935.01 of the Revised Code. Inspections may be conducted at other hours only to determine compliance with laws or commission rules that regulate the hours of sale of beer and intoxicating liquor and only if the investigator has reasonable cause to believe that those laws or rules are being violated. Any inspection conducted pursuant to division (A)(6) of this

section is subject to all of the following requirements:

(a) The only property that may be confiscated is contraband, as defined in section 2901.01 of the Revised Code, or property that is otherwise necessary for evidentiary purposes.

(b) A complete inventory of all property confiscated from the premises shall be given to the permit holder or the permit holder's agent or employee by the confiscating agent or officer at the conclusion of the inspection. At that time, the inventory shall be signed by the confiscating agent or officer and the agent or officer shall give the permit holder or the permit holder's agent or employee the opportunity to sign the inventory.

(c) Inspections conducted pursuant to division (A)(6) of this section shall be conducted in a reasonable manner. A finding by any court of competent jurisdiction that the inspection was not conducted in a reasonable manner in accordance with this section or any rules promulgated by the commission may be considered grounds for suppression of evidence. A finding by the liquor control commission that the inspection was not conducted in a reasonable manner in accordance with this section or any rules promulgated by the commission may be considered grounds for dismissal of the commission case.

If any court of competent jurisdiction finds that property confiscated as the result of an administrative inspection is not necessary for evidentiary purposes and is not contraband, as defined in section 2901.01 of the Revised Code, the court shall order the immediate return of the confiscated property, provided that property is not contraband or otherwise subject to forfeiture, to the permit holder. However, the return of this property is not grounds for dismissal of the case. The commission likewise may order the return of confiscated property if no criminal prosecution is pending or anticipated.

(7) Delegate to any of its agents or employees any power of investigation that the department or division possesses with respect to the enforcement of any of the administrative laws relating to beer and to intoxicating liquor, provided that this division does not authorize the department or division to designate any agent or employee to serve as a liquor control investigator. The employment and designation of liquor control investigators shall be within the exclusive authority of the director of public safety pursuant to sections 5502.13 and 5502.61 of the Revised Code.

(8) Except as otherwise provided in division (A)(8) of this section, collect the following fees:

(a) An annual twenty-five-dollar registration fee for each representative, registered pursuant to section 4303.25 of the Revised Code, of a beer or intoxicating liquor manufacturer doing business in this state;

(b) A fifty-dollar product registration fee for each new beer or intoxicating liquor product sold in this state. The product registration fee shall be accompanied by a copy of the federal label and product approval for the new product.

(c) An annual three-hundred-dollar out-of-state supplier consent-to-import fee from each manufacturer or supplier not subject to division (A)(8)(e) of this section, in addition to an initial application fee of one hundred dollars;

(d) An annual twenty-five-dollar registration fee for coil cleaners of beer dispensing equipment doing business in this state.

(e) An annual one-hundred-dollar out-of-state consent-to-import fee, in addition to an initial application fee of one hundred dollars, from any manufacturer or out-of-state supplier that produced or shipped into this state in the immediately preceding calendar year a total of five hundred or fewer cases of seven-hundred-fifty milliliter equivalent of intoxicating liquor and twelve-ounce equivalent of beer.

Each consent-to-import, representative's registration, and coil cleaner registration issued under division (A)(8) of this section authorizes the person named to carry on the activity specified, is valid for one year, or for the unexpired portion of the year, ending on the uniform expiration date for each, which shall be designated by the department or division, and is subject to suspension, revocation, cancellation, or fine as authorized by this chapter and Chapter 4303. of the Revised Code.

(9) Establish a system of electronic data interchange within the department or division and regulate the electronic transfer of information and funds among persons and governmental entities engaged in the manufacture, distribution, and retail sale of alcoholic beverages;

(10) Exercise all other powers expressly or by necessary implication conferred upon the department or division by this chapter and Chapter 4303. of the Revised Code, and all powers necessary for the exercise or discharge of any power, duty, or function expressly conferred or imposed upon the department or division by those chapters.

(B) The department or division may:

(1) Sue, but may be sued only in connection with the execution of leases of real estate and the purchases and contracts necessary for the operation of the state liquor stores that are made under this chapter and Chapter 4303. of the Revised Code;

(2) Enter into leases and contracts of all descriptions and acquire and transfer title to personal property with regard to the sale, distribution, and storage of spirituous liquor within the state;

(3) Terminate at will any lease entered into pursuant to division (B)(2) of this section upon first giving ninety days' notice in writing to the lessor of its intention to do so;

(4) Fix the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor shall be sold by the department. Those retail prices shall be the same at all state liquor stores, except to the extent that a price differential is required to collect a county sales tax levied pursuant to section 5739.021 of the Revised Code and for which tax the tax commissioner has authorized prepayment pursuant to section 5739.05 of the Revised Code. In fixing selling prices, the department or division shall compute an anticipated gross profit at least sufficient to provide in each calendar year all costs and expenses of the department or division and also an adequate working capital reserve for the department or division. The gross profit shall not exceed forty per cent of the retail selling price based on costs of the department or division, and in addition the sum required by section 4301.12 of the Revised Code to be paid into the state treasury. An amount equal to one and one-half per cent of that gross profit shall be paid into the ~~alcoholism detoxification centers~~ alcohol and drug addiction services fund created ~~under~~ by section ~~4301.30~~ 3793.21 of the Revised Code ~~and be appropriated by the general assembly from the fund to the department of alcohol and drug addiction services as provided in section 4301.30 of the Revised Code~~.

On spirituous liquor manufactured in Ohio from the juice of grapes or fruits grown in Ohio, the department or division shall compute an anticipated gross profit of not to exceed ten per cent. The wholesale prices shall be at a discount of not less than twelve and one-half per cent of the retail selling prices as determined by the department or division in accordance with this section.

(C) The department or division may approve the expansion or diminution of a premises to which a liquor permit has been issued and may adopt standards governing such an expansion or diminution.

Sec. 4301.12. The division of liquor control shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying them to the treasurer of state as provided by section 113.08 of the Revised Code.

A sum equal to three dollars and thirty-eight cents for each gallon of spirituous liquor sold by the division during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund. All moneys received from permit fees shall be paid to the credit of the undivided liquor permit fund established by section 4301.30 of

the Revised Code.

Except as otherwise provided by law, all moneys collected under Chapters 4301. and 4303. of the Revised Code shall be paid by the division into the state treasury to the credit of the liquor control fund, which is hereby created. Amounts in the liquor control fund may be used to pay the operating expenses of the liquor control commission.

Whenever, in the judgment of the director of budget and management, the amount in the custody of the treasurer of state to the credit of the liquor control fund is in excess of that needed to meet the maturing obligations of the division, as working capital for its further operations and to pay the operating expenses of the commission, and as required for the alcohol testing program under section 3701.143 of the Revised Code, the director shall transfer the excess to the state treasury to the credit of the general revenue fund.

Sec. 4301.17. (A) Subject to local option as provided in sections 4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each thirty thousand of population of such county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal census. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township of not less than two thousand population, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code, provided that not more than one agency contract shall be awarded in the unincorporated area of a county for each fifty thousand population of the county. The division shall fix compensation for such agent in such manner as it deems best, but such compensation shall not exceed seven per cent of the gross sales made by such agent in any one year.

Except as otherwise provided in this section, no mercantile business that sells beer or intoxicating liquor for consumption on the premises under a permit issued by the division shall operate an agency store at such premises or at any adjacent premises. An agency to which a D-1 permit has been issued may offer for sale tasting samples of beer ~~and~~, an agency to which a D-2 permit has been issued may offer for sale tasting samples of wine and mixed beverages, and an agency to which a D-5 permit has been issued may offer for sale tasting samples of beer, wine, and mixed beverages, but not spirituous liquor. A tasting sample shall not be sold for the purpose of general consumption. As used in this section, "tasting sample" means a small amount of beer, wine, or mixed beverages that is provided in not more

than four servings of not more than two ounces each to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(B) When an agency contract is proposed or when an existing agency is assigned, before entering into any such contract or consenting to any assignment, the division shall notify the legislative authority of the municipal corporation, or the board of county commissioners and the board of township trustees of the county and the township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the agency contract. When the division sends notice to the legislative authority of the political subdivision, the department shall notify, by certified mail or by personal service, the chief peace officer of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the agency contract.

On or after July 21, 1986, if the proposed agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided such officials with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to the assignment of that contract to operate an agency store at the same location, provided that the division shall not consent to an assignment until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided such officials with an opportunity for a complete hearing upon the advisability of consenting to the assignment.

Any hearing provided for in this division shall be held in the offices of the division in Columbus, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, or board of township trustees, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety

days' notice in writing to such agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate law enforcement agency the name and address of any individual under twenty-one years of age who attempts to make an illegal purchase.

An agent may engage in the selling of beer, mixed beverages, and wine pursuant to permits issued to the agent under Chapter 4303. of the Revised Code.

The division shall issue a C-1 and C-2 permit to each agent who prior to November 1, 1994, had not been issued both of these permits, notwithstanding the population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission and notwithstanding the requirements of section 4303.31 of the Revised Code. The location of a C-1 or C-2 permit issued to such an agent shall not be transferred. The division shall revoke any C-1 or C-2 issued to an agent under this paragraph if the agent no longer operates an agency store.

No person shall operate, or have any interest, directly or indirectly, in more than four state agencies in any one county or more than eight state agencies in the state for the sale of spirituous liquor. For purposes of this section, a person has an interest in a state agency if the person is a partner, member, officer, or director of, or a shareholder owning ten per cent or more of the capital stock of, any legal entity with which the department has entered into an agency contract.

The division may enter into agreements with the department of development to implement a minority loan program to provide low-interest loans to minority business enterprises, as defined in section 122.71 of the Revised Code, that are awarded liquor agency contracts or assignments.

(D) If the division closes a state liquor store and replaces that store with an agency store, any employees of the division employed at that state liquor store who ~~the~~ lose their jobs at that store as a result shall be given preference by the agent who operates the agency store in filling any vacancies that occur among the agent's employees, if such preference does not conflict with the agent's obligations pursuant to a collective bargaining agreement.

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who ~~the~~ lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor store shall continue for a period of

two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to ~~that~~ the employee's layoff jurisdiction.

(E) The division shall require every such agent to give bond with surety to the satisfaction of the division, in such amount as the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

Sec. 4301.19. The division of liquor control shall sell spirituous liquor only, whether from a warehouse or from a state liquor store. All sales shall be in sealed containers and for resale as authorized by Chapters 4301. and 4303. of the Revised Code or for consumption off the premises only. Except as otherwise provided in this section, sale of containers holding one-half pint or less of spirituous liquor by the division shall be made at retail only, and not for the purpose of resale by any purchaser, by special order placed with a state retail liquor store and subject to rules established by the superintendent of liquor control. The division shall sell at wholesale spirituous liquor in fifty milliliter sealed containers to hotels that sell spirituous liquor by means of a controlled access alcohol and beverage cabinet in accordance with division (B) of section 4301.21 of the Revised Code, but only for purposes of resale by the hotel in sealed containers by means of a controlled access alcohol and beverage cabinet. ~~The~~A person appointed by the division ~~shall not sell~~ to act as an agent for the sale of spirituous liquor ~~through~~ pursuant to section 4301.17 of the Revised Code may provide and accept gift certificates ~~or on~~ and may accept credit cards and debit cards for the retail purchase of spirituous liquor. Deliveries shall be made in such manner as the superintendent determines by rule.

If any persons desire to purchase any variety or brand of spirituous liquor which is not in stock at the state liquor store where the same is ordered, the division shall immediately procure the same after reasonable deposit is made by the purchaser in such proportion of the approximate cost of the order as is prescribed by the rules of the superintendent. The purchaser shall be immediately notified upon the arrival of the spirituous liquor at the store at which it was ordered. Unless such purchaser pays for the same and accepts delivery within five days after the giving of such notice, the division may place such spirituous liquor in stock for general sale, and the deposit of the purchaser shall be forfeited.

Sec. 4301.24. No manufacturer shall aid or assist the holder of any permit for sale at wholesale and no manufacturer or wholesale distributor shall aid or assist the holder of any permit for sale at retail by gift or loan of any money or property of any description or other valuable thing, or by

ving premiums or rebates. No holder of any such permit shall accept the same, provided that the manufacturer or wholesale distributor may furnish to a retail permittee the inside signs or advertising and the tap signs or devices authorized by divisions (F) and (G) of section 4301.22 of the Revised Code.

No manufacturer shall have any financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or promotion in the business of any wholesale distributor. No retail permit holder shall have any interest, directly or indirectly, in the operation of, or any ownership in, the business of any wholesale distributor or manufacturer.

No manufacturer or wholesale distributor shall, except as authorized by section 4303.021 of the Revised Code, have any financial interest, directly or indirectly, by stock ownership, or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or promotion of the business of any retail dealer; nor shall any manufacturer or wholesale distributor or any stockholder thereof acquire, by ownership in fee, leasehold, mortgage, or otherwise, directly or indirectly, any interest in the premises whereon the business of any other person engaged in the business of trafficking in beer or intoxicating liquor is conducted. All contracts, covenants, conditions, and limitations whereby any person engaged or proposing to engage in the sale of beer or intoxicating liquors promises to confine ~~his~~ the person's sales of a particular kind or quality of beer or intoxicating liquor to one or more products, or the products of a specified manufacturer or wholesale distributor, or to give preference to such products, shall to the extent of such promise be void. The making of such promise in any such form shall be cause for the revocation or suspension of any permit issued to any party. This section does not prevent the holder of an A permit from securing and holding a wholesale distributor's permit or permits and operating as a wholesale distributor.

No manufacturer shall sell or offer to sell to any wholesale distributor or retail permit holder, and no wholesale distributor shall sell or offer to sell to any retail permit holder, and no wholesale distributor or retail permit holder shall purchase or receive from any manufacturer or wholesale distributor any malt or brewed beverages or wine manufactured in the United States except for cash. No right of action shall exist to collect any claims for credit extended contrary to this section. This section does not prohibit a licensee from crediting to a purchaser the actual prices charged for packages or containers returned by the original purchaser as a credit on any sale or from refunding to any purchaser the amount paid by such purchaser for containers or as a deposit on containers when title is retained by the vendor, if such

containers or packages have been returned to the manufacturer or distributor. This section does not prohibit a manufacturer from extending usual and customary credit for malt or brewed beverages or wine manufactured in the United States and sold to customers who live or maintain places of business outside ~~Ohio~~ this state when the beverages so sold are actually transported and delivered to points outside ~~the~~ this state. No wholesale or retail permit shall be issued to an applicant unless such applicant has paid in full all accounts for beer and malt beverages or wine, manufactured in the United States, outstanding as of September 6, 1939. No beer or malt beverages or wine manufactured in the United States shall be imported into the state unless the same has been paid for in cash and no consent to import any such beer or malt beverages or wine manufactured in the United States shall be issued by the division of liquor control until the A-2, B-1, or B-5 permit holder establishes to the satisfaction of the division that the same has been paid for in cash.

This section does not prevent a manufacturer from securing and holding any financial interest, directly or indirectly, by stock ownership or through interlocking directors in a corporation, or otherwise, in the establishment, maintenance, or promotion of the business or premises of any C or D permit holder, provided that the following conditions are met:

(A) Either the manufacturer or one of its parent companies is listed on a national securities exchange.

(B) All purchases of alcoholic beverages by the C or D permit holder are made from wholesale distributors in this state or agency stores licensed by the division of liquor control.

(C) If the C or D permit holder sells brands of alcoholic beverages that are produced or distributed by the manufacturer that holds the financial interest, the C or D permit holder also sells other competing brands of alcoholic beverages produced by other manufacturers, no preference is given to the products of the manufacturer, and there is no exclusion, in whole or in part, of products sold or offered for sale by other manufacturers, suppliers, or importers of alcoholic beverages that constitutes a substantial impairment of commerce.

(D) The primary purpose of the C or D permit premises is a purpose other than to sell alcoholic beverages, and the sale of other goods and services exceeds fifty per cent of the total gross receipts of the C or D permit holder at its premises.

Sec. 4301.30. All fees collected by the division of liquor control shall be deposited in the state treasury to the credit of the undivided liquor permit fund, which is hereby created, at the time prescribed under section 4301.12

of the Revised Code. Each payment shall be accompanied by a statement showing separately the amount collected for each class of permits in each municipal corporation and in each township outside the limits of any municipal corporation in such township. An amount equal to fifty dollars for each fee received for a D-2 permit, which is not placed in operation immediately upon a D-3 permit premises, and twenty-five dollars for each fee received for a C-2 permit, shall be paid from the undivided liquor permit fund into the general revenue fund.

Prior to the fees received for a D-2 permit, which is not in operation immediately upon a D-3 permit premises, and a C-2 permit being paid into the general revenue fund, an amount equal to twenty-one per cent of the undivided liquor permit fund shall be paid into the ~~alcoholism detoxification centers~~ alcohol and drug addiction services fund~~, which is hereby~~ created ~~in the state treasury~~ by section 3793.21 of the Revised Code. ~~Such amount shall be appropriated by the general assembly, together with an amount equal to one and one-half per cent of the gross profit of the department of liquor control derived under division (B)(4) of section 4301.10 of the Revised Code, to the department of alcohol and drug addiction services. In planning for the allocation of and in allocating these amounts for the purposes of Chapter 3793. of the Revised Code, the department of alcohol and drug addiction services shall comply with the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and any rules adopted thereunder.~~

The moneys remaining in the undivided liquor permit fund shall be distributed by the superintendent of liquor control at quarterly calendar periods as follows:

(A) To each municipal corporation, the aggregate amount shown by the statements to have been collected from permits therein, for the use of the general fund of the municipal corporation;

(B) To each township, the aggregate amount shown by the statements to have been collected from permits in its territory, outside the limits of any municipal corporation located therein, for the use of the general fund of the township, or for fire protection purposes, including buildings and equipment in the township or in an established fire district within the township, to the extent that the funds are derived from liquor permits within the territory comprising such fire district.

For the purpose of the distribution required by this section, E, H, and D permits covering boats or vessels are deemed to have been issued in the municipal corporation or township wherein the owner or operator of the vehicle, boat, vessel, or dining car equipment to which the permit relates has

the owner's or operator's principal office or place of business within the state.

Such distributions are subject to diminutions for refunds as prescribed in section 4301.41 of the Revised Code. If the liquor control commission is of the opinion that the police or other officers of any municipal corporation or township entitled to share in such distribution are refusing or culpably neglecting to enforce this chapter and Chapter 4303. of the Revised Code, or the penal laws of this state relating to the manufacture, importation, transportation, distribution, and sale of beer and intoxicating liquors, or if the prosecuting officer of a municipal corporation or the municipal court thereof fails to comply with the request of the commission authorized by division (A)(4) of section 4301.10 of the Revised Code, the commission may, by certified mail, notify the chief executive officer of the municipal corporation or the board of township trustees of the township of such failure and require the immediate cooperation of the responsible officers of the municipal corporation or township with the division of liquor control in the enforcement of such chapters and such penal laws. Within thirty days after the notice is served, the commission shall determine whether or not the requirement has been complied with. If the commission determines that the requirement has not been complied with, it may issue an order to the superintendent to withhold the distributive share of the municipal corporation or township until further order of the commission. This action of the commission is reviewable within thirty days thereafter in the court of common pleas of Franklin county.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.49 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of

A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period from ~~the effective date of this amendment~~ June 30, 1995, until July 1, ~~1997~~ 1999, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4305.13. (A) If the tax commissioner finds that any permit holder, liable for tax under Chapter 4301., 4305., or 4307. of the Revised Code, is about to depart from the state, remove ~~his~~the permit holder's property from the state, conceal ~~himself~~ the permit holder's self or ~~his~~ property, or do any other act tending to prejudice, obstruct, or render wholly or partially ineffectual proceedings to collect the tax, unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any permit holder will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the permit holder for the amount of the tax, plus a penalty of thirty per cent. Upon

issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any assessment ~~not paid within thirty days after service of the notice of assessment~~ issued under this section shall bear interest ~~computed at the rate per annum~~ as prescribed by section ~~5703.47~~ 4305.131 of the Revised Code ~~from the due date of the tax~~.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 4305.131 of the Revised Code. Notice of the jeopardy assessment shall be served on the permit holder assessed or ~~his~~ the permit holder's legal representative within five days of the filing of the entry. The permit holder assessed may petition for reassessment within thirty days of ~~his~~ receipt of the notice of jeopardy assessment in the same manner as provided in section 4305.131 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to section 2923.35, 2933.41, or 2933.43 of the Revised Code~~,~~ need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the permit holder subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the permit holder previously seized. Upon satisfaction of the assessment the commissioner shall order the security released and the judgment vacated.

Sec. 4305.131. (A) If any permit holder fails to pay the taxes levied in section 4301.42, 4301.43, 4301.432, or 4305.01 of the Revised Code in the manner prescribed by section 4303.33 of the Revised Code, or in section 4301.421 or 4301.424 of the Revised Code in the manner prescribed in section 4301.422 of the Revised Code, and by the rules of the tax

commissioner, the commissioner may make an assessment against the permit holder based upon any information in the commissioner's possession.

No assessment shall be made against any permit holder for any taxes imposed by section 4301.42, 4301.421, 4301.424, 4301.43, 4301.432, or 4305.01 of the Revised Code more than three years after the last day of the calendar month in which the sale was made or more than three years after the return for that period is filed, whichever is later. This section does not bar an assessment against any permit holder or registrant as provided in section 4303.331 of the Revised Code who fails to file a return as required by section 4301.422 or 4303.33 of the Revised Code, or who files a fraudulent return.

A penalty of thirty per cent shall be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~All assessments, exclusive of penalties, not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ that party's authorized agent having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner by personal service or certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall

be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the permit holder's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state beer and liquor sales taxes~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise PROVIDED in this chapter and chapters 4301. and 4307. of the Revised Code.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of the assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment except as provided in this chapter and Chapters 4301. and 4307. of the Revised Code~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by sections 4301.42, 4301.421, 4301.424, 4301.43, 4301.432, and 4305.01 of the Revised Code.

Sec. 4509.101. (A)(1) No person shall operate, or permit the operation of, a motor vehicle in this state, unless proof of financial responsibility is maintained continuously throughout the registration period with respect to that vehicle, or, in the case of a driver who is not the owner, with respect to that ~~person's~~ driver's operation of that vehicle.

(2) Whoever violates division (A)(1) of this section shall be subject to

the following civil penalties:

(a) Suspension of the person's operating privileges and impoundment of the person's license until the person complies with division (A)(5) of this section. The suspension shall be for a period of not less than ninety days except that if, within five years of the violation, the person's operating privileges are again suspended and the person's license is impounded one or more times for a violation of division (A)(1) of this section, the suspension shall be for a period of not less than one year. The suspension is not subject to revocation, suspension, or occupational or other limited operating privileges.

(b) In addition to the suspension of an owner's license under division (A)(2)(a) of this section, the suspension of the rights of the owner to register the motor vehicle and the impoundment of the owner's certificate of registration and license plates until the owner complies with division (A)(5) of this section.

(3) A person to whom this state has issued a certificate of registration for a motor vehicle or a license to operate a motor vehicle or who is determined to have operated any motor vehicle or permitted the operation in this state of a motor vehicle owned by the person shall be required to verify the existence of proof of financial responsibility covering the operation of the motor vehicle or the person's operation of the motor vehicle under any of the following circumstances:

(a) The person or a motor vehicle owned by the person is involved in a traffic accident that requires the filing of an accident report under section 4509.06 of the Revised Code.

(b) The person receives a traffic ticket indicating that proof of the maintenance of financial responsibility was not produced upon the request of a peace officer or state highway patrol trooper made in accordance with division (D)(2) of this section.

(c) Whenever, in accordance with rules adopted by the registrar, the person is randomly selected by the registrar and requested to provide such verification.

(4) An order of the registrar that suspends and impounds a license or registration, or both, shall state the date on or before which the person is required to surrender the person's license or certificate of registration and license plates. The person is deemed to have surrendered the license or certificate of registration and license plates, in compliance with the order, if the person does either of the following:

(a) On or before the date specified in the order, personally delivers the license or certificate of registration and license plates, or causes the delivery

of the items, to the registrar;

(b) Mails the license or certificate of registration and license plates to the registrar in an envelope or container bearing a postmark showing a date no later than the date specified in the order.

(5) The registrar shall not restore any operating privileges or registration rights suspended under this section, return any license, certificate of registration, or license plates impounded under this section, or reissue license plates under section 4503.232 of the Revised Code, if the registrar destroyed the impounded license plates under that section, or reissue a license under section 4507.54 of the Revised Code, if the registrar destroyed the suspended license under that section, unless the rights are not subject to suspension or revocation under any other law and unless the person, in addition to complying with all other conditions required by law for reinstatement of the operating privileges or registration rights, complies with all of the following:

(a) Pays a financial responsibility reinstatement fee of seventy-five dollars for the first violation of division (A)(1) of this section, two hundred fifty dollars for a second violation of that division, and five hundred dollars for a third or subsequent violation of that division;

(b) If the person has not voluntarily surrendered the license, certificate, or license plates in compliance with the order, pays a financial responsibility nonvoluntary compliance fee in an amount, not to exceed fifty dollars, determined by the registrar;

(c) Files and continuously maintains proof of financial responsibility under sections 4509.44 to 4509.65 of the Revised Code.

(B)(1) ~~shall the defendant's, shall license license license the person's the person's license the person the person's license the person the person's in shall license the person's license the person's license, the person's the person's certificate of license shall license may~~ Every party required to file an accident report under section 4509.06 of the Revised Code also shall include with the report a document described in division (G)(1) of this section.

If the registrar determines, within forty-five days after the report is filed, that an operator or owner has violated division (A)(1) of this section, the registrar shall do all of the following:

(a) Order the impoundment, with respect to the motor vehicle involved, required under division (A)(2)(b) of this section, of the certificate of registration and license plates of any owner who has violated division (A)(1) of this section;

(b) Order the suspension required under division (A)(2)(a) of this

section of the license of any operator or owner who has violated division (A)(1) of this section;

(c) Record the name and address of the person whose certificate of registration and license plates have been impounded or are under an order of impoundment, or whose license has been suspended or is under an order of suspension; the serial number of the ~~that~~ person's license; the serial numbers of the ~~that~~ person's certificate of registration and license plates; and the person's social security account number, if assigned, or, where the motor vehicle is used for hire or principally in connection with any established business, the person's federal taxpayer identification number. The information shall be recorded in such a manner that it becomes a part of the person's permanent record, and assists the registrar in monitoring compliance with the orders of suspension or impoundment.

(d) Send written notification to every person to whom the order pertains, at the person's last known address as shown on the records of the bureau. The person, within ten days after the date of the mailing of the notification, shall surrender to the registrar, in a manner set forth in division (A)(4) of this section, any certificate of registration and registration plates under an order of impoundment, or any license under an order of suspension.

(2) The registrar shall issue any order under division (B)(1) of this section without a hearing. Any person adversely affected by the order, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether the person in fact demonstrated to the registrar proof of financial responsibility in accordance with this section. The registrar shall determine the date, time, and place of any hearing, provided that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. The person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension or impoundment is upheld.

(C) Any order of suspension or impoundment issued under this section or division (B) of section 4509.37 of the Revised Code may be terminated at any time if the registrar determines upon a showing of proof of financial responsibility that the operator or owner of the motor vehicle was in compliance with division (A)(1) of this section at the time of the traffic

ense, motor vehicle inspection, or accident that resulted in the order against the person. A determination may be made without a hearing. This division does not apply unless the person shows good cause for the person's failure to present satisfactory proof of financial responsibility to the registrar prior to the issuance of the order.

(D)(1) For the purpose of enforcing this section, every peace officer is deemed an agent of the registrar. Any peace officer who, in the performance of the peace officer's duties as authorized by law, becomes aware of a person whose license is under an order of suspension, or whose certificate of registration and license plates are under an order of impoundment, pursuant to this section, may confiscate the license, certificate of registration, and license plates, and return them to the registrar.

(2) A peace officer shall request the owner or operator of a motor vehicle to produce proof of financial responsibility in a manner described in division (G) of this section at the time the peace officer acts to enforce the traffic laws of this state and during motor vehicle inspections conducted pursuant to section 4513.02 of the Revised Code.

(3) A peace officer shall indicate on every traffic ticket whether the person receiving the traffic ticket produced proof of the maintenance of financial responsibility in response to the officer's request under division (D)(2) of this section. The peace officer shall inform every person who receives a traffic ticket and who has failed to produce proof of the maintenance of financial responsibility that the person must submit proof to the traffic violations bureau with any payment of a fine and costs for the ticketed violation or, if the person is to appear in court for the violation, the person must submit proof to the court.

(4)(a) If a person who has failed to produce proof of the maintenance of financial responsibility appears in court for a ticketed violation, the court may permit the defendant to present evidence of proof of financial responsibility to the court at such time and in such manner as the court determines to be necessary or appropriate. The clerk of courts shall provide the registrar with the identity of any person who fails to submit proof of the maintenance of financial responsibility pursuant to division (D)(3) of this section ~~this this~~.

(b) If a person who has failed to produce proof of the maintenance of financial responsibility also fails to submit that proof to the traffic violations bureau with payment of a fine and costs for the ticketed violation, the traffic violations bureau shall notify the registrar of the identity of that person.

(5)(a) Upon receiving notice from a clerk of courts or traffic violations bureau pursuant to division (D)(4) of this section, the registrar shall <u>order</u>

the suspension of the license of the person required under division (A)(2)(a) of this section and the impoundment of the person's certificate of registration and license plates required under division (A)(2)(b) of this section, effective thirty days after the date of the mailing of notification. The registrar also shall notify the person that the person must present the registrar with proof of financial responsibility in accordance with this section, surrender to the registrar the person's certificate of registration, ~~registration~~ license plates, and license, or submit a statement subject to section 2921.13 of the Revised Code that the person did not operate or permit the operation of the motor vehicle at the time of the offense ~~and, if a court appearance was required, did not fail to appear in court on the charge of the traffic offense~~. Notification shall be in writing and shall be sent to the person at the person's last known address as shown on the records of the bureau of motor vehicles. The person, within fifteen days after the date of the mailing of notification, shall present proof of financial responsibility, surrender the certificate of registration, ~~registration~~ license plates, and license to the registrar in a manner set forth in division (A)(4) of this section, or submit the statement required under this section together with other information the person considers appropriate. ~~The registrar shall make an investigation to determine, upon the basis of the statement and information submitted by the person and other evidence that the registrar may require from the person or discover in the course of the investigation, whether there is a reasonable basis for believing that the person operated or permitted the operation of the motor vehicle at the time of the traffic offense without the operation being covered by proof of financial responsibility. If the registrar determines that a reasonable basis exists, the registrar shall afford the person an opportunity for hearing, after due notice of the time and place for hearing given to the person in accordance with the provisions of this section, to determine whether the person has violated division (A) of this section.~~

If the registrar does not receive proof~~,~~ or the person ~~has~~ does not ~~surrendered~~ surrender the certificate of registration, ~~registration~~ license plates, and license, in accordance with this division, ~~or the registrar determines, after hearing, that the person operated or permitted the operation in this state of a motor vehicle and has failed to demonstrate proof of financial responsibility as required under this section,~~ the registrar shall permit the order for the ~~immediate~~ suspension of the license of the person ~~required under division (A)(2)(a) of this section~~ and the impoundment of the person's certificate of registration and ~~registration~~ license plates ~~required under division (A)(2)(b) of this section~~ to take effect.

(b) In the case of a person who presents, within the fifteen-day period, documents to show proof of financial responsibility ~~but fails to demonstrate proof of financial responsibility to the satisfaction of the registrar~~, the registrar shall terminate the order ~~the immediate~~ of suspension ~~of the person's license required under division (A)(2)(a) of this section~~ and the impoundment of the registration and ~~registration~~ license plates required under division (A)(2)(b) of this section and shall send written notification to the person, at the person's last known address as shown on the records of the bureau. ~~The person, within ten days after the date of the mailing of the notification, shall surrender to the registrar, in a manner set forth in division (A)(4) of this section, any certificate of registration and registration plates under an order of impoundment, or any license under an order of suspension.~~

(c) Any person adversely affected by the order of the registrar under division (D)(5)(a) or (b) of this section, within ten days after the issuance of the order, may request an administrative hearing before the registrar, who shall provide the person with an opportunity for a hearing in accordance with this paragraph. A request for a hearing does not operate as a suspension of the order. The scope of the hearing shall be limited to whether the person in fact demonstrated to the registrar proof of financial responsibility in accordance with this section. The registrar shall determine the date, time, and place of any hearing; provided, that the hearing shall be held, and an order issued or findings made, within thirty days after the registrar receives a request for a hearing. If requested by the person in writing, the registrar may designate as the place of hearing the county seat of the county in which the person resides or a place within fifty miles of the person's residence. Such person shall pay the cost of the hearing before the registrar, if the registrar's order of suspension or impoundment under division (D)(5)(a) or (b) of this section is upheld.

(6) A peace officer may charge an owner or operator of a motor vehicle with a violation of division (B)(1) of section 4507.02 of the Revised Code when the owner or operator fails to show proof of the maintenance of financial responsibility pursuant to a peace officer's request under division (D)(2) of this section, if a check of the owner or operator's driving record indicates that the owner or operator, at the time of the operation of the motor vehicle, is required to file and maintain proof of financial responsibility under section 4509.45 of the Revised Code for a previous violation of this chapter.

(7) Any forms used by law enforcement agencies in administering this section shall be prescribed, supplied, and paid for by the registrar.

(8) No peace officer, law enforcement agency employing a peace officer, or political subdivision or governmental agency that employs a peace officer shall be liable in a civil action for damages or loss to persons arising out of the performance of any duty required or authorized by this section.

(9) As used in this division and divisions (E) and (G) of this section, "peace officer" has the meaning set forth in section 2935.01 of the Revised Code.

(E) All fees, except court costs, collected under this section shall be paid into the state treasury to the credit of the financial responsibility compliance fund. The financial responsibility compliance fund shall be used exclusively to cover costs incurred by the bureau in the administration of this section and sections 4503.20, 4507.212, and 4509.81 of the Revised Code, and by any law enforcement agency employing any peace officer who returns any license, certificate of registration, and license plates to the registrar pursuant to division (C) of this section, except that the director of budget and management may transfer excess money from the financial responsibility compliance fund to the state bureau of motor vehicles fund if the registrar determines that the amount of money in the financial responsibility compliance fund exceeds the amount required to cover such costs incurred by the bureau or a law enforcement agency and requests the director to make the transfer.

All investment earnings of the financial responsibility compliance fund shall be credited to the fund.

(F) Chapter 119. of the Revised Code applies to this section only to the extent that any provision in that chapter is not clearly inconsistent with this section.

(G)(1) The registrar, court, traffic violations bureau, or peace officer may require proof of financial responsibility to be demonstrated by use of a standard form prescribed by the registrar. If the use of a standard form is not required, a person may demonstrate proof of financial responsibility under this section by presenting to the traffic violations bureau, court, registrar, or peace officer any of the following documents or a copy of the documents:

(a) A financial responsibility identification card as provided in section 4509.104 of the Revised Code;

(b) A certificate of proof of financial responsibility on a form provided and approved by the registrar for the filing of an accident report required to be filed under section 4509.06 of the Revised Code;

(c) A policy of liability insurance, a declaration page of a policy of liability insurance, or liability bond, if the policy or bond complies with

section 4509.20 or sections 4509.49 to 4509.61 of the Revised Code;

(d) A bond or certification of the issuance of a bond as provided in section 4509.59 of the Revised Code;

(e) A certificate of deposit of money or securities as provided in section 4509.62 of the Revised Code;

(f) A certificate of self-insurance as provided in section 4509.72 of the Revised Code.

(2) If a person fails to demonstrate proof of financial responsibility in a manner described in division (G)(1) of this section, the person may demonstrate proof of financial responsibility under this section by any other method that the court or the bureau, by reason of circumstances in a particular case, may consider appropriate.

(3) A motor carrier certificated by the interstate commerce commission or by the public utilities commission may demonstrate proof of financial responsibility by providing a statement designating the motor carrier's operating authority and averring that the insurance coverage required by the certificating authority is in full force and effect.

(4)(a) A finding by the registrar or court that a person is covered by proof of financial responsibility in the form of an insurance policy or surety bond is not binding upon the named insurer or surety or any of its officers, employees, agents, or representatives and has no legal effect except for the purpose of administering this section.

(b) The preparation and delivery of a financial responsibility identification card or any other document authorized to be used as proof of financial responsibility under this division does not do any of the following:

(i) Create any liability or estoppel against an insurer or surety, or any of its officers, employees, agents, or representatives;

(ii) Constitute an admission of the existence of, or of any liability or coverage under, any policy or bond;

(iii) Waive any defenses or counterclaims available to an insurer, surety, agent, employee, or representative in an action commenced by an insured or third-party claimant upon a cause of action alleged to have arisen under an insurance policy or surety bond or by reason of the preparation and delivery of a document for use as proof of financial responsibility.

(c) Whenever it is determined by a final judgment in a judicial proceeding that an insurer or surety, which has been named on a document accepted by a court or the registrar as proof of financial responsibility covering the operation of a motor vehicle at the time of an accident or offense, is not liable to pay a judgment for injuries or damages resulting from such operation, the registrar, notwithstanding any previous contrary

finding, shall forthwith suspend the operating privileges and registration rights of the person against whom the judgment was rendered as provided in division (A)(2) of this section.

(H) In order for any document described in division (G)(1)(b) of this section to be used for the demonstration of proof of financial responsibility under this section, the document shall state the name of the insured or obligor, the name of the insurer or surety company, and the effective and expiration dates of the financial responsibility, and designate by explicit description or by appropriate reference all motor vehicles covered which may include a reference to fleet insurance coverage.

(I) For purposes of this section, "owner" does not include a licensed motor vehicle leasing dealer as defined in section 4517.01 of the Revised Code, but does include a motor vehicle renting dealer as defined in section 4549.65 of the Revised Code. Nothing in this section or in section 4509.51 of the Revised Code shall be construed to prohibit a motor vehicle renting dealer from entering into a contractual agreement with a person whereby the person renting the motor vehicle agrees to be solely responsible for maintaining proof of financial responsibility, in accordance with this section, with respect to the operation, maintenance, or use of the motor vehicle during the period of the motor vehicle's rental.

(J) The purpose of this section is to require the maintenance of proof of financial responsibility with respect to the operation of motor vehicles on the highways of this state, so as to minimize those situations in which persons are not compensated for injuries and damages sustained in motor vehicle accidents. The general assembly finds that this section contains reasonable civil penalties and procedures for achieving this purpose.

(K) Nothing in this section shall be construed to be subject to section 4509.78 of the Revised Code.

(L) The registrar shall adopt rules in accordance with Chapter 119. of the Revised Code that are necessary to administer and enforce this section. The rules shall include procedures for the surrender of license plates upon failure to maintain proof of financial responsibility and provisions relating to reinstatement of registration rights, acceptable forms of proof of financial responsibility, and verification of the existence of financial responsibility during the period of registration.

Sec. 4511.102. As used in sections 4511.102 to 4511.106 of the Revised Code:

(A) "Tourist-oriented activity" includes any lawful cultural, historical, recreational, educational, or commercial activity a major portion of whose income or visitors are derived during the normal business season from

motorists not residing in the immediate area of the activity and attendance at which is no less than two thousand visitors in any consecutive twelve-month period.

(B) "Eligible attraction" means any tourist-oriented activity that meets all of the following criteria:

(1) Is not eligible for inclusion in the business logo sign program established under section 4511.101 of the Revised Code;

(2) If currently advertised by signs adjacent to a highway on the interstate system or state system, those signs are consistent with Chapter 5516. of the Revised Code and the "National Highway Beautification Act of 1965," 79 Stat. 1028, 23 U.S.C. 131, and the national standards, criteria, and rules adopted pursuant to that act;

(3) Is within ten miles of the highway for which signing is sought under sections 4511.102 to 4511.105 of the Revised Code;

(4) Meets any additional criteria developed by the director of transportation and adopted by the director as rules in accordance with Chapter 119. of the Revised Code.

(C) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

(D) "Commercial activity" means a farm market, winery, ~~or a~~ bed and breakfast, lodging that is not a franchise or part of a national chain, antiques shop, craft store, or gift store.

Sec. 4511.191. (A) Any person who operates a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking within this state shall be deemed to have given consent to a chemical test or tests of the person's blood, breath, or urine for the purpose of determining the alcohol, drug, or alcohol and drug content of the person's blood, breath, or urine if arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine. The chemical test or tests shall be administered at the request of a police officer having reasonable grounds to believe the person to have been operating a vehicle upon a highway or any public or private property used by the public for vehicular travel or parking in this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(B) Any person who is dead or unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to

have withdrawn consent as provided by division (A) of this section and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(C)(1) Any person under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine shall be advised at a police station, or at a hospital, first-aid station, or clinic to which the person has been taken for first-aid or medical treatment, of both of the following:

(a) The consequences, as specified in division (E) of this section, of the person's refusal to submit upon request to a chemical test designated by the law enforcement agency as provided in division (A) of this section;

(b) The consequences, as specified in division (F) of this section, of the person's submission to the designated chemical test if the person is found to have a prohibited concentration of alcohol in the blood, breath, or urine.

(2)(a) The advice given pursuant to division (C)(1) of this section shall be in a written form containing the information described in division (C)(2)(b) of this section and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person in the presence of the arresting officer and either another police officer, a civilian police employee, or an employee of a hospital, first-aid station, or clinic, if any, to which the person has been taken for first-aid or medical treatment. The witnesses shall certify to this fact by signing the form.

(b) The form required by division (C)(2)(a) of this section shall read as follows:

"You now are under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or both alcohol and a drug of abuse and will be requested by a police officer to submit to a chemical test to determine the concentration of alcohol, drugs of abuse, or alcohol and drugs of abuse in your blood, breath, or urine.

If you refuse to submit to the requested test or if you submit to the requested test and are found to have a prohibited concentration of alcohol in your blood, breath, or urine, your driver's or commercial driver's license or permit or nonresident operating privilege immediately will be suspended for the period of time specified by law by the officer, on behalf of the registrar of motor vehicles. You may appeal this suspension at your initial appearance before the court that hears the charges against you resulting from the arrest, and your initial appearance will be conducted no later than five days after the arrest. This suspension is independent of the penalties for the

offense, and you may be subject to other penalties upon conviction."

(D)(1) If a person under arrest as described in division (C)(1) of this section is not asked by a police officer to submit to a chemical test designated as provided in division (A) of this section, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward the seized license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. If the arrested person does not have the person's driver's or commercial driver's license or permit on his or her person or in his or her vehicle, the arresting officer shall order the arrested person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the court in which the arrested person is to appear on the charge for which the person was arrested. Upon receipt of the license or permit, the court shall retain it pending the initial appearance of the arrested person and any action taken under section 4511.196 of the Revised Code.

If a person under arrest as described in division (C)(1) of this section is asked by a police officer to submit to a chemical test designated as provided in division (A) of this section and is advised of the consequences of the person's refusal or submission as provided in division (C) of this section and if the person either refuses to submit to the designated chemical test or the person submits to the designated chemical test and the test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the registrar, serve a notice of suspension upon the person that advises the person that, independent of any penalties or sanctions imposed upon the person pursuant to any other section of the Revised Code or any other municipal ordinance, the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended, that the suspension takes effect immediately, that the suspension will last at least until the person's initial appearance on the charge that will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance; seize the Ohio or out-of-state driver's or commercial

driver's license or permit of the person; and immediately forward the seized license or permit to the registrar. If the arrested person does not have the person's driver's or commercial driver's license or permit on ~~his or her~~ the person's person or in ~~his or her~~ the person's vehicle, the arresting officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the service of the notice of suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar.

(b) Verify the current residence of the person and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change;

(c) In addition to forwarding the arrested person's driver's or commercial driver's license or permit to the registrar, send to the registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:

(i) That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine;

(ii) That the person was arrested and charged with operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine;

(iii) That the officer asked the person to take the designated chemical test, advised the person of the consequences of submitting to the chemical test or refusing to take the chemical test, and gave the person the form described in division (C)(2) of this section;

(iv) That the person refused to submit to the chemical test or that the person submitted to the chemical test and the test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense;

(v) That the officer served a notice of suspension upon the person as described in division (D)(1)(a) of this section.

(2) The sworn report of an arresting officer completed under division (D)(1)(c) of this section shall be given by the officer to the arrested person at the time of the arrest or sent to the person by regular first class mail by the registrar as soon thereafter as possible, but no later than fourteen days after receipt of the report. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but no later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(3) The sworn report of an arresting officer completed and sent to the registrar and the court under divisions (D)(1)(c) and (D)(2) of this section is prima-facie proof of the information and statements that it contains and shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under division (H) of this section relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

(E)(1) Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of the suspension, as determined under divisions (E)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in this section and shall be for whichever of the following periods applies:

(a) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had not refused a previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension shall be one year. If the person is a resident without a license or permit to operate a vehicle within this state, the registrar shall deny to the person the issuance of a driver's or commercial driver's license or permit for a period of one year after the date of the alleged violation.

(b) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test of the person's blood, breath,

or urine to determine its alcohol content, the period of suspension or denial shall be two years.

(c) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be three years.

(d) If the arrested person, within five years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content, the period of suspension or denial shall be five years.

(2) The suspension or denial imposed under division (E)(1) of this section shall continue for the entire one-year, two-year, three-year, or five-year period, subject to appeal as provided in this section and subject to termination as provided in division (K) of this section.

(F) Upon receipt of the sworn report of an arresting officer completed and sent to the registrar and a court pursuant to divisions (D)(1)(c) and (D)(2) of this section in regard to a person whose test results indicate that the person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under division (D)(1)(a) of this section and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in this section and shall be for whichever of the following periods that applies:

(1) Except when division (F)(2), (3), or (4) of this section applies and specifies a different period of suspension or denial, the period of the suspension or denial shall be ninety days.

(2) If the person has been convicted, within six years of the date the test was conducted, of one violation of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a

prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that at the time of the commission of the offense the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the period of the suspension or denial shall be one year.

(3) If the person has been convicted, within six years of the date the test was conducted, of two violations of a statute or ordinance described in division (F)(2) of this section, the period of the suspension or denial shall be two years.

(4) If the person has been convicted, within six years of the date the test was conducted, of more than two violations of a statute or ordinance described in division (F)(2) of this section, the period of the suspension or denial shall be three years.

(G)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under division (D)(1)(a) of this section for the period of time described in division (E) or (F) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take, or in the person taking, the chemical test or tests under division (A) of this section affects the suspension only as described in division (H)(2) of this section.

(2) If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (E) or (F) of this section, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to division (H)(1) of this section regarding the issues specified in that division.

(H)(1) If a person is arrested for operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or for

operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine and if the person's driver's or commercial driver's license or permit or nonresident operating privilege is suspended under division (E) or (F) of this section, the person may appeal the suspension at the person's initial appearance on the charge resulting from the arrest in the court in which the person will appear on that charge. If the person appeals the suspension at the person's initial appearance, the appeal does not stay the operation of the suspension. Subject to division (H)(2) of this section, no court has jurisdiction to grant a stay of a suspension imposed under division (E) or (F) of this section, and any order issued by any court that purports to grant a stay of any suspension imposed under either of those divisions shall not be given administrative effect.

If the person appeals the suspension at the person's initial appearance, either the person or the registrar may request a continuance of the appeal. Either the person or the registrar shall make the request for a continuance of the appeal at the same time as the making of the appeal. If either the person or the registrar requests a continuance of the appeal, the court may grant the continuance. The court also may continue the appeal on its own motion. The granting of a continuance applies only to the conduct of the appeal of the suspension and does not extend the time within which the initial appearance must be conducted, and the court shall proceed with all other aspects of the initial appearance in accordance with its normal procedures. Neither the request for nor the granting of a continuance stays the operation of the suspension that is the subject of the appeal.

If the person appeals the suspension at the person's initial appearance, the scope of the appeal is limited to determining whether one or more of the following conditions have not been met:

(a) Whether the law enforcement officer had reasonable ground to believe the arrested person was operating a vehicle upon a highway or public or private property used by the public for vehicular travel or parking within this state while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine and whether the arrested person was in fact placed under arrest;

(b) Whether the law enforcement officer requested the arrested person to submit to the chemical test designated pursuant to division (A) of this section;

(c) Whether the arresting officer informed the arrested person of the consequences of refusing to be tested or of submitting to the test;

(d) Whichever of the following is applicable:

(i) Whether the arrested person refused to submit to the chemical test requested by the officer;

(ii) Whether the chemical test results indicate that the arrested person's blood contained a concentration of ten-hundredths of one per cent or more by weight of alcohol, the person's breath contained a concentration of ten-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath, or the person's urine contained a concentration of fourteen-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense.

(2) If the person appeals the suspension at the initial appearance, the judge or referee of the court or the mayor of the mayor's court shall determine whether one or more of the conditions specified in divisions (H)(1)(a) to (d) of this section have not been met. The person who appeals the suspension has the burden of proving, by a preponderance of the evidence, that one or more of the specified conditions has not been met. If during the appeal at the initial appearance the judge or referee of the court or the mayor of the mayor's court determines that all of those conditions have been met, the judge, referee, or mayor shall uphold the suspension, shall continue the suspension, and shall notify the registrar of the decision on a form approved by the registrar. Except as otherwise provided in division (H)(2) of this section, if the suspension is upheld or if the person does not appeal the suspension at the person's initial appearance under division (H)(1) of this section, the suspension shall continue until the complaint alleging the violation for which the person was arrested and in relation to which the suspension was imposed is adjudicated on the merits by the judge or referee of the trial court or by the mayor of the mayor's court. If the suspension was imposed under division (E) of this section and it is continued under this division, any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not terminate or otherwise affect the suspension. If the suspension was imposed under division (F) of this section and it is continued under this division, the suspension shall terminate if, for any reason, the person subsequently is found not guilty of the charge that resulted in the person taking the chemical test or tests under division (A) of this section.

If, during the appeal at the initial appearance, the judge or referee of the trial court or the mayor of the mayor's court determines that one or more of the conditions specified in divisions (H)(1)(a) to (d) of this section have not been met, the judge, referee, or mayor shall terminate the suspension,

subject to the imposition of a new suspension under division (B) of section 4511.196 of the Revised Code; shall notify the registrar of the decision on a form approved by the registrar; and, except as provided in division (B) of section 4511.196 of the Revised Code, shall order the registrar to return the driver's or commercial driver's license or permit to the person or to take such measures as may be necessary, if the license or permit was destroyed under section 4507.55 of the Revised Code, to permit the person to obtain a replacement driver's or commercial driver's license or permit from the registrar or a deputy registrar in accordance with that section. The court also shall issue to the person a court order, valid for not more than ten days from the date of issuance, granting the person operating privileges for that period of time.

If the person appeals the suspension at the initial appearance, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the initial appearance is conducted in a juvenile court or county court, except that if the arrest occurred within a city or village within the jurisdiction of the county court in which the appeal is conducted, the city director of law or village solicitor of that city or village shall represent the registrar. If the appeal is conducted in a municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code. If the appeal is conducted in a mayor's court, the registrar shall be represented by the city director of law, village solicitor, or other chief legal officer of the municipal corporation that operates that mayor's court.

(I)(1) If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (E) of this section, and the person, within the preceding seven years, has refused three previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content or has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any

other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this division. Any other person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (E) of this section may file a petition requesting occupational driving privileges in the municipal court, county court, or, if the person is a minor, juvenile court with jurisdiction over the place at which the arrest occurred. The petition may be filed at any time subsequent to the date on which the arresting officer serves the notice of suspension upon the arrested person. The person shall pay the costs of the proceeding, notify the registrar of the filing of the petition, and send the registrar a copy of the petition.

In the proceedings, the registrar shall be represented by the prosecuting attorney of the county in which the arrest occurred if the petition is filed in the juvenile court or county court, except that, if the arrest occurred within a city or village within the jurisdiction of the county court in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the registrar. If the petition is filed in the municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code.

The court, if it finds reasonable cause to believe that suspension would seriously affect the person's ability to continue in the person's employment, may grant the person occupational driving privileges during the period of suspension imposed pursuant to division (E) of this section, subject to the limitations contained in this division and division (I)(2) of this section. The court may grant the occupational driving privileges, subject to the limitations contained in this division and division (I)(2) of this section, regardless of whether the person appeals the suspension at the person's initial appearance under division (H)(1) of this section or appeals the decision of the court made pursuant to the appeal conducted at the initial appearance, and, if the person has appealed the suspension or decision, regardless of whether the matter at issue has been heard or decided by the court. The court shall not grant occupational driving privileges to any person who, within seven years of the filing of the petition, has refused three previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content or has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug

of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, and shall not grant occupational driving privileges for employment as a driver of commercial motor vehicles to any person who is disqualified from operating a commercial motor vehicle under section 2301.374 or 4506.16 of the Revised Code.

(2)(a) In granting occupational driving privileges under division (I)(1) of this section, the court may impose any condition it considers reasonable and necessary to limit the use of a vehicle by the person. The court shall deliver to the person a permit card, in a form to be prescribed by the court, setting forth the time, place, and other conditions limiting the defendant's use of a vehicle. The grant of occupational driving privileges shall be conditioned upon the person's having the permit in the person's possession at all times during which the person is operating a vehicle.

A person granted occupational driving privileges who operates a vehicle for other than occupational purposes, in violation of any condition imposed by the court, or without having the permit in the person's possession, is guilty of a violation of section 4507.02 of the Revised Code.

(b) The court may not grant a person occupational driving privileges under division (I)(1) of this section when prohibited by a limitation contained in that division or during any of the following periods of time:

(i) The first thirty days of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had not refused a previous request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content;

(ii) The first ninety days of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused one previous request to consent to a chemical test of

the person's blood, breath, or urine to determine its alcohol content;

(iii) The first year of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused two previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content;

(iv) The first three years of suspension imposed upon a person who, within five years of the date on which the person refused the request to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content and for which refusal the suspension was imposed, had refused three or more previous requests to consent to a chemical test of the person's blood, breath, or urine to determine its alcohol content.

(3) The court shall give information in writing of any action taken under this section to the registrar.

(4) If a person's driver's or commercial driver's license or permit or nonresident operating privilege has been suspended pursuant to division (F) of this section, and the person, within the preceding seven years, has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section, or section 2903.06, 2903.07, or 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to section 2903.07 of the Revised Code in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to division (A) or (B) of section 4511.19 of the Revised Code, the person is not entitled to request, and the court shall not grant to the person, occupational driving privileges under this division. Any other person whose driver's or commercial driver's license or nonresident operating privilege has been suspended pursuant to division (F) of this section may file in the court specified in division (I)(1) of this section a petition requesting occupational driving privileges in accordance with section 4507.16 of the Revised Code. The petition may be filed at any time subsequent to the date on which the

arresting officer serves the notice of suspension upon the arrested person. Upon the making of the request, occupational driving privileges may be granted in accordance with section 4507.16 of the Revised Code. The court may grant the occupational driving privileges, subject to the limitations contained in section 4507.16 of the Revised Code, regardless of whether the person appeals the suspension at the person's initial appearance under division (H)(1) of this section or appeals the decision of the court made pursuant to the appeal conducted at the initial appearance, and, if the person has appealed the suspension or decision, regardless of whether the matter at issue has been heard or decided by the court.

(J) When it finally has been determined under the procedures of this section that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(K) A suspension of the driver's or commercial driver's license or permit of a resident, a suspension of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit for refusal to submit to a chemical test to determine the alcohol, drug, or alcohol and drug content of the person's blood, breath, or urine pursuant to division (E) of this section, shall be terminated by the registrar upon receipt of notice of the person's entering a plea of guilty to, or of the person's conviction after entering a plea of no contest under Criminal Rule 11 to, operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or with a prohibited concentration of alcohol in the blood, breath, or urine, if the offense for which the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to division (B) or (E) of section 4507.16 of the Revised Code any time during which the person serves a related suspension imposed pursuant to division (E) or (F) of this section.

(L) At the end of a suspension period under this section, section 4511.196, or division (B) of section 4507.16 of the Revised Code and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, revocation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the following:

(1) A showing by the person that the person had proof of financial

responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Payment by the person of a license reinstatement fee of two hundred eighty dollars to the bureau of motor vehicles, which fee shall be deposited in the state treasury and credited as follows:

(a) Seventy-five dollars shall be credited to the ~~drivers' treatment~~ alcohol and ~~intervention~~ drug addiction services fund~~, which is hereby established~~ created by section 3793.21 of the Revised Code. ~~The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.~~

(b) Fifty dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Twenty-five dollars shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (L)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers treatment funds that are required to be established by counties and municipal corporations pursuant to division (N) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for attendance at the program. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (N) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the ~~drivers' treatment~~ alcohol and

~~intervention~~ drug addiction services fund~~,~~ created ~~in division (L)(2)(a) of this~~ by section 3793.21 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Fifty dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Fifty dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (L)(2)(e) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under division (L)(2)(e) of this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (L)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (L)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(M) Suspension of a commercial driver's license under division (E) or (F) of this section shall be concurrent with any period of disqualification under section 2301.374 or 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (E) or (F) of this section, and no person whose commercial driver's license is suspended under division (E) or (F) of this section shall be issued a driver's license under that chapter

during the period of the suspension.

(N)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (L) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (N)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or division (B)(2) of section 4507.02 of the Revised Code, and that are required under division (A)(1) or (2) of section 4511.99 or division (B)(5) of section 4507.99 of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (L) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be

deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under division (B) of section 4507.16 of the Revised Code, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program. The board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 of the Revised Code serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in

administering those indigent drivers alcohol treatment programs.

Sec. 4511.83. (A) As used in this section:

(1) "Ignition interlock device" means a device that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start that motor vehicle by using its ignition system, and that deters starting the motor vehicle by use of its ignition system unless the person attempting to so start the vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level.

(2) "Offender with restricted driving privileges" means an offender who is subject to an order that was issued under division (F) of section 4507.16 of the Revised Code as a condition of the granting of occupational driving privileges or an offender whose driving privilege is restricted as a condition of probation pursuant to division (G) of section 2951.02 of the Revised Code.

(B)(1) Except in cases of a substantial emergency when no other person is reasonably available to drive in response to the emergency, no person shall knowingly rent, lease, or lend a motor vehicle to any offender with restricted driving privileges, unless the vehicle is equipped with a functioning ignition interlock device that is certified pursuant to division (D) of this section.

(2) Any offender with restricted driving privileges who rents, leases, or borrows a motor vehicle from another person shall notify the person who rents, leases, or lends the motor vehicle to the offender that the offender has restricted driving privileges and of the nature of the restriction.

(3) Any offender with restricted driving privileges who is required to operate a motor vehicle owned by the offender's employer in the course and scope of the offender's employment may operate that vehicle without the installation of an ignition interlock device, provided that the employer has been notified that the offender has restricted driving privileges and of the nature of the restriction and provided further that the offender has proof of the employer's notification in the offender's possession while operating the employer's vehicle for normal business duties. A motor vehicle owned by a business that is partly or entirely owned or controlled by an offender with restricted driving privileges is not a motor vehicle owned by an employer, for purposes of this division.

(C) If a court, pursuant to division (F) of section 4507.16 of the Revised Code, imposes the use of an ignition interlock device as a condition of the granting of occupational driving privileges, the court shall require the

offender to provide proof of compliance to the court at least once quarterly or more frequently as ordered by the court in its discretion. If a court imposes the use of an ignition interlock device as a condition of probation under division (I) of section 2951.02 of the Revised Code, the court shall require the offender to provide proof of compliance to the court or probation officer prior to issuing any driving privilege or continuing the probation status. In either case in which a court imposes the use of such a device, the offender, at least once quarterly or more frequently as ordered by the court in its discretion, shall have the device inspected as ordered by the court for accurate operation and shall provide the results of the inspection to the court or, if applicable, to the offender's probation officer.

(D)(1) The director of public safety, upon consultation with the director of health and in accordance with Chapter 119. of the Revised Code, shall certify ignition interlock devices and shall publish and make available to the courts, without charge, a list of approved devices together with information about the manufacturers of the devices and where they may be obtained. The cost of obtaining the certification of an ignition interlock device shall be paid by the manufacturer of the device to the director of public safety and shall be deposited in the ~~drivers' treatment~~ alcohol and ~~intervention~~ drug addiction services fund established by section ~~4511.191~~ 3793.21 of the Revised Code.

(2) The director of public safety, in accordance with Chapter 119. of the Revised Code, shall adopt and publish rules setting forth the requirements for obtaining the certification of an ignition interlock device. No ignition interlock device shall be certified by the director of public safety pursuant to division (D)(1) of this section unless it meets the requirements specified and published by the director in the rules adopted pursuant to this division. The requirements shall include provisions for setting a minimum and maximum calibration range and shall include, but shall not be limited to, specifications that the device complies with all of the following:

(a) It does not impede the safe operation of the vehicle.

(b) It has features that make circumvention difficult and that do not interfere with the normal use of the vehicle.

(c) It correlates well with established measures of alcohol impairment.

(d) It works accurately and reliably in an unsupervised environment.

(e) It is resistant to tampering and shows evidence of tampering if tampering is attempted.

(f) It is difficult to circumvent and requires premeditation to do so.

(g) It minimizes inconvenience to a sober user.

(h) It requires a proper, deep-lung breath sample or other accurate

measure of the concentration by weight of alcohol in the breath.

(i) It operates reliably over the range of automobile environments.

(j) It is made by a manufacturer who is covered by product liability insurance.

(3) The director of public safety may adopt, in whole or in part, the guidelines, rules, regulations, studies, or independent laboratory tests performed and relied upon by other states, or their agencies or commissions, in the certification or approval of ignition interlock devices.

(4) The director of public safety shall adopt rules in accordance with Chapter 119. of the Revised Code for the design of a warning label that shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is subject to a fine, imprisonment, or both and may be subject to civil liability.

(E)(1) No offender with restricted driving privileges, during any period that the offender is required to operate only a motor vehicle equipped with an ignition interlock device, shall request or permit any other person to breathe into the device or start a motor vehicle equipped with the device, for the purpose of providing the offender with an operable motor vehicle.

(2)(a) Except as provided in division (E)(2)(b) of this section, no person shall breathe into an ignition interlock device or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to an offender with restricted driving privileges.

(b) Division (E)(2)(a) of this section does not apply to an offender with restricted driving privileges who breathes into an ignition interlock device or starts a motor vehicle equipped with an ignition interlock device for the purpose of providing ~~himself or herself~~ the offender with an operable motor vehicle.

(3) No unauthorized person shall tamper with or circumvent the operation of an ignition interlock device.

Sec. 4513.263. (A) As used in this section and in section 4513.99 of the Revised Code:

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of

or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Manufacturer" and "supplier" have the same meanings as in section 2307.71 of the Revised Code.

(7) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim but does not include a civil action for damages for a breach of contract or another agreement between persons.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.

Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of division (B) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(E) All fines collected for violations of division (B) of this section, or for violations of any ordinance or resolution of a political subdivision that is substantively comparable to that division, shall be forwarded to the treasurer of state for deposit as follows:

(1) Ten per cent shall be deposited into the seat belt education fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish a seat belt education program.

(2) Ten per cent shall be deposited into the elementary school program fund, which is hereby created in the state treasury, and shall be used by the department of public safety to establish and administer elementary school programs that encourage seat safety belt use.

(3) ~~Two~~ Until July 1, 1999, one per cent, and on and after July 1, 1999, two per cent shall be deposited into the Ohio ambulance licensing trust fund created by section 4766.05 of the Revised Code.

(4) Twenty-eight per cent shall be deposited into the emergency medical services fund, which is hereby created in the state treasury, and shall be used by the department of public safety for the administration of the division of emergency medical services and state board of emergency medical services.

(5) ~~Fifty~~ Until July 1, 1999, fifty-one per cent, and on and after July 1, 1999, fifty per cent shall be deposited into the emergency medical services grants fund, which is hereby created in the state treasury, and shall be used by the state board of emergency medical services to make grants, in accordance with section 4765.07 of the Revised Code and the rules that the

board adopts under section 4765.11 of the Revised Code, to emergency medical service organizations for the training of their personnel, for the purchase of equipment, and to improve the availability, accessibility, and quality of emergency medical services in this state.

(F) The failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(1) or (3) of this section or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device in violation of division (B)(2) of this section shall be considered by the trier of fact in a tort action as contributory negligence or other tortious conduct or considered for any other relevant purpose if the failure contributed to the harm alleged in the tort action and may diminish pursuant to section 2315.19 or 2315.20 of the Revised Code a recovery of compensatory damages in a tort action; shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

Sec. 4701.20. All receipts of the accountancy board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~approved by the board president or executive secretary, or both, as authorized by the board.

Sec. 4703.16. (A) The state board of examiners of architects shall establish ~~an~~the application fee for ~~taking or retaking an examination described in division (E) of~~ obtaining registration under section 4703.07 ~~or~~ and the fee for obtaining registration under section 4703.08 of the Revised Code ~~at an amount adequate to cover all rentals, compensation for proctors, and other expenses of the board related to examination or reexamination except the expenses of procuring and grading the examination~~.

(B) ~~The board shall establish an examination fee for taking the examination described in division (E) of section 4703.07 of the Revised Code at an amount adequate to cover the expenses of procuring and grading the examination.~~

~~(C) An applicant for registration under division (A) of section 4703.08 of the Revised Code shall be charged the same fees as an Ohio architect seeking registration in the state where the applicant is registered, but not less than the amount established by the board.~~

~~(D)~~ The fee to restore a certificate of qualification is the renewal fee for the current certification period, plus the renewal fee for each two-year period in which the certificate was not renewed, plus a penalty of ten per

cent of the total renewal fees for each two-year period or part thereof in which the certificate was not renewed, provided that the maximum fee shall not exceed the amount established by the board.

~~(E) The board shall establish reexamination fees for retaking parts of the examination described in division (E) of section 4703.07 of the Revised Code at amounts adequate to cover the expenses of procuring and grading such parts and procuring the examination materials furnished to the examinee in connection with the examination.~~

~~(F)~~(C) The board also shall establish the following fees:

(1) The fee for an original and duplicate certificate of qualification to practice architecture and the biennial renewal of the certificate;

(2) The fee for a duplicate renewal card;

(3) The fee to restore a certificate of qualification or certificate of authorization revoked under section 4703.15 of the Revised Code or suspended under section 2301.373 of the Revised Code;

(4) ~~The fee charged an examinee for administering an examination to the examinee on behalf of another jurisdiction;~~

~~(5)~~ The fee for an original and duplicate certificate of authorization issued under division (L) of section 4703.18 of the Revised Code and the annual renewal of the certificate.

Sec. 4703.50. All receipts of the state board of examiners of architects and state board of landscape architect examiners shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All expenditures of the boards shall be paid pursuant to vouchers ~~signed~~ approved by the secretary or executive secretary of the state board of examiners of architects, or both, as authorized by the board.

Sec. 4707.011. The department of commerce shall administer this chapter through the division of real estate and professional licensing and the superintendent of real estate and professional licensing.

Sec. 4709.05. In addition to any other duty imposed on the barber board under this chapter, the board shall do all of the following:

(A) Organize by electing a ~~chairman~~ chairperson from its members to serve a one-year term;

(B) Hold regular meetings, at the times and places as it determines for the purpose of conducting the examinations required under this chapter, and hold additional meetings for the transaction of necessary business;

(C) Provide for suitable quarters, in the city of Columbus, for the conduct of its business and the maintenance of its records;

(D) Adopt a common seal for the authentication of its orders, communications, and records;

(E) Maintain a record of its proceedings and a register of persons licensed as barbers. The register shall include each licensee's name, place of business, residence, and licensure date and number, and a record of all licenses issued, refused, renewed, suspended, or revoked. The records are open to public inspection at all reasonable times.

(F) Annually, on or before the first day of January, make a report to the governor of all its official acts during the preceding year, its receipts and disbursements, recommendations it determines appropriate, and an evaluation of board activities intended to aid or protect consumers of barber services;

(G) Employ an executive director who shall do all things requested by the board for the administration and enforcement of this chapter. The executive director shall employ inspectors, clerks, and other assistants as he determines necessary.

(H) Ensure that the practice of barbering is conducted only in a licensed barber shop, except when the practice of barbering is performed on a person whose physical or mental disability prevents that person from going to a licensed barber shop;

(I) Conduct or have conducted the examination for applicants to practice as licensed barbers at least four times per year at the times and places the board determines;

(J) Adopt rules, in accordance with Chapter 119. of the Revised Code, to administer and enforce this chapter and which cover all of the following:

(1) Sanitary standards for the operation of barber shops and barber schools that conform to guidelines established by the department of health;

(2) The content of the examination required of an applicant for a barber license. The examination shall include a practical demonstration and a written test, shall relate only to the practice of barbering, and shall require the applicant to demonstrate that ~~he~~ the applicant has a thorough knowledge of and competence in the proper techniques in the safe use of chemicals used in the practice of barbering.

(3) Continuing education requirements for persons licensed pursuant to this chapter. The board may impose continuing education requirements upon a licensee for a violation of this chapter or the rules adopted pursuant thereto or if the board determines that the requirements are necessary to preserve the health, safety, or welfare of the public.

(4) Requirements for the licensure of barber schools, barber teachers, and assistant barber teachers;

(5) Requirements for students of barber schools;

(6) Any other area the board determines appropriate to administer or

enforce this chapter.

(K) Prior to adopting any rule under this chapter, indicate at a formal hearing the reasons why the rule is necessary as a protection of the persons who use barber services or as an improvement of the professional standing of barbers in this state;

(L) Furnish each owner or manager of a barber shop and barber school with a copy of all sanitary rules adopted pursuant to division (J) of this section;

(M) Conduct such investigations and inspections of persons and establishments licensed or unlicensed pursuant to this chapter and for that purpose, any member of the board or any of its authorized agents may enter and inspect any place of business of a licensee or a person suspected of violating this chapter or the rules adopted pursuant thereto, during normal business hours;

(N) Upon the written request of an applicant and the payment of the appropriate fee, provide to the applicant licensure information concerning the applicant;

(O) Do all things necessary for the proper administration and enforcement of this chapter.

Sec. 4709.06. (A) Before entering upon the discharge of the duties of ~~his~~ office, the executive director of the barber board shall give a bond to the state, to be approved by the governor, conditioned for the faithful performance of the duties of ~~his~~ office.

The department of administrative services shall include the executive director, if ~~he~~ the executive director so requests, in the public employees blanket fidelity bond.

(B) The executive director shall deposit all receipts of the board into the state treasury to the credit of the occupational licensing and regulatory fund.

(C) The board ~~chairman~~ chairperson or executive director, or both, as authorized by the board, shall ~~sign~~ approve all vouchers of the board.

Sec. 4709.12. (A) The barber board shall charge and collect the following fees:

(1) For the application to take the barber examination, ~~forty~~ sixty dollars;

(2) For an application to retake any part of the barber examination, ~~twenty~~ thirty dollars;

(3) For the initial issuance of a license to practice as a barber, ~~ten~~ twenty dollars;

(4) For the biennial renewal of the license to practice as a barber, ~~fifty~~ seventy-five dollars;

(5) For the restoration of an expired barber license, ~~fifty~~ one hundred dollars, and ~~twenty~~ fifty dollars for each lapsed year, provided that the total fee shall not exceed ~~two~~ four hundred sixty dollars;

(6) For the issuance of a duplicate barber or shop license, ~~twenty~~ thirty dollars;

(7) For the inspection of a new barber shop, change of ownership, or ~~re-opening~~ reopening of premises or facilities formerly operated as a barber shop, and issuance of a shop license, ~~fifty~~ seventy-five dollars;

(8) For the biennial renewal of a barber shop license, ~~twenty~~ fifty dollars;

(9) For the restoration of a barber shop license, ~~thirty~~ seventy-five dollars;

(10) For each inspection of premises for location of a new barber school, or each inspection of premises for relocation of a currently licensed barber school, ~~four~~ five hundred dollars;

(11) For the initial barber school license, five hundred dollars, and ~~two~~ five hundred ~~fifty~~ dollars for the renewal of the license;

(12) For the restoration of a barber school license, six hundred dollars;

(13) For the issuance of a student registration, ~~ten~~ twenty-five dollars;

(14) For the examination and issuance of a biennial teacher or assistant teacher license, ~~ninety~~ one hundred twenty-five dollars;

(15) For the renewal of a biennial teacher or assistant teacher license, ~~eighty~~ one hundred dollars;

(16) For the restoration of an expired teacher or assistant teacher license, one hundred fifty dollars, and forty dollars for each lapsed year, provided that the total fee shall not exceed three hundred dollars;

(17) For the issuance of a barber license by reciprocity pursuant to section 4709.08 of the Revised Code, ~~one~~ two hundred ~~fifty~~ dollars;

(18) For providing licensure information concerning an applicant, upon written request of the applicant, twenty-five dollars.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that the fees do not exceed the amounts permitted by this section by more than fifty per cent.

Sec. 4713.19. All receipts of the state board of cosmetology ~~from fines imposed under section 4713.17 of the Revised Code shall be deposited into the state treasury to the credit of the cosmetology adjudication fund, which is hereby created. All investment earnings of the cosmetology adjudication fund shall be credited to that fund. Whenever the balance of the fund exceeds thirty thousand dollars, the director of budget and management shall~~

~~transfer the excess to the general revenue fund. Moneys in the fund shall be used only for the cost of holding adjudicatory hearings under section 4713.17 of the Revised Code and for licensee educational programs to reduce violations. All other receipts of the board~~ shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~ approved by the board president or executive director, or both, as authorized by the board.

Sec. 4715.06. Each member of the state dental board shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day actually employed in the discharge of ~~his~~the official duties of the member, and ~~his~~ the necessary expenses of the member. The secretary shall receive ~~his neccessary~~ reimbursement for necessary expenses incurred by the secretary in the discharge of ~~his~~ the official duties of the secretary. All vouchers of the board shall be ~~signed~~ approved by the board president or executive secretary, or both, as authorized by the board.

Sec. 4715.13. Applicants for licenses to practice dentistry or for a general anesthesia permit or a conscious intravenous sedation permit shall pay to the secretary of the state dental board the following fees:

(A) For license by examination, one hundred ~~thirteen~~ forty-one dollars if issued in an odd-numbered year or ~~one~~ two hundred ~~eighty-eight~~ thirty-five dollars if issued in an even-numbered year;

(B) For license by endorsement, one hundred ~~thirteen~~ forty-one dollars if issued in an odd-numbered year or ~~one~~ two hundred ~~eighty-eight~~ thirty-five dollars if issued in an even-numbered year;

(C) For duplicate license, to be granted upon proof of loss of the original, ~~twelve~~ fifteen dollars;

(D) For a general anesthesia permit, ~~seventy-five~~ ninety-four dollars~~.~~;

(E) For a conscious intravenous sedation permit, ~~seventy-five~~ ninety-four dollars.

The fee in division (A) of this section may be refunded to an applicant who is unavoidably prevented from attending the examination, or ~~he~~ the applicant may be examined at the next regular or special meeting of the board without an additional fee.

An applicant who fails the first examination may be re-examined at the next regular or special meeting of the board without an additional fee.

Sec. 4715.14. (A) Each person who is licensed to practice dentistry in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable

information as the board may consider necessary, and shall include payment of a biennial registration fee of one hundred ~~thirty~~sixty-three dollars. This fee shall be paid to the treasurer of state. All such registrations shall be in effect for the two-year period beginning on the first day of January of the even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. The failure of a licensee to renew ~~his~~ the licensee's registration in accordance with this section shall result in an automatic suspension of ~~his~~ the licensee's license to practice dentistry.

(B) Any dentist whose license has been suspended under this section may be reinstated by the payment of ~~his~~ the biennial registration fee and in addition thereto sixty dollars to cover costs of the reinstatement; excepting that to any licensed dentist who desires to temporarily retire from practice, and who has given the board notice in writing to that effect, the board shall grant such a retirement, provided only that at that time all previous registration fees and additional costs of reinstatement have been paid.

(C) Each dentist licensed to practice, whether a resident or not, shall notify the secretary in writing of any change in ~~his~~ the dentist's office address or employment within ten days after such change has taken place. On the first day of July of every even-numbered year, the secretary shall issue a printed roster of the names and addresses so registered.

Sec. 4715.16. (A) Upon payment of a fee of ~~five~~seven dollars and ~~eighty-five~~ fifty cents, the state dental board may without examination issue a limited resident's license to any person who is a graduate of a dental college, is authorized to practice in another state or country or qualified to take the regular licensing examination in this state, and furnishes the board satisfactory proof ~~that he has~~ of having been appointed a dental resident at an accredited dental college in this state or at an accredited program of a hospital in this state, but has not yet been licensed as a dentist by the board. Any person receiving a limited resident's license may practice dentistry only in connection with programs operated by the dental college or hospital at which ~~he~~ the person is appointed as a resident as designated on ~~his~~ the person's limited resident's license, and only under the direction of a licensed dentist who is a member of the dental staff of the college or hospital or a dentist holding a current limited teaching license issued under division (B) of this section, and only on bona fide patients of such programs. The holder of a limited resident's license may be disciplined by the board pursuant to section 4715.30 of the Revised Code.

(B) Upon payment of ~~sixty~~ seventy-five dollars and upon application

dorsed by an accredited dental college in this state, the board may without examination issue a limited teaching license to a dentist who is a graduate of a dental college, is authorized to practice dentistry in another state or country, and has full-time appointment to the faculty of the endorsing dental college. A limited teaching license is subject to annual renewal in accordance with the standard renewal procedure of Chapter 4745. of the Revised Code, and automatically expires upon termination of the full-time faculty appointment. A person holding a limited teaching license may practice dentistry only in connection with programs operated by the endorsing dental college. The board may discipline the holder of a limited teaching license pursuant to section 4715.30 of the Revised Code.

(C)(1) As used in this division:

(a) "Continuing dental education practicum" or "practicum" means a course of instruction, approved by the American dental association, Ohio dental association, or academy of general dentistry, that is designed to improve the clinical skills of a dentist by requiring the dentist to participate in clinical exercises on patients.

(b) "Director" means the person responsible for the operation of a practicum.

(2) Upon payment of ~~sixty~~ seventy-five dollars and application endorsed by the director of a continuing dental education practicum, the board shall, without examination, issue a temporary limited continuing education license to a resident of a state other than Ohio who is licensed to practice dentistry in such state and is in good standing, is a graduate of an accredited dental college, and is registered to participate in the endorsing practicum. The determination of whether a dentist is in good standing shall be made by the board.

A dentist holding a temporary limited continuing education license may practice dentistry only on residents of the state in which ~~he~~ the dentist is permanently licensed or on patients referred by a dentist licensed pursuant to section 4715.12 or 4715.15 of the Revised Code to an instructing dentist licensed pursuant to one of those sections, and only while participating in a required clinical exercise of the endorsing practicum on the premises of the facility where the practicum is being conducted.

Practice under a temporary limited continuing education license shall be under the direct supervision and full professional responsibility of an instructing dentist licensed pursuant to section 4715.12 or 4715.15 of the Revised Code, shall be limited to the performance of those procedures necessary to complete the endorsing practicum, and shall not exceed thirty days of actual patient treatment in any year.

(3) A director of a continuing dental education practicum who endorses an application for a temporary limited continuing education license shall, prior to making the endorsement, notify the state dental board in writing of the identity of the sponsors and the faculty of the practicum and the dates and locations at which it will be offered. The notice shall also include a brief description of the course of instruction. The board may prohibit a continuing dental education practicum from endorsing applications for temporary limited continuing education licenses if the board determines that the practicum is engaged in activities that constitute a threat to public health and safety or do not constitute bona fide continuing dental education, or that the practicum permits activities which otherwise violate this chapter. Any continuing dental education practicum prohibited from endorsing applications may request an adjudication ~~hearing~~ pursuant to Chapter 119. of the Revised Code.

A temporary limited continuing education license shall be valid only when the dentist is participating in the endorsing continuing dental education practicum and shall expire at the end of one year. If the dentist fails to complete the endorsing practicum in one year, the board may, upon the dentist's application and payment of a fee of ~~sixty~~ seventy-five dollars, renew the temporary limited continuing education license for a consecutive one-year period. Only two renewals may be granted. The holder of a temporary limited continuing education license may be disciplined by the board pursuant to section 4715.30 of the Revised Code.

(D) The board shall act either to approve or to deny any application for a limited license pursuant to division (A), (B), or (C) of this section not later than sixty days of the date the board receives the application.

Sec. 4715.21. Each person who desires to practice as a dental hygienist shall file with the secretary of the state dental board a written application for a license, under oath, upon the form prescribed. Such applicant shall furnish satisfactory proof of being at least eighteen years of age and of good moral character. An applicant shall present a diploma or certificate of graduation from an accredited dental hygiene school and shall pay the examination fee of ~~fifty-seven~~ seventy-one dollars if the license is issued in an odd-numbered year or ~~eighty-seven~~ one hundred nine dollars if issued in an even-numbered year. Those passing such examination as the board prescribes relating to dental hygiene~~,~~ shall receive a certificate of registration entitling them to practice. If an applicant fails to pass the first examination ~~he~~ the applicant may apply for a re-examination at the next regular or special examination meeting of the board.

No applicant shall be admitted to more than two examinations without

first presenting satisfactory proof that ~~he~~ the applicant has successfully completed such refresher courses in an accredited dental hygiene school as the state dental board may prescribe.

An accredited dental hygiene school shall be one accredited by the council on dental education of the American dental association or whose educational standards are recognized by the council on dental education of the American dental association and approved by the state dental board.

Sec. 4715.24. (A) Each person who is licensed to practice as a dental hygienist in Ohio shall, on or before the first day of January of each even-numbered year, register with the state dental board. The registration shall be made on a form prescribed by the board and furnished by the secretary, shall include the licensee's name, address, license number, and such other reasonable information as the board may consider necessary, and shall include payment of a biennial registration fee of ~~sixty~~ seventy-five dollars. This fee shall be paid to the treasurer of state. All such registrations shall be in effect for the two-year period beginning on the first day of January of each even-numbered year and ending on the last day of December of the following odd-numbered year, and shall be renewed in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. The failure of a licensee to renew ~~his~~ registration in accordance with this section shall result in the automatic suspension of ~~his~~ the licensee's license to practice as a dental hygienist.

(B) Any dental hygienist whose license has been suspended under this section may be reinstated by the payment of the biennial registration fee and in addition thereto twenty-three dollars to cover the costs of reinstatement.

(C) The license of a dental hygienist shall be exhibited in a conspicuous place in the room in which the dental hygienist practices. Each dental hygienist licensed to practice, whether a resident or not, shall notify the secretary in writing of any change in ~~his~~ the dental hygienist's office address or employment within ten days after the change takes place.

Sec. 4715.27. The state dental board may issue a license to an applicant who furnishes satisfactory proof of being at least eighteen years of age, of good moral character and who demonstrates, to the satisfaction of the board, knowledge of the laws, regulations, and rules governing the practice of a dental hygienist; who proves, to the satisfaction of the board, ~~that he intends~~intent to practice as a dental hygienist in this state; who is a graduate from an accredited school of dental hygiene and who holds a license by examination from a similar dental board, and who passes an examination as prescribed by the board relating to dental hygiene.

Upon payment of ~~thirty-four~~ forty-three dollars and upon application

endorsed by an accredited dental hygiene school in this state, the state dental board may without examination issue a teacher's certificate to a dental hygienist, authorized to practice in another state or country. A teacher's certificate shall be subject to annual renewal in accordance with the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code, and shall not be construed as authorizing anything other than teaching or demonstrating the skills of a dental hygienist in the educational programs of the accredited dental hygiene school which endorsed the application.

Sec. 4715.35. All fines or forfeitures of bond in an action for violation of sections 4715.01 to 4715.35 of the Revised Code shall be paid by the court receiving it to the secretary of the state dental board for deposit into the state treasury to the credit of the ~~general revenue~~occupational licensing and regulatory fund.

Sec. 4717.06. (A) The board of embalmers and funeral directors shall issue an embalmer's license to any applicant who pays a fee specified by the board not to exceed an aggregate sum of ~~sixty~~seventy-five dollars for application, registration, examination, and issuance of certificate and license, and not to exceed the sum of ~~thirty~~ fifty dollars per year for renewal of the license, and submits evidence verified by oath and satisfactory to the board that:

(1) Applicant is eighteen years of age;

(2) Applicant is a citizen of the United States;

(3) Applicant is of good moral character;

(4) Applicant is a graduate of a first grade high school or has completed the equivalent education for regular admission to a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located;

(5) Applicant has satisfactorily completed a minimum of two years of general education, or the equivalent thereof in semester or quarter hours, in a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located. The general education must be taken in advance of course in mortuary science~~;~~.

(6) Applicant has registered with the board prior to enrollment in an approved or accredited college of mortuary science recognized by the board, has satisfactorily completed at least twelve months' instruction in a prescribed course in mortuary science as approved by the board, and has presented to the board a certificate showing the successful completion of the course. Following the mortuary science college training the applicant is given an examination by the board and if successful, issued an apprentice

embalmer's certificate~~;~~.

(7) Applicant has, following the completion of the educational requirements outlined in this section and previous to serving apprenticeship, certified with the board as an apprentice embalmer, has completed at least one year of apprenticeship under an embalmer licensed in this state, and has assisted ~~his~~ the applicant's master in embalming at least twenty-five dead human bodies. Upon presenting evidence verified by oath to the satisfaction of the board that such apprenticeship has been satisfactorily completed, the holder of an apprentice embalmer's certificate shall be issued an embalmer's license.

(B) The board shall admit to examination for a funeral director's license any applicant who pays a fee specified by the board not to exceed an aggregate sum of ~~sixty~~ seventy-five dollars for application, registration, examination, and issuance of certificate and license, and not to exceed ~~thirty~~ fifty dollars per year for renewal of such license, and submits evidence verified by oath and satisfactory to the board that:

(1) Applicant is eighteen years of age;

(2) Applicant is a citizen of the United States;

(3) Applicant is of good moral character;

(4) Applicant is a graduate of a first grade high school or has completed the equivalent education for regular admission to a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located;

(5) Applicant shows evidence that ~~he~~ applicant has received or earned a bachelor's degree or its equivalent from a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located;

(6) Applicant has previously registered with the board, and after registering, has assisted ~~his~~ applicant's master in directing at least twenty-five funerals and, either has satisfactorily completed all the requirements prescribed for an embalmer's license examination, in which event ~~he~~ applicant shall, following mortuary science college training, serve one year of apprenticeship under a licensed funeral director in this state; or, in lieu of mortuary science college training, has satisfactorily completed at least two years of apprenticeship under a licensed funeral director in this state. The term for apprenticeship in embalming and the term for apprenticeship in funeral directing may be served concurrently, providing each apprenticeship is properly certified to the board. Upon presenting evidence verified by oath to the satisfaction of the board that such apprenticeship has been satisfactorily completed, the applicant shall be

given a funeral director's examination and if successful shall be issued a funeral director's license.

Any person holding an embalmer's license in this state is not required to make a new application or submit to an examination, but is entitled to a renewal of the embalmer's license upon the same terms and conditions as are provided in section 4717.07 of the Revised Code for the renewal of an embalmer's license.

Any person holding a funeral director's license in this state is not required to make a new application or submit to an examination, but is entitled to the renewal of a funeral director's license upon the same terms and conditions as are provided in section 4717.07 of the Revised Code for the renewal of a funeral director's license.

Any person who, prior to January 1, 1988, is enrolled in a mortuary science college training program, or is serving an apprenticeship under division (B)(6) of this section, or is enrolled in a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located, need not meet the requirements of division (B)(5) of this section, provided the person has satisfactorily completed, or within a four-year period satisfactorily completes, a minimum of two years of general education, or the equivalent thereof in semester or quarter hours, in a college or university authorized to confer degrees by the Ohio board of regents or the comparable legal agency of another state in which the college or university is located.

The power of the board to make and adopt rules and bylaws shall be subject to and in accordance with sections 119.01 to 119.13 of the Revised Code.

Sec. 4717.07. Any person desiring to engage in the profession or business of embalming or funeral directing or both, shall make application, register with the board of embalmers and funeral directors prior to serving apprenticeship, be required to show such preliminary requisites, and take such examinations relating to embalming or funeral directing as are necessary by the board in its rules.

The board shall publish in its rules the subjects to be covered in the examination and the standards to be attained thereon. Changes in the rules shall be made in accordance with sections 119.01 to 119.13 of the Revised Code.

Should the board find that the applicant possesses the necessary qualifications prescribed in section 4717.06 of the Revised Code or in its rules, and the applicant has passed the examinations in the subjects prescribed by the board in its rules, the board shall register the applicant as a

licensed embalmer or a licensed funeral director and issue to the applicant the license applied for by ~~him~~ the applicant, said license to be in full force and effect until the regular renewal date for other licenses, at which time the license must be renewed for a period of one year, and upon expiration may be renewed for a like period. All renewals shall be according to the provisions of this section and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Any license which is not renewed on or before the thirty-first day of December of each year is suspended, provided that such license may be reinstated up to the first day of July of that year upon payment of the annual license renewal fee and a ~~fifty-dollar~~ sixty-dollar and fifty cents penalty fee. Upon suspension of the license, the secretary of the board shall send a certified letter to the license holder at ~~his~~ the license holder's last known address informing ~~him~~ the license holder that ~~his~~ the license may be reinstated up to the first day of July of that year by payment of a ~~fifty-dollar~~ sixty-dollar and fifty cent penalty fee in addition to the annual renewal fee.

Notwithstanding section 4717.06 of the Revised Code, the holder of an embalmer's or funeral director's license, may at any time take an examination for the other such license provided such holder of the one such license had taken the examination for the other such license, and while ~~he~~ the holder of the embalmer's or funeral director's license is in the armed forces of this country, is not required to renew ~~his~~ the license and ~~his~~ the license may not be revoked or suspended for nonpayment of the required fees. This provision is applicable to all renewal fees due and payable after September 3, 1943. In the event a license is suspended or revoked contrary to this paragraph the same shall be restored upon proper notice and proof being presented to the board.

No person shall carry on the business or profession or discharge any of the duties of embalming or funeral directing unless there has been issued to ~~him~~ the person a license in full force and effect at the time permitting ~~him~~ the person to carry on each or both classes of business, and unless ~~he~~ the person shall have otherwise complied with sections 4717.01 to 4717.12 of the Revised Code. Licenses shall be signed by the president and the secretary of the board, affixed with the seal of said board, and are nontransferable and nonnegotiable. Such license shall be registered by the holder or owner with the department of health. A license shall not be issued to more than one person and not more than one person shall carry on the business of funeral directing or embalming or both under one license.

The board may recognize licenses issued to embalmers and funeral directors by state boards of embalming and state health authorities of other

states, and upon presentation of such licenses may issue to the holders thereof the embalmer's or funeral director's license as provided in this section. Such reciprocal license shall be renewed annually upon the payment of such renewal fee as may be fixed by the board upon the same terms and conditions as provided in this section and the rules of the board for renewal. No person is entitled to a reciprocal license as a funeral director or embalmer unless ~~he~~ the person gives proof that ~~he~~ the person has, in the state in which ~~he~~ the person is licensed, complied with requirements substantially equal to those set out in sections 4717.01 to 4717.12 of the Revised Code.

Sec. 4717.09. All receipts of the board of embalmers and funeral directors, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~approved by the board president or executive secretary, or both, as authorized by the board.

The board shall, on or before the first Monday of July each year, make a report in writing to the governor containing a detailed statement of the nature and amount of its receipts and the amount and manner of its expenditures.

Sec. 4717.18. The board of embalmers and funeral directors shall issue a funeral home license to an applicant if the following requirements are met:

(A) The applicant has made a verified application on a form provided by the board.

(B) The application is accompanied by a license fee of one hundred twenty-five dollars.

(C) The funeral home is in compliance with rules adopted under section 4717.19 of the Revised Code and with the Ohio basic building code adopted under Chapter 3781. of the Revised Code, the Ohio fire code adopted under sections 3737.82 and 3737.83 of the Revised Code, and all other federal, state, and local requirements relating to the safety of the premises.

(D) The funeral home has on the premises a preparation or embalming room that is adequately equipped and maintained in a sanitary manner for the preservation and care of dead human bodies; and such room contains only the articles, facilities, and instruments necessary for the preparation of dead human bodies for burial or final disposition, is kept in a clean and sanitary condition, and is used only for the care and preparation of dead human bodies.

Each license shall be issued for the address at which the funeral home is operated and shall be displayed in a conspicuous place in the establishment.

A funeral home license expires on the last day of December of the year

in which it was issued. Licenses shall be renewed annually under the standard renewal procedure of Chapter 4745. of the Revised Code, upon payment of a renewal fee of one hundred twenty-five dollars. Reinstatement of a license after the expiration date of the license is subject to the payment of all delinquent renewal fees and an additional fee of two hundred dollars, except that if the application for reinstatement is made one hundred eighty days or more after the expiration date of the license, the additional fee is five hundred dollars. Upon the expiration of a license, the board shall notify the holder by certified mail of the procedure for reinstatement under this section.

Sec. 4723.08. (A) The board of nursing may impose fees not to exceed the following limits:

(1) For application for licensure by examination to practice nursing as a registered nurse or as a licensed practical nurse, fifty dollars;

(2) For application for licensure by endorsement to practice nursing as a registered nurse or as a licensed practical nurse, fifty dollars;

(3) For application for a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;

(4) For verification of a license or certificate to another jurisdiction, fifteen dollars;

(5) For providing a replacement copy of a license or certificate, fifteen dollars;

(6) For biennial renewal of any license ~~or certificate, twenty-five,~~ thirty-five dollars;

(7) For biennial renewal of a certificate of authority to practice nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, one hundred dollars;

(8) For processing a late application for renewal of any license or certificate, fifty dollars;

(9) For application for authorization to approve continuing nursing education programs and courses from an applicant accredited by a national accreditation system for nursing, five hundred dollars;

(10) For application for authorization to approve continuing nursing education programs and courses from an applicant not accredited by a national accreditation system for nursing, one thousand dollars;

(11) For biennial renewal of authorization to approve continuing nursing education programs and courses, three hundred dollars;

(12) For written verification of a license or certificate, other than verification to another jurisdiction, five dollars. The board may contract for

services pertaining to this verification process and the collection of the fee, and may permit the contractor to retain a portion of the fees as compensation, before any amounts are deposited into the state treasury.

(B) Each quarter, the board of nursing shall certify to the director of budget and management the number of biennial licenses renewed under this chapter during the preceding quarter and the amount equal to that number times five dollars.

Sec. 4723.24. All active licenses issued under this chapter shall be renewed biennially according to a schedule established by the board of nursing. The board shall mail an application for renewal to every holder of an active license addressed to the last known post-office address of the holder before the date specified in the board's schedule. Failure of the holder to receive an application for renewal from the board shall not excuse the holder from the requirements contained in this section. The holder shall complete the renewal form and return it to the treasurer of state with the renewal fee required by section 4723.08 of the Revised Code on or before the date specified by the board. The holder shall report any criminal offense that constitutes grounds for denial of a license under section 4723.28 of the Revised Code of which the holder has been found guilty or to which the holder has entered a plea of guilty or no contest since the submission of the holder's last preceding application. The treasurer shall immediately forward the renewal application to the board, and on receipt of the renewal application, the board shall verify that the applicant meets the renewal requirements and shall renew the license for the following two-year period. If a renewal application that meets the renewal requirements is submitted after the date specified in the board's schedule, but before expiration of the license, the board shall grant a renewal upon payment of the late renewal fee authorized under section 4723.08 of the Revised Code.

Every holder shall give written notice to the board of any change of name or address within thirty days of the change. The board shall require the holder to document a change of name in a manner acceptable to the board.

Except in the case of a first renewal after licensure by examination, effective January 1, 1992, to be eligible for renewal of an active license to practice nursing as a registered nurse or licensed practical nurse, each individual who holds an active license must, in each two-year period specified by the board, complete continuing nursing education as follows:

(A) For renewal of a license that was issued for a two-year renewal period, twenty-four hours of continuing nursing education;

(B) For renewal of a license that was issued for less than a two-year renewal period, ~~one hour~~ the number of hours of continuing nursing

education ~~for each month or portion of a month for which the license was active~~ specified by the board in rules adopted in accordance with Chapter 119. of the Revised Code.

The board shall adopt rules establishing the procedure for an applicant to certify to the board completion of the continuing nursing education. Continuing nursing education may be applied to meet this requirement if it is obtained through a program or course approved by the board or person authorized by the board. On request of the board, an applicant or license holder shall submit satisfactory documentation of completion of the required continuing nursing education. The continuing education required of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner to obtain or maintain certification by a national certifying organization shall be applied toward the applicant's continuing education requirements for renewal of the applicant's license to practice nursing as a registered nurse.

Except as otherwise provided in section 4723.28 of the Revised Code, a holder of a license who does not intend to practice in Ohio may send to the board written notice to that effect on or before the renewal date, and the board shall classify the license as inactive. During the period that the license is classified as inactive, the holder may not engage in the practice of nursing in Ohio and is not required to pay the renewal fee.

The holder of an inactive license or an individual who has failed to renew the individual's license may have the license restored or renewed upon meeting the requirements for restoring and renewing licenses established in rules adopted under section 4723.07 of the Revised Code.

Sec. 4723.28. As used in this section, "dangerous drug" and "prescription" have the same meanings as in section 4729.02 of the Revised Code.

(A) The board of nursing, pursuant to an adjudication conducted under Chapter 119. of the Revised Code and by a vote of a quorum, may revoke or may refuse to grant a license or certificate to a person found by the board to have committed fraud in passing the examination or to have committed fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board.

(B) The board of nursing, pursuant to an adjudication conducted under Chapter 119. of the Revised Code and by a vote of a quorum, may impose one or more of the following sanctions: deny, revoke permanently, suspend, or place restrictions on any license or certificate issued by the board; reprimand or otherwise discipline a holder of a license or certificate; or impose a fine of not more than five hundred dollars per violation. The

sanctions may be imposed for any of the following:

(1) Denial, revocation, suspension, or restriction of a license to practice nursing, for any reason other than a failure to renew, in another state or jurisdiction; or denial, revocation, suspension, or restriction of a license to practice a health care occupation other than nursing, for any reason other than a failure to renew, in Ohio or another state or jurisdiction;

(2) Engaging in the practice of nursing, having failed to renew a license issued under this chapter, or while a license is under suspension;

(3) Conviction of, a plea of guilty to, or a judicial finding of guilt of a misdemeanor committed in the course of practice;

(4) Conviction of, a plea of guilty to, or a judicial finding of guilt of any felony or of any crime involving gross immorality or moral turpitude;

(5) Selling, giving away, or administering drugs for other than legal and legitimate therapeutic purposes; or conviction of, a plea of guilty to, or a judicial finding of guilt of violating any municipal, state, county, or federal drug law;

(6) Conviction of, a plea of guilty to, or a judicial finding of guilt of an act in another jurisdiction that would constitute a felony or a crime of moral turpitude in Ohio;

(7) Conviction of, a plea of guilty to, or a judicial finding of guilt of an act in the course of practice in another jurisdiction that would constitute a misdemeanor in Ohio;

(8) Self-administering or otherwise taking into the body any dangerous drug in any way not in accordance with a legal, valid prescription;

(9) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol or other chemical substances to an extent that impairs ability to practice;

(10) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of habitual or excessive use of drugs, alcohol, or other chemical substances that impair the ability to practice;

(11) Impairment of the ability to practice according to acceptable and prevailing standards of safe nursing care because of a physical or mental disability;

(12) Assaulting or causing harm to a patient or depriving a patient of the means to summon assistance;

(13) Obtaining or attempting to obtain money or anything of value by intentional misrepresentation or material deception in the course of practice;

(14) Adjudication by a probate court that the license applicant or license holder is mentally ill or mentally incompetent. The board may restore the

license upon adjudication by a probate court of the person's restoration to competency or upon submission to the board of other proof of competency.

(15) The suspension or termination of employment by the department of defense or the veterans administration of the United States for any act that violates or would violate this chapter;

(16) Violation of this chapter or any rules adopted under it;

(17) Violation of any restrictions placed on a license by the board;

(18) Failure to use universal blood and body fluid precautions established by rules adopted under section 4723.07 of the Revised Code;

(19) Failure to practice in accordance with acceptable and prevailing standards of safe nursing care;

(20) In the case of a registered nurse, engaging in activities that exceed the practice of nursing as a registered nurse under section 4723.02 of the Revised Code;

(21) In the case of a licensed practical nurse, engaging in activities that exceed the practice of nursing as a licensed practical nurse under section 4723.02 of the Revised Code;

(22) Aiding and abetting in the unlicensed practice of nursing;

(23) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, or a registered nurse approved as an advanced practice nurse under section 4723.55 of the Revised Code, either of the following:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the nurse will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers such nursing services, would otherwise be required to pay~~;~~.

(24) Failure to comply with the terms and conditions of participation in the alternative program for chemically dependent nurses created by section 4723.35 of the Revised Code;

(25) In the case of a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner:

(a) Engaging in activities that exceed those permitted for the nurse's nursing specialty under section 4723.43 of the Revised Code;

(b) Failure to meet the quality assurance standards established under section 4723.07 of the Revised Code~~;~~.

(26) In the case of a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, failure to maintain a standard care arrangement in accordance with section 4723.431 of the Revised Code or to practice in accordance with the standard care arrangement.

(C) If a criminal action is brought against a license holder for an act or crime described in divisions (B)(3) to (7) of this section and the action is dismissed by the trial court other than on the merits, the board shall hold an adjudication hearing to determine whether the license holder committed the act on which the action was based. If the board determines on the basis of the hearing that the license holder committed the act, or if the license holder fails to participate in the hearing, the board may take action as though the license holder had been convicted of the act.

If the board takes action on the basis of a conviction, plea of guilty, or a judicial determination of guilt as described in divisions (B)(3) to (7) of this section that is overturned on appeal, the license holder may, on exhaustion of the appeal process, petition the board for reconsideration of its action. On receipt of the petition and supporting court documents, the board shall temporarily rescind its action. If the board determines that the decision on appeal was a decision on the merits, it shall permanently rescind its action. If the board determines that the decision on appeal was not a decision on the merits, it shall hold an adjudicatory hearing to determine whether the license holder committed the act on which the original conviction, plea, or judicial determination was based. If the board determines on the basis of the hearing that the license holder committed such act, or if the license holder does not request a hearing, the board shall reinstate its action; otherwise, the board shall permanently rescind its action.

Notwithstanding the provision of division (C)(2) of section 2953.32 of the Revised Code specifying that if records pertaining to a criminal case are sealed under that section the proceedings in the case shall be deemed not to have occurred, sealing of the records of a conviction on which the board has based an action under this section shall have no effect on the board's action or any sanction imposed by the board under this section.

(D) In enforcing division (B) of this section, the board may compel any individual licensed by this chapter or who has applied for licensure to submit to a mental or physical examination, or both, as required by the board and at the expense of the individual. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations, unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board

finds that an individual is impaired, the board shall require the individual to submit to care, counseling, or treatment approved or designated by the board, as a condition for initial, continued, reinstated, or renewed licensure to practice. The individual shall be afforded an opportunity to demonstrate to the board that the individual can resume the individual's occupation in compliance with acceptable and prevailing standards under the provisions of the individual's license. For the purpose of this section, any individual who is licensed by this chapter or makes application for licensure shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(E) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule of the board. Any person may report to the board any information the person may have that appears to show a violation of any provision of this chapter or rule of the board. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of the report or testimony.

Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action, except that the board may disclose information to law enforcement officers and government entities investigating a person licensed by the board. No law enforcement officer or government entity with knowledge of any information disclosed by the board pursuant to this division shall divulge the information to any other person or government entity except for the purpose of an adjudication by a court or licensing or registration board or officer to which the person to whom the information relates is a party.

If the investigation requires a review of patient records, the investigation and proceeding shall be conducted in such a manner as to protect patient confidentiality.

All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code.

The hearings of the board shall be conducted in accordance with Chapter 119. of the Revised Code. The board may appoint a hearing examiner as provided in section 119.09 to conduct any hearing the board is empowered to hold under Chapter 119. of the Revised Code.

In the absence of fraud or bad faith, neither the board nor any current or former members, agents, representatives, or employees of the board shall be

held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to their official duties undertaken or performed pursuant to this chapter. If a current or former member, agent, representative, or employee requests the state to defend the individual against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the individual's official duties, if the request is made in writing at a reasonable time before trial, and if the individual requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for such defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that part of a claim or judgment that is for punitive or exemplary damages.

(F) Any action taken by the board under this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the person may be reinstated to practice.

(G) No unilateral surrender of a license issued under this chapter shall be effective unless accepted by majority vote of the board. No application for a license issued under this chapter may be withdrawn without a majority vote of the board.

(H) Notwithstanding division (B)(23) of this section, sanctions shall not be imposed against any licensee who waives deductibles and copayments:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. The consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter to the extent allowed by this chapter and the rules of the board.

Sec. 4723.31. Except as provided in division (A)(4) of section 3721.34 and section 4723.061 of the Revised Code, all receipts of the board of nursing, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~approved by the board president or executive director, or both, as authorized by the board.

Sec. 4723.46. (A) The board of nursing shall establish a list of national certifying organizations approved by the board to examine and certify registered nurses to practice nursing specialties. To be approved by the board, a national certifying organization must meet all of the following requirements:

(1) Be national in the scope of its credentialing;

(2) Have an educational requirement beyond that required for registered nurse licensure;

(3) Have practice requirements beyond those required for registered nurse licensure;

(4) Have testing requirements beyond those required for registered nurse licensure that measure the theoretical and clinical content of a nursing specialty, are developed in accordance with accepted standards of validity and reliability, and are open ~~only~~ to registered nurses who have successfully completed the educational program required by the organization;

(5) Issue certificates to certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners;

(6) Periodically review the qualifications of certified registered nurse anesthetists, clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners.

(B) Not later than the thirtieth day of January of each year, the board shall publish the list of national certifying organizations that have met the requirements of division (A) of this section within the previous year and remove from the list organizations that no longer meet the requirements.

Sec. 4723.56. (A) For purposes of the pilot programs established by section 4723.52 of the Revised Code, the board of nursing may approve an advanced practice nurse to prescribe drugs and therapeutic devices if the nurse submits to the board all of the following:

(1) Evidence of having attained at least a master's degree in nursing from an accredited institution recognized by the board;

(2) Evidence of completing the pharmacology instruction required by division (B) of this section;

(3) A copy of the protocol established between the nurse and the nurse's collaborating physician that meets the requirements of division (C) of this section and receives approval from the formulary committee for advanced practice nurses established under section 4723.57 of the Revised Code;

(4) Any other information the board requires pursuant to rules adopted under section 4723.58 of the Revised Code;

(5) The fee established in rules adopted under section 4723.54 of the Revised Code.

(B) To receive approval under this section to prescribe drugs and therapeutic devices, an advanced practice nurse must have completed a minimum of thirty hours of instruction in pharmacology. The instruction must have been completed within three years prior to application for the approval, unless the board of nursing establishes by rule adopted under

section 4723.58 of the Revised Code another time period within which the instruction must have been completed. The instruction may have been received through either of the following:

(1) Planned classroom, clinical, or provider-directed independent study in pharmacology from an accredited institution recognized by the board of nursing;

(2) Pharmacology courses determined to be acceptable by the board pursuant to rules adopted under section 4723.58 of the Revised Code.

(C) Each advanced practice nurse who desires to receive approval under this section to prescribe drugs and therapeutic devices shall enter into an arrangement with a collaborating physician. The advanced practice nurse and the collaborating physician shall develop a written protocol that establishes the arrangement between the nurse and the physician. The protocol shall include the following:

(1) The drugs that the advanced practice nurse may prescribe and the limitations on ~~her~~ the authority to prescribe them, including any restrictions on dosage units or refills, in accordance with the formulary established in rules adopted under section 4723.58 of the Revised Code;

(2) The conditions under which the advanced practice nurse must refer patients to the collaborating physician or another physician;

(3) The responsibilities of the collaborating physician;

(4) Procedures for quality assurance reviews of the advanced practice nurse by the collaborating physician.

(D)(1) On receipt of a protocol under division (A) of this section, the board shall submit the protocol to the formulary committee for advanced practice nurses for the committee's review. An advanced practice nurse shall prescribe drugs and therapeutic devices only in accordance with a protocol approved by the committee.

(2) If an advanced practice nurse and collaborating physician propose to make a change in an approved protocol, the advanced practice nurse shall file the proposed change with the board of nursing at least thirty days prior to the date on which the proposed change is intended to become effective. The board shall submit the proposed change to the formulary committee for the committee's review. The advanced practice nurse and collaborating physician shall implement the change only if it is approved by the committee.

(E) Notwithstanding any other provision of this chapter or Chapter 2925., 3719., ~~or~~ 4729., or 4731. of the Revised Code to the contrary, an advanced practice nurse approved under this section may prescribe drugs and therapeutic devices as specified in the protocol established between the

nurse and the collaborating physician and may personally supply drugs and therapeutic devices in accordance with section 4723.561 of the Revised Code.

(F) Approval under this section to prescribe and personally supply drugs ~~or~~ and therapeutic devices is valid for two years. The board may renew its approval to prescribe drugs and therapeutic devices if the nurse submits to the board all of the following:

(1) Evidence of completing during the previous two years at least twelve hours of continuing education in pharmacology from an accredited institution recognized by the board;

(2) A written recommendation for renewal from the nurse's collaborating physician;

(3) Any other information the board requires pursuant to rules adopted under section 4723.58 of the Revised Code;

(4) The fee established in rules adopted under section 4723.54 of the Revised Code.

(G) The continuing education required by this section is in addition to the continuing education required under section 4723.24 of the Revised Code.

(H) Application for approval under this section may be made at the same time that application is made for approval under section 4723.55 of the Revised Code or at any time subsequent to receiving approval under that section.

Sec. 4723.561. An advanced practice nurse approved by the board of nursing under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices as part of a pilot program established under section 4723.52 of the Revised Code may personally supply to patients the following drugs and devices that are within the advanced practice nurse's authority to prescribe: antibiotics, antifungals, scabicides, contraceptives, and prenatal vitamins.

The advanced practice nurse shall maintain a written record of drugs and devices personally supplied under this section. For each drug or device supplied, the collaborating physician shall review the record within seventy-two hours after the drug or device is supplied.

Sec. 4723.59. (A) An advanced practice nurse shall practice as an advanced practice nurse only in accordance with the standard care arrangement developed under section 4723.52 of the Revised Code for the pilot program in which the nurse is participating. An advanced practice nurse who does not follow the standard care arrangement is guilty of unprofessional conduct and is subject to disciplinary action under section

4723.28 of the Revised Code for violation of this chapter and the rules adopted under it.

(B) An advanced practice nurse approved under section 4723.56 of the Revised Code shall prescribe drugs and therapeutic devices specified in the protocol established between the nurse and the collaborating physician only in accordance with the protocol. An advanced practice nurse approved under section 4723.56 of the Revised Code shall personally supply drugs and therapeutic devices in accordance with section 4723.561 of the Revised Code. Any advanced practice nurse who does not follow the protocol or personally supply drugs and devices in accordance with section 4723.561 of the Revised Code is guilty of unprofessional conduct and is subject to disciplinary action under section 4723.28 of the Revised Code for violation of this chapter and the rules adopted under it.

(C) Any collaborating physician who does not perform the responsibilities ~~he~~ the physician agreed to perform in the protocol established between the physician and an advanced practice nurse in accordance with section 4723.56 of the Revised Code is guilty of unprofessional conduct and is subject to disciplinary action by the state medical board. Under this division, the state medical board may revoke, limit, or suspend the physician's certificate to practice, pursuant to an adjudicatory hearing under Chapter 119. of the Revised Code and A vote of not less than six of its members.

Sec. 4725.06. Each member of the state board of optometry shall receive an amount fixed pursuant to division (J) of section 124.15 of the Revised Code for each day actually employed in the discharge of ~~his~~the official duties of the member, and ~~his~~ the necessary expenses of the member.

The secretary of the board shall receive ~~his~~ reimbursement for necessary expenses incurred by the secretary in the discharge of ~~his~~ the secretary's official duties.

All vouchers of the board shall be ~~signed~~ approved by the board president or executive secretary, or both, as authorized by the board.

Sec. 4725.45. (A) The Ohio optical dispensers board shall employ an executive secretary-treasurer, who shall serve at the pleasure of the board. Before entering upon the discharge of the duties imposed upon ~~him~~the executive secretary-treasurer by sections 4725.40 to 4725.59 of the Revised Code or by the board, the executive secretary-treasurer shall give a bond, with sufficient sureties, in an amount to be determined by the board for the faithful discharge of the duties of ~~his~~ the office of executive secretary-treasurer. The premium for such bond shall be paid as are other

expenditures of the board. Such bond, with the approval of the board and oath of office endorsed thereon, shall be deposited with the secretary of state and kept in ~~his~~ the secretary of state's office.

(B) The executive secretary-treasurer shall perform such duties as are prescribed by the board ~~and shall keep complete accounts of all funds received in the performance of his official duties and of all vouchers presented by him to the director of budget and management for the disbursement of funds~~.

(C) The board may employ such additional employees as may be necessary for the administration and enforcement of sections 4725.40 to 4725.59 of the Revised Code.

(D) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~ approved by the president of the board and the executive secretary-treasurer.

(E) The board, subject to the approval of the controlling board, may establish examination and license renewal fees in excess of the amounts provided in sections 4725.48, 4725.49, and 4725.51 of the Revised Code, provided that such fees do not exceed those amounts by more than fifty per cent.

Sec. 4729.15. The state board of pharmacy shall charge the following fees:

(A) For applying for registration as a pharmacist, an amount adequate to cover all rentals, compensation for proctors, and other expenses of the board related to examination except the expenses of procuring and grading the examination, which fee shall not be returned if the applicant fails to pass the examination;

(B) For the examination of an applicant for registration as a pharmacist, an amount adequate to cover any expenses to the board of procuring and grading the examination or any part thereof, which fee shall not be returned if the applicant fails to pass the examination;

(C) For issuing a certificate of registration and an identification card to an individual who passes the examination described in section 4729.07 of the Revised Code, an amount that is adequate to cover the expense;

(D) For the renewal application fee of a pharmacist for an identification card within sixty days after the expiration date, ~~sixty-five~~ ninety-seven dollars and fifty cents, which fee shall not be returned if the applicant fails to qualify for renewal;

(E) For the renewal application fee of a pharmacist for an identification card that has lapsed for more than sixty days, but for less than three years,

~~ninety~~ one hundred thirty-five dollars, which fee shall not be returned if the applicant fails to qualify for renewal;

(F) For the renewal application fee of a pharmacist for an identification card that has lapsed for more than three years, ~~two~~ three hundred ~~twenty-five~~ thirty-seven dollars and fifty cents, which fee shall not be returned if the applicant fails to qualify for renewal;

(G) For the application fee of an applicant for registration as a pharmacist, certificate of registration, and identification card, on presentation of a certificate granted by another state, ~~two~~ three hundred ~~twenty-five~~ thirty-seven dollars and fifty cents, which fee shall not be returned if the applicant fails to qualify for registration.

(H) For the application fee for registration as a pharmacy intern, certificate of registration, and identification card, ~~fifteen~~ twenty-two dollars and fifty cents, which fee shall not be returned if the applicant fails to qualify for registration;

(I) For the renewal application fee of a pharmacy intern for an identification card, ~~fifteen~~ twenty-two dollars and fifty cents, which fee shall not be returned if the applicant fails to qualify for renewal;

(J) For issuing a replacement certificate to a pharmacist, ~~fifteen~~ twenty-two dollars and fifty cents;

(K) For issuing a replacement certificate to a pharmacy intern, ~~five~~ seven dollars and fifty cents;

(L) For issuing a replacement identification card to a pharmacist, ~~twenty-five~~ thirty-seven dollars and fifty cents, or pharmacy intern, ~~five~~ seven dollars and fifty cents;

(M) For certifying registration and grades for reciprocal registration, ~~six~~ ten dollars ~~and seventy-five cents~~;

(N) For making copies of any application, affidavit, or other document filed in the state board of pharmacy office, an amount fixed by the board that is adequate to cover the expense, except that for copies required by federal or state agencies or law enforcement officers for official purposes, no charge need be made;

(O) For certifying and affixing the seal of the board, an amount fixed by the board that is adequate to cover the expense, except that for certifying and affixing the seal of the board to a document required by federal or state agencies or law enforcement officers for official purposes, no charge need be made;

(P) For each copy of a book or pamphlet that includes laws administered by the state board of pharmacy, rules adopted by the board, and chapters of the Revised Code with which the board is required to comply, an amount

fixed by the board that is adequate to cover the expense of publishing and furnishing the book or pamphlet.

Sec. 4729.29. (A) As used in this section:

(1) "Dentist" means a person licensed under Chapter 4715. of the Revised Code to practice dentistry.

(2) "Optometrist" means a person who is licensed to practice optometry and holds a valid therapeutic pharmaceutical agents certificate issued under Chapter 4725. of the Revised Code.

(3) "Physician" means a person holding a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery, osteopathic medicine and surgery, or podiatry. ~~(4)~~

(4) "Veterinarian" means a person licensed under Chapter 4741. of the Revised Code to practice veterinarian medicine.

(5) "Advanced practice nurse" means an individual approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices.

(B) Divisions (A) and (B) of section 4729.02 and sections 4729.26, 4729.27, and 4729.28 of the Revised Code do not do either of the following:

(1) Apply to a dentist, optometrist, physician, ~~or~~ veterinarian, or advanced practice nurse; prevent ~~a dentist~~ dentists, ~~optometrist~~ optometrists, ~~physician~~ physicians, or ~~veterinarian~~ veterinarians from personally supplying ~~the dentist's, optometrist's, physician's, or veterinarian's~~ their patients with such drugs as to the dentist, optometrist, physician, or veterinarian seem proper; or prevent an advanced practice nurse from personally supplying drugs and therapeutic devices in accordance with section 4723.561 of the Revised Code.

(2) Apply to the sale of oxygen, peritoneal dialysis solutions, or the sale of proprietary drugs or medicines by a retail dealer, in original packages when labeled as required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended.

Nothing in this chapter prohibits a person who is certified to administer topical ocular pharmaceutical agents under Chapter 4725. of the Revised Code from purchasing, possessing, or administering topical ocular pharmaceutical agents in accordance with Chapter 4725. of the Revised Code.

Sec. 4729.51. (A) No person other than a registered wholesale distributor of dangerous drugs shall possess for sale, sell, distribute, or deliver, at wholesale, dangerous drugs, except as follows:

(1) A pharmacist who is a licensed terminal distributor of dangerous drugs or who is employed by a licensed terminal distributor of dangerous

drugs may make occasional sales of dangerous drugs at wholesale;

(2) A licensed terminal distributor of dangerous drugs having more than one establishment or place may transfer or deliver dangerous drugs from one establishment or place for which a license has been issued to the terminal distributor to another establishment or place for which a license has been issued to the terminal distributor if the license issued for each establishment or place is in effect at the time of the transfer or delivery.

(B)(1) No registered wholesale distributor of dangerous drugs shall possess for sale, or sell, at wholesale, dangerous drugs to any person other than the following:

(a) A practitioner;

(b) A registered wholesale distributor of dangerous drugs;

(c) A manufacturer of dangerous drugs;

(d) A licensed terminal distributor of dangerous drugs, subject to division (B)(2) of this section;

(e) Carriers or ~~warehousemen~~ warehousers for the purpose of carriage or storage;

(f) Terminal or wholesale distributors of dangerous drugs who are not engaged in the sale of dangerous drugs within this state;

(g) An optometrist licensed under Chapter 4725. of the Revised Code who is certified to administer topical ocular pharmaceutical agents under that chapter for the purposes authorized by that chapter;

(h) An individual who holds a current license, certificate, or registration issued under Title 47 of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only with respect to insulin that will be used for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession.

(2) No registered wholesale distributor of dangerous drugs shall possess dangerous drugs for sale at wholesale, or sell such drugs at wholesale, to a licensed terminal distributor of dangerous drugs, except to:

(a) A terminal distributor who has a category I license, only dangerous drugs described in category I, as defined in division (A)(1) of section 4729.54 of the Revised Code;

(b) A terminal distributor who has a category II license, only dangerous drugs described in category I and category II, as defined in divisions (A)(1) and (2) of section 4729.54 of the Revised Code;

(c) A terminal distributor who has a category III license, dangerous drugs described in category I, category II, and category III, as defined in

divisions (A)(1), (2), and (3) of section 4729.54 of the Revised Code;

(d) A terminal distributor who has a limited category I, II, or III license, only the dangerous drugs specified in the certificate furnished by the terminal distributor in accordance with section 4729.60 of the Revised Code.

(C)(1) Except as provided in division (C)(4) of this section, no person shall sell, at retail, dangerous drugs.

(2) Except as provided in division (C)(4) of this section, no person shall possess for sale, at retail, dangerous drugs.

(3) Except as provided in division (C)(4) of this section, no person shall possess dangerous drugs.

(4) Divisions (C)(1), (2), and (3) of this section do not apply to a registered wholesale distributor of dangerous drugs, a licensed terminal distributor of dangerous drugs, a practitioner, or a person who possesses, or possesses for sale or sells, at retail, a dangerous drug in accordance with Chapters 3719., 4715., 4729., 4731., and 4741. or section 4723.56 of the Revised Code.

Divisions (C)(1), (2), and (3) of this section do not apply to an individual who holds a current license, certificate, or registration issued under Title 47 of the Revised Code and has been certified to conduct diabetes education by a national certifying body specified in rules adopted by the state board of pharmacy under section 4729.68 of the Revised Code, but only to the extent that the individual possesses insulin or personally supplies insulin solely for the purpose of diabetes education and only if diabetes education is within the individual's scope of practice under statutes and rules regulating the individual's profession.

(D) No licensed terminal distributor of dangerous drugs shall purchase for the purpose of resale dangerous drugs from any person other than a registered wholesale distributor of dangerous drugs, except as follows:

(1) A licensed terminal distributor of dangerous drugs may make occasional purchases of dangerous drugs for resale from a pharmacist who is a licensed terminal distributor of dangerous drugs or who is employed by a licensed terminal distributor of dangerous drugs;

(2) A licensed terminal distributor of dangerous drugs having more than one establishment or place may transfer or receive dangerous drugs from one establishment or place for which a license has been issued to the terminal distributor to another establishment or place for which a license has been issued to the terminal distributor if the license issued for each establishment or place is in effect at the time of the transfer or receipt.

(E) No licensed terminal distributor of dangerous drugs shall engage in

the sale or other distribution of dangerous drugs at retail or maintain possession, custody, or control of dangerous drugs for any purpose other than the distributor's personal use or consumption, at any establishment or place other than that or those described in the license issued by the board of pharmacy to such terminal distributor.

(F) Nothing in this section shall do either of the following:

(1) Require a person engaged solely in the sale or other distribution, at wholesale, of drugs and supplies for veterinary use only, to be registered under sections 4729.50 to 4729.66 of the Revised Code;

(2) Prohibit the purchase or sale, at wholesale, ~~or~~ of drugs and supplies for veterinary use only by a person engaged solely in the distribution of drugs and supplies for veterinary use only.

(G) Nothing in this section shall be construed to interfere with the performance of official duties by any law enforcement official authorized by municipal, county, state, or federal law to collect samples of any drug, regardless of its nature or in whose possession it may be.

Sec. 4729.52. (A) A person desiring to be registered as a wholesale distributor of dangerous drugs shall file with the executive director of the board of pharmacy a verified application containing such information as the board requires of the applicant relative to the qualifications for a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted pursuant thereto. The board shall register as a wholesale distributor of dangerous drugs each person who has submitted an application therefor and has paid the required registration fee if the board determines that the applicant meets the qualifications for a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted pursuant thereto.

(B) The board may register and issue to a nonresident person a registration certificate as a wholesale distributor of dangerous drugs if the person possesses a current and valid wholesale distributor of dangerous drugs registration certificate or license issued by another state that has qualifications for licensure or registration comparable to the registration requirements in this state and pays the required registration fee.

(C) All registration certificates issued pursuant to this section are effective for a period of twelve months from the first day of July of each year. A registration certificate shall be renewed annually by the board for a like period, pursuant to this section and the standard renewal procedure of Chapter 4745. of the Revised Code. A person desiring to renew a registration certificate shall submit an application for renewal and pay the required renewal fee before the first day of July each year.

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is one hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is one hundred fifty dollars and shall accompany each renewal application.

(2) A registration certificate that has not been renewed in any year by the first day of August may be reinstated upon payment of the renewal fee and a penalty fee of ~~thirty-seven~~ fifty-five dollars ~~and fifty cents~~.

Renewal fees assessed under divisions (E)(1) and (2) of this section shall not be returned if the applicant fails to qualify for renewal.

(F) The registration of any person as a wholesale distributor of dangerous drugs subjects the person and ~~his~~ the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for registration as a wholesale distributor of dangerous drugs by, or on behalf of, any person or the registration of any person as a wholesale distributor of dangerous drugs shall not, of itself, constitute evidence that the person is doing business within this state.

Sec. 4729.54. (A) As used in this section:

(1) "Category I" means single-dose injections of intravenous fluids, including saline, Ringer's lactate, five per cent dextrose and distilled water, and other intravenous fluids or parenteral solutions included in this category by rule of the board of pharmacy, that have a volume of one hundred milliliters or more and that contain no added substances, or single-dose injections of epinephrine to be administered pursuant to sections 4765.38 and 4765.39 of the Revised Code.

(2) "Category II" means any dangerous drug that is not included in category I or III.

(3) "Category III" means any controlled substance that is contained in schedule I, II, III, IV, or V.

(4) "Emergency medical service organization" has the same meaning as in section 4765.01 of the Revised Code.

(5) "Person" includes an emergency medical service organization.

(6) "Schedule I, schedule II, schedule III, schedule IV, and schedule V" mean controlled substance schedules I, II, III, IV, and V, respectively, as established pursuant to section 3719.41 of the Revised Code and as amended.

(B) A person who desires to be licensed as a terminal distributor of dangerous drugs shall file with the executive director of the board of pharmacy a verified application that contains the following:

(1) Information that the board requires relative to the qualifications of a terminal distributor of dangerous drugs set forth in section 4729.55 of the Revised Code;

(2) A statement that the person wishes to be licensed as a category I, category II, category III, limited category I, limited category II, or limited category III terminal distributor of dangerous drugs;

(3) If the person wishes to be licensed as a limited category I, limited category II, or limited category III terminal distributor of dangerous drugs, a notarized list of the dangerous drugs that the person wishes to possess, have custody or control of, and distribute, which list shall also specify the purpose for which those drugs will be used and their source;

(4) If the person is an emergency medical service organization, the information that is specified in division (C)(1) of this section;

(5) Except for an emergency medical service organization, the identity of the one establishment or place at which the person intends to engage in the sale or other distribution of dangerous drugs at retail, and maintain possession, custody, or control of dangerous drugs for purposes other than the person's own use or consumption.

(C)(1) An emergency medical service organization that wishes to be licensed as a terminal distributor of dangerous drugs shall list in its application for licensure the following additional information:

(a) The units under its control that the organization determines will possess dangerous drugs for the purpose of administering emergency medical services in accordance with Chapter 4765. of the Revised Code;

(b) With respect to each such unit, whether the dangerous drugs that the organization determines the unit will possess are in category I, II, or III.

(2) An emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall file a new application for such licensure if there is any change in the number, or location of, any of its units or any change in the category of the dangerous drugs that any unit will possess.

(3) A unit listed in an application for licensure pursuant to division (C)(1) of this section may obtain the dangerous drugs it is authorized to

possess from its emergency medical service organization or, on a replacement basis, from a hospital pharmacy. If units will obtain dangerous drugs from a hospital pharmacy, the organization shall file, and maintain in current form, the following items with the pharmacist who is responsible for the hospital's terminal distributor of dangerous drugs license:

(a) A copy of its standing orders or protocol;

(b) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code, who are authorized to possess the drugs, which list also shall indicate the personnel who are authorized to administer the drugs.

(D) Each emergency medical service organization that applies for a terminal distributor of dangerous drugs license shall submit with its application the following:

(1) A notarized copy of its standing orders or protocol, which orders or protocol shall be signed by a physician and specify the dangerous drugs that its units may carry, expressed in standard dose units;

(2) A list of the personnel employed or used by the organization to provide emergency medical services in accordance with Chapter 4765. of the Revised Code.

An emergency medical service organization that is licensed as a terminal distributor shall notify the board immediately of any changes in its standing orders or protocol.

(E) There shall be six categories of terminal distributor of dangerous drugs licenses, which categories shall be as follows:

(1) Category I license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I.

(2) Limited category I license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I that were listed in the application for licensure.

(3) Category II license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I and category II.

(4) Limited category II license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I or category II that were listed in the application for licensure.

(5) Category III license. A person who obtains this license may possess, have custody or control of, and distribute the dangerous drugs described in category I, category II, and category III.

(6) Limited category III license. A person who obtains this license may possess, have custody or control of, and distribute only the dangerous drugs described in category I, category II, or category III that were listed in the application for licensure.

(F) Except for an application made on behalf of an animal shelter, if an applicant for licensure as a limited category I, II, or III terminal distributor of dangerous drugs intends to administer dangerous drugs to a person or animal, the applicant shall submit, with the application, a notarized copy of its protocol or standing orders, which protocol or orders shall be signed by a practitioner, specify the dangerous drugs to be administered, and list personnel who are authorized to administer the dangerous drugs in accordance with federal law or the law of this state. An application made on behalf of an animal shelter shall include a notarized list of the dangerous drugs to be administered to animals and the personnel who are authorized to administer the drugs to animals in accordance with section 4729.532 of the Revised Code. After obtaining a terminal distributor license, a licensee shall notify the board immediately of any changes in its protocol or standing orders, or in such personnel.

(G) Each applicant for licensure as a terminal distributor of dangerous drugs shall submit, with the application, a license fee determined as follows:

(1) For a category I or limited category I license, ~~thirty~~ forty-five dollars;

(2) For a category II or limited category II license, ~~seventy-five~~ one hundred twelve dollars and fifty cents;

(3) For a category III or limited category III license, one hundred fifty dollars.

Fees assessed under divisions (G)(1) to (3) of this section shall not be returned if the applicant fails to qualify for registration.

(H)(1) The board shall issue a terminal distributor of dangerous drugs license to each person who submits an application for such licensure in accordance with this section, pays the required license fee, is determined by the board to meet the requirements set forth in section 4729.55 of the Revised Code, and satisfies any other applicable requirements of this section.

(2) The license of a person other than an emergency medical service organization shall describe the one establishment or place at which the licensee may engage in the sale or other distribution of dangerous drugs at retail and maintain possession, custody, or control of dangerous drugs for purposes other than the licensee's own use or consumption. The one establishment or place shall be that which is described in the application for

licensure.

No such license shall authorize or permit the terminal distributor of dangerous drugs named in it to engage in the sale or other distribution of dangerous drugs at retail or to maintain possession, custody, or control of dangerous drugs for any purpose other than the distributor's own use or consumption, at any establishment or place other than that described in the license, except that an agent or employee of an animal shelter may possess and use dangerous drugs in the course of business as provided in division (D) of section 4729.532 of the Revised Code.

(3) The license of an emergency medical service organization shall cover and describe all the units of the organization listed in its application for licensure.

(4) The license of every terminal distributor of dangerous drugs shall indicate, on its face, the category of licensure. If the license is a limited category I, II, or III license, it shall specify, and shall authorize the licensee to possess, have custody or control of, and distribute only, the dangerous drugs that were listed in the application for licensure.

(I) All licenses issued pursuant to this section shall be effective for a period of twelve months from the first day of January of each year. A license shall be renewed by the board for a like period, annually, according to the provisions of this section, and the standard renewal procedure of Chapter 4745. of the Revised Code. A person who desires to renew a license shall submit an application for renewal and pay the required fee ~~during the month~~ on or before the thirty-first day of December each year. The fee required for the renewal of a license shall be the same as the fee paid for the license being renewed, and shall accompany the application for renewal.

A license that has not been renewed during December in any year and by the first day of February of the following year may be reinstated only upon payment of the required renewal fee and a penalty fee of ~~thirty-seven~~ fifty-five dollars ~~and fifty cents~~.

(J)(1) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (C)(2) or (3) of this section.

(2) No emergency medical service organization that is licensed as a terminal distributor of dangerous drugs shall fail to comply with division (D) of this section.

(3) No licensed terminal distributor of dangerous drugs shall possess, have custody or control of, or distribute dangerous drugs that the terminal distributor is not entitled to possess, have custody or control of, or distribute by virtue of its category of licensure.

(4) No licensee that is required by division (F) of this section to notify the board of changes in its protocol or standing orders, or in personnel, shall fail to comply with that division.

Sec. 4729.55. (A) As used in this section:

(1) "Dentist" means a person licensed under Chapter 4715. of the Revised Code to practice dentistry.

(2) "Optometrist" means a person who is licensed to practice optometry and holds a valid therapeutic pharmaceutical agents certificate issued under Chapter 4725. of the Revised Code.

(3) "Physician" means a person holding a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

(4) "Veterinarian" means a person licensed under Chapter 4741. of the Revised Code to practice veterinary medicine.

(5) "Advanced practice nurse" means an individual approved under section 4723.56 of the Revised Code to prescribe drugs and therapeutic devices.

(B) No license shall be issued to an applicant for licensure as a terminal distributor of dangerous drugs unless the applicant has furnished satisfactory proof to the board of pharmacy that:

(1) The applicant is equipped as to land, buildings, and equipment to properly carry on the business of a terminal distributor of dangerous drugs within the category of licensure approved by the board.

(2) A pharmacist, dentist, optometrist, physician, veterinarian, advanced practice nurse, animal shelter licensed with the state board of pharmacy under section 4729.531 of the Revised Code, or a laboratory as defined in division (N) of section 3719.01 of the Revised Code~~,~~ shall maintain supervision and control over the possession and custody of ~~such~~ dangerous drugs that may be acquired by or on behalf of the applicant.

(3) Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist, dentist, optometrist, physician, ~~or~~ veterinarian, or advanced practice nurse.

(4) If the applicant, or any agent or employee of the applicant, has been found guilty of violating section 4729.51 of the Revised Code, the "Federal Food, Drug and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the federal narcotic law, sections 3715.01 to 3715.72, Chapter 2925., 3719., or 4729. of the Revised Code, or any rule of the board, adequate safeguards are assured to prevent the recurrence of ~~such~~ the violation.

(5) In the case of an applicant who is a food processor or retail seller of food, the applicant shall maintain supervision and control over the

possession and custody of nitrous oxide.

(6) In the case of an applicant who is a retail seller of oxygen in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," the applicant shall maintain supervision and control over the possession, custody, and retail sale of the oxygen.

(7) If the application is made on behalf of an animal shelter, that at least one of the agents or employees of the animal shelter is certified in compliance with section 4729.532 of the Revised Code.

(8) In the case of an applicant who is a retail seller of peritoneal dialysis solutions in original packages labeled as required by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, the applicant shall maintain supervision and control over the possession, custody, and retail sale of the peritoneal dialysis solutions.

Sec. 4729.65. (A) Except as provided in division (B) of this section, all receipts of the state board of pharmacy, from any source, shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~approved by the president or executive director of the board, or both, as authorized by the board. All initial issuance fees and renewal fees required by sections 4729.01 to 4729.54 of the Revised Code shall be payable by the applicant at the time of making application.

(B)(1) There is hereby created in the state treasury the board of pharmacy drug law enforcement fund. All moneys that are derived from any mandatory fines or forfeited bail to which the board may be entitled under Chapter 2925. or division (B)(5) of section 2925.42 of the Revised Code and all moneys that are derived from forfeitures of property to which the board may be entitled pursuant to Chapter 2925. of the Revised Code, section 2923.32, 2923.35, or 2933.43 of the Revised Code, any other section of the Revised Code, or federal law shall be deposited into the fund. Subject to division (B)~~(1)(b)~~(2) of this section, division (D)(2)(c) of section 2923.35, and divisions (D)(1)(c) and (3) of section 2933.43 of the Revised Code, the moneys in the fund shall be used solely to subsidize the drug law enforcement efforts of the board.

(2) Notwithstanding any contrary provision in the Revised Code, moneys that are derived from forfeitures of property pursuant to federal law and that are deposited into the board of pharmacy drug law enforcement fund in accordance with division (B)(1)~~(a)~~ of this section shall be used and accounted for in accordance with the applicable federal law, and the board otherwise shall comply with that law in connection with the moneys.

(C) All fines and forfeited bonds assessed and collected under

prosecution or prosecution commenced in the enforcement of this chapter shall be paid to the executive director of the board within thirty days and by ~~him~~ the executive director paid into the state treasury to the credit of the occupational licensing and regulatory fund. The board, subject to the approval of the controlling board and except for fees required to be established by the board at amounts "adequate" to cover designated expenses, may establish fees in excess of the amounts provided by this chapter, provided that such fees do not exceed the amounts permitted by this chapter by more than fifty per cent.

Sec. 4731.09. The state medical board shall appoint an entrance examiner who shall not be directly or indirectly connected with a medical school and who shall determine the sufficiency of the preliminary education, other than medical education, of an applicant for admission to the examination conducted by the board under section 4731.13 of the Revised Code. The minimum requirement shall be two years of undergraduate work in a college of arts and sciences approved by the board in addition to a high school diploma, or the equivalent of such education as determined by the board. In the absence of the foregoing qualifications, the entrance examiner may examine the applicant to overcome deficiencies. When the entrance examiner finds the preliminary education of the applicant sufficient, ~~he~~the entrance examiner shall issue a certificate of preliminary examination upon the payment to the treasurer of the board of a fee of ~~twenty-five~~ thirty-five dollars. Such certificate shall be attested by the secretary.

Sec. 4731.10. Upon the request of a person licensed to practice in this state pursuant to Chapter 4731. of the Revised Code, the state medical board shall certify an application for licensure in another state. The fee for such certification shall be ~~thirty-five~~fifty dollars.

Sec. 4731.14. (A) As used in this section, "graduate medical education" has the same meaning as in section 4731.091 of the Revised Code.

(B) The state medical board shall issue its certificate to practice medicine and surgery or osteopathic medicine and surgery as follows:

(1) The board shall issue its certificate to each individual who was admitted to the board's examination by meeting the educational requirements specified in division (B)(1) or (3) of section 4731.091 of the Revised Code if ~~he~~ the individual passes the examination and pays a certificate issuance fee of ~~one~~ three hundred dollars.

(2) Except as provided in section 4731.142 of the Revised Code, the board shall issue its certificate to each ~~applicant~~ individual who was admitted to the board's examination by meeting the educational requirements specified in division (B)(2) of section 4731.091 of the Revised

Code if ~~he~~ the individual passes the examination, pays a certificate issuance fee of ~~one~~ three hundred dollars, submits evidence satisfactory to the board that ~~he~~ the individual has successfully completed not less than twenty-four months of graduate medical education through the second-year level of graduate medical education or its equivalent as determined by the board, and, if the individual passed the examination prior to completing twenty-four months of graduate medical education or its equivalent, ~~he~~ the individual continues to meet the moral character requirements for admission to the board's examination.

(C) Each certificate issued by the board shall be signed by its president and secretary, and attested by its seal. The certificate shall be on a form prescribed by the board and shall indicate the medical degree held by the ~~person~~ individual to whom the certificate is issued. If the ~~person~~ individual holds the degree of doctor of medicine, the certificate shall state that ~~he~~ the individual is authorized to practice medicine and surgery pursuant to the laws of this state. If the ~~person~~ individual holds the degree of doctor of osteopathic medicine, the certificate shall state that ~~he~~ the individual is authorized to practice osteopathic medicine and surgery pursuant to the laws of this state. If the ~~person~~ individual holds a medical degree other than the degree of doctor of medicine or doctor of osteopathic medicine, the certificate shall indicate the diploma, degree, or other document issued by the medical school or institution the ~~person~~ individual attended and shall state that ~~he~~ the individual is authorized to practice medicine and surgery pursuant to the laws of this state.

(D) The certificate shall be prominently displayed in the certificate holder's office or place where a major portion of ~~his~~ the certificate holder's practice is conducted and shall entitle the holder to practice either medicine and surgery or osteopathic medicine and surgery provided ~~he~~ the certificate holder maintains current registration as required by section 4731.281 of the Revised Code and provided further that such certificate has not been revoked, suspended, or limited by action of the state medical board pursuant to this chapter.

(E) An affirmative vote of not less than six members of the board is required for the issuance of a certificate.

Sec. 4731.15. (A)(1) The state medical board also shall examine and register persons desiring to practice a limited branch of medicine or surgery, and shall establish rules governing such limited practice. Such limited branches of medicine or surgery are massage and cosmetic therapy.

(2) As used in this chapter:

(a) "Approved electric modalities" means electric modalities approved

by the state medical board for use in cosmetic therapy.

(b) "Cosmetic therapy" means the systematic friction, stroking, slapping, and kneading or tapping to the face, neck, scalp, or shoulders through the use of approved electric modalities, and additionally may include the permanent removal of hair from the human body through the use of approved electric modalities.

(c) "Cosmetic therapist" means a person who holds a certificate to practice cosmetic therapy issued by the state medical board under this chapter and who is registered with the board under this chapter.

(B) All persons who hold a certificate to practice a limited branch of medicine or surgery issued by the state medical board, whether residents of this state or not, shall on or before the first day of June~~,~~ 1983, and on or before the first day of June every second year thereafter, register with the state medical board on a form prescribed by the board and shall pay at such time a biennial registration fee of ~~thirty-five~~ fifty dollars. At least one month in advance of the date of registration, a written notice that the biennial registration fee is due on or before the first day of June shall be sent to each holder of a certificate to practice a limited branch of medicine or surgery, at the person's last known address. All persons who hold a certificate to practice a limited branch of medicine or surgery issued by the state medical board shall provide the board written notice of any change of address. A certificate to practice a limited branch of medicine or surgery shall be automatically suspended if the fee is not paid by the first day of September of the year it is due, and continued practice after the suspension of the certificate to practice shall be considered as practicing without a license in violation of sections 4731.34 and 4731.41 of the Revised Code. An applicant for reinstatement of a certificate to practice suspended for failure to register shall submit ~~his~~ the applicant's current and delinquent registration fees and a penalty of twenty-five dollars.

Sec. 4731.17. For the purpose of conducting examinations provided for in sections 4731.15 and 4731.16 of the Revised Code, the state medical board shall call to its aid any person of established reputation and known ability in the particular limited branch in which the examination is being held. Any person called by the board to its aid, as provided in this section, shall be reimbursed for ~~his~~the person's services not more than one hundred dollars per day and ~~his~~ the person's actual and necessary expenses to be fixed and allowed by the board.

If the applicant passes such examination and has paid the fee of ~~one~~ two hundred fifty dollars, the board shall issue its certificate to that effect. Such certificate shall authorize the holder thereof to practice such limited branch

of medicine or surgery as may be specified therein, but shall not permit ~~him~~ the holder to practice any other branch of medicine or surgery, nor shall it permit ~~him~~ the holder to treat infectious, contagious, or venereal diseases, or to prescribe or administer drugs, or to perform surgery.

Sec. 4731.22. (A) The state medical board, pursuant to an adjudication under Chapter 119. of the Revised Code and by a vote of not fewer than six of its members, may revoke or may refuse to grant a certificate to a person found by the board to have committed fraud in passing the examination or to have committed fraud, misrepresentation, or deception in applying for or securing any license or certificate issued by the board.

(B) The board, pursuant to an adjudication under Chapter 119. of the Revised Code and by a vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend a certificate, refuse to register or refuse to reinstate an applicant, or reprimand or place on probation the holder of a certificate for one or more of the following reasons:

(1) Permitting one's name or one's certificate of registration to be used by a person, group, or corporation when the individual concerned is not actually directing the treatment given;

(2) Failure to use reasonable care discrimination in the administration of drugs, or failure to employ acceptable scientific methods in the selection of drugs or other modalities for treatment of disease;

(3) Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes or a plea of guilty to, or a judicial finding of guilt of, a violation of any federal or state law regulating the possession, distribution, or use of any drug;

(4) Willfully betraying a professional confidence or engaging in the division of fees for referral of patients, or the receiving of a thing of value in return for a specific referral of a patient to utilize a particular service or business. For purposes of this division, "willfully betraying a professional confidence" does not include the making of a report of an employee's use of a drug of abuse, or a report of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code, and nothing in this division affects~~, or shall be construed as affecting,~~ the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(5) Soliciting patients or publishing a false, fraudulent, deceptive, or

misleading statement.

As used in this division, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) A departure from, or the failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

(7) Representing, with the purpose of obtaining compensation or other advantage for self or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured;

(8) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(9) A plea of guilty to, or a judicial finding of guilt of, a felony;

(10) Commission of an act that constitutes a felony in this state regardless of the jurisdiction in which the act was committed;

(11) A plea of guilty to, or a judicial finding of guilt of, a misdemeanor committed in the course of practice;

(12) Commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act was committed in the course of practice;

(13) A plea of guilty to, or a judicial finding of guilt of, a misdemeanor involving moral turpitude;

(14) Commission of an act that constitutes a misdemeanor in this state regardless of the jurisdiction in which the act was committed, if the act involves moral turpitude;

(15) Violation of the conditions of limitation placed by the board upon a certificate to practice or violation of the conditions of limitation upon which a limited or temporary registration or certificate to practice is issued;

(16) Failure to pay license renewal fees specified in this chapter;

(17) Any division of fees or charges, or any agreement or arrangement to share fees or charges, made by any person licensed to practice medicine and surgery, osteopathic medicine and surgery, or podiatry with any other person so licensed, or with any person;

(18)(a) The violation of any provision of a code of ethics of the American medical association, the American osteopathic association, the American podiatric medical association, and any other national professional

organizations as are determined, by rule, by the state medical board. The state medical board shall obtain and keep on file current copies of the codes of ethics of the various national professional organizations. The practitioner whose certificate is being suspended or revoked shall not be found to have violated any provision of a code of ethics of an organization not appropriate to the practitioner's profession.

(b) For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision of a code of ethics of a specified national professional organization that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code, and nothing in this division affects~~, or shall be construed as affecting,~~ the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills. In enforcing this division, the board, upon a showing of a possible violation, may compel any individual licensed or certified to practice by this chapter or who has applied for licensure or certification pursuant to this chapter to submit to a mental or physical examination, or both, as required by and at the expense of the board. Failure of any individual to submit to a mental or physical examination when directed constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds a physician unable to practice because of the reasons set forth in this division, the board shall require the physician to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed licensure to practice. An individual licensed by this chapter affected under this division shall be afforded an opportunity to demonstrate to the board that the individual can resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's certificate. For the purpose of this division, any individual licensed or certified to practice by this chapter accepts the privilege of practicing in this

state, and by so doing or by the making and filing of a registration or application to practice in this state, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(20) Except as provided in division (B)(27) of this section and section 4731.225 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provisions of this chapter or any rule promulgated by the board. This division does not apply to a violation or attempted violation of, assisting in or abetting the violation of, or a conspiracy to violate, any provision of this chapter or any rule promulgated by the board that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code, and nothing in this division affects~~, or shall be construed as affecting,~~ the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(21) The violation of any abortion rule adopted by the public health council pursuant to section 3701.341 of the Revised Code;

(22) The limitation, revocation, or suspension by another state of a license or certificate to practice issued by the proper licensing authority of that state, the refusal to license, register, or reinstate an applicant by that authority, the imposition of probation by that authority, or the issuance of an order of censure or other reprimand by that authority for any reason, other than nonpayment of fees;

(23) The violation of section 2919.12 of the Revised Code or the performance or inducement of an abortion upon a pregnant woman with actual knowledge that the conditions specified in division (B) of section 2317.56 of the Revised Code have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied, unless an affirmative defense as specified in division (H)(2) of that section would apply in a civil action authorized by division (H)(1) of that section;

(24) The revocation, suspension, restriction, reduction, or termination of clinical privileges by the department of defense, or the veterans administration of the United States, for any act or acts that ~~would~~ also would

constitute a violation of this chapter;

(25) Termination or suspension from medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that ~~would~~ also would constitute a violation of division (B)(2), (3), (6), (8), or (19) of this section;

(26) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice.

For the purposes of this division, any individual licensed or certified under this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing a registration or application for licensure or by holding a license or certificate under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual licensed or certified under this chapter or any applicant for a license or certification suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The examination shall be at the expense of the board. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct ~~such~~ the examination and who is chosen by the board.

Failure of the individual to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's certificate or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure to practice, to submit to treatment.

Before being eligible to apply for reinstatement of a license suspended under this division, the practitioner shall demonstrate to the board that the practitioner can resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's certificate. Such demonstration shall include, but shall not be limited to, the following:

(a) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the practitioner has successfully

completed any required inpatient treatment;

(b) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(c) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for this determination.

The board may reinstate a license suspended under this division after such demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice after reinstatement of the practitioner's license, the board shall require continued monitoring of the practitioner, which shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the practitioner has maintained sobriety.

(27) A second or subsequent violation of section 4731.66 or 4731.69 of the Revised Code;

(28) Except as provided in division (J) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the practitioner's services, ~~would~~ otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider;

(b) Advertising that the practitioner will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the practitioner's services, ~~would~~ otherwise would be required to pay;

(29) Failure to use universal blood and body fluid precautions established by rules adopted under section 4731.051 of the Revised Code;

(30) Failure of a collaborating physician to perform the responsibilities agreed to by the physician in the protocol established between the physician and an advanced practice nurse in accordance with section 4723.56 of the Revised Code;

(31) Failure to provide notice to, and receive acknowledgment of the notice from, a patient when required by section 4731.143 of the Revised Code prior to providing nonemergency professional services, or failure to

maintain that notice in the patient's file;

(32) Failure of a physician supervising a physician assistant to maintain supervision in accordance with the requirements of Chapter 4730. of the Revised Code and the rules adopted under that chapter;

(33) Failure of a physician or podiatrist to maintain a standard care arrangement with a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner with whom the physician or podiatrist is in collaboration pursuant to section 4731.27 of the Revised Code and practice in accordance with the arrangement.

For purposes of divisions (B)(10), (12), and (14) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the applicant or certificate holder committed the act ~~in question~~. The board shall have no jurisdiction under these divisions in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under these divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

The sealing of conviction records shall have no effect upon a prior board order entered under ~~the provisions of~~ this section or upon the board's jurisdiction to take action under ~~the provisions of~~ this section if a notice of opportunity for hearing has been issued based upon conviction, a plea of guilty, or a judicial finding of guilt prior to ~~such~~ the court order.

(C)(1) The board shall investigate evidence that appears to show that any person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports such information or who testifies before the board in any adjudication hearing conducted under Chapter 119. of the Revised Code shall not be liable ~~for civil~~ in damages in a civil action as a result of the report or testimony.

Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board. Information received by the board pursuant to an investigation shall be confidential and not subject to discovery in any civil action.

Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4731.39 of the Revised Code. The president

may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.

For the purpose of investigation of a possible violation of division (B)(3), (8), (9), (11), or (15) of this section, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.

In investigating possible violations of all remaining divisions of this section and sections of this chapter or any rule adopted under this chapter, the board also may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony. However, in such instances, other than for patient records provided to the board pursuant to the reporting provisions of division (A) of section 4731.224 of the Revised Code, a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary of the board, the supervising member, and a member of the board who holds a certificate issued under this chapter authorizing the practice of medicine and surgery, osteopathic medicine and surgery, or podiatry. Before issuance of ~~such~~ a subpoena of that nature, the three board members shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it, and that the records sought are relevant to the alleged violation and material to the investigation. Such records must cover a reasonable period of time surrounding the alleged violation. Upon failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure. Each officer who serves ~~such~~ a subpoena of that nature shall receive the same fees as a sheriff, and each witness who appears, in obedience to a subpoena, before the board, shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.251 of the Revised Code.

The board shall conduct all investigations and proceedings in such a manner as to protect patient confidentiality. The board shall not make public names or other identifying information about patients unless proper consent is given or a waiver of the patient privilege exists under division (B) of

section 2317.02 of the Revised Code, except that no such consent or waiver is required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

(2) In the absence of fraud or bad faith, neither the board, nor any current or former member, agent, representative, or employee of the board, nor any provider of educational and assessment services selected by the board for the quality intervention program shall be held liable in damages to any person as the result of any act, omission, proceeding, conduct, or decision related to official duties undertaken or performed pursuant to this chapter. If a current or former member, agent, representative, or employee of the board or a provider of educational and assessment services selected by the board for the quality intervention program requests the state to defend against any claim or action arising out of any act, omission, proceeding, conduct, or decision related to the person's official duties, ~~and~~ if the request is made in writing at a reasonable time before trial, and if the person requesting defense cooperates in good faith in the defense of the claim or action, the state shall provide and pay for ~~such~~ the defense and shall pay any resulting judgment, compromise, or settlement. At no time shall the state pay that part of a claim or judgment that is for punitive or exemplary damages.

(3) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation pursuant to division (C)(1) of this section;

(b) The type of license or certificate to practice, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in such a manner as to protect the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

(D) If the secretary and supervising member determine that there is clear and convincing evidence that a certificate holder has violated division (B) of this section and that the certificate holder's continued practice presents a danger of immediate and serious harm to the public, they may recommend that the board suspend the certificate holder's certificate without a prior hearing. Written allegations shall be prepared for consideration by the board

members.

The board, upon review of those allegations and by a vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a certificate without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking such a vote.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. Such order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the certificate holder requests an adjudicatory hearing by the board, the date set for ~~such~~ that hearing shall be within fifteen days, but not earlier than seven days, after the certificate holder has requested a hearing, unless otherwise agreed to by both the board and the certificate holder.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its hearing. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order, but shall not invalidate any subsequent, final adjudicative order.

(E) If the board ~~should take~~ takes action under division (B)(9), (11), or (13) of this section, and the conviction, judicial finding of guilt, or guilty plea is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of ~~such~~ a petition of that nature and supporting court documents, the board shall reinstate the petitioner's certificate. The board may then hold an adjudication to determine whether the applicant or certificate holder committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the applicant or certificate holder committed the act, or if no hearing is requested, it may order any of the sanctions identified under division (B) of this section. The board shall have no jurisdiction under division (B)(10), (12), or (14) of this section in cases where the trial court renders a final judgment in the certificate holder's favor and that judgment is based upon an adjudication on the merits. The board shall have jurisdiction under those divisions in cases where the trial court issues an order of dismissal upon technical or procedural grounds.

(F) The certificate or license issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of

the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for treatment in lieu of conviction for either of the following:

(1) In this state, aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary;

(2) In another jurisdiction, any criminal offense substantially equivalent to those specified in division (F)(1) of this section.

Continued practice after suspension of the individual's certificate or license shall be considered practicing without a certificate or license. The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose certificate or license is suspended under this division fails to make a timely request for an adjudicatory hearing, the board shall enter a final order revoking the certificate or license.

(G) ~~In any instance in which~~ If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the applicant or certificate holder does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by a vote of not fewer than six of its members, a final order that contains the board's findings. In that final order, the board may order any of the sanctions identified under division (B) of this section.

(H) Any action taken by the board under division (B) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the certificate holder may be reinstated to practice. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a certificate suspended pursuant to division (B) of this section requires an affirmative vote of not fewer than six members of the board.

(I) Notwithstanding any other provision of the Revised Code, no surrender of a license or certificate issued under this chapter shall be effective unless or until accepted by the board. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board.

Notwithstanding any other provision of the Revised Code, no application for a license or certificate made under the provisions of this chapter may be withdrawn without approval of the board.

(J) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board.

(K) Under the board's investigative duties described in this section and subject to division (C) of this section, the board shall develop and implement a quality intervention program designed to improve physicians' clinical and communication skills through remedial education. In developing and implementing the quality intervention program, the board may do all of the following:

(1) Offer in appropriate cases as determined by the board an educational and assessment program to physicians pursuant to an investigation the board conducts under this section;

(2) Select providers of educational and assessment services for physicians, including a quality intervention program panel of case reviewers;

(3) Refer physicians to educational and assessment service providers and approve individual educational programs recommended by those providers. The board shall monitor the progress of each physician undertaking an educational program of that nature.

(4) Determine successful completion of an educational program undertaken by a referred physician and require further monitoring of a physician or other action that the board determines to be appropriate;

(5) Adopt rules in accordance with Chapter 119. of the Revised Code to further implement the quality intervention program.

A physician who participates in an individual educational program pursuant to this division shall pay the financial obligations arising from that educational program.

Sec. 4731.24. Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. Until July 1, 1998, the funds shall be deposited to the credit of the occupational licensing and regulatory fund ~~and~~. On and after July 1, 1998, the funds shall be deposited to the credit of the state medical board operating fund, which is hereby created on July 1, 1998. All funds deposited into the state treasury under this section shall be used solely for the administration and enforcement of this chapter and Chapter

730. of the Revised Code by the board.

Sec. 4731.26. Upon application the state medical board shall issue a duplicate certificate to replace one missing or damaged, reflect a name change, or for any other reasonable cause. The fee for such duplicate certificate shall be ~~twenty-five~~thirty-five dollars.

Sec. 4731.281. (A) On or before ~~July 1, 1992~~the deadline established under division (B) of this section for applying for renewal of a certificate of registration, each person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry shall certify to the state medical board that in the preceding ~~eighteen months the person has completed seventy-five hours of continuing medical education. On or before the first day of July of every even-numbered year thereafter, each such person shall certify to the board that in the preceding~~ two years the person has completed one hundred hours of continuing medical education. The certification shall be made upon the application for registration furnished by the board pursuant to this section. For purposes of meeting this requirement, all continuing medical education taken by persons holding a certificate to practice medicine and surgery shall be certified by the Ohio state medical association and approved by the board; all continuing medical education taken by persons holding a certificate to practice osteopathic medicine and surgery shall be certified by the Ohio osteopathic association and approved by the board; and all continuing medical education taken by persons holding a certificate to practice podiatry shall be certified by the Ohio podiatric medical association and approved by the board. The board shall adopt rules providing for pro rata ~~reductions~~ adjustments by month of the hours of continuing education required by this section for persons who are in their first registration period, who have a registration period of less than two years due to initial implementation of the staggered renewal schedule established under division (B) of this section, who have been disabled due to illness or accident, or who have been absent from the country. Each person holding a certificate to practice under this chapter shall be given sufficient choice of continuing education programs to ensure that the person has had a reasonable opportunity to participate in continuing education programs that are relevant to the person's medical practice in terms of subject matter and level. The board may require a random sample of persons holding a certificate to practice under this chapter to submit materials documenting completion of the continuing medical education requirement during the preceding registration period, but this provision shall not limit the board's authority to investigate pursuant to section 4731.22 of the Revised Code.

(B)(1) Every person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry wishing to renew that certificate shall~~, on or before July 1, 1992, and on or before the first day of July of every even-numbered year thereafter,~~ apply to the ~~state medical~~ board for a certificate of registration ~~with the board~~ upon an application~~, which shall be~~ furnished by the board, and ~~shall~~ pay ~~at such time~~ a fee of two hundred ~~fifty~~ seventy-five dollars to the board, according to the following schedule:

(a) Persons whose last name begins with the letters "A" through "B," on or before April 1, 2001, and the first day of April of every odd-numbered year thereafter;

(b) Persons whose last name begins with the letters "c" through "d," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(c) Persons whose last name begins with the letters "E" through "G," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(d) Persons whose last name begins with the letters "H" through "k," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(e) Persons whose last name begins with the letters "L" through "M," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(f) Persons whose last name begins with the letters "N" through "R," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(g) Persons whose last name begins with the letter "s," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(h) Persons whose last name begins with the letters "t" through "z," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter. ~~The~~

The board shall deposit the fee ~~into the state treasury to the credit of the occupational licensing and regulatory fund created by~~ in accordance with section ~~4743.05~~ 4731.24 of the Revised Code, except that, until ~~January 14, 1998~~ July 30, 2001, the board shall deposit twenty dollars of the fee into the state treasury to the credit of the physician loan repayment fund created by section 3702.78 of the Revised Code.

~~Except for the registration occurring in 1992, the~~ The board shall assess a penalty of twenty-five dollars for late applications. The board shall deposit

penalties ~~into the occupational licensing and regulatory fund~~ in accordance with section 4731.24 of the Revised Code.

~~The~~ (2) The board~~, on or before the first day of March of each year of registration,~~ shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, an application for registration addressed to the last known post-office address of such person or may cause such application to be sent to such person through the secretary of any recognized medical, osteopathic, or podiatric society, according to the following schedule:

(a) To persons whose last name begins with the letters "A" through "B," on or before January 1, 2001, and the first day of January of every odd-numbered year thereafter;

(b) To persons whose last name begins with the letters "c" through "d," on or before October 1, 2000, and the first day of October of every even-numbered year thereafter;

(c) To persons whose last name begins with the letters "E" through "G," on or before July 1, 2000, and the first day of July of every even-numbered year thereafter;

(d) To persons whose last name begins with the letters "H" through "k," on or before April 1, 2000, and the first day of April of every even-numbered year thereafter;

(e) To persons whose last name begins with the letters "L" through "M," on or before January 1, 2000, and the first day of January of every even-numbered year thereafter;

(f) To persons whose last name begins with the letters "N" through "R," on or before October 1, 1999, and the first day of October of every odd-numbered year thereafter;

(g) To persons whose last name begins with the letter "s," on or before July 1, 1999, and the first day of July of every odd-numbered year thereafter;

(h) To persons whose last name begins with the letters "t" through "z," on or before April 1, 1999, and the first day of April of every odd-numbered year thereafter. ~~Failure~~

Failure of ~~such~~ any person to receive an application from the board shall not excuse the person from the requirements contained in this section. The application shall contain proper spaces for the applicant's signature and the insertion of the required information, including a statement that the person has fulfilled the continuing education requirements imposed by this section.

The applicant shall write or cause to be written upon the application so furnished the applicant's full name, principal practice address and residence

address, the number of the applicant's certificate to practice, and any other facts for the identification of the applicant as a person holding a certificate to practice under this chapter as the board considers necessary. The applicant shall include with the application a list of the names and addresses of any clinical nurse specialists, certified nurse-midwives, or certified nurse practitioners with whom the applicant is currently collaborating, as defined in section 4723.02 of the Revised Code. The applicant shall execute and deliver the application to the board by mail or in person. Every person registered under this section shall give written notice to the board of any change of principal practice address or residence address or in the list within thirty days of the change.

The applicant shall report any criminal offense that constitutes grounds for refusal of registration under section 4731.22 of the Revised Code of which the applicant has been found guilty or to which the applicant has entered a plea of guilty or no contest since the signing of the applicant's latest preceding application for a certificate to practice medicine or surgery.

(C) The board shall issue to any person holding a certificate under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, upon application and qualification therefor in accordance with this section, a certificate of registration under the seal of the board. Such certificate shall be valid for a two-year period, commencing on the first day of ~~October~~ the third month after the registration fee is due and expiring on the ~~thirtieth~~ last day of ~~September of~~ the ~~second year following~~ month two years thereafter.

~~On the first day of November in the year of registration, or as soon as practicable thereafter, the~~ The board shall publish and cause to be mailed to each person registered under this section, upon request, a printed list of the persons so registered.

(D) Failure of any certificate holder to register and comply with this section shall operate automatically to suspend the holder's certificate to practice ~~on the first day of October in the year registration is required~~, and the continued practice after the suspension of the certificate to practice shall be considered as practicing without a license. A certificate to practice suspended for less than two years for failure to register shall be reinstated by the board upon submission of the current and delinquent registration fees, the twenty-five-dollar penalty for late applications, and certification by signature of the applicant that the applicant has completed the requisite continuing medical education.

(E) The state medical board may obtain information not protected by statutory or common law privilege from courts and other sources concerning

malpractice claims against any person holding a certificate to practice under this chapter or practicing as provided in section 4731.36 of the Revised Code.

Sec. 4731.291. (A) The state medical board may issue, without examination, a training certificate to any person who wishes to pursue an internship, residency, or clinical fellowship program in this state.

(B) An applicant for a training certificate shall furnish proof satisfactory to the board of all the following:

(1) ~~He~~ The applicant is at least eighteen years of age and is of good moral character.

(2) ~~He~~ The applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship or residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;

(b) A clinical fellowship program at an institution with a residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association that is in a clinical field the same as or related to the clinical field of the fellowship program.

The applicant shall indicate the beginning and ending dates of the period for which ~~he~~ the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program.

(C) A training certificate issued pursuant to this section shall be valid only for the period of one year, but may in the discretion of the board and upon application duly made, be renewed annually for a maximum of five years. The fee for a training certificate or any renewal thereof shall be ~~twenty-five~~ thirty-five dollars. The board shall maintain a register of all individuals who hold training certificates.

(D) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to ~~his~~ the holder's internship, residency, or clinical fellowship program, but ~~he~~ the holder shall not be entitled otherwise to engage in the practice of medicine and surgery or osteopathic medicine and surgery in this state. ~~He~~ The holder shall limit ~~his~~ activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall train only under the supervision of the physicians responsible for supervision as part of the internship, residency, or clinical fellowship program. A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the

internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof, satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against ~~him~~ the holder under section 4731.22 of the Revised Code.

(E) The board may adopt rules as the board finds necessary to effect the purpose of this section.

Sec. 4731.38. All vouchers of the state medical board shall be ~~signed~~ approved by the board president or executive secretary, or both, as authorized by the board.

Sec. 4731.40. All fines collected for violation of sections 4731.41 to 4731.43 of the Revised Code shall be distributed as follows: one half to the state medical board for deposit ~~into the state treasury to the credit of the general revenue fund,~~in accordance with section 4731.24 of the Revised Code and one half to the treasury of the county or municipal corporation in which the offense was committed.

Sec. 4731.53. At the time ~~he~~an applicant files ~~his~~ an application, the applicant shall file with the secretary of the state medical board evidence of preliminary education showing that ~~he~~ the applicant has satisfactorily completed at least two years of collegiate work in an approved college of arts and sciences in addition to high school graduation. When the entrance examiner finds the preliminary education of the applicant sufficient, ~~he~~ the entrance examiner shall issue a certificate of preliminary examination upon the payment to the treasurer of the board of a fee of ~~twenty-five~~ thirty-five dollars. Such certificate shall be attested by the secretary.

The applicant shall also present a diploma from a college of podiatry in good standing as defined by the board at the time the diploma was issued. The applicant shall present an affidavit that ~~he~~ the applicant is the person named in the diploma and is the lawful possessor thereof stating ~~his~~ the applicant's age, residence, the school at which ~~he~~ the applicant obtained ~~his~~ education in podiatry, the time spent in the study of podiatry, and such other facts as the board may require.

Sec. 4731.56. The state medical board shall issue its certificate to practice podiatry to each applicant who passes the examination conducted under section 4731.55 of the Revised Code and has paid the treasurer of the state medical board a certificate issuance fee of ~~one~~three hundred dollars. Each certificate shall be signed by the board's president and secretary and attested by its seal. An affirmative vote of not less than six members of the state medical board is required for issuance of a certificate.

A certificate authorizing the practice of podiatry permits the holder the use of the title "physician" or the use of the title "surgeon" when the title is

qualified by letters or words showing that the holder of the certificate is a practitioner of podiatry. ~~Such~~ The certificate shall be prominently displayed in the certificate holder's office or the place where a major portion of ~~such~~ the certificate holder's practice is conducted.

Sec. 4732.04. The secretary of the state board of psychology shall give a bond to the state in the sum of ten thousand dollars, with ~~two or more sureties~~a surety approved by the board, conditioned upon the faithful discharge of the duties of ~~his~~ the secretary's office. Such bond shall be deposited with the secretary of state.

Sec. 4732.141. (A) On August 31, 1998, and on or before the thirty-first day of August of each even-numbered year thereafter, each person licensed under this chapter by the state board of psychology shall have completed, in the preceding two-year period, not less than twenty hours of continuing education in psychology or the number of hours determined under division (D) of this section. Each such person shall certify to the board, at the time of biennial registration pursuant to section 4732.14 of the Revised Code and on the registration form prescribed by the board under that section, that in the preceding two years the person has completed continuing psychology education in compliance with this section. The board shall adopt rules establishing the procedure for a person to certify to the board and for properly recording with the Ohio psychological association or the state board of education completion of the continuing education.

(B) Continuing psychology education may be applied to meet the requirement of division (A) of this section if both of the following requirements are met:

(1) It is obtained through a program or course approved by the state board of psychology, the Ohio psychological association, the Ohio association of black psychologists, or the American psychological association or, in the case of a licensed school psychologist or a licensed psychologist with a school psychology specialty, by the state board of education, the Ohio school psychologists association, or the national association of school psychologists;

(2) Completion of the program or course is recorded with the Ohio psychological association or the state board of education in accordance with rules adopted by the state board of psychology in accordance with division (A) of this section.

The state board of psychology may disapprove any program or course that has been approved by the Ohio psychological association, Ohio association of black psychologists, American psychological association, state board of education, Ohio school psychologists association, or national

association of school psychologists. Such program or course may not be applied to meet the requirement of division (A) of this section.

(C) Each person licensed under this chapter shall be given a sufficient choice of continuing education programs or courses in psychology to ensure that the person has had a reasonable opportunity to participate in programs or courses that are relevant to the person's practice in terms of subject matter and level.

(D) The board shall adopt rules providing for reductions of the hours of continuing psychology education required by this section for persons in their first registration period.

(E) Each person licensed under this chapter shall retain in the person's records for at least three years the receipts, vouchers, or certificates necessary to document completion of continuing psychology education. Proof of continuing psychology education recorded with the Ohio psychological association or the state board of education in accordance with the procedures established pursuant to division (A) of this section shall serve as sufficient documentation of completion. With cause, the board may request the documentation from the person. The board ~~may~~ also may request the documentation from persons licensed under this chapter selected at random, without cause. The board may review any continuing psychology education records recorded by the Ohio psychological association or the state board of education.

(F) The board may excuse persons licensed under this chapter, as a group or as individuals, from all or any part of the requirements of this section because of an unusual circumstance, emergency, or special hardship.

(G) ~~Not later than ninety days after the effective date of this section, the~~ The state board of psychology shall approve one or more continuing education courses of study that assist psychologists and school psychologists in recognizing the signs of domestic violence and its relationship to child abuse. Psychologists and school psychologists are not required to take the courses.

Sec. 4733.08. All receipts of the state board of registration for professional engineers and surveyors shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~approved by the board ~~chairman~~ chairperson or executive secretary, or both, as authorized by the board. The executive secretary and any clerical or other assistant of the board whom it may designate shall give a surety bond to this state in such sum as the board determines. The premiums on the bonds shall be regarded as a proper and necessary expense of the board, and shall be paid in the same manner as

other expenditures of the board. The executive secretary shall receive an amount fixed pursuant to section 124.152 of the Revised Code in addition to the expenses provided for in section 4733.05 of the Revised Code. The board may employ such clerical or other assistants as are necessary for the proper performance of its work and may make expenditures for any purpose which in the opinion of the board is reasonably necessary for the proper performance of its duties.

Sec. 4734.07. Every person who receives a license to practice chiropractic from the chiropractic examining board shall thereafter apply to the board for renewal in accordance with section 4745.02 of the Revised Code and pay a renewal fee of ~~one~~ two hundred fifty dollars on or before the first day of January of each succeeding year. Before a renewal of license is issued by the board, each licensee shall furnish the board with satisfactory evidence that ~~he~~ the licensee has attended not less than one two-day educational program conducted in Ohio by the Ohio state chiropractic association or the equivalent of such educational program held in the state as approved by the board. Any exception from the requirement for attendance at such educational programs may be approved by the board. The secretary of the board shall, at least sixty days prior to the first day of January of each year, notify each licensee, at ~~his~~ the licensee's last known address, of the provisions of this section. Failure of a licensee to comply with this section, and failure to pay the renewal fee on or before the first day of January of each succeeding year shall operate as a forfeiture of the right of the licensee to practice ~~his~~ the licensee's profession in this state. ~~He~~ The licensee may be reinstated by the board upon payment of all fees due and a penalty fee of one hundred fifty dollars for reinstatement, in addition to satisfying the board of ~~his~~ compliance with the educational requirements under this section.

Sec. 4734.16. All fines collected for violation of section 4734.17 of the Revised Code, shall be distributed as follows: one half to the chiropractic examining board for deposit into the state treasury to the credit of the ~~general revenue~~occupational licensing and regulatory fund, and one half to the treasury of the county or municipal corporation in which the offense was committed.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable

consideration:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds ~~himself~~ self out as engaged in the business of selling, exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is employed by or on behalf of the owner of lots, or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission basis or otherwise, to sell such real estate, or any parts of it, in lots or other parcels, and who sells, exchanges, or offers, attempts, or agrees to negotiate the sale or exchange of any such lot or parcel of real estate;

(9) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby ~~he~~ the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(10) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate ~~salesman~~ salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Limited real estate broker" includes any person, partnership, association, or corporation, foreign or domestic, who for another and for a fee, commission, or other valuable consideration, or who with the intention or in the expectation or upon the promise of receiving or collecting a fee, commission, or other valuable consideration engages in the sale of cemetery interment rights and whose license is limited to the sale of cemetery interment rights.

(E) "Limited real estate ~~salesman~~ salesperson" means any person associated with a licensed real estate broker or a licensed limited real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a limited real estate broker, for compensation or otherwise.

(F) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(G) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(H) "Foreign real estate dealer" includes any person, partnership, association, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate.

(I) "Foreign real estate ~~salesman~~ salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(J) Any person, partnership, association, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker or foreign real estate dealer, whether an act is an incidental part of a

transaction, or the entire transaction, shall be constituted a real estate broker or real estate ~~salesman~~ salesperson or a foreign real estate dealer or foreign real estate ~~salesman~~ salesperson under this chapter.

(K) The terms "real estate broker," "real estate ~~salesman~~ salesperson," "foreign real estate dealer," and "foreign real estate ~~salesman~~ salesperson" do not include a person, partnership, association, or corporation, or the regular employees thereof or limited real estate broker or limited real estate ~~salesman~~ salesperson, who performs any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

(1) With reference to real estate situated in this state or any interest in it owned by such person, partnership, association, or corporation, or acquired on ~~his~~ its own account in the regular course of, or as an incident to the management of the property and the investment in it;

(2) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument creating a like bona fide fiduciary obligation;

(3) As a public officer while performing ~~his~~ the officer's official duties;

(4) As an attorney at law in the performance of ~~his~~ the attorney's duties.

(L) "Physically handicapped licensee" means a person licensed pursuant to this chapter who is under a severe physical disability which is of such a nature as to prevent the person from being able to attend any classroom instruction lasting at least three hours in duration.

(M) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(N) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of

real estate and professional licensing to act as executive officer of the commission.

~~There is created within the department a division of real estate which shall be under the control and supervision of the director.~~

The commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director. ~~The superintendent shall exercise the powers and perform the functions and duties delegated to the superintendent under this chapter and Chapter 4763. of the Revised Code.~~

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;

(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving license suspension or revocation under section 2301.373 of the Revised Code or proceedings brought under section 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the

appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department.

Sec. 4736.06. (A) All receipts of the state board of sanitarian registration shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

All vouchers of the board shall be ~~signed~~ approved by the ~~chairman~~ chairperson of the board or secretary, or both, as authorized by the board.

(B) The board may employ such persons as are necessary to administer and enforce this chapter.

Sec. 4740.03. (A) The administrative section of the Ohio construction industry examining board annually shall elect from among its members a ~~chairman~~chairperson and other officers as the board, by rule, designates. The ~~chairman~~ chairperson shall preside over meetings of the administrative section or designate another member to preside in ~~his~~ the chairperson's absence. The administrative section shall hold at least two regular meetings each year, but may meet at additional times as specified by rule, at the call of the ~~chairman~~ chairperson, or upon the request of two or more members. A majority of the members constitutes a quorum for the transaction of all business. The administrative section may not take any action without the concurrence of three members.

(B)(1) The administrative section shall employ a secretary, who is not a member of the board, to serve at the pleasure of the section and shall fix ~~his~~ the compensation of the secretary.

(2) The secretary shall do all of the following:

(a) Keep the minutes, books, and other records and files of the board and each section of the board;

(b) Issue all qualification certificates in the name of the board;

(c) Send out all notices and attend to all correspondence of the board and each section, under the direction of the administrative section;

(d) Receive and deposit all fees payable pursuant to this chapter into the construction industry examining fund created pursuant to section 4740.11 of

the Revised Code;

(e) Perform all other duties incidental to ~~his~~ the office of the secretary or properly assigned to ~~him~~ the secretary by the administrative section of the board.

(3) Before entering upon the discharge of ~~his~~ the duties of the secretary, the secretary shall file with the treasurer of state a bond in the sum of five thousand dollars, payable to the state, to ensure the faithful performance of ~~his~~ the secretary's duties. The board shall pay the premium of the bond in the same manner as it pays other expenditures of the board.

(C) Upon the request of the administrative section of the board, the director of commerce shall supply the board and its sections with personnel, office space, and supplies, as the director determines appropriate.

(D) The ~~chairman~~ chairperson of the board or the secretary, or both, as authorized by the board, shall ~~sign~~ approve all vouchers of the board. ~~Upon presentation of a signed, itemized, and supported voucher, the director of budget and management shall approve the payment and submit it for issuance of the warrant of the auditor of state.~~

Sec. 4741.03. (A) The state veterinary medical licensing board shall meet at least once in each calendar year and may hold additional meetings as often as it considers necessary to conduct the business of the board. The president of the board may call special meetings and the executive secretary shall call special meetings upon the written request of three members of the board. The board shall organize by electing a president and vice-president from its veterinarian members and such other officers as the board prescribes by rule. Each officer shall serve for a term specified by board rule or until a successor is elected and qualified. A quorum of the board consists of four members of which at least three are members who are veterinarians. The concurrence of four members is necessary for the board to take any action.

(B) The board may appoint a person, not one of its members, to serve as its executive secretary. The executive secretary is in the unclassified service and serves at the pleasure of the board. The executive secretary shall serve as the board's secretary-treasurer ex officio. The board may employ additional employees for professional, technical, clerical, and special work as it considers necessary. The executive secretary shall give a surety bond to the state in the sum the board requires, conditioned upon the faithful performance of the executive secretary's duties. The board shall pay the cost of the bond. The executive secretary shall keep a complete accounting of all funds received and of all vouchers presented by the board to the director of budget and management for the disbursement of funds. The president or

executive secretary shall ~~sign~~ approve all vouchers of the board. All money received by the board shall be credited to the occupational licensing and regulatory fund.

(C) In addition to any other duty required under this chapter, the board shall do all of the following:

(1) Prescribe a seal;

(2) Hold at least one examination during each calendar year for applicants for a license. The board shall provide public notice of the time and place for the examination. The examination for applicants for a license to practice veterinary medicine shall be either written or oral, or both, as determined by the board, and may include a practical demonstration. The examination may include all subjects relevant to veterinary medicine the board determines appropriate, including public health and jurisprudence.

(3) Keep a record of all of its meetings and proceedings;

(4) Maintain a register that records all applicants for a certificate of license or a temporary permit, all persons who have been denied a license or permit, all persons who have been granted or reissued a license or permit, and all persons whose license or permit has been revoked or suspended. The register shall also include a record of persons licensed prior to October 17, 1975.

(5) Maintain a register, in such form as the board determines by rule, of all colleges and universities that teach veterinary medicine and that are approved by the board;

(6) Enforce this chapter, and for that purpose, make investigations relative as provided in section 4741.26 of the Revised Code;

(7) Issue licenses and permits to persons who meet the qualifications set forth in this chapter;

(8) Approve colleges and universities which meet the board's requirements for veterinary medicine and associated fields of study and withdraw or deny, after an adjudication conducted in accordance with Chapter 119. of the Revised Code, approval from colleges and universities which fail to meet those requirements;

(9) Adopt rules, in accordance with Chapter 119. of the Revised Code, which are necessary for its government and for the administration and enforcement of this chapter.

(D) The board may do all of the following:

(1) Subpoena witnesses and require their attendance and testimony, require the production by witnesses of books, papers, public records, animal patient records, and other documentary evidence and examine them in relation to any matter which the board has authority to investigate, inquire

into, or hear. Except for any officer or employee of the state or any political subdivision of the state, the treasurer of state shall pay all witnesses in any proceeding before the board, upon certification from the board, witness fees in the same amount as provided in section 2335.06 of the Revised Code.

(2) Examine and inspect books, papers, public records, animal patient records, and other documentary evidence at the location where the books, papers, records, and other evidence are normally stored or maintained;

(3) Create an advisory committee consisting of members of the animal health and allied medical services in this state to confer with and assist the board in the adoption of rules pertaining to divisions (B) to (E) of section 4741.19 and divisions (A), (D), (E), and (F) of section 4741.20 of the Revised Code.

(E) All registers, books, and records kept by the board are the property of the board and are open for public examination and inspection at all reasonable times. The registers, books, and records are prima-facie evidence of the matters contained therein.

Sec. 4741.17. (A) Applicants or registrants shall pay to the state veterinary medical licensing board:

(1) For ~~a~~ an initial license ~~by~~ based on examination, in an even-numbered year, three hundred seventy-five dollars and in an odd-numbered year, two hundred fifty dollars;

(2) For a license by reciprocity issued in an even-numbered year, ~~two~~ four hundred twenty-five dollars and in an odd-numbered year, three hundred dollars;

(3) For a temporary permit, ~~seventy-five~~ one hundred dollars;

(4) For a duplicate license, ~~twenty-five~~ thirty-five dollars;

(5) For the biennial renewal fee, where the application is postmarked no later than the first day of March, one hundred twenty-five dollars; where the application is postmarked after the first day of March but no later than the first day of April, one hundred seventy-five dollars; and where the application is postmarked after the first day of April, two hundred twenty-five dollars;

(6) For the biennial registration fee of a registered veterinary technician, where the application is postmarked no later than the first day of March, twenty-five dollars; where the application is postmarked after the first day of March but no later than the first day of April, thirty dollars; and where the application is postmarked after the first day of April, thirty-five dollars;

(7) For a specialist certificate, fifty dollars. The certificate is not subject to renewal.

(8) For the reinstatement of a suspended license, seventy-five dollars;

(9) For examinations offered by the board, a fee, which shall be established by the board, in an amount adequate to cover the expense of procuring, administering, and scoring examinations.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that the fees do not exceed the amounts permitted by this section by more than fifty per cent.

(C) For the purposes of divisions (A)(5) and (6) of this section, a date stamp of the office of the board may serve in lieu of a postmark.

Sec. 4741.25. All ~~fines collected for violation of this chapter shall be paid to~~Receipts of the state veterinary medical licensing board ~~and by it paid to the general revenue fund of this state~~ shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4743.05. Except as otherwise provided in sections ~~4713.19, 4715.35,~~ 4723.061~~,~~ and 4729.65~~, 4731.281, 4731.40, 4734.16, 4755.49, and 4755.99~~ of the Revised Code, all money collected under Chapters 3773., 4701., 4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., ~~4730., 4731.,~~ 4732., 4733., 4734., 4736., 4741., 4753., 4755., 4757., 4759., and 4761. of the Revised Code shall be paid into the state treasury to the credit of the occupational licensing and regulatory fund, which is hereby created for use in administering such chapters. ~~At the end of each quarter, the director of budget and management may transfer from the occupational licensing and regulatory fund to the general revenue fund any amount that the director determines to be in excess of the amount necessary to administer such chapters~~ money deposited to the credit of the fund under section 4731.24 of the Revised Code shall be used until July 1, 1998, for administering Chapters 4730. and 4731. of the Revised Code.

At the end of each quarter, the director shall transfer from the occupational licensing and regulatory fund to the nurse education assistance fund created in section 3333.28 of the Revised Code the amount certified to the director under division (B) of section 4723.08 of the Revised Code.

At the end of the first quarter of 1995 and at the end of each quarter thereafter, the director shall transfer from the occupational licensing and regulatory fund to the certified public accountant education assistance fund created in section 4701.26 of the Revised Code the amount certified to the director under division (D)(2) of section 4701.10 of the Revised Code.

Sec. 4747.03. There is hereby created a hearing aid dealers and fitters licensing board consisting of seven members. The governor shall appoint each member to the board with the advice and consent of the senate. Three members of the board shall be persons currently engaged in the practice of

dealing in and fitting of hearing aids in the state, one member shall be an otolaryngologist, one member shall be a clinical audiologist, and two shall be public members. At least one of the public members shall be at least sixty years of age. No more than one dealer serving on the board at any time shall be franchised by or sell the products of the same hearing aid manufacturer. Each member shall be a resident of the state and, except for the public members, shall have been actively engaged in ~~his~~the member's respective practice or profession for at least five years immediately preceding ~~his~~ appointment. The director of health or ~~his~~ the director's designated representative shall be an ex officio member.

Terms of office shall be for four years, commencing on the twenty-sixth day of January and ending on the twenty-fifth day of January, except that of the members first appointed, one member shall be appointed for two years and two members for three years. Each member shall hold office from the date of ~~his~~ the member's appointment until the end of the term for which ~~he~~ the member was appointed. All appointments to fill vacancies shall be made in the manner prescribed for regular appointments. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. No member shall be reappointed to the board sooner than one year after the expiration of ~~his~~ the member's second full term of office.

Each member of the board shall receive, as part of the expenses of the board, an amount fixed pursuant to division (J) of section 124.15 of the Revised Code per diem while ~~he is engaged in~~ attending meetings or otherwise engaged in the actual performance of ~~his~~ the member's duties with the board. Each member shall also receive, as part of the expenses of the board, an amount for the actual traveling, hotel, and other necessary expenses incurred in the performance of ~~his~~ the member's duties. All vouchers of the board shall be ~~signed~~ approved by the ~~chairman~~ chairperson of the board. The board shall appoint a secretary and may employ, compensate, and prescribe such powers and duties of such officers, employees, and consultants, in accordance with the laws of this state, as are necessary to carry out this chapter. Technical, administrative, or other services shall be performed, insofar as practicable, by personnel of the department of health, and by other state agencies.

Sec. 4749.02. The department of commerce shall administer this chapter through the division of real estate and professional licensing, and for that

purpose, the ~~director~~ superintendent of real estate and professional licensing may appoint such employees and adopt such rules as the ~~Director~~ superintendent considers necessary.

Sec. 4751.06. (A) An applicant for licensure as a nursing home administrator who has successfully completed the requirements of section 4751.05 of the Revised Code ~~and~~, passed the examination prescribed by the board of examiners of nursing home administrators, and paid to the board an original license fee of two hundred ten dollars shall be issued a license on a form provided by the board. Such license shall certify that the applicant has met the licensure requirements of Chapter 4751. of the Revised Code and is entitled to practice as a licensed nursing home administrator.

(B) A temporary license for a period not to exceed one hundred eighty days may be issued to an individual temporarily filling the position of a nursing home administrator vacated by reason of death, illness, or other unexpected cause, pursuant to regulations adopted by the board.

(C) The fee for a temporary license is one hundred dollars. Said fee must accompany the application for the temporary license.

(D) Any license or temporary license issued by the board pursuant to this section shall be under the hand of the ~~chairman~~ chairperson and the secretary of the board.

(E) A duplicate of the original certificate of registration or license may be secured to replace one that has been lost or destroyed by submitting to the board a notarized statement explaining the conditions of the loss, mutilation, or destruction of the certificate or license and by paying a fee of twenty-five dollars.

(F) A duplicate certificate of registration and license may be issued in the event of a legal change of name by submitting to the board a certified copy of the court order or marriage license establishing the change of name, by returning at the same time the original license and certificate of registration, and by paying a fee of twenty-five dollars.

Sec. 4751.07. (A) Every individual who holds a valid license as a nursing home administrator issued under division (A) of section 4751.06 of the Revised Code, shall immediately upon issuance thereof be registered with the board of examiners of nursing home administrators and be issued a certificate of registration. Such individual shall annually apply to the board for a new certificate of registration on forms provided for such purpose prior to the expiration of ~~his~~the certificate of registration and shall at the same time submit satisfactory evidence to the board ~~that he has~~ of having attended such continuing education programs or courses of study as may be prescribed in rules adopted by the board.

(B) Upon making an application for a new certificate of registration such individual shall pay the annual registration fee of ~~one~~ two hundred ~~fifty~~ ten dollars.

(C) Upon receipt of such application for registration and the registration fee required by divisions (A) and (B) of this section, the board shall issue a certificate of registration to such nursing home administrator.

(D) The license of a nursing home administrator who fails to comply with this section shall automatically lapse.

(E) A nursing home administrator who has been licensed and registered in this state who determines to temporarily abandon the practice of nursing home administration~~,~~ shall notify the board in writing immediately; provided, that such individual may thereafter register to resume the practice of nursing home administration within the state upon complying with the requirements of this section regarding annual registration.

(F) Only an individual who has qualified as a licensed and registered nursing home administrator under Chapter 4751. of the Revised Code and the rules adopted thereunder, and who holds a valid current registration certificate pursuant to this section, may use the title "nursing home administrator," or the abbreviation "N.H.A." after ~~his~~ the individual's name. No other person shall use such title or such abbreviation or any other words, letters, sign, card, or device tending to indicate or to imply that the person is a licensed and registered nursing home administrator.

(G) Every person holding a valid license entitling ~~him~~ the person to practice nursing home administration in this state shall display said license in the nursing home which is ~~his~~ the person's principal place of employment, and while engaged in the practice of nursing home administration shall have ~~with him his~~ at hand the current registration certificate.

(H) Every person holding a valid temporary license shall have such license ~~with him~~ at hand while engaged in the practice of nursing home administration.

Sec. 4753.04. The board of speech-language pathology and audiology shall hold at least one regular meeting a year, at which it shall elect a ~~chairman~~chairperson and ~~vice-chairman~~ vice-chairperson from among its members. Additional meetings may be held upon call of the ~~chairman~~ chairperson or at the written request of two or more members of the board. Five members of the board constitute a quorum to conduct business, if one member who is a speech-language pathologist and one member who is an audiologist are present.

The board may employ an executive director, who shall serve at the board's pleasure, and shall designate ~~his~~ the duties and fix ~~his~~ the executive

director's compensation. The board may hire such other employees and consultants as it finds necessary. Members of the board shall receive compensation pursuant to division (J) of section 124.15 of the Revised Code for each day employed in the discharge of their official duties. The members shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties. All vouchers of the board shall be ~~signed~~ approved by the ~~chairman~~ chairperson or the executive director of the board.

Sec. 4755.10. ~~The~~(A) In accordance with Chapter 119. of the Revised Code, the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew ~~the license of~~ an occupational therapist or occupational therapy assistant ~~in accordance with Chapter 119. of the Revised Code if the section finds that the licensee has~~ license, or reprimand or place a license holder on probation, for any of the following:

~~(A) Been convicted~~ (1) Conviction of an offense involving moral turpitude or a felony reasonably related to the practice of occupational therapy, regardless of the state or country in which the conviction occurred;

~~(B) Violated~~ (2) Violation of any provision of sections 4755.01 to 4755.12 of the Revised Code;

~~(C) Violated~~ (3) Violation of any lawful order or rule of the occupational therapy section;

~~(D) Obtained his~~ (4) Obtaining a license or any order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts;

~~(E) Been guilty of negligence~~ (5) Negligence or gross misconduct in the pursuit of ~~his~~ the profession of occupational therapy;

~~(F) Accepted~~ (6) Accepting commissions or rebates or other forms of remuneration for referring persons to other professionals;

~~(G) Willfully~~ (7) Communicating, willfully and without authorization ~~communicated,~~ information received in professional confidence;

~~(H) Used~~ (8) Using any narcotic or alcohol to an extent that it impairs ~~his~~ the ability to perform the work of an occupational therapist or occupational therapy assistant with safety to the public;

~~(I) Practiced~~ (9) Practicing in an area of occupational therapy for which ~~he~~ the individual is clearly untrained or incompetent;

~~(J) Failed~~ (10) Failing the licensing examination;

~~(K) Waived~~ (11) Aiding or abetting the unlicensed practice of occupational therapy;

(12) Having been disciplined by the occupational therapy licensing

authority of another state or country for an act that would constitute grounds for discipline under this section;

(13) Except as provided in division (B) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider.;

~~(L) Advertised~~ (b) Advertising that ~~he~~ the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers occupational therapy, would otherwise be required to pay.

~~(M) Notwithstanding divisions (K) and (L)~~ (B) Sanctions shall not be imposed under division (A)(13) of this section~~, sanctions shall not be imposed~~ against any ~~licensee~~ individual who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or ~~copays~~ copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. ~~Such~~ Documentation of the consent shall be made available to the section upon request.

(2) For professional services rendered to any other person licensed pursuant to ~~this chapter~~ sections 4755.01 to 4755.12 of the Revised Code to the extent allowed by ~~this chapter~~ those sections and the rules of the occupational therapy section.

~~(N)~~(C) The suspension or revocation of a license under this section is not effective until either the order for suspension or revocation has been affirmed following an adjudication hearing, or the time for requesting a hearing has elapsed.

~~One year from the date of revocation of~~ When a license is revoked under this section, application ~~may be made to the section~~ for reinstatement may not be made sooner than one year after the date of revocation. The occupational therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination ~~before such~~ as a condition of reinstatement.

~~(O)~~ When a license holder is placed on probation under this section, the occupational therapy section's probation order shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

(D) If any person other than a licensed occupational therapist or an

pational therapy assistant has engaged in any practice ~~which~~ that is prohibited under sections 4755.01 to 4755.12 of the Revised Code or the rules of the occupational therapy section, the section may apply to the court of common pleas of the county in which the violation occurred, for an injunction or other appropriate order restraining this conduct, and the court shall issue this order.

Sec. 4755.12. (A) Nothing in sections 4755.01 to 4755.12 of the Revised Code shall be construed to prevent or restrict the practice, services, or activities of the following:

~~(A)~~(1) Any person who does not ~~hold himself out~~ claim to the public by any title, initials, or description of services as being engaged in the practice of occupational therapy, who is:

~~(1)~~(a) A physician ~~or surgeon~~ licensed under Chapter 4731. of the Revised Code, or anyone employed or supervised by a licensed physician ~~or surgeon~~ in the delivery of treatment or services;

~~(2)~~(b) A person licensed, certified, or registered under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code or under any other chapter of the Revised Code who is practicing within the standards and ethics of practice that represent appropriate extensions of ~~his~~ the person's profession;

~~(3)~~(c) A qualified member of any other profession who is practicing within the standards and ethics of ~~his~~ the member's profession.

~~(B)~~(2) Any person employed as an occupational therapist or occupational therapy assistant by the government of the United States, if the person provides occupational therapy solely under the direction or control of the organization by which ~~he~~ the person is employed;

~~(C)~~(3) Any person pursuing a course of study leading to a degree or certificate in occupational therapy in an accredited or approved educational program if the activities and services constitute a part of a supervised course of study, if the person is designated by a title ~~which~~ that clearly indicates ~~his~~ the person's status as a student or trainee;

~~(D)~~(4) Any person fulfilling the supervised field work experience requirements of section 4755.06 of the Revised Code, if the activities and services constitute a part of the experience necessary to meet ~~these~~ those requirements~~;~~

~~(E) Any unlicensed person performing occupational therapy services in this state if the person is not a resident of this state, if the services are performed for no more than one hundred twenty days in any calendar year in association with a licensed occupational therapist, provided that the person meets all qualifications for licensure except successful completion of the examination;~~

~~(F) Any unlicensed person performing occupational therapy services in this state, if the person is not a resident of this state, if the services are performed for no more than one hundred twenty days in any calendar year in association with an occupational therapist licensed under sections 4755.01 to 4755.12 of the Revised Code, and if the person meets either of the following conditions:~~

~~(1) The person is licensed under the law of another state that has licensure requirements at least as stringent as the requirements of this state;~~

~~(2) The person is qualified to practice as determined by the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board, provided fitness to practice shall be determined on the basis of requirements at least as stringent as the requirements for licensure in this state~~.

(B) Nothing in sections 4755.01 to 4755.12 of the Revised Code authorizes any person to use psychological procedures defined by the state board of psychology under division (C) of section 4732.23 of the Revised Code as a serious hazard to mental health and to require professional expertise in psychology.

Sec. 4755.40. As used in sections 4755.40 to ~~4755.53~~4755.56 and 4755.99 of the Revised Code:

(A) "Physical therapy" means the evaluation and treatment of a person by physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating any disability. Physical therapy includes the establishment and modification of physical therapy programs, treatment planning, instruction, and consultative services. Physical measures include massage, heat, cold, air, light, water, electricity, sound, and the performance of tests of neuromuscular function as an aid to such treatment. Physical therapy does not include the diagnosis of a patient's disability, the use of Roentgen rays or radium for diagnostic or therapeutic purposes, or the use of electricity for cauterization or other surgical purposes. Physical therapy includes physiotherapy.

(B) "Physical therapist" means a person who practices or teaches physical therapy and includes physiotherapist.

(C) "Physical therapist assistant" means a person who assists in the provision of physical therapy treatments under the supervision of a physical therapist, or teaches physical therapy under the supervision of a physical therapist, and includes physical therapy assistant.

(D) "Supervision" means the availability and responsibility of the supervisor for direction of the actions of the person supervised.

Sec. 4755.41. (A) The physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board shall examine and license persons desiring to practice physical therapy or to practice as physical therapist assistants in this state. The section shall adopt rules in accordance with Chapter 119. of the Revised Code necessary for the performance of its duties.

(B) An investigation, inquiry, or hearing which the section is authorized to undertake or hold may be undertaken or held by or before any member of this section. Any finding or order of such member shall be confirmed or approved by the section.

(C) The section shall:

~~(A)~~(1) Keep a record of its proceedings;

~~(B)~~(2) Keep a register of applicants showing the name and location of the institution granting the applicant's degree or certificate in physical therapy and whether or not a license was issued;

~~(C)~~(3) Maintain a register of every physical therapist and physical therapist assistant in this state, including ~~his~~ the licensee's last known place of business, ~~his~~ the licensee's last known residence, and the date and number of ~~his~~ the licensee's license. Any person may request and receive from the section a current list of physical therapists and physical therapist assistants, upon payment of such charges as the section establishes;

~~(D)~~(4) Do all other things necessary and proper to carry out and enforce sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code.

(D) The books and records of the section are prima-facie evidence of matters therein contained.

Sec. 4755.43. If the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board finds that an applicant for licensure as a physical therapist or physical therapist assistant has complied with the applicable requirements of section 4755.42 of the Revised Code, and if the physical therapy section is unaware of grounds for refusal to issue a license to the applicant under sections 4755.40 to ~~4755.50~~4755.56 of the Revised Code, the physical therapy section shall admit the applicant to an examination.

The examination shall be conducted under rules prescribed by the section, and shall test the applicant's knowledge of the basic and applied sciences as they relate to physical therapy, physical therapy theory and procedures, and such other subjects the section determines are useful in testing the applicant's fitness to practice physical therapy or to act as a physical therapist assistant.

Examinations for physical therapists shall be held ~~in Columbus~~ at least

twice a year at such time and place the section determines. Examinations for physical therapist assistants shall be held ~~in Columbus~~ at least twice a year at such time and place the section determines.

Sec. 4755.47. ~~The~~(A) In accordance with Chapter 119. of the Revised Code, the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board may refuse to grant a license to an applicant for ~~licensure~~ an initial or renewed license as a physical therapist or physical therapist assistant or, by vote of at least five members, may suspend or revoke the license of a physical therapist or physical therapist assistant or reprimand or place a license holder on probation, on any of the following grounds:

~~(A)~~(1) Habitual indulgence in the use of controlled substances, other habit-forming drugs, or alcohol to an extent that affects ~~his~~ the individual's professional competency;

~~(B)~~(2) Conviction of a felony or a crime involving moral turpitude, regardless of the state or country in which the conviction occurred;

~~(C)~~(3) Obtaining or attempting to obtain a license by fraud or deception;

~~(D)~~(4) An adjudication by a court, as provided in section 5122.301 of the Revised Code, that the applicant or licensee is incompetent for the purpose of holding the license and has not thereafter been restored to legal capacity for that purpose;

~~(E)~~(5) Violation of the code of ethics of the American physical therapy association;

~~(F)~~(6) Violation of sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code or any order issued or rule adopted under those sections;

~~(G)~~(7) Failure of the licensing examination;

~~(H) Waiving~~ (8) Aiding or abetting the unlicensed practice of physical therapy;

(9) Having been disciplined by the physical therapy licensing authority of another state or country for an act that would constitute grounds for discipline under this section;

(10) Except as provided in division (B) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical therapy, would otherwise be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that provider~~.~~;

~~(I)~~(b) Advertising that ~~he~~ the individual will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers physical

therapy, would otherwise be required to pay.

~~(J) Notwithstanding divisions (H) and (I) of this section, sanctions~~ (B) Sanctions shall not be imposed under division (A)(10) of this section against any ~~licensee~~ individual who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or ~~copays~~ copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. ~~Such~~ Documentation of the consent shall be made available to the section upon request.

(2) For professional services rendered to any other person licensed pursuant to ~~this chapter~~ sections 4755.40 to 4755.56 of the Revised Code to the extent allowed by ~~this chapter~~ those sections and the rules of the physical therapy section.

(C) When a license is revoked under this section, application for reinstatement may not be made sooner than one year after the date of revocation. The physical therapy section may accept or refuse an application for reinstatement and may require that the applicant pass an examination as a condition for reinstatement.

When a license holder is placed on probation under this section, the physical therapy section's order for placement on probation shall be accompanied by a statement of the conditions under which the individual may be removed from probation and restored to unrestricted practice.

Sec. 4755.48. (A) No person shall employ fraud or deception in applying for or securing a license to practice physical therapy or to be a physical therapist assistant.

(B) No person shall practice or in any way ~~hold himself out as being~~ claim to the public to be able to practice physical therapy, including practice as a physical therapist assistant, unless ~~he~~ the person holds a valid license under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code or except as provided in section 4755.53 of the Revised Code.

(C) No person shall use the words or letters, physical therapist, physical therapy, physiotherapist, licensed physical therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., physical therapy assistant, physical therapist assistant, physical therapy technician, licensed physical therapist assistant, L.P.T.A., R.P.T.A., or any other letters, words, abbreviations, or insignia, indicating or implying that ~~he~~ the person is a physical therapist or physical therapist assistant without a valid license under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code.

(D) No person who practices physical therapy or assists in the provision of physical therapy treatments under the supervision of a physical therapist

shall fail to display ~~his~~ the person's current license granted under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code in a conspicuous location in the place where ~~he~~ the person spends the major part of ~~his~~ the person's time so engaged.

(E) Nothing in sections 4755.40 to ~~4755.50~~ 4755.56 of the Revised Code shall affect or interfere with the performance of the duties of any physical therapist or physical therapist assistant in active service in the army, navy, coast guard, marine corps, air force, public health service, or marine hospital service of the United States, while so serving.

(F) No person shall practice physical therapy other than on the prescription of, or the referral of a patient by, a person who is licensed in this or another state to practice medicine and surgery, chiropractic, dentistry, osteopathic medicine and surgery, or podiatry, within the scope of such practices, and whose license is in good standing.

(G) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

Sec. 4755.49. One-half of all fines collected under section 4755.99 of the Revised Code for violations of section 4755.48 of the Revised Code shall be distributed to the physical therapy section and then paid into the state treasury to the credit of the ~~general revenue~~occupational licensing and regulatory fund, and one-half to the treasurer of the municipal corporation or county in which the offense was committed.

Sec. 4755.60. As used in sections 4755.60 to 4755.65 and 4755.99 of the Revised Code:

(A) "Athletic training" means the practice of prevention, recognition, and assessment of an athletic injury and the complete management, treatment, disposition, and reconditioning of acute athletic injuries upon the referral of ~~a practitioner licensed~~ an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, a dentist licensed under Chapter 4715. of the Revised Code, a physical therapist licensed under this chapter, or a chiropractor licensed under Chapter 4734. of the Revised Code. Athletic training also includes the organization and administration of educational programs and athletic facilities, and the education of and consulting with the public as it pertains to athletic training.

(B) "Athletic trainer" means a person who meets the qualifications of this chapter for licensure and who is employed by an educational institution,

professional or amateur organization, athletic facility, or health care facility to practice athletic training.

(C) "The national athletic trainers association, inc." means the national professional organization of athletic trainers that provides direction and leadership for quality athletic training practice, education, and research.

(D) "Athletic injury" means any injury sustained by an individual that affects the individual's participation or performance in sports, games, recreation, exercise, or other activity that requires physical strength, agility, flexibility, speed, stamina, or range of motion.

Sec. 4755.61. (A) The athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board shall:

(1) Adopt rules, not inconsistent with this chapter, for the licensure of athletic trainers, including rules that specify the educational course work requirements for licensure;

(2) Establish fees in accordance with division (B) of this section, and section 4755.13 of the Revised Code fixing license and examination fees;

(3) Conduct hearings, keep records of its proceedings, and do all things necessary and proper to administer and enforce sections 4755.61 to 4755.65 of the Revised Code;

(4) Publish and make available, upon request and for a fee not to exceed the actual cost of printing and mailing, the requirements for the issuance of an athletic trainers license under this chapter and the rules adopted thereunder;

(5) Maintain a register of every person licensed to practice athletic training in this state, including the addresses of the licensee's last known place of business and residence, and the effective date and identification number of the person's license. The board shall make this list available to any person upon request and payment of a fee not to exceed the actual cost of printing and mailing.

(6) Publish and make available, upon request and for a fee not to exceed the actual cost of printing and mailing, a list of persons who passed the examination required under section 4755.62 of the Revised Code;

(7) Investigate complaints concerning alleged violations of section 4755.62 of the Revised Code or other grounds for the suspension, revocation, or refusal to issue a license under section 2301.373 or 4755.64 of the Revised Code. In connection with its investigations, the athletic trainers section may subpoena witnesses, issue subpoenas, examine witnesses, administer oaths, and, under the direction of the executive secretary of the board, investigate complaints and make inspections and other inquiries as in the judgment of the section are appropriate to enforce

sections 2301.373, 4755.62, and 4755.64 of the Revised Code. The section may review and audit the records of any licensee during normal business hours at the licensee's place of business or at any other place where the licensee's records are kept. Notwithstanding section 149.43 of the Revised Code, the athletic trainers section and its employees, except pursuant to a court order, shall maintain in confidence all information obtained.

(8) Adopt rules governing the nature and scope of the examination required under section 4755.62 of the Revised Code and the reexamination required under section 4755.63 of the Revised Code and the minimum examination score for licensure or renewal thereof. The rules for the examination required under section 4755.62 of the Revised Code shall ensure the testing of the applicant's knowledge of the basic and clinical sciences relating to athletic training theory and practice, including professional skills and judgment in the utilization of athletic training techniques and such other subjects as the athletic trainers section of the board considers useful in determining competency to practice athletic training.

(9) Conduct the examination required under section 4755.62 of the Revised Code at least twice a year at a time and place and under such supervision as the athletic trainers section of the board determines;

(10) Adopt rules to determine which states' standards for licensure are equal to or greater than this state's for the purpose of waiving requirements under division (D) of section 4755.62 of the Revised Code;

(11) Adopt rules to determine which examinations meet the requirements of division (E) of section 4755.62 of the Revised Code;

(12) Adopt rules establishing the standards of ethical conduct for licensed athletic trainers under this chapter;

(13) Adopt rules to determine the scope and nature of the continuing education courses that comply with the requirement for renewal of a license under section 4755.63 of the Revised Code.

(B) The fees adopted by the athletic trainers section of the board pursuant to division (A)(2) of this section shall be established and adjusted as required to provide sufficient revenues to meet the expenses of the section in administering sections 4755.61 to 4755.66 of the Revised Code. The fees shall include:

(1) A nonrefundable examination fee, not to exceed the amount necessary to cover the expense of administering the examination;

(2) An initial license fee;

(3) A biennial license renewal fee;

(4) A late renewal penalty, not to exceed fifty per cent of the renewal

fee.

The athletic trainers section of the board may, by rule, provide for the waiver of all or part of a license fee if the license is issued less than one hundred days before its expiration date.

(C) All rules under sections 4755.61 to 4755.65 of the Revised Code shall be adopted by the athletic trainers section of the board in accordance with Chapter 119. of the Revised Code.

Sec. 4755.62. (A) No person shall ~~hold himself out as being~~claim to the public to be an athletic trainer or imply by words or letters that ~~he~~ the person is an athletic trainer unless ~~he~~ the person is licensed as an athletic trainer pursuant to this chapter.

(B) Except as otherwise provided in division (B) of section 4755.65 of the Revised Code, no partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing athletic training unless an individual licensed as an athletic trainer pursuant to this chapter is employed by, or under contract to, the partnership, association, or corporation and will be performing the athletic training services to which reference is made.

(C) To qualify for an athletic trainers license, a person shall:

(1) Have satisfactorily completed an application for licensure in accordance with rules adopted by the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board;

(2) Have paid the examination fee required under this section;

(3) Be a resident of the state or perform substantial athletic training within the state;

(4) Be of good moral character;

(5) Have shown, to the satisfaction of the athletic trainers section of the board, that ~~he~~ the applicant has received a baccalaureate or higher degree from an institution of higher education, approved by the athletic trainers section of the board and the federal regional accreditation agency and recognized by the council on postsecondary accreditation, and has completed a program that meets the academic standards for athletic trainers established by the national athletic trainers association, inc. ~~At a minimum, the~~ The program shall include satisfactory completion of ~~accredited courses in:~~

~~(a) Anatomy;~~
~~(b) Physiology;~~
~~(c) Physiology of exercise;~~
~~(d) Applied anatomy and kinesiology;~~
~~(e) Psychology (two courses);~~

~~(f) First aid and cardiopulmonary resuscitation;~~

~~(g) Nutrition;~~

~~(h) Remedial exercise;~~

~~(i) Personal, community, and school health, which may include drug and alcohol abuse courses;~~

~~(j) Techniques of athletic training;~~

~~(k) Advanced techniques of athletic training~~ The educational course work requirements established by rule of the athletic trainers section under division (A)(1) of section 4755.61 of the Revised Code.

(6) In addition to ~~the~~ educational course work requirements ~~listed in division (C)(5) of this section~~, have completed eight hundred hours of supervised clinical experience over a minimum of a two-year period;

(7) Have passed an examination adopted by the athletic trainers section of the board under division (A)(8) of section 4755.61 of the Revised Code. Each applicant for licensure shall pay, at the time of application, the nonrefundable examination fee set by the athletic trainers section.

(D) The section may waive the requirements of division (C) of this section for any applicant who presents proof of current licensure in another state whose standards for licensure, as determined by the board, are equal to or greater than those in effect in this state on the date of application.

(E) The section shall issue a license to every applicant who complies with the requirements of division (C) of this section, files the required application form, and pays the fees required by section 4755.61 of the Revised Code. A license issued under this section entitles the holder to ~~hold himself out as being~~ claim to the public to be an athletic trainer or to imply by words or letters that ~~he~~ the licensee is an athletic trainer. Each licensee shall display ~~his~~ the licensee's license in a conspicuous place at the licensee's principal place of employment.

Sec. 4755.64. (A) ~~Subject to~~In accordance with Chapter 119. of the Revised Code, the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board may suspend, revoke, or refuse to issue or renew ~~any~~ an athletic trainers license ~~under this chapter~~, or reprimand or place a licensee on probation, ~~if the section determines that the applicant or licensee~~ for any of the following:

(1) ~~Has been convicted~~ Conviction of an offense involving moral turpitude, regardless of the state or country in which the conviction occurred;

(2) ~~Has violated~~ Violation of sections 4755.61 to 4755.65 of the Revised Code or any order or rule adopted thereunder;

(3) ~~Obtained~~ Obtaining a license through fraud, false or misleading

representation, or concealment of material facts;

(4) ~~Is guilty of negligence~~ Negligence or gross misconduct in the practice of athletic training;

(5) ~~Has violated~~ Violating the standards of ethical conduct in the practice of athletic training as adopted by the athletic trainers section under section 4755.61 of the Revised Code;

(6) ~~Has used~~ Using any controlled substance or alcohol to the extent that the ability to practice athletic training at a level of competency is impaired;

(7) ~~Has practiced~~ Practicing in an area of athletic training for which ~~he~~ the individual is clearly untrained or incompetent, or practiced without the referral of a practitioner licensed under Chapter 4731. of the Revised Code, a dentist licensed under Chapter 4715. of the Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, or a physical therapist licensed under this chapter;

(8) ~~Had employed~~ Employing, ~~directed~~ directing, or ~~supervised~~ supervising a person in the performance of athletic training procedures who is not authorized to practice as a licensed athletic trainer under this chapter;

(9) ~~Has misrepresented his~~ Misrepresenting educational attainments or the functions ~~he~~ the individual is authorized to perform for the purpose of obtaining some benefit related to ~~his~~ the individual's athletic training practice;

(10) ~~Has failed~~ Failing the licensing examination;

(11) Aiding or abetting the unlicensed practice of athletic training;

(12) Having been disciplined by the athletic training licensing authority of another state or country for an act that would constitute grounds for discipline under this section.

(B) If the athletic trainers section places a licensee on probation under division (A) of this section, the section's order for placement on probation shall be accompanied by a written statement of the conditions under which the person may be removed from ~~a probationary status~~ probation and restored to unrestricted practice ~~without any conditions~~.

(C) A licensee whose license has been ~~suspended,~~ revoked~~, or not reissued~~ under division (A) of this section may apply to the athletic trainers section for reinstatement of the license one year following the date of ~~suspension,~~ revocation~~, or refusal to renew~~. The athletic trainers section may accept or deny the application for reinstatement and may require that the applicant ~~to~~ pass an examination as a condition for reinstatement.

Sec. 4755.65. (A) Nothing in sections 4755.61 to 4755.64 of the Revised Code shall be construed to prevent or restrict the practice, services, or activities of any person who:

(1) Is ~~a physician or surgeon or podiatrist licensed~~ an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, a dentist licensed under Chapter 4715. of the Revised Code, a chiropractor licensed under Chapter 4734. of the Revised Code, a dietitian licensed under Chapter 4759. of the Revised Code, or a qualified member of any other occupation or profession practicing within the scope of ~~his~~ the person's license or profession and who does not ~~hold himself out as being~~ claim to the public to be an athletic trainer;

(2) Is employed as an athletic trainer by an agency of the United States government and provides athletic training solely under the direction or control of the agency by which ~~he~~ the person is employed;

(3) Is a student in a board-approved athletic training education program leading to a baccalaureate or higher degree from an accredited college or university and is performing duties that are a part of a supervised course of study;

(4) Is a nonresident of this state practicing or offering to practice athletic training, if the nonresident offers athletic training services for not more than ninety calendar days per year or, with board approval, for more than ninety but not more than one hundred eighty calendar days per year and meets either of the following requirements:

(a) The nonresident qualifies for licensure under section 4755.62 of the Revised Code, except for passage of the examination required under division (C)(7) of that section;

(b) The nonresident holds a valid license issued by a state that has licensure requirements considered by the athletic trainers section of the Ohio occupational therapy, physical therapy, and athletic trainers board to be comparable to those of this state.

(5) Provides athletic training only to relatives or in medical emergencies;

(6) Provides gratuitous care to friends or members of ~~his~~ the person's family;

(7) Provides ~~care~~ only ~~to himself~~ self-care.

(B) Nothing in this chapter shall be construed to prevent any person licensed under Chapter 4723. of the Revised Code and whose license is in good standing, any person ~~licensed and registered~~ authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery and whose ~~license~~ certificate to practice is in good standing, any person ~~licensed~~ authorized under Chapter 4731. of the Revised Code to practice podiatry and whose ~~license~~ certificate to practice is in good

standing, any person licensed and registered under Chapter 4734. of the Revised Code to practice chiropractic ~~medicine~~ and whose license is in good standing, any person licensed as a dietitian under Chapter 4759. of the Revised Code to practice dietetics and whose license is in good standing, any person licensed as a physical therapist under this chapter to practice physical therapy and whose license is in good standing, or any association, corporation, or partnership from advertising, describing, or offering to provide athletic training, or billing for athletic training if the athletic training services are provided by a person licensed under this chapter and practicing within the scope of ~~his~~ the person's license, by a person licensed under Chapter 4723. of the Revised Code and practicing within the scope of ~~his~~ the person's license, by a person ~~licensed~~ authorized under Chapter 4731. of the Revised Code to practice podiatry, by a person ~~licensed and registered~~ authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery, by a person licensed under Chapter 4734. of the Revised Code to practice chiropractic ~~medicine~~, or by a person licensed under Chapter 4759. of the Revised Code to practice dietetics.

(C) Nothing in this chapter shall be construed as authorizing a licensed athletic trainer to practice medicine and surgery, osteopathic medicine and surgery, podiatry, or chiropractic ~~medicine~~.

Sec. 4755.99. (A) Whoever violates section 4755.02 of the Revised Code is guilty of a minor misdemeanor. If the offender has previously been convicted of an offense under that section, ~~he~~the offender is guilty of a misdemeanor of the fourth degree.

One-half of all fines collected for violation of section 4755.02 of the Revised Code shall be distributed to the occupational therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board and then paid into the state treasury to the credit of the ~~general revenue~~ occupational licensing and regulatory fund, and one-half to the treasury of the municipal corporation in which the offense was committed, or if the offense was committed outside the limits of a municipal corporation, to the treasury of the county.

(B) Whoever violates division (A) of section 4755.48 of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates division (B), (C), (D), or (F) of section 4755.48 of the Revised Code is guilty of a misdemeanor of the second degree.

(D) Whoever violates division (A) or (B) of section 4755.62 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 4757.22. (A) The counselors professional standards committee of

the counselor and social worker board shall issue a license to practice as a professional clinical counselor to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements specified in division (B) of this section.

(B) To be eligible for a professional clinical counselor license, an individual must meet the following requirements:

(1) The individual must be of good moral character.

(2) The individual must hold from an accredited educational institution a graduate degree in counseling.

(3) The individual must complete a minimum of ninety quarter hours of graduate credit in counselor training acceptable to the committee, including a minimum of thirty quarter hours of instruction in the following areas:

(a) Clinical psychopathology, personality, and abnormal behavior;

(b) Evaluation of mental and emotional disorders;

(c) Diagnosis of mental and emotional disorders;

(d) Methods of prevention, intervention, and treatment of mental and emotional disorders.

(4) The individual must complete, in either a private or clinical counseling setting, supervised experience in counseling that is of a type approved by the committee, is supervised by a professional clinical counselor or other qualified professional approved by the committee, and is in the following amounts:

(a) In the case of an individual holding only a master's degree, not less than two years of experience, which must be completed after the award of the master's degree;

(b) In the case of an individual holding a doctorate, not less than one year of experience, which must be completed after the award of the doctorate.

(5) The individual must pass a field evaluation that meets the following requirements:

(a) Has been completed by the applicant's instructors, employers, supervisors, or other persons determined by the committee to be competent to evaluate an individual's professional competence;

(b) Includes documented evidence of the quality, scope, and nature of the applicant's experience and competence in diagnosing and treating mental and emotional disorders.

(6) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a professional clinical counselor.

(C) To be accepted by the committee for purposes of division (B) of this section, counselor training must include at least the following:

(1) Instruction in human growth and development; counseling theory; counseling techniques; group dynamics, processing, and counseling; appraisal of individuals; research and evaluation; professional, legal, and ethical responsibilities; social and cultural foundations; and lifestyle and career development;

(2) Participation in a supervised practicum ~~or~~ and internship in counseling.

(D) The committee may issue a provisional license to an applicant who meets all of the requirements to be licensed under this section, pending the receipt of transcripts or action by the committee to issue a license to practice as a professional clinical counselor.

(E) An individual may not sit for the licensing examination unless the individual meets the educational requirements to be licensed under this section. An individual who is denied admission to the licensing examination may appeal the denial in accordance with Chapter 119. of the Revised Code.

(F) The board shall adopt any rules necessary for the committee to implement this section, including criteria for the committee to use in determining whether an applicant's training should be accepted and supervised experience approved. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4757.23. (A) The counselors professional standards committee of the counselor and social worker board shall issue a license as a professional counselor to each applicant who submits a properly completed application, pays the fee established under section 4757.31 of the Revised Code, and meets the requirements established under division (B) of this section.

(B) To be eligible for a license as a professional counselor, an individual must meet the following requirements:

(1) The individual must be of good moral character.

(2) The individual must hold from an accredited educational institution a graduate degree in counseling.

(3) The individual must complete a minimum of ninety quarter hours of graduate credit in counselor training acceptable to the committee, which the individual may complete while working toward receiving a graduate degree in counseling or subsequent to receiving the degree.

(4) The individual must pass an examination administered by the board for the purpose of determining ability to practice as a professional counselor.

(C) To be accepted by the committee for purposes of division (B) of this

section, counselor training must include at least the following:

(1) Instruction in human growth and development; counseling theory; counseling techniques; group dynamics, processing, and counseling; appraisal of individuals; research and evaluation; professional, legal, and ethical responsibilities; social and cultural foundations; and lifestyle and career development;

(2) Participation in a supervised practicum ~~or~~ and internship in counseling.

(D) The committee may issue a provisional license to an applicant who meets all of the requirements to be licensed under this section, pending the receipt of transcripts or action by the committee to issue a license as a professional counselor.

(E) An individual may not sit for the licensing examination unless the individual meets the educational requirements to be licensed under this section. An individual who is denied admission to the licensing examination may appeal the denial in accordance with Chapter 119. of the Revised Code.

(F) The board shall adopt any rules necessary for the committee to implement this section, including criteria for the committee to use in determining whether an applicant's training should be accepted. Rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor and social worker board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, social workers, and independent social workers, except that the board shall charge only one fee to a person who fulfills all requirements for both an initial license as a social worker or independent social worker and an initial license as a professional counselor or professional clinical counselor;

(3) Initial certificates of registration of social work assistants;

(4) Renewal of licenses of professional clinical counselors, professional counselors, social workers, and independent social workers and renewal of certificates of registration of social work assistants.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2), (3), and (4) of this section shall be nonrefundable and shall be established in

amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed seventy-five dollars each, unless the board determines that amounts in excess of seventy-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of seventy-five dollars are approved by the controlling board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~ approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4759.08. (A) The Ohio board of dietetics shall charge and collect fees as described in this section for issuing the following:

(1) An application for an initial dietitian license, or an application for reinstatement of an inactive license, one hundred ten dollars, and for reinstatement of a lapsed, revoked, or suspended license, one hundred sixty-five dollars;

(2) License renewal, eighty dollars;

(3) A limited permit, and renewal of the permit, fifty-five dollars;

(4) A duplicate license or permit, twenty dollars;

(5) For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal.

(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee.

(C) Subject to the approval of the controlling board, the Ohio board of dietetics may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent.

(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license.

(E) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be ~~signed~~ approved by the ~~chairman~~ chairperson or secretary of the board, or both, as authorized by the board.

Sec. 4763.01. As used in this chapter:

(A) "Real estate appraisal" or "appraisal" means an analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of identified real estate that is classified as either a valuation or an analysis.

(B) "Valuation" means an estimate of the value of real estate.

(C) "Analysis" means a study of real estate for purposes other than valuation.

(D) "Appraisal report" means a written communication of a real estate appraisal or an oral communication of a real estate appraisal accompanied by a writing that supports the oral communication.

(E) "Appraisal assignment" means an engagement for which a person licensed or certified under this chapter is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased real estate appraisal.

(F) "Specialized services" means all appraisal services, other than appraisal assignments, including, but not limited to, valuation and analysis given in connection with activities such as real estate brokerage, mortgage banking, real estate counseling, and real estate tax counseling, and specialized marketing, financing, and feasibility studies.

(G) "Real estate" has the same meaning as in section 4735.01 of the Revised Code.

(H) "Appraisal foundation" means a nonprofit corporation incorporated under the laws of the state of Illinois on November 30, 1987, for the purposes of establishing and improving uniform appraisal standards by defining, issuing, and promoting those standards; establishing appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting the qualification criteria and disseminating the qualification criteria to others; and developing or assisting in development of appropriate examinations for qualified appraisers.

(I) "Prepare" means to develop and communicate, whether through a personal physical inspection or through the act or process of critically studying a report prepared by another who made the physical inspection, an appraisal, analysis, or opinion, or specialized service and to report the results. If the person who develops and communicates the appraisal or specialized service does not make the personal inspection, the name of the person who does make the personal inspection shall be identified on the appraisal or specialized service reported.

(J) "Report" means any communication, written, oral, or by any other means of transmission of information, of a real estate appraisal or specialized service that is transmitted to a client or employer upon

tion of the appraisal or service.

(K) "State-certified general real estate appraiser" means any person who satisfies the certification requirements of this chapter relating to the appraisal of all types of real property and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(L) "State-certified residential real estate appraiser" means any person who satisfies the certification requirements only relating to the appraisal of one to four units of single-family residential real estate without regard to transaction value or complexity and who holds a current and valid certificate or renewal certificate issued to the person pursuant to this chapter.

(M) "State-licensed residential real estate appraiser" means any person who satisfies the licensure requirements of this chapter relating to the appraisal of noncomplex one-to-four unit single-family residential real estate having a transaction value of less than one million dollars and complex one-to-four unit single-family residential real estate having a transaction value of less than two hundred fifty thousand dollars and who holds a current and valid license or renewal license issued to ~~him~~ the person pursuant to this chapter.

(N) "Certified or licensed real estate appraisal" means an appraisal prepared and reported by a certificate holder or licensee under this chapter acting within the scope of ~~his~~ certification or licensure and as a disinterested third party.

(O) "State-registered real estate appraiser assistant" means any person, other than a state-certified general real estate appraiser, state-certified residential real estate appraiser, or a state-licensed residential real estate appraiser, who satisfies the registration requirements of this chapter for participating in the development and preparation of real estate appraisals and who holds a current and valid registration or renewal registration issued to the person pursuant to this chapter.

(P) "Institution of higher education" means a state university or college, a private college or university 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 an accredited college or university located outside this state that is accredited by an accrediting organization or professional accrediting association recognized by the Ohio board of regents.

(Q) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(R) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

Sec. 4767.01. As used in sections 4767.01 to 4767.08 of the Revised Code~~, "cemetery~~:

(A) "Cemetery," "interment," "burial right," "entombment right," and "columbarium right" have the same meanings as in section 1721.21 of the Revised Code. ~~"~~

(B) "Political subdivision" has the same meaning as in section 3501.01 of the Revised Code.

(C) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(D) "Superintendent" or "superintendent of the division of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

Sec. 4901.10. The office of the public utilities commission shall be at the seat of government in Columbus, in suitable quarters provided by the state, and shall be open between eight-thirty a.m. and five-thirty p.m. throughout the year, Saturdays, Sundays, and legal holidays excepted. The commission shall hold its sessions at least once in each calendar month in Columbus, but ~~may~~ also may meet at such other times and places as are necessary for the proper performance of its duties. For the purpose of holding sessions in places other than the seat of government, the commission may rent quarters or offices, the expense of which, in connection therewith, shall be paid in the same manner as other authorized expenses.

Sec. 4901.19. The public utilities commission may appoint a secretary, attorney examiners, experts, engineers, accountants, and such other officers as it considers necessary, who shall be in the classified civil service except for persons in attorney examiner or supervisory policy-making positions, who shall serve at the pleasure of the commission. The commission's discretion as to whether or not a position is an attorney examiner position or a supervisory policy-making position shall be exercised upon the affirmative

vote of at least four commissioners. All vouchers for the payment of officers, experts, examiners, engineers, statisticians, accountants, inspectors, stenographers, clerks, and other employees of the commission shall be ~~signed~~ approved by two public utilities commissioners.

The secretary, or such other officer as is designated by the commission, shall keep a complete record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and keep all books, maps, documents, and papers ordered filed by the commission, or approved and confirmed by it and ordered filed. Such secretary or other officer shall be responsible to the commission for the custody and safe preservation of all documents in its office. Under the direction of the commission, the secretary or any other officer shall perform such duties as the commission prescribes. The secretary and attorney examiners may administer oaths in all parts of the state insofar as the exercise of such power is properly incidental to the performance of their duties or the duties of the commission.

Sec. 4903.10. After any order has been made by the public utilities commission, any party who has entered an appearance in person or by counsel in the proceeding may apply for a rehearing in respect to any matters determined in ~~said~~the proceeding. Such application shall be filed within thirty days after the entry of the order upon the journal of the commission.

Notwithstanding the preceding paragraph, in any uncontested proceeding or, by leave of the commission first had in any other proceeding, any affected person, firm, or corporation may make an application for a rehearing within thirty days after the entry of any final order upon the journal of the commission. Leave to file an application for rehearing shall not be granted to any person, firm, or corporation who did not enter an appearance in the proceeding unless the commission first finds:

(A) The applicant's failure to enter an appearance prior to the entry upon the journal of the commission of the order complained of was due to just cause; and,

(B) The interests of the applicant were not adequately considered in the proceeding.

Every applicant for rehearing or for leave to file an application for rehearing shall give due notice of the filing of such application to all parties who have entered an appearance in the proceeding in the manner and form prescribed by the commission.

Such application shall be in writing and shall set forth specifically the ground or grounds on which the applicant considers ~~said~~ the order to be unreasonable or unlawful. No party shall in any court urge or rely on any

ground for reversal, vacation, or modification not so set forth in ~~said~~ the application.

Where such application for rehearing has been filed before the effective date of the order as to which a rehearing is sought, the effective date of such order ~~shall~~, unless otherwise ordered by the commission, shall be postponed or stayed pending disposition of the matter by the commission or by operation of law. In all other cases the making of such an application shall not excuse any person from complying with the order, or operate to stay or postpone the enforcement thereof, without a special order of the commission.

Where such application for rehearing has been filed, the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear. Notice of such rehearing shall be given by ~~registered~~ regular mail to all parties who have entered an appearance in the proceeding.

If the commission does not grant or deny such application for rehearing within thirty days from the date of filing thereof, it is denied by operation of law.

~~Where~~ If the commission grants such rehearing, it shall specify in the notice of such granting the purpose for which it is granted. The commission shall also specify the scope of the additional evidence, if any, ~~which~~ that will be taken, but it shall not upon such rehearing take any evidence ~~which~~ that, with reasonable diligence, could have been offered upon the original hearing.

If, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed. An order made after such rehearing, abrogating or modifying the original order, shall have the same effect as an original order, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order prior to the receipt of notice by the affected party of the filing of the application for rehearing.

No cause of action arising out of any order of the commission, other than in support of ~~said~~ the order, shall accrue in any court to any person, firm, or corporation unless such person, firm, or corporation has made a proper application to the commission for a rehearing.

Sec. 4903.11. No proceeding to reverse, vacate, or modify a final order of the public utilities commission is commenced unless the notice of appeal is filed within sixty days after the date of denial of the application for rehearing by operation of law or of the entry upon the journal of the

commission of the order denying an application for rehearing or, if a rehearing is had, of the order made after such rehearing. An order denying an application for rehearing or an order made after a rehearing shall be served forthwith by ~~registered~~regular mail upon all parties who have entered an appearance in the proceeding.

Sec. 4903.23. The public utilities commission ~~and~~or power siting board ~~shall~~ may charge and collect a fee, which shall not exceed cost, for furnishing any copy of any paper, record, testimony, or writing made, taken, or filed under Chapters 4901., 4903., 4905., 4906., 4907., 4909., 4921., and 4923. of the Revised Code, except such transcript and other papers as are required to be filed in any court proceedings authorized in such chapters, whether under seal and certified to or otherwise~~, the same fees~~; and may charge and collect a fee for certifying a document, which shall not exceed that charged by the secretary of state under division (K) of section 111.16 of the Revised Code. ~~Such~~ All such fees, itemized, shall be paid into the state treasury on the first day of each month. ~~Upon~~

Upon application of any person and payment of the proper fee, the commission or board shall furnish certified copies under the seal of the commission or board of any order made by it, which order is prima-facie evidence in any court of the facts stated in such copies. The copies of schedules, classifications, and tariffs of rates, tolls, prices, rentals, regulations, practices, services, fares, and charges, and copies of all contracts, agreements, and arrangements between public utilities and railroads, or either, filed with the ~~public utilities~~ commission, and the statistics, tables, and figures contained in the annual or other reports of such companies made to the ~~public utilities~~ commission as required by such chapters, shall be preserved as public records in the custody of the commission and shall be received as prima-facie evidence of what they purport to be, for the purpose of investigations and prosecutions by the commission and in all judicial proceedings. Copies of and extracts from any of such schedules, classifications, tariffs, contracts, agreements, arrangements, or reports, made public records, certified by the ~~public utilities~~ commission under its seal, shall be received in evidence with like effect as the originals. ~~Copies of any order made by the public utilities commission or power siting board, certified under the seal of such commission or board, shall be furnished to any person upon application.~~

Sec. 4905.10. (A) For the sole purpose of maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of the state, an amount equivalent to the appropriation from the public utilities fund to the public

utilities commission for ~~administration of the utilities division~~ railroad and public utilities regulation in each fiscal year shall be apportioned among and assessed against the railroads and public utilities within the state by the commission by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts, excluding earnings or receipts from sales to other public utilities for resale, of the railroads and public utilities for the calendar year next preceding that in which the assessments are made. The final computation of the assessment shall consist of imposing upon each railroad and public utility whose assessment under the first computation would have been fifty dollars or less an assessment of fifty dollars and recomputing the assessment of the remaining railroads and public utilities by apportioning an amount equal to the appropriation to the public utilities commission for administration of the utilities division in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining railroads and public utilities for the calendar year next preceding that in which the assessments are made.

(B) On or before the first day of October in each year, the commission shall notify each such railroad and public utility of the sum assessed against it, whereupon payment shall be made to the commission, which shall deposit it into the state treasury to the credit of the ~~general revenue~~ public utilities fund, which is hereby created. Any such amounts paid into the ~~general revenue~~ fund~~,~~ but not expended by the commission~~,~~ shall be credited ratably, after first deducting any deficits accumulated from prior years, by the commission to railroads and public utilities that pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing calendar year. The assessments for such calendar year shall be reduced correspondingly.

Within five days after the beginning of each fiscal year, the director of budget and management shall transfer from the general revenue fund to the public utilities fund an amount sufficient for maintaining and administering the public utilities commission and exercising its supervision and jurisdiction over the railroads and public utilities of the state during the first four months of the fiscal year. The director shall transfer the same amount back to the general revenue fund from the public utilities fund at such time as the director determines that the balance of the public utilities fund is sufficient to support the appropriations from the fund for the fiscal year. The director may transfer less than that amount if the director determines that the revenues of the public utilities fund during the fiscal year will be insufficient to support the appropriations from the fund for the fiscal year, in which case

the amount not paid back to the general revenue fund shall be payable to the general revenue fund in future fiscal years.

(C) Each public utilities commissioner shall receive a salary fixed at the level set by pay range 49 under schedule E-2 of section 124.152 of the Revised Code.

Sec. 4905.21. Any railroad or any political subdivision desiring to abandon, close, or have abandoned, withdrawn, or closed for traffic or service all or any part of a main track or depot, and any public utility or political subdivision desiring to abandon or close, or have abandoned, withdrawn, or closed for traffic or service all or any part of any line, pumping station, generating plant, power station, sewage treatment plant, or service station, referred to in section 4905.20 of the Revised Code, shall make application to the public utilities commission in writing. The commission shall thereupon cause reasonable notice of the application to be given, stating the time and place fixed by the commission for the hearing of ~~said~~the application.

Upon the hearing of ~~said~~ the application, the commission shall ascertain the facts and make its findings thereon, and if such facts satisfy the commission that the proposed abandonment, withdrawal, or closing for traffic or service is reasonable, having due regard for the welfare of the public and the cost of operating the service or facility, it may allow such abandonment, withdrawal, or closing; otherwise it shall be denied, or if the facts warrant, the application may be granted in a modified form. If the application asks for the abandonment or withdrawal of any main track, main pipe line, gas line, telegraph line, telephone toll line, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, service station, or the service rendered thereby, in such manner as can result in the permanent abandonment of service between any two points on such railroad, or of service and facilities of any such public utility, no application shall be granted unless the railroad or public utility has operated ~~said truck~~ the track, pipe line, gas line, telegraph line, telephone toll line, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, or service station for at least five years. Such notice shall be given by publication in a newspaper of general circulation throughout any county or municipal corporation which has granted a franchise to ~~said~~ the railroad or public utility, under which ~~said~~ the track, pipe line, gas line, telegraph line, telephone toll line, electric light line, water line, sewer line, steam pipe line, pumping station, generating plant, power station, sewage treatment plant, or service station is operated or in which the same is

, once a week for ~~four~~ two consecutive weeks before the hearing of ~~said~~ the application. Notice of ~~said~~ the hearing shall be given such county, municipal corporation, or public utility in the manner provided for the service of orders of the commission in section 4903.15 of the Revised Code. This section and section 4905.20 of the Revised Code do not apply to a gas company when it is removing or exchanging abandoned field lines.

This section applies to all service now rendered and facilities furnished or hereafter built and operated, and an order of the ~~public utilities~~ commission authorizing the abandonment or withdrawal of any such service or facility shall not affect rights and obligations of a railroad or public utility beyond the scope of ~~said~~ the order, anything in its franchise to the contrary notwithstanding.

Sec. 4905.26. Upon complaint in writing against any public utility by any person, firm, or corporation, or upon the initiative or complaint of the public utilities commission, that any rate, fare, charge, toll, rental, schedule, classification, or service, or any joint rate, fare, charge, toll, rental, schedule, classification, or service rendered, charged, demanded, exacted, or proposed to be rendered, charged, demanded, or exacted, is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, or that any regulation, measurement, or practice affecting or relating to any service furnished by ~~said~~ the public utility, or in connection with such service, is, or will be, in any respect unreasonable, unjust, insufficient, unjustly discriminatory, or unjustly preferential, or that any service is, or will be, inadequate or cannot be obtained, and, upon complaint of a public utility as to any matter affecting its own product or service, if it appears that reasonable grounds for complaint are stated, the commission shall fix a time for hearing and shall notify complainants and the public utility thereof~~, and shall publish notice thereof in a newspaper of general circulation in each county in which complaint has arisen~~. Such notice shall be served ~~and publication made~~ not less than fifteen days ~~nor more than thirty days~~ before hearing and shall state the matters complained of. The commission may adjourn such hearing from time to time.

The parties to the complaint shall be entitled to be heard, represented by counsel, and to have process to enforce the attendance of witnesses.

Upon the filing of a complaint by one hundred subscribers or five per cent of the subscribers to any telephone exchange, whichever number be smaller, or by the legislative authority of any municipal corporation served by such telephone company that any regulation, measurement, standard of service, or practice affecting or relating to any service furnished by ~~said~~ the telephone company, or in connection with such service is, or will be, in any

respect unreasonable, unjust, discriminatory, or preferential, or that any service is, or will be, inadequate or cannot be obtained, the ~~public utilities~~ commission shall fix a time for the hearing of such complaint.

The hearing provided for in the next preceding paragraph shall be held in the county wherein resides the majority of the signers of such complaint, or wherein is located such municipal corporation. Notice of the date, time of day, and location of the hearing shall be served upon the telephone company complained of, upon each municipal corporation served by ~~said~~ the telephone company in the county or counties affected, and shall be published for not less than ~~three~~ two consecutive weeks in a newspaper of general circulation in the county or counties affected.

Such hearing shall be held not less than fifteen nor more than thirty days after the ~~third~~ second publication of such notice.

Sec. 4905.66. (A) The public utilities commission shall require from each electric light company~~,~~ the timely submission of any data, information, or evaluation pertinent to the fuel procurement practices of the company which the commission determines is necessary for it to judge the prudence and effectiveness of such practices and similar data for the years 1973, 1974, and any other preceding years that the commission may determine to be required for analysis of historical trends. ~~The~~ Unless otherwise ordered by the commission pursuant to an application by any party or the commission's own motion and for good cause shown, the data, information, and evaluations required to be submitted shall include, but are not limited to:

(1) A report that shall be filed annually, on a date to be established by the public utilities commission, for the prior fiscal year ending with the month prior to the filing and that shall state with respect to each contract that the company has entered into for the supply of fuel for the generation of electricity:

(a) The duration of the contract;

(b) To the extent it is available to the company through lawful means, the ownership of the fuel supplier;

(c) The type of fuel supplied and, where possible, the identification and location of the facilities at which it was extracted and processed;

(d) An estimate of the total and periodic amount of fuel to be supplied under the contract;

(e) The extent to which a contract for fuel, that is for a period longer than one year, is of the "cost plus profit" type. Such a contract is of such type, for purposes of this division, ~~where~~ if it requires that an originally bargained price, in addition to determined pro rata increases, is paid by the company.

(f) The extent to which the electric light company has attempted to rectify any abridgement of any rights it may have to a supply of fuel under a fuel supply contract that is for a period of more than one year.

(2) An annual report of the fuel procurement practices of the company, describing:

(a) The overall fuel procurement performance of the company in the preceding calendar year;

(b) A description of efforts the company has made to reduce overall costs of fuel supply and the success of those efforts.

(3) A report that shall be filed each month for the prior calendar month and that shall state:

(a) The name and address of each supplier of fuel to the company for the generation of electricity;

(b) With respect to the cost of purchases made by the company in the period covered by the report, the invoice price of each weight or volume unit of fuel supplied to the company for the generation of electricity;

(c) With respect to the cost of deliveries made to the company in the period covered by the report, the applicable delivery costs of the company;

(d) The quantity of British thermal units consumed by the company in the generation of electricity;

(e) The cost to the company of each million British thermal units consumed by the company in the generation of electricity;

(f) The amount of net kilowatt hours generated by the company;

(g) The amount of fuel component expressed in cents per kilowatt hour plus or minus the fuel component so expressed for the previous base period reported.

(B)~~(1) For the purpose of evaluating the fuel related practices and policies of each electric light company, the public utilities commission shall make a monthly review of all the data contained in the monthly report submitted by an electric light company, pursuant to division (A)(3) of this section, including whatever additional information is considered appropriate by the commission.~~

~~(2)~~ During its consideration of an application filed pursuant to section 4909.18 of the Revised Code, or at least annually, the public utilities commission shall conduct an audit of fuel related policies and practices of each electric light company or cause such an audit to be conducted.

~~(3) A report of the findings made by the public utilities commission pursuant to the audit required by division (B)(2) of this section, together with any orders that the commission may have made in the prior year relating to the fuel purchase activities of electric light companies and the~~

~~results of the actual performance of each electric light company as compared against the rule adopted pursuant to section 4905.69 of the Revised Code shall be submitted by the commission to the general assembly with the submission of the commission's annual report.~~

(C) All data pertaining to the acquisition of fuel filed with the federal energy regulatory commission shall be filed with the public utilities commission simultaneously.

(D) In addition to any rights that may accrue to any person under section 4905.07 of the Revised Code, all data, information, and evaluations obtained by the commission pursuant to divisions (A), (B), and (C) of this section, together with a written transcript of any proceedings related to the hearings conducted by the commission pursuant to section 4905.301 or 4909.191 of the Revised Code, shall be available for public inspection during the regular business hours of the commission. The commission shall have a reasonable time to fill any requests for data that it retains solely in electronic data processing format. The commission may charge a sum not to exceed the cost of filling such a request.

(E) ~~The public utilities commission shall, within~~ No later than thirty days ~~of~~ after the date of filing of the report ~~filed in conformity with~~ under division (A)(3) of this section, the commission shall examine and determine for the period covered by the report:

(1) Whether the payments made as a result of acquisition and delivery costs have been erroneously reported;

(2) The arithmetic accuracy of all amounts relating to the fuel component charged to the customers of the company in bills to such customers mailed in the period covered by the report.

~~(F) The public utilities commission shall annually file with the legislative clerk of the house of representatives, the clerk of the senate, the chairman of the house finance-appropriations committee, and the chairman of the senate finance committee an administrative plan for the implementation of its responsibilities under this section and sections 4905.301, 4905.67, and 4909.159 of the Revised Code, and the rule promulgated pursuant to section 4905.69 of the Revised Code. Such plan shall include, but not be limited to, a description of the commission's commitment of budgetary resources for:~~

~~(1) Monitoring fuel reports;~~

~~(2) Conducting audits and hearings; and~~

~~(3) Developing on-going expert analysis and investigation of electric light company fuel costs.~~

Sec. 4905.69. The public utilities commission shall promulgate a rule

that:

(A) Establishes a formula or formulae by which the efficiency of the fuel procurement and utilization practices of electric light companies may be effectively measured;

(B) Requires the reporting of such data by electric light companies as the commission considers necessary for the periodic development by the commission of the measurement stated in division (A) of this section;

(C) Establishes incentives, in terms of costs that may be recovered by electric light companies pursuant to a fuel component for the implementation and employment by such companies of efficient fuel procurement and utilization practices;

(D) Implements the fuel component requirements provided in Chapters 4905. and 4909. of the Revised Code by establishing investigative procedures and proceedings, consistent with such chapters, including, but not limited to, periodic reports, audits, and hearings;

(E) Implements division (E) of section 4909.191 of the Revised Code for adjustment of the fuel component;

(F) Establishes one or more formulae or procedures, or any combination thereof, by which acquisition and delivery costs of fuel are included in determining the allowable fuel component in rates charged by the electric light company pursuant to Chapters 4905. and 4909. of the Revised Code;

(G) Requires the reporting of all expenses incurred by the electric light company in order to comply with this section and sections 4905.301, 4905.66, 4905.67, and 4909.191 of the Revised ~~code~~ CODE;

(H) Implements section 4905.301 and division (E) of section 4909.191 of the Revised Code for recovery of Ohio coal research and development costs.

The public utilities commission may promulgate rules, consistent with Chapters 4905. and 4909. of the Revised Code, to enforce the fuel component requirements provided in such chapters by establishing methods, including, but not limited to, an exclusion from the fuel component of fuel acquisition and delivery costs arising from either unfulfilled contractual obligations of fuel suppliers or unreasonable fuel purchase arrangements between an electric light company and the company's owned, controlled, or subsidiary fuel supplier.

~~The public utilities commission shall annually publish or cause to be published a report that shows the results of the actual performance of each electric light company as compared against the rule established pursuant to this section.~~

Pursuant to an application by an electric light COMPANY and for good

cause shown, the public utilities commission may establish separate formulae or procedures applicable to that company.

Sec. 4905.80. (A) As used in sections 4905.80 to 4905.83 of the Revised Code:

(1) "Uniform registration" has the same meaning as "registration" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819.

(2) "Uniform permit" has the same meaning as "permit" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819.

(B)(1) The public utilities commission may adopt rules applicable to the uniform registration and uniform permitting of persons engaged in the highway transportation of hazardous materials into, through, or within this state. Until November 17, ~~1998~~ 2000, rules adopted under this division shall be consistent with, and equivalent in scope, coverage, and content to, the final report submitted to the United States secretary of transportation pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. Effective on and after November 17, ~~1998~~ 2000, the rules shall be consistent with, and equivalent in scope, coverage, and content to, section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819, and the regulations adopted under that section. The commission may adopt additional rules for the implementation and administration of the uniform registration and permitting system established by rule under this section, including rules staggering the registration date for carriers and reducing or extending, by no more than one year, the permit renewal period for carriers.

Rules adopted or amended under division (B)(1) of this section on or after November 17, ~~1998~~ 2000, shall be adopted or amended in accordance with Chapter 119. of the Revised Code.

(2) For the purpose of minimizing filing requirements regarding any background investigation required for the issuance of a uniform permit as a carrier of hazardous wastes, the commission shall accept from any applicant for such a permit any refiling of information the applicant has filed with the office of the attorney general under section 3734.42 of the Revised Code or any reference to such information, if the refiled or referenced information is

on file with the office of the attorney general, is accurate and timely for the commission's purposes under this section, and is supplemented by any additional information the commission requires. The office of the attorney general, as necessary for any such background investigation, shall make accessible to the commission any such information referenced or refiled in an application for a uniform permit as a carrier of hazardous wastes that the attorney general determines may be disclosed in accordance with section 3734.42 of the Revised Code. Nothing in sections 4905.80 to 4905.83 of the Revised Code affects any limitations under section 3734.42 of the Revised Code on the disclosure of that information.

(C)(1) The fees for uniform registration and a uniform permit as a carrier of hazardous materials shall consist of the following:

(a) A processing fee of fifty dollars;

(b) An apportioned per-truck registration fee, which shall be calculated by multiplying the percentage of a registrant's activity in this state times the percentage of the registrant's business that is hazardous-materials-related, times the number of vehicles owned or operated by the registrant, times a per-truck fee determined by order of the commission following public notice and an opportunity for comment.

However, the total revenue from the apportioned per-truck registration fee shall not exceed the appropriation of the general assembly for the hazardous materials registration fund created under division (C)(3) of this section. In determining the per-truck fee, the commission shall ~~divide~~ calculate the difference between the appropriation from the fund for the current fiscal year and the net total of the processing fees collected in the previous registration year~~,~~ under division (C)(1)(a) of this section, fees collected under division (C)(2) of this section, refunds to carriers from overpayments of fees collected under this section, and fees paid to other states under division (D) of this section, and shall divide that calculated amount by the total number of apportioned trucks determined on the basis of information submitted by all registrants in the previous registration year. If the calculated amount is zero or less, the fee shall be zero. Any interested party, in accordance with division (H) of this section, may appeal to the court of appeals of Franklin county an order of the commission establishing the apportioned per-truck registration fee.

(i) The percentage of a registrant's activity in this state shall be calculated by dividing the number of miles that the registrant travels in this state under the international registration plan, pursuant to section 4503.61 of the Revised Code, by the number of miles that the registrant travels nationwide under the international registration plan. Registrants that operate

solely within this state shall use one hundred per cent as their percentage of activity. Registrants that do not register their vehicles through the international registration plan shall calculate activity in the state in the same manner as that required by the international registration plan.

(ii) The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for less-than-truckload shipments, by dividing the weight of all the registrant's hazardous materials shipments by the total weight of all shipments in the previous year. The percentage of a registrant's business that is hazardous-materials-related shall be calculated, for truckload shipments, by dividing the number of shipments for which placarding, marking of the vehicle, or manifesting, as appropriate, was required by regulations adopted under sections 4 to 6 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804, by the total number of the registrant's shipments that transported any kind of goods in the previous year. A registrant that transports both less-than-truckload and truckload shipments of hazardous materials shall calculate the percentage of business that is hazardous-materials-related on a proportional basis.

(iii) A registrant may utilize fiscal year, or calendar year, or other current company accounting data, or other publicly available information, in calculating the percentages required by divisions (C)(1)(b)(i) and (ii) of this section.

(2) The commission, after notice and opportunity for a hearing, may assess each carrier a fee for any background investigation required for the issuance, for the purpose of section 3734.15 of the Revised Code, of a uniform permit as a carrier of hazardous wastes and fees related to investigations and proceedings for the denial, suspension, or revocation of a uniform permit as a carrier of hazardous materials. The fees shall not exceed the reasonable costs of the investigations and proceedings. The fee for a background investigation for a uniform permit as a carrier of hazardous wastes shall be six hundred dollars plus the costs of obtaining any necessary information not included in the permit application, to be calculated at the rate of thirty dollars per hour, not exceeding six hundred dollars, plus any ~~governmental agency~~ fees payable to obtain necessary information.

(3) ~~All background investigation fees collected under division (C)(2) of this section shall be credited to the hazardous wastes background investigation fund, which is hereby created in the state treasury. Moneys in that fund shall be used to conduct any background investigation for the issuance of a uniform permit as a carrier of hazardous wastes pursuant to this section.~~ All fees collected under division (C)(1) of this section and all

ackground investigation and permit denial, suspension, and revocation investigation and proceeding fees collected under division (C)(2) of this section shall be credited to the hazardous materials registration fund, which is hereby created in the state treasury. Moneys in that fund shall be used by the commission to administer and enforce sections 4905.80 to 4905.83 of the Revised Code.

(D) The commission, as necessary to implement the rules adopted under division (B) of this section, may enter into agreements, contracts, arrangements, or declarations with other states and with the national repository, established pursuant to the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, arrangements, or declarations shall include, but not be limited to, the determination of a base state, the collection of uniform registration fees, the frequency of distribution of uniform registration fees, procedures for dispute resolution, and protection of trade secrets and confidential business information.

(E) The first eight hundred thousand dollars of forfeitures collected under section 4905.83 of the Revised Code during each of fiscal years 1995 to ~~1998~~ 2000 and during fiscal year ~~1999~~ 2001 until November 17, ~~1998~~ 2000, shall be credited to the hazardous materials transportation fund, which is hereby created in the state treasury. Any forfeitures in excess of that amount collected during each such period and any forfeitures collected on or after November 17, ~~1998~~ 2000, shall be credited to the general revenue fund. In each of fiscal years 1995 to ~~1998~~ 2000 and in fiscal year ~~1999~~ 2001 until November 17, ~~1998~~ 2000, the commission shall distribute moneys credited to the hazardous materials transportation fund under this division for the purposes of emergency response planning and the training of safety, enforcement, and emergency services personnel in proper techniques for the management of hazardous materials releases that occur during transportation or otherwise. For these purposes, fifty per cent of all such moneys credited to the fund shall be distributed to Cleveland state university, and fifty per cent shall be distributed to other educational institutions, state agencies, regional planning commissions, and political subdivisions. However, if, in any such period, moneys credited to the fund under this division equal an amount less than four hundred thousand dollars, the commission shall distribute, to the extent of the fund, two hundred thousand dollars to Cleveland state university and the remainder to other educational institutions, state agencies, regional planning commissions, and political

subdivisions.

(F)(1) No person shall violate or fail to perform a duty imposed by this section or a rule adopted under it.

(2) No person shall knowingly falsify or fail to submit any data, reports, records, or other information required to be submitted to the commission pursuant to this section or a rule adopted under it. For purposes of division (F)(2) of this section, a person acts knowingly if either of the following applies:

(a) The person has actual knowledge of the facts giving rise to the violation.

(b) A reasonable person acting in the circumstances and exercising due care would have such knowledge.

(G) After notice and opportunity for a hearing, the commission, pursuant to criteria set forth in rules adopted under division (B) of this section, may suspend, revoke, or deny the uniform permit as a carrier of hazardous materials of any carrier that has obtained or applied for such a uniform permit from the commission pursuant to rules adopted under that division, or the commission may order the suspension of the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission pursuant to division (D) of this section.

(H)(1) The proceedings specified in division (G) of this section are subject to and governed by Chapter 4903. of the Revised Code, except as otherwise provided in this section. The court of appeals of Franklin county has exclusive original jurisdiction to review, modify, or vacate any order of the commission suspending, revoking, or denying a uniform permit as a carrier of hazardous materials of any carrier that has obtained or applied for a uniform permit from the commission pursuant to rules adopted under division (B) of this section, or any order of the commission suspending the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission under division (D) of this section. The court of appeals shall hear and determine those appeals in the same manner and under the same standards as the Ohio supreme court hears and determines appeals under Chapter 4903. of the Revised Code.

The judgment of the court of appeals is final and conclusive unless reversed, vacated, or modified on appeal. Such appeals may be taken either by the commission or the person to whom the order was issued and shall proceed as in the case of appeals in civil actions as provided in Chapter 2505. of the Revised Code.

(2) Section 4903.11 of the Revised Code does not apply to appeals of any order of the commission suspending, revoking, or denying a uniform permit of a carrier that has obtained or applied for a uniform permit from the commission pursuant to rules adopted under division (B) of this section, or of any order of the commission suspending the transportation of hazardous materials into, through, or within this state by a carrier that has obtained a uniform permit from another state that has a reciprocity agreement with the commission pursuant to division (D) of this section. Any person to whom such order is issued who wishes to contest the order shall file, within sixty days after the entry of the order upon the journal of the commission, a notice of appeal, setting forth the order appealed from and the errors complained of. The notice of appeal shall be served, unless waived, upon the ~~chairman~~ chairperson of the commission or, in the event of ~~his~~ the chairperson's absence, upon any public utilities commissioner, or by leaving a copy at the office of the commission at Columbus. On appeal, the court shall reverse, vacate, or modify the order if, upon consideration of the record, the court is of the opinion that the order was unlawful or unreasonable.

Sec. 4905.81. (A) The public utilities commission may adopt rules applicable to the highway routing of hazardous materials into, through, or within this state. Rules adopted under this division shall be consistent with, and equivalent in scope, coverage, and content to, subsection (b) of section 4 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804, and regulations adopted under that section.

Rules adopted or amended under this division on or after November 17, ~~1998~~ 2000, shall be adopted or amended in accordance with Chapter 119. of the Revised Code.

(B) No person shall violate or fail to perform a duty imposed by a rule adopted under this section or an order of the commission issued to secure compliance with such a rule or this section.

(C) To achieve the purposes of this title, the commission, through its inspectors or other authorized employees, may enter at reasonable times upon the premises, and may enter upon and inspect at any time motor vehicles, of any person who transports or offers for transportation hazardous materials subject to the safety rules prescribed in this title, to examine any records or documents that relate to the transportation and the offering for transportation of hazardous materials. The commission or its authorized employees may apply for, and any judge of a court of record of competent jurisdiction may issue, an appropriate search warrant to achieve the purposes of this title.

(D) To achieve the purposes of this title and to assist the commission in the performance of any of its powers or duties, the commission, either through the public utilities commissioners or employees authorized by it, may examine under oath, at the offices of the commission, any officer, agent, or employee of any person who transports or offers for transportation hazardous materials subject to the safety rules prescribed in this title in relation to the transportation and offering for transportation of hazardous materials. The commission, by subpoena, also may compel the attendance of such a witness for the purpose of the examination and, by subpoena duces tecum, may compel the production of all books, contracts, records, and documents that relate to the transportation and offering for transportation of hazardous materials.

(E)(1) There is hereby created the hazardous materials advisory panel to carry out the purposes of divisions (E)(2) and (3) of this section. The panel shall consist of the following nine members: three representatives of common carriers of hazardous materials, three representatives of private carriers of hazardous materials, and one representative of shippers of hazardous materials, each appointed by the ~~chairman~~ chairperson of the public utilities commission; one member of the house of representatives appointed by the speaker of the house of representatives; and one member of the senate appointed by the president of the senate. The speaker of the house, president of the senate, and ~~chairman~~ chairperson of the commission shall make their initial appointments to the panel within thirty days after ~~the effective date of this section~~ July 22, 1994. Of the initial appointments, each shall be for a term ending two years after the date of the initial appointment. Subsequent appointments shall be for two-year terms, with each term ending on the same day of the same month as the term it succeeds. Panel members shall receive no compensation or expenses in the performance of panel duties.

Each panel member shall serve on the panel from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member of the general assembly shall remain as a member of the panel only so long as ~~he~~ the person is a member of the general assembly. Panel members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which ~~his~~ the member's predecessor was appointed shall serve as a member for the remainder of that term. A member shall continue to serve after the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor commences service on the panel or until a period of sixty days has elapsed,

whichever occurs first.

(2) At least thirty days before issuing an order for notice of and the opportunity for comment on any proposed rules under division (B) of section 4905.80 of the Revised Code or division (A) of this section, the commission shall distribute the proposed rules to each member of the panel for consultation and advice. The commission shall convene a meeting of the panel to prepare a report on the proposed rules, which shall be submitted to the commission and contain the panel's recommendations, comments, and other advice regarding all matters it considers pertinent to the issuance and implementation of the proposed rules. Upon the request of the panel, the commission may hold a hearing to receive testimony from panel members regarding any issue of fact or law in the report. The commission shall consider the report before it issues any order for notice of and the opportunity for comment on any proposed rules under division (B) of section 4905.80 of the Revised Code or division (A) of this section.

In any such order, the commission shall address any recommendations, comments, and other advice contained in the panel's report, including matters with which the commission concludes it cannot agree. After the commission issues any such order for notice and opportunity for comment, it shall transmit to each member of the panel copies of any comments it receives and shall provide panel members with an opportunity to respond to those comments either in writing or before the commission, or both. The commission shall notify the panel of any hearings or meetings regarding the proposed rules. Any panel member may participate in the same manner as any interested party in any hearings held regarding the proposed rules.

(3) One year after ~~the effective date of this section~~ July 22, 1994, and annually after that date until November 17, ~~1998~~ 2000, the commission and the panel shall present at a public hearing and transmit to the speaker of the house of representatives and the president of the senate, or committees of the house of representatives and senate of the general assembly respectively designated by the speaker and the senate president, an annual report on the status of sections 4905.80 and 4905.81 of the Revised Code, which shall address all of the following:

(a) Any barriers to the implementation of the forms and procedures for the uniform registration and uniform permitting of carriers of hazardous materials pursuant to section 4905.80 of the Revised Code and the implementation of routing designations pursuant to section 4905.81 of the Revised Code;

(b) Any costs to the state and to carriers and shippers of hazardous materials resulting from the implementation of sections 4905.80 and

4905.81 of the Revised Code;

(c) The effectiveness of reciprocity with other states in the implementation of sections 4905.80 and 4905.81 of the Revised Code;

(d) Whether the implementation of sections 4905.80 and 4905.81 of the Revised Code reduces the administrative burden on carriers and shippers of hazardous materials and on the state;

(e) Whether the implementation of sections 4905.80 and 4905.81 of the Revised Code enhances the protection of the public health and safety and the environment;

(f) The impact of federal law on the implementation of sections 4905.80 and 4905.81 of the Revised Code and any recommendations the state should make to federal authorities regarding changes to such federal law or its administration and enforcement.

(4) The hazardous materials advisory panel shall cease to exist on November 17, ~~1998~~ 2000.

Sec. 4911.18. For the sole purpose of maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter, an amount equal to the appropriation to the office of the consumers' counsel in each fiscal year shall be apportioned among and assessed against the public utilities within the state, as defined in section 4911.01 of the Revised Code, by first computing an assessment as though it were to be made in proportion to the intrastate gross earnings or receipts of the public utilities companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other public utilities for resale.

The final computation of the assessment shall consist of imposing upon each company whose assessment under the first computation would have been fifty dollars or less an assessment of fifty dollars and recomputing the assessment of the remaining companies by apportioning an amount equal to the appropriation to the office of consumers' counsel in each fiscal year less the total amount to be recovered from those paying the minimum assessment, in proportion to the intrastate gross earnings or receipts of the remaining companies for the calendar year next preceding that in which the assessments are made, excluding earnings or receipts from sales to other public utilities for resale.

On or before the first day of October in each year, the counsel shall notify each public utility company of the sum assessed against it, whereupon payment shall be made to the counsel, who shall deposit it into the state treasury to the credit of the ~~general revenue~~ consumers' counsel operating fund, which is hereby created. Any such amounts paid into the ~~general~~

~~revenue~~ fund~~,~~ but not expended by the counsel~~,~~ shall be credited ratably by the counsel to the public utility companies which pay more than the minimum assessment, according to the respective portions of such sum assessable against them for the ensuing calendar year, after first deducting any deficits accumulated from prior years. The assessments for such calendar year shall be reduced correspondingly.

Within five days after the beginning of each fiscal year, the director of budget and management shall transfer from the general revenue fund to the consumers' counsel operating fund an amount sufficient for maintaining and administering the office of the consumers' counsel and exercising the powers of the consumers' counsel under this chapter during the first four months of the fiscal year. Not later than the thirty-first day of December of the fiscal year, the same amount shall be transferred back to the general revenue fund from the consumers' counsel operating fund.

Sec. 4923.12. (A) The taxes imposed by sections 4921.18 and 4923.11 of the Revised Code shall be paid to the treasurer of state. The first received remittances of the taxes in each fiscal year shall be credited to the ~~general~~public utilities fund until the aggregate credit from the taxes, and from the fees collected under division (B) of this section, in a fiscal year amounts to a sum equal to the appropriation from the public utilities fund made by the general assembly for defraying all expenses incident to maintaining the ~~motor~~ nonrailroad transportation ~~department~~ activities of the public utilities commission. Receipt of the taxes subsequent thereto, after receipt by the treasurer of state of certifications from the commissioners of the sinking fund certifying, as required by sections 5528.15 and 5528.35 of the Revised Code, that there are sufficient moneys to the credit of the highway improvement bond retirement fund created by section 5528.12 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of bonds and other obligations issued pursuant to Section 2g of Article VIII, Ohio Constitution and sections 5528.10 and 5528.11 of the Revised Code, due and payable during the current calendar year, and that there are sufficient moneys to the credit of the highway obligations bond retirement fund created by section 5528.32 of the Revised Code to meet in full all payments of interest, principal, and charges for the retirement of highway obligations issued pursuant to Section 2i of Article VIII, Ohio Constitution and sections 5528.30 and 5528.31 of the Revised Code due and payable during the current calendar year, shall be paid into the state treasury to the credit of the state highway safety fund created by section 4501.06 of the Revised Code, and shall be subject to appropriation solely for the expense of operation and maintenance of the department of

public safety.

(B) The fees set by the commission in accordance with sections 4919.76 and 4919.77 of the Revised Code shall be credited to the ~~general revenue~~ public utilities fund except for those fees collected on behalf of other states participating in the single state insurance registration program, which shall be credited to the base state registration fund, which is hereby created in the state treasury.

(C) The forfeitures imposed by sections 4919.99, 4921.99, and 4923.99 of the Revised Code shall be paid to the treasurer of state. The first received remittances of the forfeitures in each fiscal year shall be credited to the transportation enforcement fund, which is hereby created in the state treasury, until the aggregate credit in the fiscal year is equal to the appropriation in the fund for the fiscal year less any outstanding unencumbered cash balance from the previous fiscal year in the fund. All forfeitures subsequently received shall be credited to the general revenue fund. The public utilities commission shall use the transportation enforcement fund to administer the civil forfeiture program of sections 4919.99, 4921.99, and 4923.99 of the Revised Code.

(D) If the director of budget and management determines that the balance of the public utilities fund will be less than the appropriations from the fund, the director shall transfer from the general revenue fund to the public utilities fund an amount equal to the difference between the balance of the public utilities fund and the amount needed to support the appropriations from that fund. If the director subsequently determines that the balance and revenues of the public utilities fund during the fiscal year will exceed the amount needed to support the appropriations from the fund, the director shall transfer the excess, up to the amount of the original transfer, back to the general revenue fund.

Sec. 4937.02. (A) There is hereby created the utility radiological safety board composed of the ~~chairman~~chairperson of the public utilities commission, the director of environmental protection, the director of health, the director of agriculture, the deputy director of the emergency management agency, and the director of commerce, or their designees each of whom shall be an employee of the member agency of the board member for whom ~~he~~ the person is a designee. The purpose of the board is to develop a comprehensive policy for the state regarding nuclear power safety. The board's objectives shall be to promote safe, reliable, and economical power; establish a memorandum of understanding with the federal nuclear regulatory commission and the state, including agreements with individual state agencies to interact with the commission and the

al emergency management agency; and recommend policies and practices that promote safety, performance, emergency preparedness, and public health standards that are designed to meet the state's needs.

(B) The governor shall appoint a ~~chairman~~ chairperson of the board from among the members of the board. The board shall elect one of its members as ~~vice-chairman~~ vice-chairperson, who shall possess, during the absence or disability of the board ~~chairman~~ chairperson, all the powers of the board ~~chairman~~ chairperson. All examinations, studies, or other official proceedings of the board shall be conducted by the board or its designees. The board's authority under sections 4937.01 to 4937.05 of the Revised Code shall not be exercised by any officer, employee, or body other than the board itself, except by express action of the board.

(C) The ~~chairman~~ chairperson of the board shall cause to be kept a complete record of all proceedings of the board, and any books, maps, documents, and papers used or produced by the board, and shall perform such other duties as the governor may prescribe.

(D) A majority of the board's members constitutes a quorum for the transaction of any business, performance of any duty, or exercise of any power of the board. No vacancy on the board shall impair the right of the remaining board members to exercise all powers of the board. The act of a majority of the board, when in session as a board, is an act of the board.

(E) Members of the board and their designees shall not receive compensation from the board but shall receive all ordinary and necessary expenses incurred in performance of board business, including actual travel expenses. All such expenses shall be paid by the agency of which the individual board member or designee is an officer or employee~~, with money distributed under division (D) of section 4937.05 of the Revised Code~~.

(F) The attorney general is the board's legal advisor, but shall designate, subject to the board's approval, one or more of ~~his~~ the attorney general's assistants to discharge the duties of board attorney.

(G) The board may call to its assistance, temporarily, with the consent of the member agency, any employee of a member agency to conduct studies, examinations, and investigations for the board or prepare any report required or authorized by sections 4937.01 to 4937.05 of the Revised Code. The employee shall receive no compensation but shall receive all ordinary and necessary expenses incurred in performance of such duties, including actual travel expenses. All such expenses shall be paid by the member agency~~, with money distributed under division (D) of section 4937.05 of the Revised Code~~.

(H) The offices of the board shall be located in the offices of the ~~public~~

~~utilities commission~~ emergency management agency.

Sec. 4937.05. (A) ~~There is hereby created the utility radiological safety fund in the state treasury, consisting of moneys deposited into the fund pursuant to division (B) of this section. The fund shall be used solely to maintain and administer the utility radiological safety board, including payment of expenses incurred in the performance of board business.~~

~~(B) The~~ Subject to division (B) of this section, the utility radiological safety board ~~shall~~ may apportion among and assess against each nuclear electric utility in this state against which an assessment may be made under section 4905.10 of the Revised Code an amount ~~equal to the appropriation to the board in the fiscal year~~ no greater than the maximums specified in the applicable main operating appropriations act. The assessment shall be made in proportion to the intrastate gross receipts of the utility, excluding receipts from sales to other public utilities for resale, for the calendar year next preceding that in which the assessments are made. On or before the first day of October in each year, the board shall notify each such utility of the sum assessed against it, whereupon payment shall be made to the board. The board shall deposit the payment into ~~the utility radiological~~ any nuclear safety fund~~.~~ for which a maximum is specified, for the purposes of this section, in the applicable main operating appropriations act. Any

~~(C) Any~~ assessments so deposited ~~into the utility radiological safety fund under division (B) of this section~~ which are not expended shall be credited ratably to each nuclear electric utility that paid them, according to the respective portions of the amount assessable against the utility for the ensuing calendar year. The assessments for such calendar year shall be adjusted accordingly.

~~(D) Money in the utility radiological safety fund shall be distributed among the member agencies by intrastate transfer voucher in the amounts prescribed by the general assembly in each biennial appropriation act.~~

(B) The board shall assess an amount against the nuclear electric utilities pursuant to division (A) of this section only in accordance with this division and subject to the conditions it specifies.

(1) Nuclear electric utilities and, separately, the environmental protection agency, the department of health, the department of agriculture, and the emergency management agency of the department of public safety, as member agencies of the board, shall negotiate, in good faith, amounts to be given as grants by the nuclear electric utilities pursuant to this division for funding the member agency for a fiscal biennium. Any such grant shall cover all costs related to the statutory requirements or agreements specified in division (B)(4) of this section, but shall not be required to cover any costs

of activities not directly related to those statutory requirements or agreements.

(2)(a) If any of the member agencies specified in division (B)(1) of this section disagrees, before the first day of September of the first year of a fiscal biennium, with the nuclear electric utilities on a grant amount under that division for the agency's funding for that biennium and the agency is requesting a specified amount not exceeding seventy-five per cent of the maximum specified in the applicable main operating appropriations act, the agency shall make a written directive to the board for an assessment against the nuclear electric utilities for that specified amount and shall notify the controlling board, the director of budget and management, and the nuclear electric utilities in writing of that directive. Upon receipt of the directive, the utility radiological safety board shall assess the specified amount against the nuclear electric utilities as provided in division (A) of this section, notwithstanding any provision of that division to the contrary, provided the amount assessed does not exceed the maximum specified in the applicable main operating appropriations act.

(b) If any of the member agencies specified in division (B)(1) of this section disagrees, before the first day of September of the first year of a fiscal biennium, with the nuclear electric utilities on a grant amount under that division for the agency's funding for that biennium and the agency is requesting a specified amount that exceeds seventy-five per cent of the maximum specified for that agency in the applicable main operating appropriations act, the agency may request that the controlling board approve an assessment against the electric utilities in the specified amount. The controlling board shall not approve an assessment so requested if it exceeds that maximum or will not be used for the purposes specified in division (B)(4) of this section. If the controlling board approves the request, the utility radiological safety board shall impose an assessment in the approved amount against the nuclear electric utilities as provided in division (A) of this section, notwithstanding any provision of that division to the contrary.

(c) The board shall not assess against the nuclear electric utilities pursuant to division (A) of this section in any fiscal biennium for which each member agency and the nuclear electric utilities agree on grant amounts pursuant to division (B)(1) of this section.

(3) Revenues received pursuant to grants or assessments under division (B)(1) or (2) of this section shall be deposited into the requesting agency's nuclear safety fund, as such fund is specified in the applicable main operating appropriations act.

(4) Funding provided under this division to a member agency shall be for the purpose of enabling a member agency to fulfill its authority and duties under the statutes related to nuclear safety or the utility safety radiological board, or under agreements with the nuclear regulatory commission.

(5) If a nuclear electric utility makes any recommendation to render the nuclear safety programs of member agencies of the utility radiological safety board more cost effective, the member agencies shall implement the recommendation or provide to the utility a written statement explaining why the recommendation will not be implemented or will be implemented with substantial modification.

Sec. 4981.033. (A) Notwithstanding section 4961.37 of the Revised Code, a railroad company, public agency, or other person operating passenger rail service on a right-of-way owned by another shall indemnify and hold harmless the owner, user, or other rights holder for liability for any damages arising out of passenger operations conducted by or on behalf of the railroad company, public agency, or other person operating passenger rail service and for all claims for damages for harm arising from any accident or incident occurring in connection with the operations conducted by or on behalf of the railroad company, public agency, or other person operating passenger rail service.

(B) Each railroad company, public agency, or other person operating passenger rail service on a right-of-way owned by another shall maintain an aggregate limit of liability coverage of no less than two hundred million dollars.

(C) The liability for damages for harm, including any punitive damages, of a railroad company or other entity over whose tracks passenger rail service operations are conducted by another shall not be in an amount greater than the limits of the liability coverage maintained by the railroad company, public agency, or other person operating passenger rail service.

(D) Division (A) of this section shall not apply if the railroad company or other entity over whose tracks the passenger rail service operations are conducted, committed an act or omission with reckless, wanton, willful, or gross negligence and the act or omission proximately caused the harm in question.

(E) THE OPERATOR OF AN EXCURSION RAIL SERVICE AND THE OWNER OF ANY RAILROAD PROPERTY OVER WHICH THE EXCURSION RAIL SERVICE WILL BE PROVIDED MAY NEGOTIATE TO DETERMINE THE AMOUNT OF LIABILITY COVERAGE NECESSARY TO SATISFY THE OWNER'S PRIVATE

INSURANCE REQUIREMENTS. IF THE OPERATOR AND OWNER REACH AGREEMENT ON THE AMOUNT OF PRIVATE INSURANCE COVERAGE SO REQUIRED, DIVISION (B) OF THIS SECTION SHALL NOT APPLY TO THE OPERATION OF THE EXCURSION RAIL SERVICE OVER THAT RAILROAD PROPERTY.

THIS DIVISION DOES NOT REQUIRE ANY OWNER OF RAILROAD PROPERTY TO ENTER INTO SUCH NEGOTIATIONS, TO AGREE TO AN AMOUNT OF LIABILITY COVERAGE THAT THE OWNER DETERMINES TO BE INSUFFICIENT INDEMNIFICATION, NOR TO PERMIT ANY EXCURSION RAIL SERVICE OPERATOR TO HAVE ACCESS TO THE RAILROAD PROPERTY.

(F) As used in this section:

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

(2) "Passenger rail service" includes intercity passenger, commuter, or high speed rail transportation service.

(3) "EXCURSION RAIL SERVICE" MEANS ANY RAIL PASSENGER SERVICE THAT IS UNDERTAKEN PRIMARILY FOR EDUCATION, ENTERTAINMENT, RECREATION, OR SCENIC OBSERVATION AND THAT DOES NOT INVOLVE ANY OF THE FOLLOWING:

(a) THE CARRYING OF FREIGHT OTHER THAN THE PERSONAL LUGGAGE OF THE PASSENGERS OR CREW, OR SUPPLIES AND EQUIPMENT NECESSARY TO SERVE THE NEEDS OF THE PASSENGERS OR CREW;

(b) THE CARRYING OF PASSENGERS WHO ARE COMMUTING TO WORK;

(c) THE CARRYING OF PASSENGERS WHO ARE TRAVELING TO A FINAL DESTINATION SOLELY FOR BUSINESS OR COMMERCIAL PURPOSES.

Sec. 4981.09. (A) There is hereby created in the state treasury the rail development fund. The fund shall consist of such moneys as may be provided by law, including moneys received from the sale, transfer, or lease of any rail property pursuant to section 4981.08 of the Revised Code, and amounts transferred pursuant to division (B) of this section. Moneys in the fund shall be used for the purpose of acquiring, rehabilitating, or developing rail property or service, or for participation in the acquisition of rail property with the federal government, municipal corporations, townships, counties, or other governmental agencies. For the purpose of acquiring such rail property, the Ohio rail development commission may obtain acquisition loans from the federal government or from any other source.

The fund shall also be used to promote, plan, design, construct, operate, and maintain passenger and freight rail transportation systems, and may be used to pay the administrative costs of the Ohio rail development commission associated with conducting any authorized rail program, and for any purpose authorized by sections 4981.03 and 5501.56 of the Revised Code. The fund shall not be used to provide loan guarantees.

(B) Twice each year, by the last day of March for the immediately preceding June through December and by the last day of August for the immediately preceding January through May, the tax commissioner shall certify to the director of budget and management the amounts paid into the general revenue fund pursuant to Chapter 5733. of the Revised Code during those months by taxpayers engaged in the business of owning or operating a railroad either wholly or partially within this state. The certifications shall not include amounts refunded to such taxpayers. Upon receipt of each certification, the director of budget and management shall transfer ~~seventy-five~~ fifty per cent of the amount certified from the general revenue fund to the rail development fund.

Sec. 5101.02. The director of human services is the executive head of the department of human services. All duties conferred on the various offices, divisions, bureaus, sections, and institutions of the department by law or by order of the director shall be performed under such rules as the director prescribes, and shall be under the director's control.

The director of human services may enter into agreements with county boards of commissioners, as provided in section 329.05 of the Revised Code, to create a single administrative unit within the county for the administration of the aid to dependent children and disability assistance programs.

Any such agreement entered into shall provide, either in specific terms or by prescribing a method for determining the amounts, for any payments to be made into the county treasury in consideration of the performance of the agreement, and may provide for the transfer to the board of county commissioners of any property, real or personal, used or useful in the performance of functions or the rendering of services under such agreement. Such transfer may limit the power of the board to dispose of such property, and may provide for its return, disposition, division, or distribution, in the event of the rescission or expiration of the agreement.

To the extent provided by such agreement the functions and duties of the department of human services shall be vested in the board of county commissioners.

Payments authorized by the agreement shall be made by the state not

less than four times during each fiscal year on vouchers prepared by the department of human services and may include any funds appropriated or allocated to the department of human services for carrying out the duties and responsibilities which, under terms of the agreement, are transferred to the board of county commissioners, including, but not limited to, funds for personal service and maintenance.

Sec. 5101.06. The director of human services may establish offices, divisions, bureaus, and sections and prescribe their powers and duties.

Sec. 5101.07. Each office, division, bureau, and section authorized by section 5101.06 of the Revised Code shall consist of a chief and the officers and employees~~, including those in institutions,~~ necessary for the performance of the functions assigned to it. The director of human services shall supervise the work of each office, division, bureau, and section and shall be responsible for the determination of general policies in the exercise of powers vested in the department and powers assigned to each office, division, bureau, and section. The chief of each office, division, bureau, and section shall be responsible to the director for the organization, direction, and supervision of the work of the office, division, bureau, or section and the exercise of the powers and the performance of the duties of the department assigned to such office, division, bureau, or section, and, with the approval of the director, may establish ~~bureaus or~~ other administrative units therein. The director shall appoint the chief of each office, division, bureau, and section, who, unless placed in the unclassified service under section 124.11 of the Revised Code, shall be in the classified service, and all other employees of the department. The chief of each office, division, bureau, and section shall be a person who has had special training and experience in the type of work with the performance of which the office, division, bureau, or section is charged. If the director certifies that any such position can best be filled under division (B) of section 124.30 of the Revised Code or without regard to residence of the appointee, the department of administrative services shall be governed by such certification. Each chief of ~~a~~ an office, division, bureau, or section, under the director of human services, shall have entire executive charge of the office, division, bureau, or section for which ~~he~~ the chief is appointed.

All employees holding positions in the classified service within the department on June 30, 1966, shall continue to hold such positions and this section does not affect their civil service status.

~~Employees of any division that is abolished by Amended Substitute House Bill No. 376 of the 106th general assembly shall be transferred to a comparable position in another division of the department.~~

Sec. 5101.14. (A) Within available funds, the department of human services shall make payments to the counties within thirty days after the beginning of each calendar quarter for a part of their costs for services to children performed pursuant to Chapter 5153. of the Revised Code. ~~The~~

Funds provided to the county under this section shall be deposited ~~in a special fund in the county treasury, known as~~ into the children services fund~~, and shall be used for no other purpose than to meet expenses of the children services program~~ created pursuant to section 5101.144 of the Revised Code.

(B)(1) The funds distributed under this section shall be used ~~to provide home-based~~ for the following:

(a) Home-based services to children and families; ~~to provide protective~~

(b) Protective services to children; ~~to~~

(c) To find, develop, and approve adoptive homes; ~~and to provide short-term~~

(d) Short-term, out-of-home care and treatment for children~~. No~~;

(e) Costs for the care of a child who resides with a caretaker relative, other than the child's parent, and is in the legal custody of a public children services agency pursuant to a voluntary temporary custody agreement entered into under division (A) of section 5103.15 of the Revised Code or in the legal custody of a public children services agency or the caretaker relative pursuant to an allegation or adjudication of abuse, neglect, or dependency made under Chapter 2151. of the Revised Code;

(f) Other services a public children services agency considers necessary to protect children from abuse, neglect, or dependency.

(2) No funds distributed under this section shall be used for the costs of maintaining a child in a children's home owned and operated by the county.

(C) In each fiscal year, the amount of funds available for distribution under this section shall be allocated to counties as follows:

(1) If the amount is less than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the percentage of the funding it received in the immediately preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(2) If the amount is equal to the amount initially appropriated for the immediately preceding fiscal year, each county shall receive an amount equal to the amount it received in the preceding fiscal year, exclusive of any releases from or additions to the allocation or any sanctions imposed under this section;

(3) If the amount is greater than the amount initially appropriated for the immediately preceding fiscal year, each county shall receive the amount

determined under division ~~(A)~~(C)(2) of this section as a base allocation, plus a percentage of the amount that exceeds the amount initially appropriated for the immediately preceding fiscal year. The amount exceeding the amount initially appropriated in the immediately preceding fiscal year shall be allocated to the counties as follows:

(a) Twelve per cent divided equally among all counties;

(b) Forty-eight per cent in the ratio that the number of residents of the county under the age of eighteen bears to the total number of such persons residing in this state;

(c) Forty per cent in the ratio that the number of residents of the county with incomes under the federal poverty ~~line~~ guideline bears to the total number of such persons in this state.

As used in ~~this~~ division (C)(3)(c) of this section, "federal poverty guideline" means the poverty guideline as defined by the United States office of management and budget and revised by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended.

~~(B)~~(D) The department may adopt rules as necessary for the allocation of funds under this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code.

~~(C)~~(E)(1) As used in this division, "services to children" includes only children's protective services, home-based services to children and families, family foster home services, residential treatment services, adoptive services, and independent living services.

(2) Except as otherwise provided in this section, the allocation of funds for a fiscal year to a county under this section shall be reduced by the department if in the preceding calendar year the total amount expended for services to children from local funds and funds distributed to the county under section 5101.462 of the Revised Code was less than the total expended from those sources in the second preceding calendar year. The reduction shall be equal to the difference between the total expended in the preceding calendar year and the total expended in the second preceding calendar year.

The determination of whether the amount expended for services to children was less in the preceding calendar year than in the second preceding calendar year shall not include a difference due to any of the following factors to the extent that the difference does not exceed the amount attributable to that factor:

(a) An across-the-board reduction in the county budget as a whole;

(b) A reduced or failed levy specifically earmarked for children services;

(c) A reduced allocation of funds to the county under section 5101.462 of the Revised Code;

(d) The closure of, or a reduction in the operating capacity of, a children's home owned and operated by the county.

(3) Funds withheld under this division may be reallocated by the department to other counties. The department may grant whole or partial waivers of the provisions of this division.

~~(D) No funds shall be paid to any county under this section until the director of human services has approved a plan for services to children submitted by the county department of human services or the county children services board for the current calendar year. The department of human services shall adopt rules prescribing the general content of the county children services plan and the general content of the evaluation required by division (B)(16) of section 5153.16 of the Revised Code.~~

~~(E)~~(F) Children who are in the temporary or permanent custody of a certified public or private nonprofit agency or institution, or who are in adoptions subsidized under division (B) of section 5153.163 of the Revised Code are eligible for medical assistance through the medical assistance program established under section 5111.01 of the Revised Code.

~~(F)~~(G) Within ninety days after the end of each fiscal year, each county shall return any unspent funds to the department.

~~(G)~~(H) The department shall prepare an annual report detailing on a county-by-county basis the services provided with funds distributed under this section. The report shall be submitted to the general assembly by the thirtieth day of September each year and also shall be made available to the public.

~~(H)~~(I) In accordance with Chapter 119. of the Revised Code, the director shall adopt, and may amend and rescind, rules prescribing reports on expenditures to be submitted by the counties as necessary for the implementation of this section.

Sec. 5101.141. (A) The ~~state~~ department of human services shall act as the single state agency to administer federal payments for foster care and adoption assistance made pursuant to Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended, and shall adopt rules ~~pursuant to Chapter 119. of the Revised Code~~ to implement this authority. Internal management rules governing financial and administrative requirements applicable to public children services agencies shall be adopted in accordance with section 111.15 of the Revised Code. Rules

establishing eligibility, program participation, and other requirements shall be adopted in accordance with Chapter 119. of the Revised Code. A public children services agency to which the department distributes Title IV-E funds ~~distributed by the state department to a county children services board or county department of human services that has assumed the administration of child welfare~~ shall ~~be administered by the board or county department~~ administer the funds in accordance with those rules.

(B)(1) The county shall, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "Social Security Act," make payments to cover the cost of providing all of the following:

(a) The child's food, clothing, shelter, daily supervision, and school supplies;

(b) The child's personal incidentals;

(c) Reasonable travel to the child's home for visitation.

(2) In addition to payments made under division (B)(1) of this section, the county may, on behalf of each child eligible for foster care maintenance payments under Title IV-E of the "Social Security Act," make payments to cover the cost of providing the following:

(a) Liability insurance with respect to the child;

(b) If the county is participating in the demonstration project established under division (A) of section 5101.142 of the Revised Code, services provided under the project.

(3) With respect to a child who is in a child-care institution, including any type of group home designed for the care of children or any privately operated program consisting of two or more family foster homes operated by a common administrative unit, the foster care maintenance payments made by the county on behalf of the child shall include the reasonable cost of the administration and operation of the institution, group home, or program, as necessary to provide the items described in division (B)(1) and (2) of this section.

(C) To the extent that either foster care maintenance payments under division (B) of this section or Title IV-E adoption assistance payments for maintenance costs require the expenditure of county funds, the board of county commissioners shall report the nature and amount of each expenditure of county funds to the ~~state~~ department ~~of human services~~.

(D) The ~~state~~ department shall distribute to ~~counties~~ public children services agencies that incur and report such expenditures federal financial participation received for administrative and training costs incurred in the operation of foster care maintenance and adoption assistance programs. The department may withhold not more than two per cent of the federal financial

participation received. The funds withheld shall be in addition to any administration and training cost for which the department is reimbursed through its own cost allocation plan.

(E) All federal funds received by a county pursuant to this section shall be deposited ~~in~~ into the county's children services fund created pursuant to ~~division (A) of~~ section ~~5101.14~~ 5101.144 of the Revised Code ~~and shall be used solely for services to children under Chapter 5153. of the Revised Code. This requirement is satisfied if, by clear audit trail, the county can demonstrate that those funds were properly used to reimburse the county general fund for children services expenditures made pursuant to Chapter 5153. of the Revised Code~~.

(F) The department ~~of human services~~ shall periodically publish and distribute the maximum amounts that the department will reimburse ~~county~~ public children services ~~boards and county departments of human services~~ agencies for making payments on behalf of children eligible for foster care maintenance payments.

Sec. 5101.142. (A) The department may apply to the United States secretary of health and human services for a waiver of requirements established under Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), or regulations adopted thereunder, to conduct a demonstration project expanding eligibility for and services provided under Title IV-E. The department may enter into agreements with the secretary necessary to implement the demonstration project, including agreements establishing the terms and conditions of the waiver authorizing the project. If a demonstration project is to be established, the department of human services shall do all of the following:

(1) Adopt rules in accordance with Chapter 119. of the Revised Code governing the project. The rules shall be consistent with the agreements the department enters into with the secretary.

(2) Enter into agreements with public children services agencies that the department selects for participation in the project. The department shall not select an agency that objects to participation or refuses to be bound by the terms and conditions of the project.

(3) Contract with persons or governmental agencies providing services under the project;

(4) Amend the state plan required by section 471 of the "Social Security Act," 42 U.S.C.A. 671, as amended, as needed to implement the project;

(5) Conduct ongoing evaluations of the project;

(6) Perform other administrative and operational activities required by the agreement with the secretary.

(B) The department may apply to the United States secretary of health and human services for a waiver of the requirements established under Title IV-B of the "Social Security Act of 1967," 81 Stat. 821, 42 U.S.C.A. 620 or regulations adopted thereunder and established under any other federal law or regulations that affect the children services functions prescribed by Chapter 5153. of the Revised Code, to conduct demonstration projects or otherwise improve the effectiveness and efficiency of the children services function.

90-DAY

Sec. 5101.143. (A) As used in this section:

(1) "Government entity" means any government entity other than a public children services agency.

(2) "Private agency" means a private child placing agency or private noncustodial agency.

(B) Effective December 1, 1997, and subject to initial and continued approval by the United States department of health and human services, a private agency or government entity seeking foster care maintenance payments under Title IV-E of the "Social Security Act," 94 Stat. 501, 42 U.S.C.A. 670 (1980), as amended, shall pay the department of human services an annual fee. The amount of the fee shall be the greater of three hundred dollars or fifteen cents times the number of days the private agency or government entity provided or arranged foster care in the preceding calendar year to or for each child the agency or entity provided or arranged foster care. The department shall not distribute foster care maintenance payments to a private agency or government entity that fails to pay the fee.

The department shall deposit all fees collected under this section into the child welfare training fund, which is hereby created in the state treasury. The department shall use money in the fund only to secure federal matching funds under Title IV-E to help defray costs private agencies and government entities incur in training staff and foster care parents and that the department determines are allowable and reasonable costs and to make payments to private and government entities to assist with those costs.

The department shall determine the amount of payments it will make to private agencies and government entities under this section. The department may require a private agency or government entity that receives a payment under this section to pay or help pay the cost of an adverse audit finding that the agency or entity causes or to which the agency or entity contributes. The department may require all private agencies and government entities that receive a payment under this section to share in the cost of an adverse audit finding that a private agency or government entity no longer in existence

caused or contributed to.

(C) The department of human services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall include all of the following:

(1) Procedures for a private agency or government entity to pay the fee required by this section and to request a payment from the department to help defray the cost of training staff and foster parents;

(2) Criteria for the department to determine whether training costs are allowable and reasonable;

(3) Any other requirements the department determines to be necessary to implement this section.

Sec. 5101.144. As used in this section, "children services" means services provided to children pursuant to Chapter 5153. of the Revised Code.

Each county shall deposit all funds its public children services agency receives from appropriations made by the board of county commissioners or any other source for the purpose of providing children services into a special fund in the county treasury known as the children services fund. A county shall use money in the fund only for the purposes of meeting the expenses of providing children services.

Sec. 5101.58. The acceptance of aid pursuant to Chapter 5107., 5111., or 5115. of the Revised Code gives a right of ~~subrogation~~recovery to the department of human services and ~~the~~ a county department of human services ~~of any county~~ against the liability of a third party for the cost of medical services and care arising out of injury, disease, or disability of the recipient. When an action or claim is brought against a third party by a recipient of aid under Chapter 5107., 5111., or 5115. of the Revised Code, the entire amount of any settlement or compromise of the action or claim, or any court award or judgment, is subject to the ~~subrogation~~ recovery right of the department of human services or the county department of human services ~~of any county~~. ~~The~~ Except in the case of a recipient who receives medical services or care through a managed care organization, the department's ~~subrogated~~ claim shall not exceed the amount of medical expenses paid by the departments on behalf of the recipient. In the case of a recipient who receives medical services or care through a managed care organization, the amount of the department's claim shall be the amount the managed care organization pays for medical services or care rendered to the recipient, even if that amount is more than the amount the departments pay to the managed care organization for the recipient's medical services or care. Any settlement, compromise, judgment, or award that excludes the cost of

medical services or care shall not preclude the departments from enforcing their rights under this section.

Prior to initiating any recovery action, the recipient or ~~his~~ the recipient's representative shall disclose the identity of any third party against whom the recipient has or may have a right of recovery. Disclosure shall be made to the department of human services when medical expenses have been paid pursuant to Chapter 5107., 5111., or 5115. of the Revised Code. Disclosure shall be made to both the department of human services and the appropriate county department of human services when medical expenses have been paid pursuant to Chapter 5115. of the Revised Code. No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient where the departments have a right of ~~subrogation~~ recovery shall be made final without first giving the appropriate departments notice and a reasonable opportunity to perfect their rights of ~~subrogation~~ recovery. If the departments are not given appropriate notice, the recipient is liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments. The departments shall be permitted to enforce their ~~subrogation~~ recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of human services or county department of human services as soon as the third party is notified in writing of the valid claims for ~~subrogation~~ recovery under this section.

~~Subrogation~~ The right of recovery does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient from ~~his~~ the recipient's own resources. Attorney fees and costs or other expenses in securing any recovery shall not be assessed against any ~~subrogated~~ claims of the departments.

To enforce their ~~subrogation~~ recovery rights, the departments may do any of the following:

(A) Intervene or join in any action or proceeding brought by the recipient or on ~~his~~ the recipient's behalf against any third party who may be liable for the cost of medical services and care arising out of the recipient's injury, disease, or disability;

(B) Institute and pursue legal proceedings against any third party who

may be liable for the cost of medical services and care arising out of the recipient's injury, disease, or disability;

(C) Initiate legal proceedings in conjunction with the injured, diseased, or disabled recipient or ~~his~~ the recipient's legal representative.

~~Subrogation~~ Recovery rights created by this section may be enforced separately or jointly by the department of human services and the county department of human services.

The right of ~~subrogation~~ recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.07 and 5115.13 of the Revised Code, but includes payments made by a third party under contract with a person having a duty to support.

The department of human services may adopt rules in accordance with Chapter 119. of the Revised Code the department considers necessary to implement this section.

Sec. 5103.12. (A) As used in this section:

(1) "Hearing" has the same meaning as in section 119.01 of the Revised Code.

(2) "Permanent custody" has the same meaning as in section 2151.011 of the Revised Code.

(B) The department of human services may enter into agreements with public children services agencies and private child placing agencies under which the department will make payments to encourage the adoptive placement of children in the permanent custody of a public children services agency. If the department terminates, or refuses to enter into or renew, an agreement with a public children services agency or private child placing agency under this section, the agency is entitled to a hearing.

Notwithstanding section 127.16 of the Revised Code, the department is not required to follow competitive selection procedures or to receive the approval of the controlling board to enter into agreements under this section or to make payments pursuant to the agreements.

(C) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules that establish all of the following:

(1) A single, uniform agreement that, at a minimum, prescribes a payment schedule and the terms and conditions with which a public children services agency or private child placing agency must comply to receive a payment;

(2) Eligibility requirements a public children services agency or private child placing agency must meet to enter into an agreement with the

Department;

(3) Eligibility requirements that a child who is the subject of an agreement must meet;

(4) Other administrative and operational requirements.

Sec. 5104.02. (A) The director of human services is responsible for the licensing of child day-care centers and type A family day-care homes, and for the enforcement of this chapter and of rules promulgated pursuant to this chapter. No person, firm, organization, institution, or agency shall operate, establish, manage, conduct, or maintain a child day-care center or type A family day-care home without a license issued under section 5104.03 of the Revised Code. The current license shall be posted in a conspicuous place in the center or type A home that is accessible to parents, custodians, or guardians and employees of the center or type A home at all times when the center or type A home is in operation.

(B) A person, firm, institution, organization, or agency operating any of the following programs is exempt from the provisions of this chapter:

(1) A program of child day-care that operates for two or less consecutive weeks;

(2) Child day-care in places of worship during religious activities during which children are cared for while at least one parent, guardian, or custodian of each child is participating in such activities and is readily available;

(3) Religious activities which do not provide child day-care;

(4) Supervised training, instruction, or activities of children in specific areas, including, but not limited to: art; drama; dance; music; gymnastics, swimming, or another athletic skill or sport; computers; or an educational subject conducted on an organized or periodic basis no more than one day a week and for no more than six hours duration;

(5) Programs in which the director determines that at least one parent, custodian, or guardian of each child is on the premises of the facility offering child day-care and is readily accessible at all times, except that child day-care provided on the premises ~~of a parent's, custodian's, or guardian's place of employment~~ at which a parent, custodian, or guardian is employed more than two and one-half hours a day shall be licensed in accordance with division (A) of this section;

(6)(a) Programs that provide child day-care funded and regulated or operated and regulated by state departments other than the department of human services or the state board of education when the director of human services has determined that the rules governing the program are equivalent to or exceed the rules promulgated pursuant to this chapter.

Notwithstanding any exemption from regulation under this chapter, each

state department shall submit to the director of human services a copy of the rules that govern programs that provide child day-care and are regulated or operated and regulated by the department. Annually, each state department shall submit to the director a report for each such program it regulates or operates and regulates that includes the following information:

(i) The site location of the program;

(ii) The maximum number of infants, toddlers, preschool children, or school children served by the program at one time;

(iii) The number of adults providing child day-care for the number of infants, toddlers, preschool children, or school children;

(iv) Any changes in the rules made subsequent to the time when the rules were initially submitted to the director.

The director shall maintain a record of the child day-care information submitted by other state departments and shall provide this information upon request to the general assembly or the public.

(b) Child day-care programs conducted by boards of education or by chartered nonpublic schools that are conducted in school buildings and that provide child day-care to school children only shall be exempt from meeting or exceeding rules promulgated pursuant to this chapter.

(7) Any preschool program or school child program that is subject to licensure by the department of education under sections 3301.52 to 3301.59 of the Revised Code.

(8) Any program providing child day-care that meets all of the following requirements and, on October 20, 1987, was being operated by a nonpublic school that holds a charter issued by the state board of education for kindergarten only:

(a) The nonpublic school has given the notice to the state board and the director of human services required by Section 4 of Substitute House Bill No. 253 of the 117th general assembly;

(b) The nonpublic school continues to be chartered by the state board for kindergarten, or receives and continues to hold a charter from the state board for kindergarten through grade five;

(c) The program is conducted in a school building;

(d) The program is operated in accordance with rules promulgated by the state board under sections 3301.52 to 3301.57 of the Revised Code.

(C) A person, firm, organization, institution, or agency operating a child day-care center or type A family day-care home that is exempt under division (B) of this section from licensure under division (A) of this section may apply for a license under division (A) of this section. All requirements of this chapter and of rules promulgated pursuant to this chapter shall apply

to any exempt child day-care center or type A home that applies for a license under division (A) of this section. Licensure pursuant to this division constitutes an irrevocable waiver of the exempt status of the applicant under division (B) of this section.

Sec. 5104.381. Notwithstanding rules adopted under division (A) of section 5104.38 of the Revised Code and any other statute or rule governing eligibility for publicly funded day-care, a family that has a child enrolled in a Head start program and that receives publicly funded child day-care for that child in a collaborative model at the same location shall continue to receive the publicly funded child day-care until the end of the head start program year unless the CARETAKER parent fails to pay the required fee for publicly funded child day-carE. A family participating in the program operated under Chapter 5107. of the Revised Code that is ineligible to receive cash assistance due to sanction or fraud is not eligible for publicly funded child day-care under this section. Eligibility for publicly funded child day-care under this section is not subject to available funds.

Sec. 5111.01. As used in this chapter, "medical assistance program" or "medicaid" means the program that is authorized by this section and provided by the department of human services under this chapter ~~and,~~ Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the waivers of Title XIX requirements granted to the department by the health care financing administration of the United States department of health and human services.

(A) The department of human services may provide medical assistance under the medicaid program as long as federal funds are provided for such assistance, to the following:

(1) Recipients and potential recipients of aid under Chapter 5107. of the Revised Code, persons who are eligible for medical assistance pursuant to section 5101.842, 5101.86, 5101.88, 5101.881, 5101.95, 5107.041, 5107.071, 5107.31, 5107.32, 5107.34, or 5111.017 of the Revised Code despite being ineligible for aid under that chapter, and children of minor parents who would be eligible for aid under that chapter if not for section 5107.031 of the Revised Code;

(2) Aged, blind, and disabled persons who meet the following conditions:

(a) Receive federal aid under Title XVI of the "Social Security Act," or are eligible for but are not receiving such aid, provided that the income from all other sources for individuals with independent living arrangements shall not exceed one hundred seventy-five dollars per month. The income standards hereby established shall be adjusted annually at the rate that is

used by the United States department of health and human services to adjust the amounts payable under Title XVI.

(b) Do not receive aid under Title XVI, but meet one or both of the following criteria:

(i) Would be eligible to receive such aid, except that their income, other than that excluded from consideration as income under Title XVI, exceeds the maximum under division (A)(2)(a) of this section, and incurred expenses for medical care, as determined under federal regulations applicable to section 209(b) of the "Social Security Amendments of 1972," 86 Stat. 1381, 42 U.S.C.A. 1396a(f), as amended, equal or exceed the amount by which their income exceeds the maximum under division (A)(2)(a) of this section;

(ii) Received aid for the aged, aid to the blind, or aid for the permanently and totally disabled prior to January 1, 1974, and continue to meet all the same eligibility requirements.

(3) Persons to whom federal law requires, as a condition of state participation in the medicaid program, that medical assistance be provided;

(4) Persons under age twenty-one who meet the financial eligibility standards in effect under Chapter 5107. of the Revised Code but do not qualify as a dependent child as defined in section 5107.03 of the Revised Code;

(5) Effective October 1, 1993, if funds are appropriated by the general assembly for this purpose, children born after January 1, 1983, who are not otherwise eligible for assistance under this division and whose countable income is at or below two hundred per cent of the federal poverty guideline, as revised annually by the United States secretary of health and human services in accordance with section 673 of the "Community Services Block Grant Act," 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the assistance group of the person whose income is being determined.

(B) If funds are appropriated for such purpose by the general assembly, the department may provide medical assistance to persons in groups designated by federal law as groups to which a state, at its option, may provide medical assistance under the medicaid program.

(C) The department may expand eligibility for medical assistance to include individuals under age nineteen with family incomes at or below one hundred fifty per cent of the federal poverty guideline, except that the eligibility expansion shall not occur unless the department receives the approval of the federal government. The department may implement the eligibility expansion authorized under this division on any date selected by the department, but not sooner than January 1, 1998.

(D) In addition to any other authority or requirement to adopt rules under this chapter, the department may adopt rules in accordance with section 111.15 of the Revised Code as it considers necessary to establish standards, procedures, and other requirements regarding the provision of medical assistance. The rules may establish requirements to be followed in applying for medical assistance, making determinations of eligibility for medical assistance, and verifying eligibility for medical assistance. The rules may include special conditions as the department determines appropriate for making applications, determining eligibility, and verifying eligibility for any medical assistance that the department may provide pursuant to division (C) of this section.

Sec. 5111.011. (A) As used in this section:

(1) "Nursing facility" means a facility defined as a nursing facility under Sec. 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396r, as amended.

(2) "Institutionalized individual" means an individual who is a patient in a nursing facility or who receives home and community-based services under a federal waiver granted the department of human services under 42 U.S.C. 1396a(10)(A)(ii)(VI).

(B) Subject to this section, the department of human services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the medical assistance program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for medical assistance, the value of real property of aged, blind, or disabled persons used as a homestead by such persons shall be the maximum allowed under Title XVI of the "Social Security Act."

(D) ~~No~~ Except as provided in division (G) of this section, no person is eligible for medical assistance if on or prior to December 31, 1989, ~~he~~ the person has transferred real or personal property for the purpose of securing medical assistance under section 5111.01 of the Revised Code and the transfer occurred during the two years preceding ~~his~~ the person's application. In order to secure compliance with this division, the director of human services shall require all applicants for assistance to submit true and correct copies of any federal income or gift tax form or schedule filed, singly or jointly, by the applicant during the preceding five taxable years. Such copies, and the information disclosed thereon, shall be used solely for the purpose of determining the probability of whether the applicant has transferred assets in violation of this division. The director shall provide for the confidentiality and return of any copies of forms or schedules submitted

under this division. Where such copies reveal the probability that an applicant has transferred assets in violation of this division, a presumption arises that the applicant has transferred assets in violation of this division, and the director shall deny the application until the applicant submits a true and accurate expenditure statement to the director that shows the applicant did not violate this division. The director of human services shall adopt rules to implement this provision.

(E)(1) ~~An~~ Except as provided in division (G) of this section, an institutionalized individual who is otherwise eligible for medical assistance shall be ineligible for nursing facility services or services provided under a home and community-based waiver for a period specified in rules adopted under division (E)(2) of this section if ~~he~~ the institutionalized individual, on or after January 1, 1990, transfers resources for less than fair market value at any time during or after a period of time, as specified in rules adopted under division (E)(2) of this section, immediately prior to either of the following:

(a) The date ~~he~~ the individual becomes an institutionalized individual if ~~he~~ the individual is eligible for medical assistance on that date;

(b) The date ~~he~~ the individual applies for medical assistance while an institutionalized individual.

(2) The department shall adopt rules specifying, for the purpose of division (E)(1) of this section, the period of time preceding institutionalization or application for medical assistance during which transfers of assets for less than fair market value are prohibited and the length of the resulting period of ineligibility. The period of ineligibility shall begin with the month in which the resources were transferred. The rules shall be consistent with Title XIX of the "Social Security Act. The department shall allow exceptions to the period of ineligibility to the extent that exceptions are permitted by that title. An exception based on undue hardship to the institutionalized individual shall be allowed only so long as the individual cooperates with the department or the county department of human services in securing the return of transferred resources.

(3) To secure compliance with this division, the department may require applicants for and recipients of medical assistance, as a condition of eligibility, to provide documentation of their income and resources up to five years prior to the time of application. Documentation may include, but is not limited to, tax returns, records from financial institutions, and real property records.

(F) The department shall, by rule adopted in accordance with section 111.15 of the Revised Code, establish standards consistent with federal law for allocating income and resources as income and resources of the spouse,

children, parents, or stepparents of a recipient of or applicant for medical assistance. Notwithstanding any provision of state law, including statutes, administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under this division shall be used to determine eligibility for medical assistance.

(G) The department may, by rule adopted in accordance with section 111.15 of the Revised Code, exempt individuals who apply for or receive any medical assistance that may be provided pursuant to division (C) of section 5111.01 of the Revised Code from some or all of the requirements of this section.

Sec. 5111.11. (A) As used in this section ~~and in section 5111.111 of the Revised Code:~~

~~(1) "Estate,~~ "estate" means all property to be administered under Title XXI of the Revised Code and property that would be administered under that title if not for section 2113.03 of the Revised Code.

~~(2) "Home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," Stat. 620 (1935), 42 1396n, as amended.~~

~~(3) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

(B) For the purpose of recovering the cost of ~~nursing facility services, home and community-based services, and hospital and prescription drug services related to nursing facility or home and community-based~~ services correctly paid under the medical assistance program to a recipient age fifty-five or older, the department of human services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of such a program. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty-one or blind or permanently and totally disabled.

The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for such other manner of compensation as is agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program

shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.

(C) The department may waive seeking recovery of medical assistance correctly paid if the director of human services determines that recovery would work an undue hardship. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules establishing procedures for waiver of recovery due to an undue hardship, which shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended.

(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.

Sec. 5111.111. ~~The~~As used in this section, "home and community-based services" means services provided pursuant to a waiver under section 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396n, as amended.

The department of human services may place a lien against the property of a medical assistance recipient or recipient's spouse, other than a recipient or spouse of a recipient of home and community-based services, that the department may recover as part of the program instituted under section 5111.11 of the Revised Code. When medical assistance is paid on behalf of any person in circumstances under which federal law and regulations and this section permit the imposition of a lien, the director of human services or a person designated by the director may sign a certificate to the effect. The county department of human services shall file for recording and indexing the certificate, or a certified copy, in the real estate mortgage records in the office of the county recorder in every county in which real property of the recipient or spouse is situated. From the time of filing the certificate in the office of the county recorder, the lien attaches to all real property of the recipient or spouse described therein for all amounts of aid which thereafter are paid, and shall remain a lien until satisfied.

Upon filing the certificate in the office of the recorder, all persons are charged with notice of the lien and the rights of the department of human services thereunder.

The county recorder shall keep a record of every certificate filed showing its date, the time of filing, the name and residence of the recipient or spouse, and any release, waivers, or satisfaction of the lien.

The priority of the lien shall be established in accordance with state and federal law.

The department may waive the priority of its lien to provide for the costs of the last illness as determined by the department, administration, attorney fees, administrator fees, a sum for the payment of the costs of burial, which shall be computed by deducting from five hundred dollars whatever amount is available for the same purpose from all other sources, and a similar sum for the spouse of the decedent.

Sec. 5111.17. (A) As used in this section, "community-based clinic" means a clinic that provides prenatal, family planning, well child, or primary care services and is funded in whole or in part by the state or federal government.

(B) On receipt of a waiver from the United States department of health and human services of any federal requirement that would otherwise be violated, the department of human services shall establish in Franklin, Hamilton, and Lucas counties a managed care system under which designated recipients of medical assistance are required to obtain medical services from providers designated by the department. The department may stagger implementation of the managed care system, but the system shall be implemented in at least one county not later than January 1, 1995, and in all three counties not later than July 1, 1996.

(C) The department, by rule adopted under this section, may require any recipients in any other county to receive all or some of their care through managed care organizations that contract with the department and are paid by the department pursuant to a capitation or other risk-based methodology prescribed in the rules, and to receive their care only from providers designated by the organizations.

(D) In accordance with rules adopted under division (G) of this section, the department may issue requests for proposals from managed care organizations interested in contracting with the department to provide managed care to participating medical assistance recipients.

(E) A health insuring corporation under contract with the department under this section may enter into an agreement with any community-based clinic for the provision of medical services to medical assistance recipients participating in the managed care system if the clinic is willing to accept the terms, conditions, and payment procedures established by the health insuring corporation.

(F) For the purpose of determining the amount the department pays hospitals under section 5112.08 of the Revised Code and the amount of disproportionate share hospital payments paid by the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, each managed care organization

under contract with the department to provide managed care to participating medical assistance recipients shall keep detailed records for each hospital with which it contracts about the cost to the hospital of providing the care, payments made by the organization to the hospital for the care, utilization of hospital services by medical assistance recipients participating in managed care, and other utilization data required by the department.

(G) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. ~~The rules shall include all of the following:~~

~~(1) A monthly capitation or other risk-based payment rate system for managed care organizations under contract to provide managed care to participating medical assistance recipients;~~

~~(2) The method by which the department will issue requests for proposals from managed care organizations interested in providing managed care to participating medical assistance recipients, including all of the following:~~

~~(a) Public notice of the department's intent to issue a request for proposals within a county;~~

~~(b) The process for managed care organizations to submit letters of interest;~~

~~(c) The procurement, selection, and implementation timetable within each county;~~

~~(d) The time by which the department will furnish interested managed care organizations with demographic, cost, and utilization data about medical assistance recipients required or permitted to enroll in a managed care organization in a county.~~

~~(3) Performance standards of managed care organizations under contract with the department governing all of the following:~~

~~(a) Scope of coverage and benefits;~~

~~(b) Quality assurance performance indicators for services including prenatal care, immunizations, screenings that are part of the early and periodic screening, diagnostic, and treatment program, and any other service specified by the department;~~

~~(c) Service delivery system capacity;~~

~~(d) Reporting requirements;~~

~~(e) Grievance and complaint procedures;~~

~~(f) Enrollment and disenrollment procedures;~~

~~(g) Stop-loss arrangements;~~

~~(h) Marketing;~~

~~(i) Consumer and provider advisory councils;~~

~~(j) Any other requirement established by the department.~~

~~(4) A review process for any managed care organization that has submitted a proposal to have the department reconsider the denial of a contract under this section or termination of a contract entered into under this section;~~

~~(5) Any other procedures or requirements the department considers necessary to implement managed care.~~

Sec. 5111.172. (A) There is hereby created the medicaid managed care reimbursement study committee consisting of the following members:

(1) The director of human services or the director's designee;

(2) The superintendent of insurance or the superintendent's designee;

(3) The director of budget and management or the director's designee;

(4) the Chairperson of the committee of the house of representatives with primary responsibility for finance legislation;

(5) The Chairperson of the committee of the senate with primary responsibility for finance legislation;

(6) Two representatives of the Ohio association of health plans;

(7) A representative of a health maintenance organization PARTICIPATING in the medicaid program that has received a full three-year accreditation from the national committee for quality assurance prior to the date of appointment of the representative;

(8) A representative of a health maintenance organization participating in the medicaid program that is a wholly owned subsidiary of a hospital located in the county with the greatest number of medicaid recipients as of the date of the appointment.

(B) Initial appointments of members appointed under divisions (A)(6), (7), and (8) of this section shall be made no later than thirty days after the effective date of this section. Those members shall serve at the pleasure of the governing body appointing the member. all other members shall serve as long as they hold the position that qualifies them for membership on the committee. vacancies shall be filled in the same manner as original appointments. The speaker of the house of representatives and the president of the senate jointly shall appoint the chairperson of the committee. Members of the committee shall serve without compensation. The department of human services shall be responsible for any administrative expenses incurred by the committee in performing its official duties.

(C) The committee shall meet at intervals agreed to by its members or at the call of the chair. it shall review, on an ongoing basis, the system established under section 5111.17 of the Revised Code for reimbursing managed care organizations participating in the medicaid program. The

committee may propose any changes it determines are necessary. Prior to sEPTEMBER 1, 1997, and the first day of sEPTEMBER each year thereafter, the committee shall report its activities, findings, and recommendations to the governor, the speaker of the house of representatives, and the president of the senate.

Sec. 5111.18. (A) As used in this section and in section 5111.181 of the Revised Code, "resources" has the meaning given in rules adopted under division (B) of section 5111.011 of the Revised Code.

(B) If it determines that such action would not violate any federal statute or regulation or receives from the United States department of health and human services a waiver of any federal requirement that would otherwise be violated, the department of human services shall establish the Ohio long-term care insurance program, unless the director of human services determines that appropriations made by the general assembly for the program are not sufficient to operate and evaluate the program. If established, the program shall begin not sooner than July 1, 1994.

Notwithstanding sections 5101.58, 5101.59, 5111.01, 5111.11, and divisions (C) and (F) of section 5111.011 of the Revised Code, the resources of an individual covered by a long-term care insurance policy described in division (C)(1) or (2) of this section shall be excluded in accordance with division (C) of this section from any determination of the individual's eligibility for the medical assistance program and from determination of any amount to be recovered by the state for payments under the medical assistance program for services correctly provided to the individual.

Resources excluded under this division are not subject to ~~subrogation~~ recovery under section 5101.58, to assignment under section 5101.59, or to a lien under section ~~5111.11~~ 5111.111 of the Revised Code. Divisions (D) and (E) of section 5111.011 of the Revised Code continue to apply to the resources of individuals covered by certified policies that are not resources excluded under this section.

(C) The exclusion provided by division (B) of this section shall apply throughout the life of the covered individual. The department of human services shall exclude resources in amounts equal to long-term care insurance benefits paid under either of the following that are used to pay for services rendered on or after the date the Ohio long-term care insurance program begins that are covered by the medical assistance program:

(1) Any long-term care insurance policy or certificate delivered or issued for delivery prior to the date the program begins;

(2) A long-term care insurance policy or certificate delivered or issued for delivery on or after the date the program begins that meets the

rements in section 3923.50 of the Revised Code.

The department of human services shall adopt rules in accordance with section 111.15 of the Revised Code establishing procedures for insurers to notify the department of long-term care benefits paid.

Sec. 5112.04. (A) Except as provided in division (C) of this section, each hospital, on or before the first day of July of each year or at a later date approved by the director of human services, shall submit to the department of human services a financial statement for the preceding calendar year that accurately reflects the income, expenses, assets, liabilities, and net worth of the hospital, and accompanying notes. A hospital that has a fiscal year different from the calendar year shall file its financial statement within one hundred eighty days of the end of its fiscal year or at a later date approved by the director of human services. The financial statement shall be prepared by an independent certified public accountant and reflect an official audit report prepared in a manner consistent with generally accepted accounting principles. The financial statement shall, to the extent that the hospital has sufficient financial records, show bad debt and charity care separately from courtesy care and contractual allowances.

(B) Except as provided in division (C) of this section, each hospital, within one hundred ~~twenty~~ eighty days after the end of the hospital's cost reporting period, shall submit to the department a cost report in a format prescribed in rules adopted by the director of human services under section 5112.03 of the Revised Code. The department shall grant a hospital an extension of the one hundred ~~twenty~~ eighty day period if the health care financing administration of the United States department of health and human services extends the date by which the hospital must submit its cost report for the hospital's cost reporting period.

(C) The director of human services may adopt rules under section 5112.03 of the Revised Code specifying financial information that must be submitted by hospitals for which no financial statement or cost report is available. The rules shall specify deadlines for submitting the information. Each such hospital shall submit the information specified in the rules not later than the deadline specified in the rules.

Sec. 5112.18. (A) Except as provided in section 5112.19 of the Revised Code, all payments of assessments by hospitals under section 5112.06 of the Revised Code and all intergovernmental transfers under section 5112.07 of the Revised Code shall be deposited in the state treasury to the credit of the hospital care assurance program fund, hereby created. All investment earnings of the hospital care assurance program fund shall be credited to the fund. The department of human services shall maintain records that show

the amount of money in the hospital care assurance program fund at any time that has been paid by each hospital and the amount of any investment earnings on that amount. All moneys credited to the hospital care assurance program fund shall be used solely to make payments to hospitals under division (D) of this section and ~~sections~~ section 5112.08 ~~and 5112.20~~ of the Revised Code.

(B) All federal matching funds received as a result of payments the department makes from the hospital care assurance program fund to hospitals under section 5112.08 of the Revised Code shall be credited to the hospital care assurance match fund, which is hereby created in the state treasury. All money credited to the hospital care assurance match fund shall be used solely to make payments to hospitals under section 5112.08 of the Revised Code.

(C) All payments to hospitals under section 5112.08 of the Revised Code are conditional on:

(1) Expiration of the time for appeals under section 5112.09 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the payments;

(2) The availability of sufficient moneys in the hospital care assurance program fund and the hospital care assurance match fund to make the payments after the final determination of any appeals;

(3) The hospital's compliance with section 5112.17 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and received by hospitals under sections 5112.06, 5112.07, and 5112.08 of the Revised Code identifies amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund. Any hospital may appeal the amount the hospital is to be paid under division (D)(1) or the amount that is to be recovered from the hospital under division

(D)(2) of this section to the court of common pleas of Franklin county.

Sec. 5112.21. Except as specifically required by sections 5112.01 to ~~5112.20~~5112.19 of the Revised Code, information filed under those sections shall not include any patient-identifying material. Information ~~including~~ that includes patient-identifying material is not a public record under section 149.43 of the Revised Code, and no patient-identifying material shall be released publicly by the department of human services or by any person under contract with the department who has access to such information.

Sec. 5115.01. (A) There is hereby established the disability assistance program. Except as provided in division (D) of this section, a disability assistance recipient shall receive financial assistance. Except as provided in section 5115.11 of the Revised Code, a disability assistance recipient also shall receive disability assistance medical assistance.

Except as provided by division (B) of this section, a person who meets all of the following requirements is eligible for disability assistance:

(1) The person is ineligible for aid ~~to dependent children provided~~ under Chapter 5107. of the Revised Code and supplemental security income provided pursuant to Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended;

(2) The person is at least one of the following:

(a) Under age eighteen;

(b) Age sixty or older;

(c) Pregnant;

(d) Unable to do any substantial or gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for not less than nine months;

(e) ~~A resident of a residential treatment center~~ A former recipient of supplemental security income who lost eligibility for that program because of the enactment of division (b)(1) of section 105 of the "Contract With America Advancement Act of 1996," 110 Stat. 847, 42 U.S.C. 1382c(a)(3), and who is an active participant in an alcohol or drug addiction program certified by the department of alcohol and drug addiction services~~;~~ under section 3793.06 of the Revised Code. A person on a waiting list to participate in an alcohol or drug addiction program, or otherwise not participating in a program while waiting for treatment services at a program to become available, is not an active participant.

(f) Medication dependent as determined by a physician, as defined in section 4730.01 of the Revised Code, who has certified to the county department of human services that the person is receiving ongoing treatment

for a chronic medical condition requiring continuous prescription medication for an indefinite, long-term period of time and for whom the loss of the medication would result in a significant risk of medical emergency and loss of employability lasting at least nine months.

(3) The person meets the eligibility requirements established by the department of human services in rules adopted under section 5115.05 of the Revised Code.

(B)(1) A person is ineligible for disability assistance if the person is ineligible for aid ~~to dependent children~~ under Chapter 5107. of the Revised Code, or financial assistance under that ~~program~~ chapter, because of any of the following:

(a) A penalty pursuant to section 5101.842, 5101.88, 5101.881, 5101.95, 5107.01, 5107.031, 5107.041, 5107.071, 5107.30, 5107.31, 5107.32, or 5111.017 of the Revised Code or division (C) of section 5101.86 of the Revised Code;

(b) The person's extended eligibility for aid ~~to dependent children~~ made possible by the earned income disregard established under division (B)(1) of section 5107.033 of the Revised Code has ceased due to the limited number of months the disregard is applied;

(c) The time limit for financial assistance established by section 5107.33 of the Revised Code;

(d) Failure to comply with an application or verification procedure;

(e) The fraud control program established pursuant to 45 C.F.R. 235.112.

(2) A person under age eighteen is ineligible for disability assistance pursuant to division (B)(1)(a) of this section only if the person caused the penalty or resides with a person age eighteen or older who was a member of the same assistance group that is ineligible for aid ~~to dependent children~~ under Chapter 5107. of the Revised Code pursuant to a penalty specified in division (B)(1)(a) of this section. A person age eighteen or older is ineligible for disability assistance pursuant to division (B)(1)(a) of this section regardless of whether the person caused the penalty.

(C) ~~No~~ The board of alcohol, drug addiction, and mental health services that serves the county in which a person ~~is eligible for~~ receiving disability assistance pursuant to division (A)(2)(e) of this section ~~more than once in a five-year period~~ participates in an alcohol or drug addiction program shall act as representative payee for purposes of receiving and distributing financial assistance provided under the disability assistance program to the person.

(D) A person eligible for disability assistance pursuant to division

2)(f) of this section shall not receive financial assistance.

(E) The department shall adopt rules in accordance with section 111.15 of the Revised Code defining terms and establishing standards for determining whether a person meets a condition of disability assistance eligibility pursuant to this section.

Sec. 5119.02. (A) The department of mental health shall maintain, operate, manage, and govern state institutions for the care and treatment of mentally ill persons.

(B) The department of mental health may designate all institutions under its jurisdiction by appropriate respective names, regardless of present statutory designation.

(C) Subject to section 5139.08 and pursuant to Chapter 5122. of the Revised Code and on the agreement of the departments of mental health and youth services, the department of mental health may receive from the department of youth services for psychiatric observation, diagnosis, or treatment~~, or placement~~ any ~~children~~ person eighteen years of age or older in the custody of the department of youth services. The departments shall enter into a written agreement specifying the procedures necessary to implement this division.

(D) ~~The department of mental health may receive, for observation, any minor from any public institution other than a state institution, from any private charitable institution, or from a person having legal custody of the minor, pursuant to Chapter 5122. of the Revised Code.~~

~~(E)~~ The department of mental health shall provide and designate facilities for the custody, care, and special treatment of persons who are charged with a crime and who are found incompetent to stand trial or not guilty by reason of insanity.

~~(F)~~(E) The department of mental health may do all of the following:

(1) Require reports from the managing officer of any institution under the department's jurisdiction, relating to the admission, examination, comprehensive evaluation, diagnosis, release, or discharge of any patient;

(2) Visit each institution regularly to review its operations and to investigate complaints made by any patient or by any person on behalf of a patient, provided these duties may be performed by a person designated by the director.

~~(G)~~(F) The department of mental health shall divide the state into districts for the purpose of designating the institution in which mentally ill persons are hospitalized, and may change the districts.

~~(H)~~(G) In addition to the powers expressly conferred, the department of mental health shall have all powers and authority necessary for the full and

efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in this section.

~~(I)~~(H) The department of mental health may provide for the custody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of such persons and of the public.

Sec. 5119.03. The department of mental health shall operate, and with the approval of the governor, designate the purpose of institutions, ~~including separate institutions for children and adults,~~ and may change, with the approval of the governor, these designations when necessary.

Sec. 5119.47. It is the policy of this state, and of the department of mental health, to operate state hospital inpatient services and other community-based services, in order to provide for a full range of services for persons in need of mental health services. In providing services, the department may deploy its staff in community settings and locations other than public hospitals. All such services shall be provided in a manner which ensures persons in need of care access to the least restrictive alternative that is available, appropriate, and culturally relevant to their needs. This chapter shall be construed to attain such purposes.

When a former state hospital mental health employee who has been deployed by the department to provide mental health services in a community setting or location other than a public hospital leaves the position or retires, the position shall cease to exist, unless the department and the employer at the community setting or location agree to continuation of the position.

Each year, the department shall submit to the committees of the house of representatives and senate that work with issues of finance and appropriations a report that provides the following information about the previous year:

(A) The number of positions at a community setting or location other than a public hospital filled by a former state hospital mental health employee that ceased to exist pursuant to this section;

(B) The number of times an employer at such a community setting or location requested that such a position continue;

(C) The number of times the department agreed to, and the number of times the department refused, a request to continue the position.

Sec. 5119.53. Any payments necessary to discharge any financial obligations imposed upon the state of Ohio by the compact or by any

supplementary agreement entered into thereunder, as provided in sections 5119.50 to 5119.52 of the Revised Code, shall be made from appropriated funds upon presentation to the director of budget and management of itemized vouchers ~~signed~~ approved by the compact administrator.

Sec. 5120.03. (A) The director of rehabilitation and correction, by executive order and with the approval of the governor, may change the purpose for which any institution or place under the control of the department of rehabilitation and correction, is being used. The director may designate a new or another use for such institution, if the change of use and new designation has for its objective, improvement in the classification, segregation, care, education, cure, or rehabilitation of persons subject to the control of the department.

(B) The director of rehabilitation and correction, by executive order, issued on or before December 31, 1988, shall eliminate the distinction between penal institutions and reformatory institutions. Notwithstanding any provision of the Revised Code or the Administrative Code to the contrary, upon the issuance of the executive order, any distinction made between the types of prisoners sentenced to or otherwise assigned to the institutions under the control of the department shall be discontinued.

(C) The director may contract under section 9.06 of the Revised Code for the private operation and management of a facility under the control of the department. All inmates assigned to a facility operated and managed by a private contractor remain inmates in the care and custody of the department. The statutes, rules, and policies of the department may apply to the private contractor and any inmate assigned to a facility operated and managed by a private contractor as agreed to in the contract entered into under section 9.06 of the Revised Code.

Sec. 5120.09. Under the supervision and control of the director of rehabilitation and correction, the division of business administration shall do all of the following:

(A) Submit the budgets for the several divisions of the department of rehabilitation and correction, as ~~the same are~~ prepared by the respective chiefs ~~thereof~~ of those divisions, to the director ~~of rehabilitation and correction~~. The director, with the assistance of the chief of the division of business administration, shall compile a departmental budget ~~containing~~ that contains all proposals submitted by the chiefs of the divisions~~,~~ and shall forward the ~~same~~ departmental budget to the governor with ~~such~~ comments and recommendations ~~as he~~ that the director considers necessary.

(B) Maintain ~~such~~ accounts and records and compile ~~such~~ statistics ~~as~~ that the director prescribes;

(C) Under the control of the director, coordinate and make the necessary purchases and requisitions for the department and its ~~constituent~~ divisions, except as provided under section 5119.16 of the Revised Code;

(D) Administer within this state federal criminal justice actS that the governor requires the department to administer. in order to improve the criminal justice system of this state, the division of business administration shall apply for, allocate, disburse, and account for grants that are made available pursuant to those federal criminal justice acts and grants that are made available from other federal government sources, state government sources, or private sources. as used in this division, "criminal justice system" and "federal criminal justice acts" have the same meanings as in section 181.51 of the Revised Code.

(E) Audit the activities of governmental entities, persons as defined in section 1.59 of the Revised Code, and other types of nongovernmental entities that are financed in whole or in part by funds that the department allocates or disburses and that are derived from grants described in division (D) of this section;

(F) Enter into contracts, including contracts with federal, state, or local governmental entities, persons as defined in section 1.59 of the Revised Code, foundations, and other types of nongovernmental entities, that are necessary for the department to carry out its duties and that neither the director nor another section of the Revised Code authorizes another division of the department to enter;

(G) Exercise ~~such~~ other powers and perform ~~such~~ other duties that the director may ~~be assigned~~ assign to ~~it by~~ the ~~director~~ division of business administration.

Sec. 5120.16. (A) Persons sentenced to any institution, division, or place under the control ~~and management~~ of the department of rehabilitation and correction are committed to the control, care, and custody of the department. Subject to division (B) of this section, the director of rehabilitation and correction or the director's designee may direct that persons sentenced to the department, or to any institution or place within the department, shall first be conveyed to an appropriate facility established and maintained by the department for reception, examination, observation, and classification of the persons so sentenced. If a presentence investigation report was not prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 regarding any person sentenced to the department or to any institution or place within the department, the director or the director's designee may order the department's field staff to conduct an offender background investigation and prepare an offender background investigation

report regarding the person. The investigation and report shall be conducted in accordance with division (A) of section 2951.03 of the Revised Code and the report shall contain the same information as a presentence investigation report prepared pursuant to that section.

When the examination, observation, and classification of the person have been completed by the facility and a written report of the examination, observation, and classification is filed with the commitment papers, the director or the director's designee, subject to division (B) of this section, shall assign the person to a suitable state institution or place maintained by the state within the director's department or shall designate that the person is to be housed in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, if authorized by section 5120.161 of the Revised Code, there to be confined, cared for, treated, trained, and rehabilitated until paroled, released in accordance with section 2967.20, 2967.23, or 2967.28 of the Revised Code, or otherwise released under the order of the court that imposed the person's sentence. No person committed by a probate court, a trial court pursuant to section 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity, or a juvenile court shall be assigned to a state correctional institution.

If a person is sentenced, committed, or assigned for the commission of a felony to any one of the institutions or places maintained by the department or to a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, the department, by order duly recorded and subject to division (B) of this section, may transfer the person to any other institution, or, if authorized by section 5120.161 of the Revised Code, to a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse.

(B) If the case of a child who is alleged to be a delinquent child is transferred for criminal prosecution to the appropriate court having jurisdiction of the offense pursuant to division (B) or (C) of section 2151.26 of the Revised Code, if the child is convicted of or pleads guilty to a felony in that case, if the child is sentenced to a prison term, as defined in section 2901.01 of the Revised Code, and if the child is under eighteen years of age when delivered to the custody of the department of rehabilitation and correction, all of the following apply regarding the housing of the child:

(1) Until the child attains eighteen years of age, subject to divisions (B)(2), (3), and (4) of this section, the department shall house the child in a housing unit in a state correctional institution separate from inmates who are eighteen years of age or older.

(2) The department is not required to house the child in the manner described in division (B)(1) of this section if the child does not observe the rules and regulations of the institution or the child otherwise creates a security risk by being housed separately.

(3) If the department receives too few inmates who are under eighteen years of age to fill a housing unit in a state correctional institution separate from inmates who are eighteen years of age or older, as described in division (B)(1) of this section, the department may house the child in a housing unit in a state correctional institution that includes both inmates who are under eighteen years of age and inmates who are eighteen years of age or older and under twenty-one years of age.

(4) Upon the child's attainment of eighteen years of age, the department may house the child with the adult population of the state correctional institution.

(C) The director or the director's designee shall develop a policy for dealing with problems related to infection with the human immunodeficiency virus. The policy shall include methods of identifying individuals committed to the custody of the department who are at high risk of infection with the virus, counseling these individuals, and, if it is determined to be medically appropriate, offering them the opportunity to be given an HIV test approved by the director of health pursuant to section 3701.241 of the Revised Code.

Arrangements for housing individuals diagnosed as having AIDS or an AIDS-related condition shall be made by the department based on security and medical considerations and in accordance with division (B) of this section, if applicable.

Sec. 5120.38. Subject to the rules and regulations of the department of rehabilitation and correction, each institution under the department's jurisdiction other than an institution operated pursuant to a contract entered into under section 9.06 of the Revised Code shall be under the control of a managing officer known as a superintendent or other appropriate title. Such managing officer shall be appointed by the director of the department of rehabilitation and correction and shall be in the unclassified service and serve at the pleasure of the director. Appointment to the position of managing officer shall be made from persons holding positions in the classified service in the department. A person so appointed shall retain the right to resume the position and status that the person held ~~by him~~ in the classified service immediately prior to ~~his~~ the appointment. Upon being relieved of ~~his~~ the person's duties as managing officer, such person shall be reinstated to the position in the classified service that the person held ~~by him~~

immediately prior to ~~his~~ the appointment to the position of managing officer or to another position, certified by the director with approval of the state department of personnel as being substantially equal to such position. Service as a managing officer shall be counted as service in the position in the classified service held by such person immediately preceding ~~his~~ the person's appointment as managing officer. ~~When such~~ A person who is reinstated to a position in the classified service, as provided in this section, ~~he~~ shall be entitled to all rights and emoluments accruing to such position during the time of ~~his~~ the person's service as managing officer.

The managing officer, under the director, shall have entire executive charge of the institution for which such managing officer is appointed. Subject to civil service rules and regulations, the managing officer shall appoint the necessary employees and ~~he~~ the managing officer or the director may remove such employees for cause. A report of all appointments, resignations, and discharges shall be filed with the director at the close of each month.

After conference with the managing officer of each institution, the director shall determine the number of employees to be appointed to the various institutions.

Sec. 5121.04. (A) The department of mental health and the department of mental retardation and developmental disabilities shall investigate the financial condition of the patients in hospitals and residents in institutions, and those whose care or treatment is being paid for in a private facility or home under the department's control and of the relatives named in section 5121.06 of the Revised Code as liable for the support of such patients or residents, in order to determine the ability of any patient, resident, or such relatives to pay for the support of the patient or resident and to provide suitable clothing as required by the superintendent of the institution. In all cases, in determining ability to pay and the amount to be charged, due regard shall be had for others who may be dependent for support upon such relatives or the estate of the patient.

(B) The department shall follow the provisions of this division in determining the ability to pay of a patient or resident or ~~his~~ the patient's or resident's liable relatives and the amount to be charged such patient or resident or liable relatives.

(1) Subject to ~~division~~ divisions (B)(10) and (11) of this section, a patient or resident without dependents shall be liable for the full per capita cost. A patient or resident without dependents who has a gross annual income equal to or exceeding the sum of the full per capita cost as determined under section 5121.03 of the Revised Code, plus fifty dollars per

month, regardless of the source of such income, shall pay currently the full amount of the per capita cost; if ~~his~~ the patient's or resident's gross annual income is less than such sum, not more than fifty dollars per month shall be kept for personal use by or on behalf of the patient or resident, except as permitted in the state plan for providing medical assistance under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance shall be paid currently on ~~his~~ the patient's or resident's support. Subject to ~~division~~ divisions (B)(10) and (11) of this section, the estate of a patient or resident without dependents shall pay currently any remaining difference between the per capita cost and the amounts prescribed in this section, or shall execute an agreement with the department for payment to be made at some future date under terms suitable to the department. However, no security interest, mortgage, or lien shall be taken, granted, or charged against any principal residence of a patient or resident without dependents under an agreement or otherwise to secure support payments, and no foreclosure actions shall be taken on security interests, mortgages, or liens taken, granted, or charged against principal residences of patients or residents prior to October 7, 1977.

(2) The ability to pay of a patient or resident with dependents, or of a liable relative of a patient or resident either with or without dependents, shall be determined in accordance with ~~his~~ the patient's, resident's, or liable relative's income or other assets, the needs of others who are dependent on such income and other assets for support, and, if applicable, ~~division~~ divisions (B)(10) and (11) of this section.

For the first thirty days of care and treatment of each admission, but in no event for more than thirty days in any calendar year, the mentally ill patient or mentally retarded resident with dependents or the liable relative of a mentally ill patient or a mentally retarded resident either with or without dependents shall be charged an amount equal to the percentage of the average per capita cost determined in accordance with the schedule of adjusted gross annual income contained after this paragraph. After such first thirty days of care and treatment, such mentally ill patient or mentally retarded resident or such liable relative shall be charged an amount equal to the percentage of a base support rate of four dollars per day for mentally ill patients and mentally retarded residents, as determined in accordance with the schedule of gross annual income contained after this paragraph, or in accordance with division (B)(5) of this section. Beginning January 1, 1978, the department shall increase the base rate when the consumer price index average is more than 4.0 for the preceding calendar year by not more than the average for such calendar year.

Adjusted Gross Annual Income of Patient or Resident or Liable Relative (FN a)	Number of Dependents (FN b)						
	1	2	3	4	5	6	7	8 or more
	Rate of Support (In Percentages)							
$15,000 or less	--	----	----	----	----	----	----	--
15,001 to 17,500	20	----	----	----	----	----	----	--
17,501 to 20,000	25	20	----	----	----	----	----	--
20,001 to 21,000	30	25	20	----	----	----	----	--
21,001 to 22,000	35	30	25	20	----	----	----	--
22,001 to 23,000	40	35	30	25	20	----	----	--
23,001 to 24,000	45	40	35	30	25	20	----	--
24,001 to 25,000	50	45	40	35	30	25	20	--
25,001 to 26,000	55	50	45	40	35	30	25	20
26,001 to 27,000	60	55	50	45	40	35	30	25
27,001 to 28,000	70	60	55	50	45	40	35	30
28,001 to 30,000	80	70	60	55	50	45	40	35
30,001 to 40,000	90	80	70	60	55	50	45	40
40,001 and over	100	90	80	70	60	55	50	45

Footnote a. The patient or resident or relative shall furnish a copy of ~~his~~ the patient's, resident's, or relative's federal income tax return as evidence of ~~his~~ gross annual income.

Footnote b. The number of dependents includes the liable relative but excludes the patient or resident in the hospital or institution. "Dependent" includes any person who receives more than half ~~his~~ the person's support from the patient or ~~his~~ the patient's liable relative.

(3) A patient or resident or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished.

(4) Additional dependencies may be claimed if:

(a) The liable relative is blind;

(b) The liable relative is over sixty-five;

(c) A child is a college student with expenses in excess of fifty dollars per month;

(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the patient or resident.

(5) If with respect to any patient or resident with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the per capita cost or, if the base support rate was used, less than fifty per cent of the amount determined by use of the base support rate, and if with respect to such patient or resident there is a liable relative who has an estate having a value in excess of fifteen thousand dollars or if such patient or resident has a dependent and an estate having a value in excess of fifteen thousand dollars, there shall be paid with respect to such patient or resident a total of fifty per cent of the per capita cost or the base support rate amount, as the case may be, on a current basis or there shall be executed with respect to such patient or resident an agreement with the department for payment to be made at some future date under terms suitable to the department.

(6) When a person has been a patient or resident for fifteen years and the support charges for which a relative is liable have been paid for the fifteen-year period, the liable relative shall be relieved of any further support charges.

(7) The department shall accept voluntary payments from patients or residents or liable relatives whose incomes are below the minimum shown in the schedule set forth in this division. The department also shall accept voluntary payments in excess of required amounts from both liable and nonliable relatives.

(8) If a patient or resident is covered by an insurance policy, or other contract that provides for payment of expenses for care and treatment for mental illness or mental retardation at an institution or facility, including a hospital or community service unit under the jurisdiction of the department, the other provisions of this section, except divisions (B)(8) ~~and~~, (10), and (11) of this section, and of section 5121.03 of the Revised Code shall be suspended to the extent that such insurance policy or other contract is in force, and such patient or resident shall be charged the full amount of the per capita cost for care and treatment at the institution or facility at which the patient or resident receives such care and treatment. Any insurance carrier or other third party payor providing coverage for such care and treatment shall pay for this support obligation in an amount equal to the lesser of either the

per capita charges for services at the institution or facility or the benefits provided under the policy or other contract. Whether or not an insured, owner of, or other person having an interest in such policy or other contract is liable for support payments under other provisions of this chapter, ~~he~~ the insured, policy owner, or other person shall assign payment directly to the department of all assignable benefits under the policy or other contract and shall pay over to the department, within ten days of receipt, all insurance or other benefits ~~that he receives~~ received as reimbursement or payment for expenses incurred by the patient or resident or for any other reason. If ~~he~~ the insured, policy owner, or other person refuses to assign such payment to the department or refuses to pay such received reimbursements or payments over to the department within ten days of receipt, ~~his~~ the insured's, policy owners', or other person's total liability for the services equals ~~his~~ the applicable statutory liability for payment for the services as determined under other provisions of this chapter, plus the amounts payable under the terms of the policy or other contract. In no event shall this total liability exceed the full amount of the per capita cost for services at the institution or facility at which the patient or resident received the care and treatment. Upon its request, the department is entitled to a court order that compels the insured, owner of, or other person having an interest in the policy or other contract to comply with the assignment requirements of this division or that itself serves as a legally sufficient assignment in compliance with such requirements. Notwithstanding section 5122.31 of the Revised Code and any other law relating to confidentiality of records, the managing officer of the institution or facility where a person is or has been a patient or resident shall disclose pertinent medical information concerning the patient or resident to the insurance carrier or other third party payor in question, in order to effect collection from the carrier or payor of the state's claim for care and treatment under this division. For such disclosure, the managing officer is not subject to any civil or criminal liability.

(9) The rate to be charged for pre-admission care, after-care, day-care, or routine consultation and treatment services shall be based upon the ability of the patient or resident or ~~his~~ the patient's or resident's liable relatives to pay. When it is determined by the department that a charge shall be made, such charge shall be computed as provided in divisions (B)(1) and (2) of this section.

(10) If a patient or resident with or without dependents is the beneficiary of a trust created pursuant to section 1339.51 of the Revised Code, then, notwithstanding any contrary provision of this chapter or of a rule adopted pursuant to this chapter, divisions (C) and (D) of that section shall apply in

determining the assets or resources of the patient or resident, ~~his~~ the patient's or resident's estate, or the testator's estate and to claims arising under this chapter against the patient or resident, ~~his~~ the patient's or resident's estate, or the testator's estate.

(11) If the department of mental retardation and developmental disabilities waives the liability of an individual and the individual's liable relatives pursuant to section 5123.194 of the Revised Code, the liability of the individual and relative ceases in accordance with the waiver's terms.

(C) The department may enter into agreements with a patient or resident or a liable relative for support payments to be made in the future. However, no security interest, mortgage, or lien shall be taken, granted, or charged against any principal family residence of a patient or resident with dependents or a liable relative under an agreement or otherwise to secure support payments, and no foreclosure actions shall be taken on security interests, mortgages or liens taken, granted, or charged against principal residences of patients or residents or liable relatives prior to October 7, 1977.

(D) The department shall make all investigations and determinations required by this section within ninety days after a patient or resident is admitted to an institution under the department's control, and immediately shall notify by mail the persons liable of the amount to be charged.

(E) All actions to enforce the collection of payments agreed upon or charged by the department shall be commenced within six years after the date of default of an agreement to pay support charges or the date such payment becomes delinquent. If a payment is made pursuant to an agreement which is in default, a new six-year period for actions to enforce the collection of payments under such agreement shall be computed from the date of such payment. For purposes of this division an agreement is in default or a payment is delinquent if a payment is not made within thirty days after it is incurred or a payment, pursuant to an agreement, is not made within thirty days after the date specified for such payment. In all actions to enforce the collection of payment for the liability for support, every court of record shall receive into evidence the proof of claim made by the state together with all debts and credits, and it shall be prima-facie evidence of the facts contained in it.

Sec. 5122.43. (A) Costs, fees, and expenses of all proceedings held under this chapter shall be paid as follows:

(1) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge;

(2) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas;

(3) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court;

(4) To other witnesses, the same fees and mileage as for attendance at the court of common pleas, to be paid upon the approval of the probate judge;

(5) To a person, other than the sheriff or ~~his~~ the sheriff's deputies, for taking a mentally ill person to a hospital or removing a mentally ill person from a hospital, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge;

(6) To assistants who convey mentally ill persons to the hospital when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge;

(7) To an attorney appointed by the probate division for an indigent who allegedly is a mentally ill person pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.

(8) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before ~~his~~ the respondent's hospitalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held;

(9) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.

(B) ~~All~~ A county shall pay for the costs, fees, and expenses described in division (A) of this section~~, after payment by the county from appropriations~~ with money appropriated pursuant to section 2101.11 of the Revised Code~~, shall be certified by the county auditor and submitted~~. A county may seek reimbursement from the department of mental health by submitting a request and certification by the county auditor of the costs, fees, and expenses to the department ~~of mental health~~ within two months of the date the costs, fees, and expenses are incurred by the county.

~~The~~ Each fiscal year, based on past allocations, historical utilization, and other factors the department considers appropriate, the department shall

allocate for each county an amount for reimbursements under this section. The total of all the allocations shall equal the amount appropriated for the fiscal year to the department specifically for the purposes of this section.

On receipt, the department shall review each request for reimbursement and prepare a voucher for the amount of the costs, fees, and expenses incurred by the county, provided that the total amount of money paid to all counties in each fiscal year shall not exceed the total amount of moneys specifically appropriated to the department for these purposes. ~~If the amount appropriated to the department in any fiscal year is insufficient to reimburse each county in full for the costs, fees, and expenses incurred, the amount of money paid in that fiscal year pursuant to this section to each county shall be reduced proportionately so that each county is paid an equal percentage of its total of the costs, fees, and expenses in the fiscal year~~

The department's total reimbursement to each county shall be the lesser of the full amount requested or the amount allocated for the county under this division. In addition, the department shall distribute any surplus remaining from the money appropriated for the fiscal year to the department for the purposes of this section as follows to counties whose full requests exceed their allocations:

(1) If the surplus is sufficient to reimburse such counties the full amount of their requests, each such county shall receive the full amount of its request;

(2) If the surplus is insufficient, each such county shall receive a percentage of the surplus determined by dividing the difference between the county's full request and its allocation by the difference between the total of the full requests of all such counties and the total of the amounts allocated for all such counties.

The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement the payment of costs, fees, and expenses under this section.

Sec. 5123.05. ~~The following divisions are hereby established in the department of mental retardation and developmental disabilities:~~

~~(A) Division of administrative services;~~

~~(B) Division of developmental center services.~~

The director of mental retardation and developmental disabilities may establish ~~other~~ divisions in the department of mental retardation and developmental disabilities and prescribe their powers and duties.

Each division shall consist of a chief and the officers and employees, including those in institutions, necessary for the performance of the functions assigned to it. The director shall supervise the work of each

division and be responsible for the determination of general policies in the exercise of powers vested in the department and powers assigned to each division. The chief of each division shall be responsible to the director for the organization, direction, and supervision of the work of the division and the exercise of the powers and the performance of the duties of the department assigned to such division, and, with the approval of the director, may establish bureaus or other administrative units ~~therein~~ in the division.

Appointment to the position of chief of a division may be made from persons holding positions in the classified service in the department.

~~The chief of the division of developmental center services shall have completed course requirements for a graduate degree in education, medicine, psychology, public administration, or social work and shall be certified or eligible for certification to practice in his field of training if certification is available in such field. He shall have had training in supervision and administration and a minimum of five years experience in the administration of programs utilizing up-to-date methods for treatment and care of mentally retarded or developmentally disabled persons.~~

The chief of each division shall be a person who has had special training and experience in the type of work with the performance of which the division is charged.

Each chief of a division, under the director, shall have entire executive charge of the division to which ~~he~~ the chief is appointed ~~chief~~. Subject to sections 124.01 to 124.64 of the Revised Code, and civil service rules, the chief of a division shall, with the approval of the director, select and appoint the necessary employees in ~~his~~ the chief's division and may remove such employees for cause.

Sec. 5123.122. Notwithstanding section 5121.04 of the Revised Code and except as provided in section 5123.194 of the Revised Code, the liable relative of a mentally retarded or developmentally disabled person who is a minor receiving residential services pursuant to a contract entered into with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code shall be charged for the minor's support the percentage of a base support rate determined in accordance with division (B)(2) of section 5121.04 of the Revised Code.

Sec. 5123.18. (A) As used in this section:

(1) "Contractor" means a person or government agency that enters into a contract with the department of mental retardation and developmental disabilities under this section.

(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of

the state.

(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.

(B)(1) The department of mental retardation and developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:

(a) Companion home contracts - contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.

(b) Agency-operated companion home contracts - contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.

(c) Community home contracts - contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.

(d) Combined agency-operated companion home and community home contracts.

(2) A companion home contract shall cover not more than one home. An agency-operated companion home contract or a community home contract may cover more than one home.

(C) Contracts shall be in writing and shall provide for payment to be made to the contractor at the times agreed to by the department and the contractor. Each contract shall specify the period during which it is valid, the amount to be paid for residential services, and the number of individuals for whom payment will be made. Contracts may be renewed.

(D) To be eligible to enter into a contract <u>with the department</u> under this section, the person or government agency and the home in which the residential services are provided must meet all applicable standards for licensing or certification by the appropriate government agency. In addition, if the residential facility is operated as a nonprofit entity, the members of the board of trustees or board of directors of the facility must not have a financial interest in or receive financial benefit from the facility, other than reimbursement for actual expenses incurred in attending board meetings.

A home with a companion home contract or an agency operated companion home contract that has five or fewer residents with mental retardation or a developmental disability is a foster family home as defined in section 5123.19 of the Revised Code.

(E)(1) The department shall determine the payment amount assigned to an initial contract. To the extent that the department determines sufficient funds are available, the payment amount assigned to an initial contract shall be equal to the average amount assigned to contracts for other homes that are of the same type and size and serve individuals with similar needs, except that if an initial contract is the result of a change of contractor or ownership, the payment amount assigned to the contract shall be the lesser of the amount assigned to the previous contract or the contract's total adjusted predicted funding need calculated under division (I) of this section.

(2) A renewed contract shall be assigned a payment amount in accordance with division (K) of this section.

(3) When a contractor relocates a home to another site at which residential services are provided to the same individuals, the payment amount assigned to the contract for the new home shall be the payment amount assigned to the contract at the previous location.

(F)(1) Annually, a contractor shall complete an assessment of each individual to whom the contractor provides residential services to predict the individual's need for routine direct services staff. The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the assessment instrument to be used by contractors to make assessments. Assessments shall be submitted to the department not later than the thirty-first day of January of each year.

A contractor shall submit a revised assessment for an individual if there is a substantial, long-term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.

(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.

(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.

(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.

(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:

(a) Routine direct services staff;

(b) Dietary, program supplies, and specialized staff;

(c) Facility and general services;

(d) Administration.

(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the home by the sum of the following:

(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of mental retardation and developmental disabilities of the county in which the home is located;

(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same period as the cost reporting period.

(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.

(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:

(a) Inflation, as provided under division (I)(2) of this section;

(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;

(c) Changes in needs based on revised assessments submitted by the contractor.

(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.

When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of inflation calculated for the three-month period ending the thirty-first day of March of that calendar year. If another index or measurement is being used, the department shall base its estimate on the most recent calculations of the rate of inflation available under the index or measurement. Each year thereafter, the inflation adjustment shall be estimated in the same manner, except that if the estimated rate of inflation for a year is different from the actual rate of inflation for that year, the difference shall be added to or subtracted from the rate of inflation estimated for the next succeeding year.

If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.

(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.

(K) The payment amount to be assigned to a contract being renewed shall be determined by comparing the total adjusted predicted funding need with the payment amount assigned to the current contract.

(1) If the payment amount assigned to the current contract equals or exceeds the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be the same as that assigned to the

current contract, unless a reduction is made pursuant to division (L) of this section.

(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.

(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety-one and one-half per cent of the amount received pursuant to this section during the immediately preceding contract year.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a formula to be used in computing the maximum efficiency incentive, which shall be at least four per cent of the weighted average payment amount to be made to all contractors during the contract year. The maximum efficiency incentive shall be computed annually.

(M) The department may increase the payment amount assigned to a contract based on the contract's unmet funding need at times other than when the contract is renewed. The department may develop policies for determining priorities in making such increases.

(N)(1) In addition to the contracts provided for in division (B) of this section, the department may enter into the following contracts:

(a) A contract to pay the cost of beginning operation of a new home that is to be funded under a companion home contract, agency-operated companion home contract, community home contract, or combined agency-operated companion home and community home contract.

(b) A contract to pay the cost associated with increasing the number of individuals served by a home funded under a companion home contract, agency-operated companion home contract, community home contract, or combined agency-operated companion home and community home contract.

(2) The department shall adopt rules as necessary regarding contracts entered into under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(O) Except for companion home contracts, the department shall conduct a reconciliation of the amount earned under a contract and the actual costs incurred by the contractor. An amount is considered to have been earned for delivering a service at the time the service is delivered. The department shall

adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.

A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.183 of the Revised Code.

When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.

(P) The department may audit the contracts ~~entered~~ it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.

An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.

If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.183 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.

In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.183 of the Revised Code to the attorney general for collection

for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.

Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.

Until ~~two years after the effective date of this section~~ November 9, 1996, a contractor may request that the department conduct an adjudication hearing concerning an audit report that states the contractor owes the state money. The contractor shall specify in ~~his~~ the request the audit findings ~~he~~ the contractor contests. At the contractor's request, the department shall conduct an adjudication hearing in accordance with Chapter 119. of the Revised Code. If a hearing officer rules in the department's favor on each audit finding that the contractor contests, the department may request the hearing officer to determine whether the request for the adjudication hearing was frivolous. If the hearing officer determines the request was frivolous, the contractor shall, notwithstanding section 119.09 of the Revised Code, pay the fees and expenses charged or incurred by the hearing officer and court reporter in conducting the adjudication hearing.

No contractor may request an adjudication hearing ~~two years~~ after ~~the effective date of this section~~ November 9, 1996. An adjudication hearing requested before ~~two years after the effective date of this section~~ November 9, 1996, may proceed after ~~the date that is two years after the effective date of this section~~ November 9, 1996.

(Q) The department shall adopt rules specifying the amount that will be allowed under a reconciliation or audit for the cost incurred by a contractor for compensation of owners, administrators, and other personnel. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(R) Each contractor shall, for at least seven years, maintain fiscal records related to payments received pursuant to this section.

(S) The department may enter into shared funding agreements with other government agencies to fund contracts entered into under this section. The amount of each agency's share of the cost shall be determined through negotiations with the department. The department's share shall not exceed the amount it would have paid without entering into the shared funding agreement, nor shall it be reduced by any amounts contributed by the other parties to the agreement.

(T) ~~An~~ Except as provided in section 5123.194 of the Revised Code, an individual who receives residential services pursuant to divisions (A)

through (U) of this section and ~~his~~ the individual's liable relatives or guardians shall pay support charges in accordance with Chapter 5121. of the Revised Code.

(U) The department may make reimbursements or payments for any of the following pursuant to rules adopted under this division:

(1) Unanticipated, nonrecurring costs associated with the health or habilitation of a person who resides in a home funded under a contract provided for in division (B) of this section;

(2) The cost of staff development training for contractors if the director of mental retardation and developmental disabilities has given prior approval for the training;

(3) Fixed costs that the department, pursuant to the rules, determines relate to the continued operation of a home funded under a contract provided for in division (B) of this section when a short term vacancy occurs and the contractor has diligently attempted to fill the vacancy.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for use in determining which costs it may make payment or reimbursements for under this division.

(V) In addition to the rules required or authorized to be adopted under this section, the department may adopt any other rules necessary to implement divisions (A) through (U) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(W) The department may delegate to county boards of mental retardation and developmental disabilities its authority under this section to negotiate and enter into contracts or subcontracts for residential services. In the event that it elects to delegate its authority, the department shall adopt rules in accordance with Chapter 119. of the Revised Code for the boards' administration of the contracts or subcontracts. In administering the contracts or subcontracts, the boards shall be subject to all applicable provisions of Chapter 5126. of the Revised Code and shall not be subject to the provisions of divisions (A) to (V) of this section.

Subject to the department's rules, a board may require the following to contribute to the cost of the residential services an individual receives pursuant to this division: the individual or the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual

who receives residential services.

Sec. 5123.19. (A) As used in this section~~, section~~and in sections 5123.191, 5123.194, and ~~section~~ 5123.20 of the Revised Code:

(1) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(2) "Family home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight mentally retarded or developmentally disabled persons.

(3) "Group home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen mentally retarded or developmentally disabled persons.

(4) "Political subdivision" means a municipal corporation, county, or township.

(5) "Foster family home" means a residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for not more than five mentally retarded or developmentally disabled persons.

(6) "Semi-independent living home" means a residential facility for a mentally retarded or developmentally disabled person where, according to ~~his~~ the person's individual habilitation plan, ~~he~~ the person demonstrates skills that would enable ~~him~~ the person to function for specified periods of time without supervision. Such skills include, but are not limited to, home management, community mobility, personal hygiene, interpersonal relationship skills, and self-preservation.

(7) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by ~~him~~ the person or ~~his~~ the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(8) "Supported living" has the same meaning as in section 5126.01 of

the Revised Code.

(9) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of mental retardation and developmental disabilities unless the residential facility is subject to section 3721.02, 3722.04, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) The director of mental retardation and developmental disabilities shall license and inspect the operation of residential facilities. The director may deny or revoke such licenses.

Except as provided in divisions (G) and (O) of this section, a license is valid until it is revoked or voluntarily surrendered. Appeals from proceedings initiated to deny applications for licenses or to revoke licenses shall be conducted in accordance with Chapter 119. of the Revised Code.

In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules shall establish the following:

(1) Procedures for issuing, denying, and revoking licenses;

(2) Fees for issuing licenses;

(3) Procedures for the inspection of residential facilities;

(4) Requirements for the training of residential facility personnel;

(5) Classifications for the various types of residential facilities;

(6) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(7) The maximum number of persons who may be served in a particular type of residential facility;

(8) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(9) Other standards for the operation of residential facilities and the services provided at residential facilities;

(10) Procedures for waiving any provision of any rule adopted under this section.

(D) Before issuing a license, the director of the department or ~~his~~ the director's designee shall conduct an inspection of the residential facility for which application is made. The director or ~~his~~ the director's designee shall conduct an inspection of each licensed residential facility at least once each year and may conduct additional inspections as needed. An inspection includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting inspections, the director or ~~his~~ the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or ~~his~~ the director's designee in conducting the inspection.

Following each inspection, unless the director initiates a license revocation proceeding, the director or ~~his~~ the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or ~~his~~ the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

If it is determined that a residential facility is not being operated in compliance with this chapter or the rules adopted under it, the director may take such steps as are necessary, including, but not limited to, suspension of admissions to the residential facility, placement of a monitor at the residential facility, and the initiation of license revocation proceedings.

When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of such proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also notify each affected resident, the resident's guardian if the resident is an adult for whom a guardian has been appointed, the resident's parent or guardian if the resident is a minor, and the county board of mental retardation and developmental disabilities.

Pursuant to rules which ~~he~~ shall ~~adopt~~ be adopted in accordance with

Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

In determining whether a residential facility is being operated in compliance with this chapter or the rules adopted under it, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of mental retardation and developmental disabilities or other governmental agencies in the course of investigating major unusual incidents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code that specify what constitute "major unusual incidents."

The director shall suspend without pay for a period of at least three days any department employee who notifies or causes the notification to any unauthorized person of an unannounced inspection of a residential facility by an authorized representative of the department.

(E) In proceedings initiated to deny or revoke licenses under this section, the director may deny or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(F) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code.

(G) Pursuant to rules which ~~he~~ shall ~~adopt~~ be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. When such notification is not given, the director may cancel the residential facility's license. If the director determines that a significant change of ownership is proposed, ~~he~~ the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of such notification that the current license shall continue in effect or a new license will be required pursuant to this section.

(H) A county board of mental retardation and developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing

and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall acknowledge receipt of the complaint and notify the complainant of the action that will be taken with respect to it within five working days of receiving it.

The substance of a complaint shall not be provided to a licensee until the commencement of an inspection or investigation.

(I) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(J) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the clerk of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, ~~he~~ the director shall make written findings concerning the comments and ~~his~~ the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, ~~he~~ the director shall continue the process for issuance of the license.

(K) Any person may operate a licensed family home as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. Family homes may be required to comply with area, height, yard, and architectural compatibility

requirements that are uniformly imposed upon all single-family residences within the district or zone.

(L) Any person may operate a licensed group home as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate group homes in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of homes.

(M) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(N) Divisions (K) and (L) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(O) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if all of the following conditions are met:

(1) The director determines that an emergency exists that requires immediate placement of persons in a residential facility, and insufficient licensed beds are available.

(2) The residential facility meets standards in rules for interim licenses that the director shall adopt in accordance with Chapter 119. of the Revised Code.

(3) The director determines that the residential facility is likely to receive a license under this section within thirty days after issuance of the interim license.

An interim license shall be valid for thirty days and may be renewed by the director no more than twice.

(P) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of such rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of mental retardation and developmental disabilities and which is in the review process prior to April 4, 1986.

(Q) The director or ~~his~~ the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent living arrangement and the individual's liable relative, the department of mental retardation and developmental disabilities may waive the support collection requirements of sections 5121.04, 5123.122, and 5123.18 of the Revised Code for the purpose of allowing income or resources to be used to acquire items necessary for independent living. The department shall adopt rules in accordance with section 111.15 of the Revised Code to implement this section, including rules that establish the method the department shall use to determine when an individual is preparing to move into an independent living arrangement.

Sec. 5123.34. This chapter attempts to do all of the following:

(A) ~~To provide~~ Provide humane and scientific treatment and care and the highest attainable degree of individual development for mentally retarded or developmentally disabled persons;

(B) ~~To promote~~ Promote the study of the causes of mental retardation and developmental disabilities, with a view to ultimate prevention;

(C) ~~To secure~~ Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions

under the control of the department of mental retardation and developmental disabilities.

Sections 5123.02 to 5123.04, 5123.041 to 5123.043, ~~5123.06,~~ 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain such purposes.

Sec. 5126.022. Each county board of mental retardation and developmental disabilities shall hold an organizational meeting no later than the thirty-first day of January of each year and shall elect its officers, which shall include a president, vice-president, and recording secretary. After its annual organizational meeting, the board shall meet in such manner and at such times as prescribed by rules adopted by the board, but the board shall meet at least ten times annually in regularly scheduled sessions in accordance with section 121.22 of the Revised Code, not including in-service training sessions. A majority of the board constitutes a quorum. The board shall adopt rules for the conduct of its business and a record shall be kept of board proceedings, which shall be open for public inspection.

A board member shall be removed from the board by the appointing authority for neglect of duty, misconduct, malfeasance, failure to attend at least one in-service training session each year, a violation of ~~division (B) of~~ section 5126.021 of the Revised Code, or upon the absence of a member within one year from either four regularly scheduled board meetings or from two regularly scheduled board meetings if the member gave no prior notice of the member's absence. This removal provision does not apply to absences from special meetings or work sessions. The board shall supply the board member and the member's appointing authority with written notice of the charges against the member. The appointing authority shall afford the member an opportunity for a hearing, in accordance with procedures it adopts, and shall, upon determining that the charges are accurate, remove the member and appoint another person to complete the member's term.

A member removed from the board is ineligible for reappointment for not less than one year. When a member is removed, the appointing authority shall specify the time during which the member is ineligible for reappointment. If the member is removed for failing to attend in-service training, the board also shall specify the training the member must complete prior to being eligible for reappointment.

Sec. 5126.08. (A) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code for all programs and services ~~provided~~ offered by a county board of mental retardation and developmental disabilities. Such rules shall include, but are not limited to, the following:

(1) Determination of what constitutes a program or service;

(2) ~~Procedures for approval of all forms used in the operation of programs and services~~ Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of mental retardation, including mild mental retardation, or developmental disability;

(4) Standards for determining eligibility for programs and services ~~other than case management services~~ under sections 5126.042 and 5126.15 of the Revised Code;

(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individual service plans under that section;

(6) Specification of the case management services to be provided by a county board~~, standards for determining eligibility for case management services,~~ and standards for resolving grievances in connection with case management services.

(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.

~~(C)(1) In addition to the rules adopted under division (A) of this section, the director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for promoting and advancing the quality of life of individuals with mental retardation and developmental disabilities receiving any of the following:~~

~~(a) Early childhood services pursuant to section 5126.05 of the Revised Code for children under age three;~~

~~(b) Adult services pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code for individuals age sixteen or older;~~

~~(c) Family support services pursuant to section 5126.11 of the Revised Code.~~

~~(2) The rules adopted under this division shall specify the actions county boards and agencies with which they contract should take to do the following:~~

~~(a) Offer individuals with mental retardation or other developmental disabilities, and their families when appropriate, choices in programs and services that are centered on the needs and desires of those individuals;~~

~~(b) Maintain infants with their families whenever possible by collaborating with other agencies that provide services to infants and their families and taking other appropriate actions;~~

~~(c) Provide families with children with mental retardation or other developmental disabilities under age eighteen residing in their homes the~~

~~resources necessary to allow the children to remain in their homes;~~

~~(d) Create and implement community employment services based on the needs and desires of adults with mental retardation or other developmental disabilities;~~

~~(e) Create in collaboration with other agencies transportation systems that provide safe and accessible transportation within the county to individuals with disabilities;~~

~~(f) Provide services that allow individuals with disabilities to be integrated into the community by engaging in educational, vocational, and recreational activities with individuals who are not handicapped;~~

~~(g) Provide age-appropriate retirement services for individuals age sixty-five and older with mental retardation or other developmental disabilities.~~

~~(3) To assist in funding programs and services provided in accordance with the standards established under this division, each county board of mental retardation and developmental disabilities shall make a good faith effort to acquire available federal funds, including reimbursements under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.~~

~~(4) Each county board shall work toward full compliance with the standards established under this division, based on its available resources. Funds received under section 5126.12 and 5126.18 of the Revised Code shall be used to comply with the standards.~~

~~Annually, each county board shall submit a report to the department of mental retardation and developmental disabilities regarding the board's progress in complying fully with the standards. No later than the thirtieth day of June of each odd-numbered year, the department shall complete a program quality review of each county board to determine the extent to which the board has complied with the standards. Notwithstanding any provision of the Revised Code requiring the department to distribute funds to a county board, the department may withhold funds from a county board if it finds that the board is not in substantial compliance with the standards established under division (C) of this section.~~

~~(5) If the director of mental retardation and developmental disabilities determines that the standards for accreditation from the commission on accreditation of rehabilitation facilities, or another accrediting agency, meet or exceed the standards established under this division, the director shall accept accreditation from the commission or other agency as evidence that the county board is in compliance with the standards established under this division with regard to services it provides or arranges through the~~

~~accredited program. Such services are exempt from the program quality reviews required by this division.~~

Sec. 5126.081. (A) In addition to the rules adopted under division (A)(2) of section 5126.08 of the Revised Code establishing standards for the administration, provision, arrangement, and operation of programs and services by county boards of mental retardation and developmental disabilities, the department of mental retardation and developmental disabilities shall establish a system of accreditation for county boards of mental retardation and developmental disabilities to ensure that the boards are in compliance with federal and state statutes and rules. The department shall establish uniform standards for the accreditation system in rules that shall be adopted in accordance with Chapter 119. of the Revised Code. The rules shall include appropriate timelines for compliance when a board is found to be not in compliance and appropriate actions to be taken by boards in complying with the accreditation standards.

(B) Prior to accrediting a board, the department shall conduct a comprehensive, on-site review of the board. During the review, the department shall document the board's compliance with the department's accreditation standards. After completing the review, the department shall conduct an exit conference with the president of the board, the superintendent of the board, and any other officials the board asks to have present. The department shall discuss its findings from the review with the board's representatives and provide a written report of its findings not later than thirty days following the exit conference. If the department finds that the board is in compliance with the standards for accreditation, the department shall issue evidence of accreditation to the board.

Accreditation may be granted for periods of up to five years and may be renewed. Not less than once prior to the date a board's accreditation is scheduled to expire, the department shall conduct a comprehensive, on-site review of the board.

Each board shall conduct an annual audit of itself to evaluate its compliance with the standards for accreditation. The department may conduct an interim review of any new program or service initiated by a board after its last comprehensive review. The department may conduct other reviews and investigations as necessary to enforce this section.

(C) If the department determines through its review of a board that the board is not in compliance with the standards for accreditation, the department shall, except as provided in division (F) of this section, grant the board an opportunity to correct the matters in which it is not in compliance. The department shall grant the board an appropriate length of time to

comply with the standards prior to taking any action to deny accreditation to the board. To avoid denial of accreditation, the board superintendent shall prepare a plan of correction to remediate the matters specified in the department's written report as not being in compliance with the standards for accreditation. The superintendent shall submit the plan to the board for review and the board shall review the plan. If the board believes that the plan is sufficient to correct the matters, the board shall approve the plan by resolution and submit the plan to the department for its review. The department shall review the plan of correction. If the department approves the plan, the board shall commence action to implement the plan. The department shall, as necessary, conduct follow-up reviews of the board to determine whether it has met the standards for accreditation. If the plan of correction submitted by a board is disapproved, the department shall inform the board of the reasons for disapproval and may grant the board an opportunity to submit a revised plan of correction.

A board may request technical assistance from the department, other boards, or professional organizations in preparing plans of correction and in implementing plans of correction.

(D) If, after being given the opportunity to implement a plan of correction, a board continues to fail to meet the standards for accreditation, the department shall issue an order denying accreditation to the board. The department may deny accreditation to the board for all or part of the programs or services offered by the board.

The department shall simultaneously notify all of the following officials in the county: the members of the board of county commissioners, the probate judge, the county auditor, and the president and superintendent of the county board of mental retardation and developmental disabilities. The notice shall identify the programs and services that have been denied accreditation, the matters in which the board is not in compliance with the standards for accreditation, and the responsibilities of the county officials to contract under division (E)(1) of this section to have the programs and services administered by another party or become subject to administrative receivership under division (E)(2) of this section.

A board that has been denied accreditation is not eligible to receive, for the programs and services that are the subject of the denied accreditation, any state or federal funds in an amount that exceeds the amount the board received for the programs and services immediately prior to the date on which the department determined that the board does not meet the standards for accreditation.

(E)(1) When a board is denied accreditation, the department shall first

give the board the option of contracting to have the programs and services that were denied accreditation administered by an accredited county board of mental retardation and developmental disabilities or another qualified entity subject to the approval of the department. The board may contract with more than one board that has been accredited. When a board enters into a contract, the board shall, by resolution, give the contractor full administrative authority over the programs and services that were denied accreditation.

(2) If a board fails to exercise its option of entering into a contract under division (E)(1) of this section sooner than thirty days after the department denies accreditation, the department shall appoint an administrative receiver of the programs and services that were denied accreditation. The department may appoint employees of the department, management personnel from county boards of mental retardation and developmental disabilities, or individuals from other entities as necessary to meet its needs for appointing an administrative receiver, except that individuals from other entities may be appointed only when qualified department employees or board management personnel are unavailable. The department may not appoint an individual who is employed by or affiliated with an entity that is under contract with the board. The administrative receiver shall assume full administrative responsibility for the programs and services that were denied accreditation.

(3) The board or entity that contracts with a board under division (E)(1) of this section, or the administrative receiver appointed under division (E)(2) of this section, shall develop and implement a plan of correction to remediate the matters that caused the department to deny accreditation. The contractor or administrative receiver shall submit the plan to the department and the department shall review the plan. If the plan is approved by the department, the contractor or administrative receiver shall commence action to implement the plan. The contractor or administrative receiver shall report to the department any findings it can make pertaining to issues or circumstances that are beyond the control of the board and result in the unlikelihood that compliance with the standards for accreditation can be achieved unless the issues or circumstances are remediated.

(4) For purposes of divisions (E)(1) and (2) of this section, the department shall require the board that has been denied accreditation to transfer control of state and federal funds it is eligible to receive for the programs and services that have been denied accreditation in an amount necessary for the contractor or administrative receiver to fulfill its duties in administering the programs and services for the board. The transfer of control of funds does not cause any programs and services of the board that

are accredited to lose their accreditation. If the board refuses to transfer control of funds, the department may withhold state and federal funds from the board in an amount necessary for the contractor or administrative receiver to fulfill its duties. The amount transferred or withheld from a board shall include reimbursements for the personnel of the contractor or administrative receiver, including amounts for time worked, travel, and related expenses.

A contractor or administrative receiver that has assumed the administration of a board's programs and services has the right to authorize the payment of bills in the same manner that a board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

(F) When the department's review of a board reveals serious health and safety issues within the programs and services offered by the board, the department shall order the board to correct the violations immediately or appoint an administrative receiver.

(G) At any time a board can demonstrate that it is capable of assuming its duties in compliance with the department's standards for accreditation, the department shall reverse its order denying accreditation and issue evidence of accreditation to the board.

A board may appeal the department's denial of accreditation or refusal to reverse a denial of accreditation only by filing a complaint under section 5123.043 of the Revised Code. If in its appeal the board can demonstrate that it is capable of assuming its duties in compliance with the department's standards for accreditation, the department shall reverse its order denying accreditation and shall issue evidence of accreditation to the board.

(H) All notices issued to a board by the department under this section shall be delivered to the board's president and superintendent.

(I) A board's president may designate another member of the board as the individual to be responsible for fulfilling all or part of the president's responsibilities established under this section.

Sec. 5126.082. (A) In addition to the rules adopted under division (A)(2) of section 5126.08 of the Revised Code establishing standards to be followed by county boards of mental retardation and developmental disabilities in administering, providing, arranging, and operating programs and services and in addition to the board accreditation system established under section 5126.081 of the Revised Code, the director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for promoting and advancing the quality of life of individuals with mental retardation and developmental disabilities receiving any of the following:

(1) Early childhood services pursuant to section 5126.05 of the Revised Code for children under age three;

(2) Adult services pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code for individuals age sixteen or older;

(3) Family support services pursuant to section 5126.11 of the Revised Code.

(B) The rules adopted under this section shall specify the actions county boards of mental retardation and developmental disabilities and the agencies with which they contract should take to do the following:

(1) Offer individuals with mental retardation and developmental disabilities, and their families when appropriate, choices in programs and services that are centered on the needs and desires of those individuals;

(2) Maintain infants with their families whenever possible by collaborating with other agencies that provide services to infants and their families and taking other appropriate actions;

(3) Provide families that have children with mental retardation and developmental disabilities under age eighteen residing in their homes the resources necessary to allow the children to remain in their homes;

(4) Create and implement community employment services based on the needs and desires of adults with mental retardation and developmental disabilities;

(5) Create, in collaboration with other agencies, transportation systems that provide safe and accessible transportation within the county to individuals with disabilities;

(6) Provide services that allow individuals with disabilities to be integrated into the community by engaging in educational, vocational, and recreational activities with individuals who are not handicapped;

(7) Provide age-appropriate retirement services for individuals age sixty-five and older with mental retardation and developmental disabilities;

(8) Establish residential services and supported living for individuals with mental retardation and developmental disabilities in accordance with their needs.

(C) To assist in funding programs and services that meet the standards established under this section, each county board of mental retardation and developmental disabilities shall make a good faith effort to acquire available federal funds, including reimbursements under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(D) Each county board of mental retardation and developmental disabilities shall work toward full compliance with the standards established under this section, based on its available resources. Funds received under

this chapter shall be used to comply with the standards. Annually, each board shall submit a report to the department of mental retardation and developmental disabilities regarding the board's progress in complying fully with the standards.

(E) The department shall complete a program quality review of each county board of mental retardation and developmental disabilities to determine the extent to which the board has complied with the standards. The review shall be conducted in conjunction with the comprehensive accreditation review of the board that is conducted under section 5126.081 of the Revised Code.

Notwithstanding any provision of this chapter or Chapter 5123. of the Revised Code requiring the department to distribute funds to county boards of mental retardation and developmental disabilities, the department may withhold funds from a board if it finds that the board is not in substantial compliance with the standards established under this section.

(F) When the standards for accreditation from the commission on accreditation of rehabilitation facilities, or another accrediting agency, meet or exceed the standards established under this section, the director may accept accreditation from the commission or other agency as evidence that the board is in compliance with all or part of the standards established under this section. Programs and services accredited by the commission or agency are exempt from the program quality reviews required by division (E) of this section.

Sec. 5126.121. Each county board of mental retardation and developmental disabilities may be eligible to receive a subsidy from the department of mental retardation and developmental disabilities for the employment of a business manager as provided in this section. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying standards for the employment of such a business manager. The rules shall include the minimum education and experience requirements for the position of business manager and shall specify requirements for courses in fiscal and business management that are annually sponsored or certified by the department and that are applicable to the position and designed to teach effective business practices. Each county board of mental retardation and developmental disabilities that employs a business manager in accordance with the standards adopted under this section may receive a subsidy from the department.

Sec. 5126.356. (A) As used in this section, "delegated health care task" means a task within a health care professional's scope of practice, as determined pursuant to the provisions of the Revised Code under which the

professional is authorized to practice, that is delegated by the professional to a county board worker pursuant to this section.

(B) A county board worker for a county board that has adopted a policy described in division (B)(1) of section 5126.351 of the Revised Code may give or apply prescribed medication to a county board client receiving supported living or respite care provided under this chapter or residential services pursuant to a contract or subcontract entered into by the board under division (W) of section 5123.18 of the Revised Code, or perform a delegated health care task on a county board client receiving such services, if all of the following conditions are met:

(1) The county board worker receives, from a health care professional acting within the scope of ~~his~~ the relevant profession, written authorization to give or apply prescribed medication or perform delegated health care tasks;

(2) The county board worker gives or applies the medication or performs the task in accordance with the instructions and training provided by the health care professional who delegated the authority to give or apply the medication or perform the task;

(3) The health care professional who delegated authority to give or apply prescribed medication or to perform a delegated health care task remains responsible for the care of the county board client by ensuring that the county board worker gives or applies the medication or performs the task in accordance with the instructions and training provided and in accordance with appropriate standards of care;

(4) With regard to county board clients receiving supported living, the supported living is being provided in the same residence to not more than four county board clients and the residence is monitored by a county board that ensures the quality of services provided;

(5) With regard to county board clients receiving respite care, the respite care services are monitored by a county board that ensures the quality of services provided and the county board client receives the respite care in one of the following:

(a) A home or an apartment owned or leased by the client;

(b) A residence of an individual who is related to the client by blood or marriage;

(c) The principal residence of the client's court-appointed guardian;

(d) A foster home certified under Chapter 5103. of the Revised Code serving not more than four individuals with mental retardation and developmental disabilities.

(6) With regard to county board clients receiving residential services

pursuant to a contract or subcontract entered into by the board under division (W) of section 5123.18 of the Revised Code, the residential services are being provided in a facility that is licensed under section 5123.19 of the Revised Code to provide services to no more than five residents and the board monitors the residence to ensure the quality of services provided.

(C) This section does not do either of the following:

(1) Require a county board worker to give or apply prescribed medication or perform delegated health care tasks unless such a requirement is established by the board as a condition of employing or contracting with the worker;

(2) Affect the application of sections 2305.23 and 2305.231 of the Revised Code.

Sec. 5139.01. (A) As used in this chapter:

(1) "Commitment" means the transfer of the physical custody of a child or youth from the court to the department of youth services.

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services.

(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in section 2151.355 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities.

(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents.

(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks.

(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (B) of section 2151.38 of the Revised Code or division (C) of section

5139.06 of the Revised Code until the time that it discharges the child or until the legal custody is terminated as otherwise provided by law.

(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person.

(8) "Discharge" means that the department of youth services' legal custody of a child is terminated.

(9) "Release" means the termination of a child's stay in an institution. A child released pursuant to division (B) of section 2151.38 or pursuant to division (C) of section 5139.06 of the Revised Code shall be on parole until discharged pursuant to division (C)(5) of section 5139.06 of the Revised Code or until legal custody is terminated as otherwise provided by law.

(10) "Delinquent child" has the same meaning as in section 2151.02 of the Revised Code.

(11) "Felony delinquent" means any child who is at least twelve years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.

(12) "Juvenile traffic offender" has the same meaning as in section 2151.021 of the Revised Code.

(13) "Public safety beds" means all of the following:

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution ~~or have been diverted from care and custody in an institution and placed in a community corrections facility~~;

(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution ~~or a community corrections facility~~, are adjudicated delinquent children for having committed in that institution ~~or community corrections facility~~ an act that if committed by an adult would be a felony ~~or a misdemeanor~~;

(c) Children who satisfy all of the following:

(i) They are at least twelve years of age but less than eighteen years of age.

(ii) They are adjudicated delinquent children for having committed acts that if committed by an adult would be a felony.

(iii) They are committed to the department of youth services by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged~~, through December 31, 1995, for the past two fiscal years or as averaged, on and after January 1, 1996,~~ for the past four fiscal years.

(iv) They are in the care and custody of an institution ~~or a community corrections facility~~.

(d) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution, commit in that institution an act that if committed by an adult would be a felony, who are serving ~~administrative~~ disciplinary time~~, as defined by rules of the department adopted pursuant to division (E) of section 5139.04 of the Revised Code,~~ for having committed that act, and who have been institutionalized or institutionalized in a secure facility for the minimum period of time specified in division (A)(4) or (5) of section 2151.355 of the Revised Code.

(e) Felony delinquents who are subject to and serving a three-year period of commitment order imposed by a juvenile court pursuant to division (A)(7) of section 2151.355 of the Revised Code for an act, other than a violation of section 2911.11 of the Revised Code, that would be a category one offense or category two offense if committed by an adult.

(14) "State target youth" means twenty-five per cent of the projected total number of felony delinquents for each year of a biennium, factoring in revocations and recommitments.

(15) Unless the context requires a different meaning, "community corrections facility" means a county or multicounty rehabilitation center for felony delinquents who have been committed to the department of youth services and diverted from care and custody in an institution and placed in the rehabilitation center pursuant to division (E) of section 5139.36 of the Revised Code.

(16) "Secure facility" means any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that, because of that exclusive control, no child who has been institutionalized in the facility may leave the facility without permission or supervision.

(17) "Community residential program" means a program that satisfies both of the following:

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

(18) "Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code.

(19) "disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the felony delinquent's planned release, and that the department imposes upon the felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) an act that if committed by an adult would be a felony;

(b) an act that if committed by an adult would be a misdemeanor;

(c) an act that is not described in division (a)(19)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

(20) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(B) There is hereby created the department of youth services. The governor shall appoint the director of the department with the advice and consent of the senate. The director shall hold office during the term of the appointing governor but subject to removal at the pleasure of the governor. Except as otherwise authorized in section 108.05 of the Revised Code, the director shall devote the director's entire time to the duties of the director's office and shall hold no other office or position of trust or profit during the director's term of office.

The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.03. The department of youth services shall control and manage all state institutions or facilities established or created for the training or rehabilitation of delinquent children committed to the department, except where the control and management of an institution or facility is vested by law in another agency. The department shall employ, in

addition to other personnel authorized under Chapter 5139. of the Revised Code, sufficient personnel to maintain food service and buildings and grounds operations.

The department of youth services shall, insofar as practicable, purchase foods and other commodities incident to food service operations from the department of mental health. The department of youth services may enter into agreements with the department of mental health providing for assistance and consultation in the construction of, or major modifications to, capital facilities of the department of youth services.

The directors of mental health and of youth services shall enter into written agreements to implement this section. Such directors may, from time to time, amend any agreements entered into under this section for the purposes of making more efficient use of personnel, taking advantage of economies in quantity purchasing, or for any other purpose which is mutually advantageous to both the department of youth services and the department of mental health.

The department of youth services may transfer any of its excess or surplus supplies to a community corrections facility. These supplies shall remain the property of the department for a period of five years from the date of the transfer. After the five-year period, the supplies shall become the property of the facility.

Sec. 5139.04. The department of youth services shall do all of the following:

(A) Support service districts through a central administrative office that shall have as its administrative head a deputy director who shall be appointed by the director of the department. When a vacancy occurs in the office of that deputy director, an assistant deputy director shall act as that deputy director until the vacancy is filled. The position of deputy director and assistant deputy director described in this division shall be in the unclassified civil service of the state.

(B) Receive custody of all children committed to it under Chapter 2151. of the Revised Code, cause a study to be made of those children, and issue any orders, as it considers best suited to the needs of any of those children and the interest of the public, for the treatment of each of those children;

(C) Obtain personnel necessary for the performance of its duties;

(D) Train or provide for training of probation and youth correction workers;

(E) Adopt rules that regulate its organization and operation, that implement sections 5139.34 and 5139.41 to 5139.45 of the Revised Code, ~~that define administrative time for purposes of division (A)(13)(d) of section~~

~~5139.01 of the Revised Code,~~ and that pertain to the administration of other sections of this chapter;

(F) Submit reports of its operations to the governor and the general assembly by the thirty-first day of January of each odd-numbered year;

(G) Conduct a program of research in diagnosis, training, and treatment of delinquent children to evaluate the effectiveness of the department's services and to develop more adequate methods;

(H) Receive reports from the juvenile courts under division (C)(3)(b) of section 5139.43 of the Revised Code and prepare an annual report of state juvenile court statistics and information based upon those reports. The department shall make available a copy of the annual report to the governor and members of the general assembly upon request.

(I) Do all other acts necessary or desirable to carry out this chapter.

Sec. 5139.07. As a means of correcting the socially harmful tendencies of a child committed to it, the department of youth services may require participation by ~~him~~the child in vocational, physical, educational, and corrective training and activities, and the conduct and modes of life that seem best adapted to rehabilitate ~~him~~ the child and fit ~~him~~ the child for return to full liberty without danger to the public welfare. The department may monetarily compensate the child for the activities described in this section by transferring the wages of the child for those activities to the appropriate youth benefit fund created under section 5139.86 of the Revised Code. This section does not permit the department to release a child committed to it from institutional care or institutional care in a secure facility, whichever is applicable, other than in accordance with sections 2151.38, 5139.06, and 5139.38 of the Revised Code.

The department may require a child committed to it to return to ~~his~~ the child's home or to be placed in a foster care placement if it is authorized to make a placement of that nature under sections 2151.38, 5139.06, and 5139.38 of the Revised Code. Any placement of that nature shall be made in accordance with those sections. The legal residence of a child so placed by the department is the place in which the child is residing in accordance with a department order of placement. The school district responsible for payment of tuition on behalf of the child so placed shall be determined pursuant to section 3313.64 or 3313.65 of the Revised Code.

Sec. 5139.34. (A) Funds may be appropriated to the department of youth services for the purpose of granting state subsidies to counties ~~to aid in the support of diagnostic programs that are provided in a secure setting and in which no child is detained for more than two weeks, diagnostic programs that are provided in a nonsecure setting, and prevention, diversion,~~

~~counseling, treatment, and rehabilitation programs that are provided in a nonsecure setting and for nonsecure foster care facilities for alleged or adjudicated unruly and delinquent children, or children at risk of becoming unruly or delinquent children~~. A county or the juvenile court that serves a county shall use state subsidies granted to the county pursuant to this section only in accordance with divisions (C)(2)(a) and (3)(a) of section 5139.43 of the Revised Code and the rules pertaining to the state subsidy funds that the department adopts pursuant to division (E) of section 5139.04 of the Revised Code. ~~No~~ The department shall not grant financial assistance ~~shall be granted~~ pursuant to this section for the provision of care and services for children in a foster care facility unless the facility has been certified, licensed, or approved by a state agency with certification, licensure, or approval authority, including, but not limited to, the department of human services, department of education, department of mental health, or department of mental retardation and developmental disabilities. For the purposes of this section, foster care facilities do not include a state institution~~, county or district detention home,~~ or a county or district children's home.

The department also shall not grant financial assistance pursuant to this section for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards applicable to the care and services that the department prescribes in rules adopted pursuant to division (E) of section 5139.04 of the Revised Code have been satisfied.

~~No more than thirty per cent of the subsidy grant to any county that has a population of more than eighty-five thousand and no more than fifty per cent of the subsidy grant to any county that has a population of eighty-five thousand or less shall be used for the operation of, or placement of children in, residential facilities that have more than twenty beds in any one site. No more than fifteen per cent of the subsidy grant to any county shall be used for capital improvements.~~

(B) The department of youth services shall apply the following formula to determine the amount of the annual grant that each county is to receive ~~annually~~ pursuant to division (A) of this section, subject to the appropriation for this purpose to the department made by the general assembly:

(1) Each county shall receive a basic annual grant of fifty thousand dollars.

(2) The sum of the basic annual grants provided under division (B)(1) of this section ~~then~~ shall be subtracted from the total amount of funds appropriated to the department of youth services for the purpose of ~~the~~

making grants ~~described in~~ pursuant to division (A) of this section to determine the remaining portion of the funds appropriated. The remaining portion of the funds appropriated ~~then~~ shall be distributed on a per capita basis to each county that has a population of more than twenty-five thousand for that portion of the population of the county that exceeds twenty-five thousand.

(C) ~~Each juvenile court and board of county commissioners shall jointly establish and maintain a youth services advisory board to assist the court and the board of county commissioners in the formulation of an annual comprehensive plan and to advise the court and the board of county commissioners as to youth services needs and recommended programs. Each youth services advisory board shall consist of not less than five persons representing the juvenile justice system and educational and other youth services agencies of the county. Each youth services advisory board shall have an odd number of members. The total number of members shall be determined concurrently by the court and the board of county commissioners. The court and the board of county commissioners shall appoint an equal number of members to the advisory board. At its first meeting, the advisory board, by a majority vote of its members, shall appoint the final member of the advisory board. Members of the advisory board shall serve at the pleasure of the appointing authority, provided that the member appointed by the advisory board may be removed only by a majority vote of the other members. Any vacancy occurring on the advisory board shall be filled in the manner provided for original appointments.~~

~~A county's annual comprehensive plan shall specifically identify the county's plans for diversion, diagnosis, counseling, treatment, and rehabilitation of children alleged or adjudicated unruly or delinquent children and those at risk of becoming unruly or delinquent children, for the prevention of unruliness and juvenile delinquency, and for the support of foster care facilities. Each county, through its juvenile court and the board of county commissioners, then shall submit to the department of youth services its annual comprehensive plan as approved by the juvenile court and the board of county commissioners and its application for the financial assistance described in this section.~~

~~(D) An annual comprehensive plan is subject to review and approval by the department of youth services. No funds provided to a county pursuant to the subsidy established under this section shall be expended or indebtedness incurred by a county until its annual comprehensive plan is approved by the department. Funds provided to a county pursuant to the subsidy established under this section shall be distributed to the county on a quarterly advance~~

~~basis. The funds shall be expended or otherwise used by a county only in accordance with the plans of the county identified in its annual comprehensive plan. Subsidy funds shall not be used to supplant existing county expenditures for the juvenile court or related programs.~~

~~(E) A juvenile court may submit a written request to the board of county commissioners for the appropriation of moneys to assist in the funding of the programs contained in the county's annual comprehensive plan. Upon receipt of the request, the board, in its discretion, may appropriate a sum of money to assist in the funding of the programs. The juvenile judge or judges of the court that so requests have no recourse against the board under Chapter 2731. of the Revised Code, under their contempt power, or under any other authority, if the board of county commissioners does not appropriate money to assist in the funding of the programs or if the board appropriates money in an amount less than the total amount of the submitted request for funding.~~

~~(F) Upon request, the department of youth services shall provide consultation and technical assistance to the counties to aid them in developing their annual comprehensive plans. Agents and employees of the department are authorized to inspect and monitor any facility or program operated in accordance with an approved annual comprehensive plan and to inspect and audit the books and records related to the facility or program.~~ (1) Prior to a county's receipt of an annual grant pursuant to this section, the juvenile court that serves the county shall prepare, submit, and file in accordance with division (C)(3)(a) of section 5139.43 of the Revised Code an annual grant agreement and application for funding that is for the combined purposes of, and that satisfies the requirements of, this section and section 5139.43 of the Revised Code. In addition to the subject matters described in division (C)(3)(a) of section 5139.43 of the Revised Code or in the rules that the department adopts to implement that division, the annual grant agreement and application for funding shall address fiscal accountability and performance matters pertaining to the programs, care, and services that are specified in the agreement and application and for which state subsidy funds granted pursuant to this section will be used.

(2) The county treasurer of each county that receives an annual grant pursuant to this section shall deposit the state subsidy funds so received into the county's felony delinquent care and custody fund created pursuant to division (C)(1) of section 5139.43 of the Revised Code. Subject to exceptions prescribed in section 5139.43 of the Revised Code that may apply to the disbursement, the department shall disburse the state subsidy funds to which each county is entitled AS FOLLOWS:

(a) EXCEPT AS PROVIDED IN DIVISION (C)(2)(b) OF THIS SECTION, THE DEPARTMENT SHALL DISBURSE THE STATE SUBSIDY FUNDS TO WHICH A COUNTY IS ENTITLED IN A LUMP SUM PAYMENT THAT SHALL BE MADE IN JULY OF EACH CALENDAR YEAR.

(b) IN THE CASE OF STATE SUBSIDY FUNDS TO WHICH A COUNTY IS ENTITLED FOR FISCAL YEAR 1998, THE DEPARTMENT SHALL DISBURSE THE STATE SUBSIDY FUNDS TO THE COUNTY IN TWO DISTINCT PAYMENTS IN ACCORDANCE WITH THIS DIVISION. THE DEPARTMENT SHALL DISBURSE SEVENTY-FIVE PER CENT OF THOSE STATE SUBSIDY FUNDS TO THE COUNTY IN JULY 1997. AFTER THE DEPARTMENT REVIEWS AND RECONCILES THE APPLICABLE REPORTS THAT THE JUVENILE COURT OF THE COUNTY IS REQUIRED TO PREPARE AND SUBMIT TO THE DEPARTMENT PURSUANT TO SECTION 5139.43 OF THE REVISED CODE, THE DEPARTMENT SHALL DISBURSE TO THE COUNTY IN OCTOBER 1997, THE REMAINDER OF THE STATE SUBSIDY FUNDS TO WHICH THE COUNTY IS ENTITLED.

(3) Upon an order of the juvenile court that serves a county and subject to appropriation by the board of county commissioners of that county, a county treasurer shall disburse from the county's felony delinquent care and custody fund the state subsidy funds granted to the county pursuant to this section for use only in accordance with this section, the applicable provisions of section 5139.43 of the Revised Code, and the county's approved annual grant agreement and application for funding.

(4) The moneys in a county's felony delinquent care and custody fund that represent state subsidy funds granted pursuant to this section ARE SUBJECT TO APPROPRIATION BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY; SHALL BE DISBURSED BY THE COUNTY TREASURER AS REQUIRED BY DIVISION (C)(3) OF THIS SECTION; SHALL BE USED IN THE MANNERS REFERRED TO IN DIVISION (C)(3) OF THIS SECTION; shall not revert to the county general fund at the end of any fiscal year; shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year; shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs, care, or services for alleged or adjudicated delinquent children, unruly children, or juvenile traffic offenders or for children who

are at risk of becoming delinquent children, unruly children, or juvenile traffic offenders; and shall not be used to pay for the care and custody of felony deliquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county or who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court as described in division (E) of section 5139.36 of the Revised Code.

(5) As a condition of the continued receipt of state subsidy funds pursuant to this section, each county and the juvenile court that serves each county that receives an annual grant pursuant to this section shall comply with divisions (C)(3)(b), (c), and (d) of section 5139.43 of the Revised Code.

Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

(a) ~~It~~ Consistent with division (A)(12)(b) of section 2151.355 of the Revised Code, it reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

(b) It ensures equal access for minority felony delinquents to the programs and services for which a potential grant would be used.

(2) The department of youth services shall review each application submitted pursuant to division (B)(1) of this section to determine whether the plan described in that division, the community corrections facility, and the application comply with this section and the rules adopted under it.

(C) To be eligible for a grant under this section and for continued receipt of moneys comprising a grant under this section, a community corrections facility shall satisfy at least all of the following requirements:

(1) Be constructed, reconstructed, improved, or financed by the Ohio building authority pursuant to section 307.021 of the Revised Code and Chapter 152. of the Revised Code for the use of the department of youth

services and be designated as a community corrections facility;

(2) Have written standardized criteria governing the types of felony delinquents that are eligible for the programs and services provided by the facility;

(3) Have a written standardized intake screening process and an intake committee that at least performs both of the following tasks:

(a) Screens all eligible felony delinquents who are being considered for admission to the facility in lieu of commitment to the department;

(b) Notifies, within ten days after the date of the referral of a felony delinquent to the facility, the committing court whether the felony delinquent will be admitted to the facility.

(4) Comply with all applicable fiscal and program rules that the department adopts in accordance with Chapter 119. of the Revised Code and demonstrate that felony delinquents served by the facility have been or will be diverted from a commitment to the department.

(D) The department of youth services shall determine the method of distribution of the funds appropriated for grants under this section to community corrections facilities.

(E) With the consent of a committing court and of a community corrections facility that has received a grant under this section, the department of youth services may place in that facility a felony delinquent who has been committed to the department. During the period in which the felony delinquent ~~child~~ is in that facility, ~~he~~ the felony delinquent shall remain in the legal custody of the department.

Sec. 5139.42. In developing the formula described in section 5139.41 of the Revised Code, the department of youth services shall use the data included by each juvenile court in the annual report described in division (C)(3)(b) of section 5139.43 of the Revised Code, other data included in any monthly reports that the department may require juvenile courts to file under division (C)(3)(c) of that section, and other data derived from a fiscal monitoring program or ~~other~~ another monitoring program described in division (C)(3)(d) of that section to project or calculate the following for each year of a biennium:

(A) The total number of children who will be adjudicated delinquent children by the juvenile courts for acts that if committed by an adult would be a felony;

(B) The number of public safety beds;

(C) The state target youth;

(D) The per diem cost for the care and custody of felony delinquents that shall be calculated for each year of a biennium as follows:

(1) By multiplying the state target youth by the projected length of stay of state target youth in the care and custody of the department;

(2) By subtracting from the appropriation made to the department for care and custody of felony delinquents for each fiscal year of the biennium the amount of the appropriation that must be set aside pursuant to division (A) of section 5139.41 of the Revised Code for purposes of funding the contingency program described in section 5139.45 of the Revised Code, and then dividing the remainder of the appropriation that was so calculated by the product derived under division (D)(1) of this section;

(3) ~~Except as otherwise provided in division (D)(3) of this section, by~~ By dividing the quotient derived under division (D)(2) of this section by the number of days in the fiscal year. ~~For purposes of fiscal year 1995, in lieu of dividing that quotient by the number of days in the fiscal year, the department shall divide that quotient by the number of days remaining in fiscal year 1995 on and after January 1, 1995.~~

(E) For each county of the state, that county's average percentage of the total number of children who~~, through December 31, 1995, during the past two fiscal years or, on and after January 1, 1996,~~ during the past four fiscal years were adjudicated delinquent children by the juvenile courts for acts that, if committed by an adult, would be a felony;

(F) The number of children who satisfy all of the following:

(1) They are at least twelve years of age but less than eighteen years of age.

(2) They were adjudicated delinquent children for having committed acts that if committed by an adult would be a felony.

(3) They were committed to the department by the juvenile court of a county that has had one-tenth of one per cent or less of the statewide adjudications for felony delinquents as averaged~~, through December 31, 1995, for the past two fiscal years or as averaged, on and after January 1, 1996,~~ for the past four fiscal years.

(4) They are in the care and custody of an institution ~~or a community corrections facility~~.

Sec. 5139.43. (A) ~~On and after January 1, 1995, the~~The department of youth services shall operate a felony delinquent care and custody program with the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The program shall be operated in accordance with the formula developed pursuant to sections 5139.41 and 5139.42 of the Revised Code, subject to the conditions specified in this section, and in conjunction with the contingency program described in section 5139.45 of the Revised Code.

(B)(1) The department of youth services annually shall allocate to each county a portion of the remainder of the appropriation described in division (E) of section 5139.41 of the Revised Code. The portion to be allocated to each county shall be determined by multiplying the county's percentage determined under division (E) of section 5139.42 of the Revised Code by the amount of that remainder. The department shall divide the portion to be allocated to each county by twelve or, if in a particular fiscal year the felony delinquent care and custody program is in effect in a county less than twelve months, by the number of months the program is in effect in that county to determine the monthly allocation to that county.

(2)(a) Except as provided in division (B)(2)(b) of this section, the department shall reduce the monthly allocation for each fiscal year to each county as determined under division (B)(1) of this section by both of the following:

(i) Seventy-five per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in divisions (B)(2)(a) and (3) of this section, who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole by the juvenile court of that county;

(ii) Fifty per cent of the amount determined by multiplying the per diem cost for the care and custody of felony delinquents, as determined pursuant to division (D) of section 5139.42 of the Revised Code, by the number of felony delinquents who have been adjudicated delinquent children and, except as otherwise provided in ~~divisions~~ division (B)~~(2)(a) and~~ (3) of this section, who are in the care and custody of a community corrections facility pursuant to a placement by the department with the consent of the juvenile court of that county as described in division (E) of section 5139.36 of the Revised Code.

Public safety beds shall not be included in the number of felony delinquents who have been adjudicated delinquent children by a juvenile court in making the seventy-five per cent ~~or fifty per cent reductions~~ reduction described in ~~divisions~~ division (B)(2)(a)(i) ~~and (ii)~~ of this section. The department shall bear the care and custody costs associated with public safety beds.

(b) If a county has exhausted its current and future monthly allocations for the current fiscal year as determined under division (B)(1) of this section, the department shall bear the remainder of the amounts calculated

under divisions (B)(2)(a)(i) and (ii) of this section for the care and custody of felony delinquents who are in the care and custody of an institution pursuant to a commitment, recommitment, or revocation of a release on parole or in the care and custody of a community corrections facility by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of the Revised Code.

(3)(a) Subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section and subject to the special provisions of division (B)(3)(b) of this section pertaining to monthly allocations under divisions (B)(1) and (2)(a) of this section for the month of June, after the application of division (B)(2)(a) of this section and on or before the fifteenth day of the following month, the department shall disburse to the juvenile court of each county the remainder of the monthly allocation of that county as determined pursuant to divisions (B)(1) and (2)(a) of this section.

(b)(i) For the monthly allocation for the month of June of each fiscal year, the department shall estimate for each county the number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than use the actual number of those felony delinquents, shall use the estimated number of those felony delinquents in making the seventy-five per cent and fifty per cent reductions described in those divisions, and shall encumber the remainder of the estimated monthly allocation of each county for the month of June, as determined pursuant to divisions (B)(1), (2)(a), and (3)(b)(i) of this section, for disbursement in the month of July of the next fiscal year in accordance with division (B)(3)(b)(ii) of this section. If the total of the seventy-five per cent and fifty per cent reductions described in division (B)(2)(a) of this section exceeds the estimated monthly allocation of a county for the month of June as so determined, the department may cover the amount of the excess by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of the Revised Code.

(ii) In the month of July of each new fiscal year, the department shall reconcile for each county the estimated reductions that occurred pursuant to divisions (B)(2)(a) and (3)(b)(i) of this section and the reductions that should have occurred pursuant to division (B)(2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section for the month of June of the prior fiscal year. After

that reconciliation occurs, subject to divisions (B)(2)(b) and (4) and (C)(3)(b) and (c) of this section, the department shall disburse to each county the remainder of its monthly allocation for the month of June of the prior fiscal year as adjusted pursuant to the reconciliation and division (B)(3)(b)(ii) of this section.

In connection with the adjustments in the monthly allocations for the month of June of the prior fiscal year, if the encumbered monthly allocations of one or more counties for that month exceed or are less than the monthly allocations for that month to which those counties are entitled under divisions (B)(1) and (2)(a) of this section by using the actual number of felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section rather than the estimated number of those felony delinquents, the department may make the necessary adjustments in the monthly allocations of those counties for the month of June of the prior fiscal year within the total of the moneys for monthly allocations for that month that were encumbered for all of the counties. If that total amount is insufficient to make the requisite monthly allocations for that month to all counties in accordance with divisions (B)(1) and (2)(a) of this section, the department shall cover the insufficiency by debiting, in accordance with division (C)(2) of section 5139.45 of the Revised Code, the amount of the appropriation for care and custody of felony delinquents that was set aside for the contingency program pursuant to division (A) of section 5139.41 of the Revised Code.

(4) Notwithstanding the general disbursement requirements of division (B)(3)(a) and (b)(ii) of this section, if a juvenile court fails to comply with division (C)(3)(d) of this section and the department is not able to reconcile fiscal accounting as a consequence of that failure, the department is not required to make any disbursement in accordance with division (B)(3)(a) or (b)(ii) of this section to the juvenile court until it complies with division (C)(3)(d) of this section.

(C)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of this section in accordance with the applicable provisions of division (C)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of this section. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of this section and deposited

pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (C)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The moneys disbursed to the juvenile court pursuant to division (B) of this section and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division (E) of section 5139.04 of the Revised Code and as follows:

(i) ~~To~~ The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. the county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of this section and deposited pursuant to division (C)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring~~;~~

~~(ii) In~~, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court. For purposes of division (C)(2)(a)(ii) of this section, a delinquent child includes a child who is so adjudicated for the

commission of an act that if committed by an adult would be a misdemeanor or felony.

If, during the previous state fiscal year, the county did not exceed in any month its monthly allocation as determined pursuant to division (B)(1) of this section in connection with felony delinquents described in divisions (B)(2)(a)(i) and (ii) of this section, the moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of this section and deposited pursuant to division (C)(1) of this section in the fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division (C)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) The county and the juvenile court that serves the county may not use moneys in the fund for the provision of care and services for children, including, but not limited to, care and services in a detention facility, in another facility, or in out-of-home placement, unless the minimum standards that apply to the care and services and that the department prescribes in rules adopted pursuant to division (E) of section 5139.04 of the Revised Code have been satisfied.

(b) Each juvenile court shall comply with division (C)(3)(d) of this section as implemented by the department. If a juvenile court fails to comply with that division and the department is not able to reconcile fiscal accounting as a consequence of the failure, the provisions of division (B)(4) of this section shall apply.

(3) In accordance with rules adopted by the department pursuant to division (E) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) ~~File with the department a plan pertaining~~ The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (C)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem

services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The ~~plan~~ annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (C)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (C)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (E) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of ~~January~~ August of each year, the juvenile court shall file with the department a report ~~containing~~ that contains all of the statistical and other information for each month of the prior ~~calendar~~ state fiscal year that will permit the department to prepare the report described in division (D) of this section~~;~~ and the annual report described in division (H) of section 5139.04 of the Revised Code. IF THE JUVENILE COURT FAILS TO file the report required by division (c)(3)(b)of this section by the thirty-FIRST day of august of any year, THE DEPARTMENT SHALL NOT DISBURSE ANY PAYMENT OF STATE SUBSIDY FUNDS TO WHICH THE COUNTY OTHERWISE IS ENTITLED PURSUANT TO SECTION 5139.34 OF THE REVISED CODE AND SHALL NOT DISBURSE PURSUANT TO DIVISION (B)(3)(a) OR (b)(ii) OF THIS SECTION THE REMAINDER OF THE APPLICABLE MONTHLY ALLOCATION OF THE COUNTY UNTIL THE JUVENILE COURT FULLY COMPLIES WITH division (c)(3)(b)of THIS SECTION.

(c) If the department requires the juvenile court to prepare monthly statistical reports for use under section 5139.42 of the Revised Code and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided~~;~~. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled

pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B)(3)(a) or (b)(ii) of this section the remainder of the applicable monthly allocation of the county until the juvenile court fully complies with division (C)(3)(c) of this section.

(d) If the department requires the juvenile court and the county to participate in ~~any~~ a fiscal monitoring program or ~~other~~ another monitoring program that is conducted by the department to ensure compliance by the juvenile court and ~~its~~ the county with division (C) of this section, the juvenile court and the county shall participate in the ~~fiscal monitoring or other~~ program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (C) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures to the state's general revenue fund OR shall FILE A WRITTEN APPEAL WITH THE DEPARTMENT. IF AN APPEAL IS timely FILED, THE DIRECTOR OF THE DEPARTMENT SHALL RENDER A DECISION on the appeal AND shall NOTIFY THE appellant COUNTY OR its JUVENILE COURT of that decision WITHIN FORTY-FIVE DAYS AFTER THE date that the APPEAL IS FILED. IF the director denies AN APPEAL, THE COUNTY's FISCAL AGENT SHALL REPAY THE amount of the UNAUTHORIZED expenditures TO THE STATE'S GENERAL REVENUE FUND WITHIN THIRTY DAYS after RECEIVING THE director's NOTIFICATION OF THE APPEAL DECISION. If the county fails to make the repayment within that thirty-day period and if the unauthorized expenditures pertain to moneys allocated under sections 5139.41 to 5139.45 of the Revised Code, the department shall deduct the amount of the unauthorized expenditures from the NEXT MONTHLY ALLOCATION of those moneys to the county in accordance with this section OR from THE allocations that otherwise would be made under those sections to the county during the next state fiscal year in accordance with this section AND shall RETURN THAT DEDUCTED AMOUNT TO THE STATE's GENERAL REVENUE FUND. IF the county fails to make the repayment within that thirty-day period and if the UNAUTHORIZED EXPENDITURES pertain to moneys granted PURSUANT TO SECTION 5139.34 OF THE REVISED CODE,

THE DEPARTMENT SHALL DEDUCT THE amount of the UNAUTHORIZED expenditures FROM THE NEXT ANNUAL grant to the county pursuant to that section AND shall RETURN THAT deducted AMOUNT TO THE STATE's GENERAL REVENUE FUND.

(D) On or prior to the first day of ~~April~~ December of each year, the department of youth services shall submit to the joint legislative committee on juvenile corrections overcrowding a report that pertains to the operation of sections 5139.34 and 5139.41 to 5139.45 of the Revised Code during the immediately preceding ~~calendar~~ state fiscal year and that includes, but is not limited to, the following:

(1) A description of the programs, care, and services that were financed under those sections in each county;

(2) The number of felony delinquents, other delinquent children, unruly children, and juvenile traffic offenders served by the programs, care, and services in each county;

(3) The total number of ~~felony level delinquency~~ children adjudicated in each juvenile court ~~to be delinquent children for acts that if committed by an adult would be a felony~~ as felony delinquents;

(4) The total number of felony delinquents who were committed by the juvenile court of each county to the department and who were in the care and custody of an institution or a community corrections facility;

(5) A breakdown of the felony delinquents described in division (D)(4) of this section on the basis of the types and degrees of felonies committed, the ages of the felony delinquents at the time they committed the felonies, and the sex and race of the felony delinquents.

Sec. 5139.86. (A) Each managing officer of an institution or regional office under the jurisdiction of the department of youth services, with the approval of the director of the department, may establish local funds designated as follows:

~~(A)~~(1) The ~~commissary fund, created and maintained for the benefit of the children confined in the institution or placed in the region. The revenue from the sale of commissary items shall be deposited in the commissary fund. All profits of the commissary fund shall be transferred to the credit of the industrial and entertainment fund~~ cafeteria fund, created and maintained for the benefit of the institution, into which shall be deposited all money received from the sale of cafeteria meals. The fund shall be used to pay costs of providing employee meals, and to reimburse the employee food service fund for amounts spent from that fund to support cafeteria operations. Reimbursements to the employee food service fund shall be made in such amounts and at such times as directed by the director of budget and

ment.

~~(B)~~(2) The industrial and entertainment fund, created and maintained for the benefit of the children confined in the institution or placed in the region. The fund shall receive profits from ~~the~~ commissary ~~fund~~ sales, any vocational education programs provided under section 5139.131 of the Revised Code, vending machine leases, and yearbook sales; unclaimed youth benefit funds; any moneys received from commissions on telephone systems established for the use of confined children; ~~and~~ any amounts transferred to the fund pursuant to division (A) or (B) of section 5139.85 of the Revised Code; and any donations designated for the benefit of confined children or children placed in the region. Expenditures from the industrial and entertainment fund shall be used solely for the benefit of the children confined in the institution or placed in the region.

~~(C)~~(3) The youth benefit fund, created and maintained for the benefit of the children who are confined in the institution or placed in the region. The fund may receive and disburse all benefits that are due a child, including, but not limited to, social security payments, railroad retirement payments, veterans administration payments, any allowances, and any monetary compensation of the child as provided in section 5139.07 of the Revised Code.

(B) The managing officer of the institution or regional office, subject to the approval of the director of the department, shall establish ~~rules~~ policies and procedures for the operation of the ~~commissary~~ cafeteria fund ~~and the~~, industrial and entertainment fund, and youth benefit fund.

~~(D)~~(C) there is hereby created in the state treasury the employee food service fund, consisting of money received from institutional cafeterias and money received from the sale of surplus property. The fund shall be used to purchase food, supplies, and cafeteria equipment for the institutions.

(D) As used in this section, "profits" means the revenue from the sale of commissary items over and above operating costs and a reserve established by the managing officer of the institution.

Sec. 5153.16. (A) ~~As used in this section and section 5153.164 of the Revised Code, "child care facility" means a public twenty-four-hour residential facility for six or more children.~~

~~(B) Subject to the~~ Except as provided in section 2151.422 of the Revised Code, in accordance with rules ~~and standards~~ of the ~~state~~ department of human services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the ~~state~~ department of human services, department of mental health, department of mental retardation and developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

(4) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

(5) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

(6) Make available to the bureau for children with medical handicaps of the department of health at its request any information concerning a crippled child found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

(7) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

(8) Find family foster homes, within or outside the county, for the care of children, including handicapped children from other counties attending special schools in the county;

(9) Subject to the approval of the board of county commissioners and the state department of human services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

(10) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure

family foster homes for this purpose;

(11) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

(12) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of human services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the companionship or visitation rights;

(13) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

(14) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted by the state department of human services under section 5101.141 of the Revised Code;

(15) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

(16) ~~On or before the fifteenth day of April of each year, conduct, or contract with an independent contractor to conduct, an annual evaluation of the services provided by the public children services agency to children under its care, including, but not limited to, services provided in child care facilities during the previous calendar year under the plan required by division (D) of section 5101.14 of the Revised Code;~~

~~(17)~~ Implement a system of risk assessment, in accordance with rules adopted by the state department of human services, to assist the public children services agency in determining the risk of abuse or neglect to a child.

~~(C)~~(B) The public children services agency shall use the system implemented pursuant to division (B)~~(17)~~(16) of this section in connection with an investigation undertaken pursuant to division (F)(1) of section

421 of the Revised Code and may use the system at any other time the agency is involved with any child when the agency determines that risk assessment is necessary.

~~(D) Subject to the~~ (C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules ~~and standards~~ of the ~~state~~ department of human services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may ~~provide~~ do the following:

(1) Provide or find, with other child serving systems, treatment foster care for the care of children in a treatment foster home, as defined in section 2151.011 of the Revised Code;

(2)(a) As limited by division (C)(2)(b)of this section, contract with the following for the purpose of assisting the agency with its duties:

(i) County departments of human services;

(ii) Boards of alcohol, drug addiction, and mental health services;

(iii) County boards of mental retardation and developmental disabilities;

(iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;

(v) Private and government providers of services;

(vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a)of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

Sec. 5153.161. Care provided by the ~~county~~public children services ~~board or county department of human services~~ agency under division ~~(B)~~(A)(4) of section 5153.16 of the Revised Code shall be provided by the ~~board or county department~~ agency, by its own means or through other available resources, in the child's own home, in the home of a relative, or in a certified family foster home, any other home approved by the court, receiving home, school, hospital, convalescent home, or other public or private institution within or outside the county or state.

Sec. 5153.162. Pursuant to an agreement entered into under division ~~(B)~~(A)(9) of section 5153.16 of the Revised Code respecting the operation, acquisition, or maintenance of a children's home, training school, or other institution for the care of children maintained by a municipal corporation or other political subdivision, the ~~county~~ public children services ~~board or county department of human services~~ agency may acquire, operate, and maintain such an institution. The ~~board or county department~~ agency may

ter into an agreement with a municipal corporation, a board of education, and the board of county commissioners, or with any one of them, to provide for the maintenance and operation of children's training schools. The agreement may provide for the contribution of funds by the municipal corporation, board of education, or board of county commissioners, in such proportions and amounts as the agreement states. The agreement also may provide for the operation and supervision of the training school by any one of them, or by the joint action of two or more of them, provided that municipal corporations, boards of education, and boards of county commissioners may expend moneys from their general funds for maintaining and operating the joint children's training school.

Sec. 5155.311. (A) As used in this section:

(1) "County nursing home" means a county nursing home as defined in section 5155.31 of the Revised Code that, on the effective date of this section, is not licensed under Chapter 3721. of the Revised Code and not certified under Title XVIII or Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, as a skilled nursing facility or nursing facility.

(2) "Public hospital agency" and "nonprofit hospital agency" have the same meanings as in section 140.01 of the Revised Code.

(B) in addition to the authority granted under section 5155.31 of the Revised Code, Whenever the board of county commissioners determines that the operation of a county nursing home is economically unfeasible, the board may close the home and provide for the care of the residents thereof by entering into an agreement with a public hospital agency or nonprofit hospital agency to provide for the care of the residents on terms and conditions acceptable to the board. As a condition of any agreement entered into pursuant to this section, the public hospital agency or nonprofit hospital agency shall agree to establish a nursing home licensed under Chapter 3721. of the Revised Code. The nursing home shall be located in an existing facility operated by the hospital agency or a newly constructed facility at a site other than the site of the county nursing home that is to be closed. An agreement entered into pursuant to this section is subject to section 3702.5212 of the Revised Code.

Sections 307.09 to 307.12 of the Revised Code do not apply to a sale, lease, or transfer of real or personal property made pursuant to an agreement entered into under this section.

Sec. 5501.38. The director of transportation has determined that it is feasible to use in the construction of highways sands, gravel, and soils that contain varying amounts of petroleum products resulting from the upgrading

of underground storage tanks. In order to maximize the beneficial reuse of these petroleum contaminated sands, gravel, and soils, the director shall establish a program to promote the reuse of these materials as highway construction materials.

Not later than one hundred eighty days after the effective date of this section, the director of transportation, in consultation with the chief of the bureau of underground storage tanks and the director of environmental protection, shall issue highway construction specifications that facilitate the reuse of petroleum contaminated sands, gravel, and soils that are removed during the repair, removal, or closure of underground storage tanks that are under the jurisdiction of the chief of the bureau of underground storage tanks. Following issuance of the specifications, the director of transportation shall prepare and distribute to any interested party information describing the program of the department to facilitate the reuse of such petroleum contaminated sands, gravel, and soils in the construction of highways.

In order to accumulate a sufficient and ready supply of petroleum contaminated sands, gravel, and soils that meet the specifications, the director of transportation is authorized to construct and operate temporary covered structures in locations that are in close proximity to highway projects and accumulate bulk quantities of these sands, gravel, and soils for reuse. These materials shall be made available to the department of transportation and its contractors for reuse on highway construction projects.

As used in this section, "petroleum" has the same meaning as in division (J) of section 3737.87 of the Revised Code, except that it does not include used oil.

Sec. 5512.08. members of the transportation review advisory council, except the director of TRANSPORTATION, shall be compensated at the rate of seven thousand five hundred dollars for service on the council from July 1, 1997, through june 30, 1998, and five thousand dollars for each subsequent year beginning on july 1, 1998. In addition, members shall receive necessary travel and other expenses related to their service on the council, except that the combined amount of compensation and expenses paid to any member under this section shall not exceed fifteen thousand dollars in any year.

as used in this section, "year" means the first day of july through the thirtieth day of june.

Sec. 5531.10. (A) As used in this chapter:

(1) "Bond proceedings" means the resolution, order, trust agreement, indenture, lease, lease-purchase agreements, and other agreements, 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 security or liquidity of, obligations issued pursuant to this section, and the provisions contained in such obligations.

(2) "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 by the state on obligations.

(3) "Bond service fund" means the applicable fund and accounts therein created for and pledged to the payment of bond service charges, which may be, or may be part of, the state infrastructure bank revenue bond service fund created by division (S) of this section including all moneys and investments, and earnings from investments, credited and to be credited thereto.

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

(5) "Obligations" means bonds, notes, or other evidence of obligation including interest coupons pertaining thereto, issued pursuant to this section.

(6) "Pledged receipts" means moneys accruing to the state from the lease, lease-purchase, sale, or other disposition, or use, of qualified projects, and from the repayment, including interest, of loans made from proceeds received from the sale of obligations; accrued interest received from the sale of obligations; income from the investment of the special funds; any gifts, grants, donations, and pledges, and receipts therefrom, available for the payment of bond service charges; and any amounts in the state infrastructure bank pledged to the payment of such charges.

(7) "Special funds" or "funds" means, except where the context does not permit, the bond service fund, and any other funds, including reserve funds, created under the bond proceedings, and the state infrastructure bank revenue bond service fund created by division (R) of this section to the extent provided in the bond proceedings, including all moneys and investments, and earnings from investment, credited and to be credited thereto.

(8) "State infrastructure project" means any public transportation project undertaken by the state, including, but not limited to, all components of any such project, as described in division (D) of section 5131.09 of the Revised Code.

(B) The issuing authority, after giving written notice to the director of budget and management and upon the certification by the director of transportation to the issuing authority of the amount of moneys or additional moneys needed either for state infrastructure projects or to provide financial assistance for any of the purposes for which the state infrastructure bank

may be used under section 5531.09 of the Revised Code, or needed for capitalized interest, funding reserves, and 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, liquidity, remarketing, renewal, or refunding arrangements, all of which are authorized by this section, shall issue obligations of the state under this section in the required amount. The proceeds of such obligations, except for the portion to be deposited in special funds, including reserve funds, as may be provided in the bond proceedings, shall as provided in the bond proceedings be credited to the infrastructure bank obligations fund of the state infrastructure bank created by section 5531.09 of the Revised Code. The issuing authority may appoint trustees, paying agents, transfer agents, and authenticating 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 in the issuing authority's judgment to carry out this section. The costs of such services are payable from funds of the state infrastructure bank.

(C) The holders or owners of such obligations shall have no right to have moneys raised by taxation by the state of Ohio obligated or pledged, and moneys so raised shall not be obligated or pledged, for the payment of bond service charges. The right of such holders and owners to the payment of bond service charges is limited to all or that portion of the pledged receipts and those special funds pledged thereto pursuant to the bond proceedings for such obligations in accordance with this section, and each such obligation shall bear on its face a statement to that effect.

(D) Obligations shall be authorized by order of the issuing authority and the bond proceedings shall provide for the purpose thereof and the principal amount or amounts, and shall provide for or authorize the manner or agency for determining the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, 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 without the state of a place or places of payment of bond service charges. Sections 9.98 to 9.983 of the Revised Code are applicable to obligations

issued under this section. The purpose of such obligations may be stated in the bond proceedings in terms describing the general purpose or purposes to be served. The bond proceedings also shall provide, subject to the provisions of any other applicable bond proceedings, for the pledge of all, or such part as the issuing authority may determine, of the pledged receipts and the applicable special fund or funds to the payment of bond service charges, which pledges may be made either prior or subordinate to other expenses, claims, or payments, and may be made to secure the obligations on a parity with obligations theretofore or thereafter issued, if and to the extent provided in the bond proceedings. The pledged receipts and special funds so pledged and thereafter received by the state ~~are~~ immediately are subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledges is valid and binding against all parties having claims of any kind against the state or any governmental agency of the state, irrespective of whether 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 of funds or for the filing or recording of the bond proceedings by which such pledge is created or any certificate, statement, or other document with respect thereto; and the pledge of such pledged receipts and special funds is 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, and every covenant and agreement made with respect thereto, made 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.

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

(1) The redemption of obligations prior to maturity at the option of the issuing authority 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 deposit, investment and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities

as required by the issuing authority;

(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) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security relating to financial assistance for qualified projects under section 5531.09 of the Revised Code.

(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed 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 is valid and sufficient for all purposes as if the former issuing authority had remained the issuing authority until such delivery; and in case the seal to be affixed to obligations has been changed after a facsimile of the seal has been imprinted on such obligations, such facsimile seal shall continue to be sufficient as to such obligations and obligations issued in substitution or exchange therefor.

(G) 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.

(H) Obligations may be sold at public sale or at private sale, as determined in the bond proceedings.

(I) Pending preparation of definitive obligations, the issuing authority

may issue interim receipts or certificates which shall be exchanged for such definitive obligations.

(J) 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 which may be any trust company or bank having its principal place of business 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, trust agreement, indenture, or other instrument comprising part of the bond proceedings until the state has fully paid the bond service charges on the obligations secured thereby, or provision therefor has been made;

(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 the 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 any of the foregoing.

(K) Any holder of obligations or a trustee under the bond proceedings, except to the extent that the holder's or trustee's 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 and the director of transportation required by the bond proceedings or sections 5531.09 and 5531.10 of the Revised Code; 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 transportation in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the

custody of the treasurer of state, which are 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 additional revenues or receipts or other income or moneys of the state or local governmental entities, or agencies thereof, to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each state or local governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any loan, loan guarantee, lease, lease-purchase agreement, or other agreement made under authority of section 5531.09 of the Revised Code, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, 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 issuing authority's officers or employees, are not liable in their personal capacities on any obligations issued by the issuing authority or any agreements of or with the issuing authority.

(L) The issuing authority may authorize and 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 by the issuing authority. 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 any 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 issued 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. The last maturity of obligations authorized under this division shall not be later than twenty-five years from the date of issuance of the original securities issued for the original purpose.

(M) 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 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 to the effect that the issuing authority and the state will do such or all things necessary for the issuance of such bonds or renewal notes in the appropriate amount, 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 purpose, the issuing authority may 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 on such notes, notwithstanding any limitations prescribed by or for purposes of this section. 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.

(N) Obligations issued under this section are lawful investments for banks, societies for savings, savings and loan associations, deposit guarantee associations, 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 political subdivisions and taxing districts of this state, the commissioners of the sinking fund of the state, the administrator of workers' compensation in accordance with the investment policy established by the workers' compensation oversight commission pursuant to section 4121.12 of the Revised Code, the state teachers retirement system, the public employees retirement system, the school employees retirement system, and the police

and firemen's disability and pension fund, notwithstanding any other provisions of the Revised Code or rules adopted pursuant thereto by any agency of the state with respect to investments by them, and are also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond proceedings, moneys to the credit of or in the special funds established by or pursuant to this section may be invested by or on behalf of the issuing authority only in notes, bonds, or other obligations of the United States, or of any agency or instrumentality of the United States, obligations guaranteed as to principal and interest by the United States, obligations of this state or any political subdivision of this state, and certificates of deposit of any national bank located in this state and any bank, as defined in section 1101.01 of the Revised Code, subject to inspection by the superintendent of financial institutions. If the law or the instrument creating a trust pursuant to division (J) of this section expressly permits investment in direct obligations of the United States or an agency of the United States, unless expressly prohibited by the instrument, such moneys also may be invested in no-front-end-load money market mutual funds consisting exclusively of obligations of the United States or an agency of the United States and in repurchase agreements, including those issued by the fiduciary itself, secured by obligations of the United States or an agency of the United States; and in collective investment funds as defined in division (A) of section 1111.01 of the Revised Code and consisting exclusively of any such securities. The income from such investments shall be credited to such funds as the issuing authority determines, and such investments may be sold at such times as the issuing authority determines or authorizes.

(P) 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 disbursed on the order of the treasurer of state, provided that no such order is required for the payment from the bond service fund when due of bond service charges on obligations.

(Q)(1) The issuing authority may pledge all, or such portion as the issuing authority determines, of the pledged receipts to the payment of bond service charges on obligations issued under this section, 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.

(2) An action taken under division (Q)(2) of this section does not limit the generality of division (Q)(1) of this section, and is subject to division (C) of this section and, if and to the extent otherwise applicable, Section 13 of Article VIII, Ohio Constitution. The bond proceedings may contain a covenant that, in the event the pledged receipts primarily pledged and required to be used for the payment of bond service charges on obligations issued under this section, and for the establishment and maintenance of any reserves, as provided in the bond proceedings, are insufficient to make any such payment in full when due, or to maintain any such reserve, the director of transportation shall so notify the governor, and shall determine to what extent, if any, the payment may be made or moneys may be restored to the reserves from lawfully available moneys previously appropriated for that purpose to the department of transportation. The covenant also may provide that if the payments are not made or the moneys are not immediately and fully restored to the reserves from such moneys, the director shall promptly submit to the governor and to the director of budget and management a written request for either or both of the following:

(a) That the next biennial budget submitted by the governor to the general assembly include an amount to be appropriated from lawfully available moneys to the department for the purpose of and sufficient for the payment in full of bond service charges previously due and for the full replenishment of the reserves;

(b) That the general assembly be requested to increase appropriations from lawfully available moneys for the department in the current biennium sufficient for the purpose of and for the payment in full of bond service charges previously due and to come due in the biennium and for the full replenishment of the reserves.

The director of transportation shall include with such requests a recommendation that the payment of the bond service charges and the replenishment of the reserves be made in the interest of maximizing the benefits of the state infrastructure bank. Any such covenant shall not obligate or purport to obligate the state to pay the bond service charges on such bonds or notes or to deposit moneys in a reserve established for such payments other than from moneys that may be lawfully available and appropriated for that purpose during the then-current biennium.

(R) There is hereby created the state infrastructure bank revenue bond service fund, which shall be in the custody of the treasurer of state but shall

not be a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. The state infrastructure bank revenue bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(S) The obligations issued pursuant to this section, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 5701.01. As used in Title LVII of the Revised Code, "person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, ~~and~~ corporations, and any other business entities.

Sec. 5701.05. As used in Title LVII of the Revised Code other than in division (A)(7) of section 5733.056 of the Revised Code, "deposits" includes every deposit which the person owning, holding in trust, or having the beneficial interest therein is entitled to withdraw in money, whether on demand or not, and whether evidenced by commercial or checking account, certificate of deposit, savings account, certificates of running, or other withdrawable stock, or otherwise, excepting:

(A) Unearned premiums and surrender values under policies of insurance;

(B) Such deposits in financial institutions outside this state as yield annual income by way of interest or dividends in excess of four per cent of the principal sum so withdrawable.

Sec. 5703.21. (A) Except as provided in divisions (B), (C), and (D) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to such chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division ~~(F)~~(G) or ~~(H)~~(I) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that such access and examination are necessary for purposes of the audit. Any information acquired as the result of such access and examination shall not be divulged for any purpose other than as required for such audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information which the department has acquired from the internal revenue service, through federal and state statutory authority, may be disclosed to the auditor of state solely for purposes of an audit of the department.

(C) Division (A) of this section does not prohibit divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code, or in applications filed with the department under section 5715.39 of the Revised Code.

(D) Division (A) of this section does not prohibit the department of taxation providing information to the division of child support within the department of human services, or a child support enforcement agency, pursuant to division (G)(2) of section 5101.31 of the Revised Code.

Sec. 5705.412. Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any contract, give any order involving the expenditure of money, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate signed by the treasurer and president of the board of education and the superintendent that the school district has in effect for the remainder of the fiscal year and the succeeding fiscal year the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to operate an adequate educational

program for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in the succeeding fiscal year equal to the number of days instruction was held or is scheduled for the current fiscal year~~, except that~~. However, a certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by the electors and is subject to appropriation in the current fiscal year and a certificate attached, in accordance with this section, to any contract shall cover the term of the contract or the current fiscal year plus the two immediately succeeding fiscal years, whichever period of years is greater. If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and the succeeding fiscal year. Every contract made, order given, or schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made. The department of education and the auditor of state jointly shall develop rules governing the methods by which treasurers, presidents of boards of education, and superintendents shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section. The department of education shall adopt the jointly developed rules.

The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since the district's last audit, and the appropriation measure, contract, order, or wage and salary schedule to which such certificate was attached. This provision shall not preclude any court from making a determination regarding compliance with this section. If noncompliance is determined, the provisions of section 117.28 of the Revised Code shall have effect.

The treasurer shall forward a copy of each certificate of available resources required under this section to the auditor of any county in which a part of the district is located. The county auditor shall not distribute property taxes or any payment under Chapter 3317. of the Revised Code to a school

district that has not forwarded copies of all such certificates. If a county auditor determines that a copy of a certificate has not been forwarded as required, or has reason to believe that a certificate for which a copy has been forwarded contains false statements or that a certificate has not been signed and attached to an appropriation measure, contract, order, or wage and salary schedule as required by this section, the auditor shall provide immediate written notification to the superintendent of public instruction. In the case of a certificate which the auditor has reason to believe contains false information or the failure to sign and attach a certificate as required, the auditor shall also provide immediate written notification to the auditor of state and the county prosecuting attorney, city director of law, or other chief law officer of the district.

This section does not apply to any contract, order, or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract, order, or increase does not exceed the amount required to be paid to be in compliance with such division.

Any officer, employee, or other person who knowingly expends or authorizes the expenditure of any public funds or knowingly authorizes or executes any contract, order, or schedule contrary to this section, knowingly expends or authorizes the expenditure of any public funds on the void contract, order, or schedule, or knowingly issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract, order, or schedule. The officer, employee, or other person is jointly and severally liable in person and upon any official bond that ~~he~~ the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed twenty thousand dollars. However, no officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds. If an officer, employee, or other person is found to have complied with rules adopted by the department of education under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If

the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the taxpayer may institute the action in ~~his~~ the taxpayer's own name in behalf of the subdivision.

This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for any purchase order, for current payrolls of, or contracts of employment with, regular employees or officers.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(A) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(B) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(C) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a central city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority

may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before ~~December 31, 1997~~ June 30, 1999, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result

of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory which is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) An agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed ten, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the

essed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent. For the purpose of obtaining such approval, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education

rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(2) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to ~~the effective date of this section as amended by Substitute Senate Bill No. 19 of the 120th general assembly~~ July 22, 1994.

On or before ~~December 31, 1997~~ June 30, 1999, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this division, if the legislative authority revokes its designation of a zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered

into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal

corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code. Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before ~~December 31, 1997~~ June 30, 1999, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in

division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. An exemption granted pursuant to this division applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory which is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed ten, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent. For the purpose of obtaining such approval, the

board of commissioners shall deliver to the board of education a notice not later than forty-five days prior to ~~approviding~~ approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of commissioners not later than fourteen days prior to the date stipulated by the board of commissioners as the date upon which approval of the agreement is to be formally considered by the board of commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before ~~December 31, 1997~~ June 30, 1999, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board makes the finding required under that division and determines that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this paragraph, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the

agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of budget and management as a central city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected

municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward ~~his~~ the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee

positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before ~~December 31, 1997~~ June 30, 1999, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the

value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.66. (A) If an enterprise has been granted an incentive for the current calendar year under an agreement entered into pursuant to section 5709.62 or 5709.63 of the Revised Code and satisfies both of the

requirements described in divisions (A)(1) and (2) of this section at the time of application, it may apply to the director of development, on a form prescribed by the director, for the employee tax credit certificate under division (B) of this section.

(1) The enterprise has established, expanded, renovated, or occupied a facility pursuant to an agreement under section 5709.62 or 5709.63 of the Revised Code in a zone that is certified by the director of development as having one of the characteristics described in divisions (A)(1)(a) or (b) and at least one of the characteristics described in divisions (A)(1)(c) to (h) of section 5709.61 of the Revised Code.

(2) The enterprise or any predecessor enterprise has not closed or reduced employment at any place of business in this state within the twelve months preceding application unless the enterprise, since the date the agreement was formally approved by the legislative authority, has hired new employees equal in number to not less than fifty per cent of the total number of employees employed by the enterprise at other locations in this state on that date. The legislative authority of any municipal corporation or county that concludes that an enterprise or any predecessor enterprise has closed or reduced employment at a place of business in that municipal corporation or county may appeal to the director to determine whether the enterprise or any predecessor enterprise has done so. Upon receiving such an appeal, the director shall investigate the allegations and determine whether the enterprise satisfies the requirement of division (A)(2) of this section before proceeding under division (B) of this section.

Within sixty days after receiving an application under this section, the director shall review, investigate, and verify the application and determine whether the enterprise is eligible for the employee tax credit certificate under division (B) of this section. The application shall contain such information and documents as the director requires, by rule, to ascertain whether the enterprise is eligible for the certificate. On finding that the enterprise is eligible, the director shall proceed under division (B) of this section.

On determining that an enterprise is not eligible for the certificate under division (B) of this section, the director shall send notice of this determination, specifying the reasons for it, by certified mail, to the applicant, the board of county commissioners, and the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. Within thirty days after receiving such a notice, an enterprise may request, in writing, a hearing before the director for the purpose of reviewing the application and the reasons for the determination.

Within sixty days after receiving a request for a hearing, the director shall afford one and, within thirty days after the hearing, shall issue a redetermination of the enterprise's eligibility for the incentives. If the enterprise is found to be eligible, the director shall proceed under division (B) of this section. If the enterprise is found to be ineligible, the director shall send notice of this finding, by certified mail, to the applicant, the board of commissioners of the county or the chief executive of the municipal corporation in which the facility to which the certificate would have been given is located. The director's redetermination that an enterprise is ineligible may be appealed to the board of tax appeals under section 5717.02 of the Revised Code.

(B) If the director determines an enterprise to be eligible under division (A) of this section, the director shall determine if the enterprise is entitled to an employee tax credit certificate. An enterprise is entitled to an employee tax credit certificate for each eligible employee the enterprise hires. A taxpayer who is issued an employee tax credit certificate under this section may claim a nonrefundable credit of one thousand dollars against the tax imposed ~~under Chapter 5733.~~ by section 5733.06 or ~~5747.~~ 5747.02 of the Revised Code for each taxable year of the agreement entered into under section 5709.62 or 5709.63 of the Revised Code in which an eligible employee is employed for the taxpayer's full taxable year. If the eligible employee is employed for less than the taxpayer's full taxable year, the taxpayer may claim a reduced credit against the tax imposed ~~under Chapter 5733.~~ by section 5733.06 or ~~5747.~~ 5747.02 of the Revised Code. The reduced credit shall be computed by dividing the total number of days in the taxable year into one thousand dollars and multiplying the quotient by the number of days the eligible employee was employed in the taxable year. For purposes of the computation, the eligible employee shall be deemed to have been employed for each day of the taxable year commencing on the date of employment or ending on the date of termination of employment.

The credit provided under this division to a noncorporate enterprise or an enterprise that is an S corporation as defined in section 1361 of the Internal Revenue Code shall be divided pro rata among the owners or shareholders of the enterprise subject to the tax imposed ~~under Chapter 5747.~~ by section 5747.02 of the Revised Code, based on their proportionate ownership interests in the enterprise. The enterprise shall file with the tax commissioner, on a form prescribed by the tax commissioner, a statement showing the total available credit and the portion of that credit attributed to each owner or shareholder. The statement shall identify each owner or shareholder by name and social security number and shall be filed with the

tax commissioner by the date prescribed by the tax commissioner, which shall be no earlier than the fifteenth day of the month following the close of the enterprise's taxable year for which the credit is claimed.

The taxpayer shall claim the credit in the order required under section 5733.98 or 5747.98 of the Revised Code. If the credit provided under this division exceeds the taxpayer's tax liability for the taxable year after allowance for any other credits that precede the credit under this section in that order, the credit may be carried forward for the next three succeeding taxable years, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the succeeding taxable year.

(b) As used in this division:

(i) "Eligible employee" means a new employee at a facility who, at the time the employee was hired to work at the facility, was a recipient of aid to dependent children under Chapter 5107. of the Revised Code or general assistance under former Chapter 5113. of the Revised Code and resided for at least one year in the county in which the facility is located. "Eligible employee" does not include any employee of the enterprise who is a new employee, as defined under section 122.17 of the Revised Code, on the basis of whom the enterprise has claimed a credit under that section.

(ii) "Taxable year" has the same meaning as in section 5733.04 or 5747.01 of the Revised Code, as applicable to the enterprise claiming the credit.

Sec. 5711.22. (A) Deposits not taxed at the source shall be listed and assessed at their amount in dollars on the day they are required to be listed. Moneys shall be listed and assessed at the amount thereof in dollars on hand on the day that they are required to be listed. In listing investments, the amount of the income yield of each for the calendar year next preceding the date of listing shall, except as otherwise provided in this chapter, be stated in dollars and cents and the assessment thereof shall be at the amount of such income yield; but any property defined as investments in either division (A) or (B) of section 5701.06 of the Revised Code ~~which~~that has not been outstanding for the full calendar year next preceding the date of listing, except shares of stock of like kind as other shares of the same corporation outstanding for the full calendar year next preceding the date of listing, or which has yielded no income during such calendar year shall be listed and assessed as unproductive investments, at their true value in money on the day that such investments are required to be listed.

Credits and other taxable intangibles shall be listed and assessed at their true value in money on the day as of which the same are required to be

ted.

Shares of stock of a bank holding company, as defined in Title 12 U.S.C.A., section 1841, which are required to be listed for taxation under this division and upon which dividends were paid during the year of their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, shall be exempt from the intangibles tax for the year immediately succeeding their issuance~~; if~~. If such shares bear dividends the first calendar year after their issuance, which dividends are subject to taxation under the provisions of Chapter 5747. of the Revised Code, it shall be deemed that the nondelinquent intangible property tax pursuant to division (A) of section 5707.04 of the Revised Code was paid on those dividends paid that first calendar year after the issuance of the shares.

(B)(1) Boilers, machinery, equipment, and personal property the true value of which is determined under division (B) of section 5711.21 of the Revised Code shall be listed and assessed at an amount equal to the sum of the products determined under divisions (B)(1)(a), (b), and (c) of this section.

(a) Multiply the portion of the true value determined under division (B)(1) of section 5711.21 of the Revised Code by the assessment rate for the appropriate year in division (D) of this section;

(b) Multiply the portion of the true value determined under division (B)(2) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the production equipment of an electric company;

(c) Multiply the portion of the true value determined under division (B)(3) of section 5711.21 of the Revised Code by the assessment rate in section 5727.111 of the Revised Code that is applicable to the property of an electric company that is not production equipment.

(2) Personal property leased to a public utility or interexchange telecommunications company as defined in section 5727.01 of the Revised Code and used directly in the rendition of a public utility service as defined in division (P) of section 5739.01 of the Revised Code shall be listed and assessed at the same percentage of true value in money that such property is required to be assessed by section 5727.111 of the Revised Code if owned by the public utility or interexchange telecommunications company.

(C)(1) Merchandise or an agricultural product shipped from outside this state and held in this state in a warehouse or a place of ~~storge~~ storage without further manufacturing or processing and for storage only and for shipment outside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section

701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is not used in business in this state for property tax purposes.

(D)(1) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty-five one-hundredths of its true value in money until reduced in accordance with the following schedule:

(a) For any year, subtract five one-hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real and tangible personal property taxes for the second preceding year exceeded the total statewide collection of all real and tangible personal property taxes for the third preceding year by more than the greater of four per cent or the rate of increase from the third to the second preceding years in the average consumer price index (all urban

consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;

(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.

(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.

(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product described in division (D)(1) of this section is not used in business in this state for property tax purposes.

(4) As used in division (D) of this section:

(a) "Qualified out-of-state person" means a person that does not own, lease, or use property, other than merchandise or an agricultural product described in this division, in this state, and does not have employees, agents, or representatives in this state;

(b) "Public warehouse" means a warehouse in this state that is not subject to the control of or under the supervision of the owner of the merchandise or agricultural product stored in it, or staffed by the owner's employees, and from which the property is to be shipped inside this state.

(E) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the rate ~~for that tax year as shown in the following table:~~

~~TAX YEAR~~	~~ASSESSMENT RATE~~
~~1989~~	~~29%~~
~~1990~~	~~28%~~
~~1991~~	~~27%~~
~~1992~~	~~26%~~
~~1993 and thereafter~~	~~25%~~

of twenty-five per cent of its true value in money.

Sec. 5711.32. (A)(1) Upon receipt of a preliminary, amended, corrected, or final assessment certificate requiring a correction to ~~his~~the county auditor's records and tax lists and duplicates, the ~~county~~ auditor shall compute the amount of taxes represented by each deficiency or excess item therein contained at the rate of taxation in effect in the year for which such assessment is made. ~~He~~ The auditor shall enter all deficiency items comprised in such assessment certificate on the proper tax lists in ~~his~~ the

auditor's office, together with the amount of taxes so computed thereon, and shall give a certificate of all such amounts to the county treasurer, who shall proceed as prescribed by division (B) of this section. If the assessment certificate comprises any excess items, the auditor shall ascertain whether the taxes, penalties, and interest for the year represented thereby have been paid; if so, ~~he~~ the auditor shall proceed as prescribed by division (A)(2) of this section; if not, ~~he~~ the auditor shall correct the proper tax lists and duplicates, adjusting any penalties thereon accordingly. If the assessment certificate comprises both deficiency and excess items, ~~he~~ the auditor may, after computing the amount of taxes represented by the deficiency and excess items, treat the difference between such amounts as a deficiency or excess for purposes of this section; in such case, the county auditor shall make any adjustment as between the undivided tax funds as is necessary.

(2) If ~~he~~ the auditor finds that the taxes, penalties, and interest for the year represented by an excess have been paid, the county auditor shall proceed as prescribed by sections 319.36 and 319.37 of the Revised Code.

(B)(1) Upon receipt of a certificate from the county auditor pursuant to division (A) of this section of the amount of a deficiency, the county treasurer shall proceed in the manner prescribed by division (A) of section 5711.33 of the Revised Code to collect the full amount thereof, including interest thereon, as other like taxes, penalties, and interest, subject to the following exceptions:

(a) If the deficiency includes a penalty assessment for which a petition for abatement of penalty has been filed pursuant to section 5711.28 of the Revised Code, the penalty assessment shall not be collected unless the taxpayer desires to pay it, but the balance of the deficiency, including interest thereon, shall be collected;

(b) If the deficiency is based on an assessment for which a petition for reassessment has been filed pursuant to section 5711.31 of the Revised Code or an appeal has been filed pursuant to section 5717.02 of the Revised Code, no part of the deficiency at issue in such petition or appeal shall be collected unless the taxpayer desires to pay it.

(2) The taxpayer shall pay the full amount of a deficiency required to be collected by the county treasurer under division (B)(1) of this section, less any amount specifically excepted therein, within the time prescribed by division (A) of section 5711.33 of the Revised Code for the collection of like taxes, penalties, and interest. Failure to pay such amount with interest thereon within the time prescribed shall subject such amount, exclusive of interest, to the penalty prescribed by division (B) of section 5711.33 of the Revised Code, and such amount, exclusive of interest, shall continue to

accrue interest until paid as prescribed by section 5719.041 of the Revised Code. Any amount of the deficiency specifically excepted from collection under division (B)(1) of this section shall not be subject to the penalty prescribed by division (B) of section 5711.33 of the Revised Code until sixty days after the date of certification by the auditor to the treasurer pursuant to division (C) of this section of the final determination of the petition or appeal excepting such amount from collection under division (B)(1) of this section, but such amount, exclusive of interest, shall continue to accrue interest until paid as prescribed by section 5719.041 of the Revised Code. The taxpayer may make, and the treasurer shall accept, payment of any part of such excepted amount without prejudice to the claims of either the taxpayer, the state, or each county.

(C) Upon receipt of the notification by the tax commissioner pursuant to section 5711.26, 5711.28, or 5711.31 of the Revised Code of the final determination of a petition or an appeal, the county auditor shall make any correction required to ~~his~~ the auditor's records and tax lists and duplicates and compute the adjustment, if any, required to each deficiency or excess previously certified to the treasurer. ~~He~~ The auditor shall forthwith certify to the county treasurer that there has been a final determination and the resulting corrections, if any, to the amount of each deficiency or excess, and the treasurer shall thereupon proceed to collect any unpaid balance. The taxpayer shall pay such unpaid balance, including interest thereon, within sixty days after the date of such certification, and if not so paid within such sixty-day period, the unpaid balance shall be subject to the penalty prescribed by division (B) of section 5711.33 of the Revised Code and shall continue to accrue interest until paid as prescribed by section 5719.041 of the Revised Code.

(D) Notwithstanding divisions (A) to (C) of this section, where the tax commissioner finds the sole reason for the issuance of an assessment certificate with deficiency or excess items is to correct an error that occurred because the taxpayer listed property in the wrong taxing district and the erroneous tax resulting from such error was timely paid, the commissioner shall remit all interest otherwise required to be charged on any tax arising from such deficiency items if the full amount of the deficiency is paid within sixty days after the date of the auditor's certification to the treasurer. If the full amount of such deficiency is not so paid, interest shall be assessed in the same manner and amount as interest would have been charged had this division not been in effect. When refunding the amount of any erroneous tax paid in connection with any excess items included in such an assessment, no interest shall be paid on that amount, notwithstanding provisions of this

ction, or section 319.36 or 5719.041 of the Revised Code to the contrary. When refunding the amount of an overpayment of tax that resulted from ANY taxpayer error, no interest shall be paid on the portion of the overpayment representing taxes charged and payable and required to be distributed to a city, local, exempted village, joint vocational, or cooperative education school district or to a county school financing district, notwithstanding other provisions of this section or section 319.36 or 5719.041 of the Revised Code. The commissioner shall include on an assessment certificate to which this division applies such information as is necessary to ensure the efficient administration of this division.

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the Revised Code:

(A) "Financial institution" ~~includes every person who keeps an office or other place of business in this state and engages in the business of receiving deposits, lending money, and buying or selling bullion, bills of exchange, notes, bonds, stocks, or other evidences of indebtedness with a view to profit or is licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, as amended; or is chartered under the "Farm Credit Act of 1933," 48 Stat. 257, 12 U.S.C. 1131 (d), as amended. Corporations or institutions organized under the "Federal Farm Loan Act" and amendments thereto, and insurance companies shall not be considered financial institutions or dealers in intangibles within the meaning of such sections~~ MEANS:

(1) A NATIONAL BANK ORGANIZED AND EXISTING AS A NATIONAL BANK ASSOCIATION PURSUANT TO THE "NATIONAL BANK ACT," 12 U.S.C. 21;

(2) A FEDERAL SAVINGS ASSOCIATION OR FEDERAL SAVINGS BANK THAT IS CHARTERED UNDER 12 U.S.C. 1464;

(3) A BANK, BANKING ASSOCIATION, TRUST COMPANY, SAVINGS AND LOAN ASSOCIATION, SAVINGS BANK, OR OTHER BANKING INSTITUTION THAT IS INCORPORATED OR ORGANIZED UNDER THE LAWS OF ANY STATE;

(4) ANY CORPORATION ORGANIZED UNDER 12 U.S.C. 611 TO 631;

(5) ANY AGENCY OR BRANCH OF A FOREIGN DEPOSITORY AS DEFINED IN 12 U.S.C. 3101;

(6) A COMPANY licensed as a small business investment company under the "Small Business Investment Act of 1958," 72 Stat. 689, 15 U.S.C. 661, as amended; OR

(7) A COMPANY CHARTERED UNDER THE "FARM CREDIT

CT OF 1933," 48 STAT. 257, 12 U.S.C. 1131(d), AS AMENDED.

CORPORATIONS OR INSTITUTIONS ORGANIZED UNDER THE "FEDERAL FARM LOAN ACT" AND AMENDMENTS THERETO, INSURANCE COMPANIES, AND CREDIT UNIONS SHALL NOT BE CONSIDERED FINANCIAL INSTITUTIONS OR DEALERS IN INTANGIBLES WITHIN THE MEANING OF SUCH SECTIONS.

(B) "Dealer in intangibles" includes every person who keeps an office or other place of business in this state and engages at such office or other place in the business of lending money, or discounting, buying, or selling bills of exchange, drafts, acceptances, notes, mortgages, or other evidences of indebtedness, or of buying or selling bonds, stocks, or other investment securities, whether on ~~his~~ the person's own account with a view to profit, or as agent or broker for others, with a view to profit or personal earnings. Dealer in intangibles excludes institutions used exclusively for charitable purposes, insurance companies, and financial institutions. Neither casual nor isolated transactions of any of the kinds enumerated in this division of this section, nor the investment of funds as personal accumulations or as business reserves or working capital constitute engaging in business within the meaning of this division of this section; but a person who, having engaged in the business of lending money, or discounting, buying, or selling bills of exchange, drafts, acceptances, notes, mortgages, or other evidences of indebtedness on ~~his~~ the person's own account, remains in business for the purpose of realizing upon the assets of such business is deemed a dealer in intangibles, though not presently engaged in lending money or discounting or buying such securities.

(C) "Insurance company" includes every corporation, association, and society engaged in the business of insurance of any character, or engaged in the business of entering into contracts substantially amounting to insurance of any character, or of indemnifying or guaranteeing against loss or damage, or acting as surety on bonds or undertakings. "Insurance company" also includes any health insuring corporation as defined in section 1751.01 of the Revised Code.

(D) "Domestic insurance company" includes every insurance company organized and existing under the laws of this state, and every unincorporated association and society formed under the laws of this state for the purpose of engaging in said business, except a company, association, or society that is an insurance holding company affiliate controlled by a nonresident affiliate and has risks in this state formerly written by its foreign affiliates in a total amount exceeding the risks outstanding on the taxpayer's latest annual report that arise from business initially written by it in this state; and excludes

every foreign insurance company. As used in this division, terms defined in section 3901.32 of the Revised Code have the same meanings given to them in that section.

(E) "Foreign insurance company" includes every insurance company organized or existing under the laws of any other state, territory, country, or the United States and every insurance holding company affiliate excepted under division (D) of this section.

Sec. 5725.18. (A) An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with ~~division (A) or (B) of this section~~ the following, ~~whichever is less~~ as applicable:

~~(A) Six-tenths of~~ (1) With respect to a domestic insurance company that is a health insuring corporation, one per cent of ~~the value of the capital and surplus of a domestic insurance company having capital divided into shares, or the value of the surplus of a domestic insurance company not having capital divided into shares~~ all premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code, as ~~reported by the company~~ reflected in its annual ~~statement~~ report for the preceding calendar year ~~filed with and approved by the superintendent of insurance setting forth the admitted and nonadmitted assets and the liabilities of the company, including in such liabilities:~~

~~(1) The reserve and unearned premium liabilities computed as provided by law, which is the amount of debts of an insurance company because of its outstanding policies in gross;~~

(2) ~~Amounts set apart for the payment of dividends to policyholders, and all actual liabilities set forth in the annual statement.~~

~~(B) Two~~ With respect to a domestic insurance company that is not a health insuring corporation, one and ~~one-half~~ four-tenths per cent of the gross amount of premiums received ~~by any such domestic insurance company~~ from policies covering risks within this state ~~during~~, as reflected in its annual statement for the preceding calendar year~~, after making.~~

(B) The gross amount of premium rate payments or premiums used to compute the applicable tax in accordance with division (A) of this section is subject to the deductions prescribed by section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared

in section 5725.24 of the Revised Code, to which only such tax shall be applied.

(C) In no case shall such tax be less than ~~twenty-five~~ two hundred fifty dollars.

Sec. 5725.181. An annual franchise tax on the privilege of being an insurance company is hereby levied on each domestic insurance company that is not a health insuring corporation. In the month of May, annually, the treasurer of state shall charge for collection from each domestic insurance company a franchise tax in the amount computed in accordance with division (A) or (B) of this section, whichever is less:

(A) Six-tenths of one per cent of the value of the capital and surplus of a domestic insurance company having capital divided into shares, or the value of the surplus of a domestic insurance company not having capital divided into shares, as reported by the company in its annual statement for the preceding year filed with and approved by the superintendent of insurance setting forth the admitted and nonadmitted assets and the liabilities of the company, including in such liabilities:

(1) The reserve and unearned premium liabilities computed as provided by law, which is the amount of debts of an insurance company because of its outstanding policies in gross;

(2) Amounts set apart for the payment of dividends to policyholders, and all actual liabilities set forth in the annual statement.

(B) Two and one-half per cent of the gross amount of premiums received by any such domestic insurance company from policies covering risks within this state during the preceding calendar year, after making the deductions prescribed by section 5729.03 of the Revised Code for foreign insurance companies. The objects of such tax are those declared in section 5725.24 of the Revised Code, to which only such tax shall be applied.

(C) In no case shall such tax be less than twenty-five dollars.

Sec. 5727.111. The taxable property of each public utility, except a railroad company, and of each interexchange telecommunications company shall be assessed at the following percentages of true value:

(A) Fifty per cent in the case of a rural electric company;

(B) In the case of a telephone or telegraph company, the percentage provided under division ~~(D)~~(E) of section 5711.22 of the Revised Code for taxable property first subject to taxation in this state for tax year 1995 or thereafter, and eighty-eight per cent for all other taxable property;

(C) Eighty-eight per cent in the case of a natural gas or pipe-line company;

(D) Eighty-eight per cent in the case of a water-works or heating

company;

(E) One hundred per cent in the case of the taxable production equipment of an electric company;

(F) Eighty-eight per cent in the case of all taxable personal property of an electric company, other than its production equipment;

(G) The percentage provided under division ~~(D)~~(E) of section 5711.22 of the Revised Code in the case of an interexchange telecommunications company;

(H) Twenty-five per cent in the case of a water transportation company.

Sec. 5727.12. As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in railroad operations, the commissioner shall use the unitary method and value all of the property of the company's railroad system as a whole, considering the factors generally used in that method, and weighing each factor appropriately. The true value of the property used in railroad operations shall be apportioned to this state as provided in section 5727.14 of the Revised Code. The commissioner shall separately determine the true value of property owned by the company that ~~he~~the commissioner determines is not used in railroad operations. The commissioner may require the advice of county auditors ~~to advise him~~ concerning such values.

All property of a railroad shall be assessed for taxation at the same percentage of true value at which all other real property in this state is assessed, in the case of real property, and at the percentage of true value provided under division ~~(D)~~(E) of section 5711.22 of the Revised Code, in the case of personal property.

A determination of the value of each tract, lot, or parcel of real property or each item of personal property not used in railroad operations shall be considered a separate determination with respect to which a separate petition for reassessment may be filed under section 5727.47 of the Revised Code.

Where a line of railroad is subsidized under the terms of the federal regional rail reorganization act or the federal rail revitalization and regulatory reform act, the real and other fixed property shall be assessed solely in the name of its owner.

Sec. 5728.09. (A) Any person who fails to file timely the return required by section 5728.08 of the Revised Code shall pay an additional charge equal to the greater of fifty dollars or ten per cent of the tax due. Any additional charge imposed under this section may be collected through an assessment as provided in section 5728.10 of the Revised Code.

(B) If the tax imposed by this chapter or section 5735.31 of the Revised Code, or any portion of that tax, whether determined by the tax commissioner or the taxpayer, is not paid on or before the date prescribed in section 5728.08 of the Revised Code, interest shall be collected and paid in the same manner as the tax, upon that unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for payment of the tax until it is paid or until the day an assessment is issued under section 5728.10 of the Revised Code, whichever occurs first. Any interest imposed under this ~~section~~ chapter may be collected through an assessment as provided in section 5728.10 of the Revised Code.

Sec. 5728.10. (A) If any person required to file a highway use tax return by sections 5728.01 to 5728.14 of the Revised Code, fails to file the return within the time prescribed by those sections, files an incomplete return, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the person, based upon any information in the commissioner's possession, for the period for which the tax was due.

No assessment shall be made against any person for any tax imposed by this chapter more than four years after the last day of the calendar year during which the tax was due. This section does not bar an assessment against any person who fails to file a highway use tax return as required by this chapter, or who files a fraudulent highway use tax return.

A penalty of fifteen per cent shall be added to the amount of every assessment made pursuant to this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~Any tax assessed shall continue to accrue interest as prescribed in division (B) of section 5728.09 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ the party's authorized agent having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the commissioner's final determination on the petitioner by personal service or certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party's place of business is located or the county in which the party assessed resides. If the party maintains no office in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state of Ohio against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state highway use tax~~.~~"," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ the portion of the assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid into the state treasury in the same manner as the revenues deriving from the taxes imposed by section 5728.06 of the Revised Code.

Sec. 5729.03. (A) If the superintendent of insurance finds the annual statement required by section 5729.02 of the Revised Code to be correct, ~~he~~ the superintendent shall compute ~~an~~ the following amount ~~of two and one-half per cent~~, as applicable, of the balance of such gross amount, after deducting such return premiums and considerations received for reinsurance, and charge such amount to such company as a tax upon the business done by it in this state for the period covered by such annual statement~~; provided, that any~~:

(1) If the company is a health insuring corporation, one per cent of the balance of premium rate payments received, exclusive of payments received under the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or pursuant to the medical assistance program established under Chapter 5111. of the Revised Code, as reflected in its annual report;

(2) If the company is not a health insuring corporation, one and four-tenths per cent of the balance of premiums received, as reflected in its annual statement.

(B) Any insurance policies ~~which~~ that were not issued in violation of Title XXXIX of the Revised Code and ~~which~~ that were issued prior to April 15, 1967, by a life insurance company organized and operated without profit to any private shareholder or individual, exclusively for the purpose of aiding educational or scientific institutions organized and operated without profit to any private shareholder or individual, are not subject to the tax imposed by this section. All taxes collected pursuant to this section shall be credited to the general revenue fund.

(C) In no case shall the tax imposed under this section be less than two hundred fifty dollars.

Sec. 5729.031. As used in this section, "insurance company" includes any health insuring corporation as defined in section 1751.01 of the Revised Code; "insurance company group" means two or more insurance companies that are owned by a common owner or two or more insurance companies among which one company owns the other company or companies; and with respect to health insuring CORPORATIONS, "premiums sold" means premium rate payments received. A foreign or domestic insurance company or insurance company group may claim a credit against the tax imposed under section 5725.18 or 5729.03 of the Revised Code. An insurance company group shall compute one credit for the group as a whole, and one or more companies in the group may claim all or a portion of that credit until it is exhausted. The superintendent of insurance may adopt rules for the apportionment of the credit among the members of an insurance company

group. The amount of the credit shall equal the amount computed as follows:

(A) Subtract the total dollar amount of all premiums sold in all states by the company, in the case of an individual company, or by the group, in the case of an insurance company group, from fifty million dollars;

(B) Divide the result obtained in division (A) of this section by fifty million;

(C) Multiply the quotient obtained in division (B) of this section by two hundred thousand.

(D) The product obtained in division (C) of this section shall equal the credit to which an insurance company or an insurance company group is entitled, but the credit shall not reduce the tax liability of any individual company or of any company within an insurance company group below the minimum tax required by division (C) of section 5725.18 or division (C) of section 5729.03 of the Revised Code. If the difference obtained in division (A) of this section is less than or equal to zero, the credit allowed under this section equals zero.

(E) A reduction in the taxes of a foreign insurance company to the extent obtained through a claim for credit under this section does not increase the retaliatory tax liability otherwise charged against that company.

Sec. 5733.01. (A) The tax provided by this chapter for domestic corporations shall be the amount charged against each corporation organized for profit under the laws of this state and each nonprofit corporation organized pursuant to Chapter 1729. of the Revised Code, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of exercising its franchise during the calendar year in which that amount is payable, and the tax provided by this chapter for foreign corporations shall be the amount charged against each corporation organized for profit and each nonprofit corporation organized or operating in the same or similar manner as nonprofit corporations organized under Chapter 1729. of the Revised Code, under the laws of any state or country other than this state, except as provided in sections 5733.09 and 5733.10 of the Revised Code, for the privilege of doing business in this state, owning or using a part or all of its capital or property in this state, ~~or~~ holding a certificate of compliance with the laws of this state authorizing it to do business in this state, or otherwise having nexus in or with this state under the Constitution of the United States, during the calendar year in which that amount is payable.

(B) A corporation is subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for each calendar year that it is so organized,

doing business, owning or using a part or all of its capital or property, ~~or~~ holding a certificate of compliance, or otherwise having nexus in or with this state under the Constitution of the United States, on the first day of January of that calendar year.

(C) Any corporation subject to this chapter that is not subject to the federal income tax shall file its returns and compute its tax liability as required by this chapter in the same manner as if that corporation were subject to the federal income tax.

(D) For purposes of this chapter, a federally chartered financial institution shall be deemed to be organized under the laws of the state within which its principal office is located.

(E) ~~A business trust~~ Any person, as defined in ~~division (A) of~~ section ~~1746.01~~ 5701.01 of the Revised Code, shall be treated as a corporation ~~organized for profit for purposes of this chapter.~~

~~(F) A limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state shall be treated as a corporation~~ for purposes of this chapter ~~only~~ if the ~~company~~ person is classified for federal income tax purposes as an association taxable as a corporation.

Sec. 5733.02. Annually, between the first day of January and the thirty-first day of March or on or before the date as extended under section 5733.13 of the Revised Code, each ~~corporation incorporated under the laws of this state for profit, each corporation not for profit organized under Chapter 1729. of the Revised Code, each foreign corporation for profit, and each corporation not for profit organized or operating in the same or similar manner as corporations not for profit organized under Chapter 1729. of the Revised Code, doing business in this state, owning or using a part or all of its capital or property in this state, or authorized by the secretary of state to transact business in this state~~taxpayer shall make a report in writing to the treasurer of state in such form as the tax commissioner prescribes, and shall remit to the treasurer of state, with the remittance made payable to the treasurer of state, the amount of the tax as shown to be due by such report less the amount paid for the year on a declaration of estimated tax report filed by the taxpayer as provided by section 5733.021 of the Revised Code. Remittance shall be made in the form prescribed by the treasurer of state, including electronic funds transfer if required by section 5733.022 of the Revised Code. The treasurer shall show on the report the date it was filed and the amount of the payment remitted to the treasurer. Thereafter, the treasurer shall immediately transmit all reports filed under this section to the tax commissioner.

The commissioner shall furnish corporations, on request, copies of the forms prescribed by ~~him~~ the commissioner for the purpose of making such report. A domestic corporation shall not dissolve, and a foreign corporation shall not withdraw or retire from business in Ohio, on or after the first day of January in any year without making a franchise tax report to the commissioner and paying or securing the tax charged for the year in which such dissolution or withdrawal occurs.

The annual corporation report shall be signed by the president, vice-president, secretary, treasurer, general manager, superintendent, or managing agent in this state of such corporation. If a domestic corporation has not completed its organization, its annual report shall be signed by one of its incorporators.

The report shall contain the facts, figures, computations, and attachments that result in the tax charged by this chapter and determined in the manner provided within the chapter.

Sec. 5733.022. (A) Subject to division (C) of this section, if a taxpayer's total liability for taxes imposed by ~~this chapter~~section 5733.06 of the Revised Code, after reduction for all nonrefundable credits allowed the taxpayer, for tax year 1992 or 1993 exceeds one hundred thousand dollars, the taxpayer shall remit each tax payment for tax year 1994 to the treasurer of state by electronic funds transfer as prescribed by divisions (B) and (C) of this section. Subject to division (C) of this section, if a taxpayer's total liability for taxes, after reduction for all nonrefundable credits allowed the taxpayer, exceeds one hundred thousand dollars for tax year 1993, the taxpayer shall remit each tax payment for tax year 1995 by electronic funds transfer as prescribed by divisions (B) and (C) of this section. If a taxpayer's total liability for taxes, after reduction for all nonrefundable credits allowed the taxpayer, exceeds seventy-five thousand dollars for tax year 1994, the taxpayer shall remit each tax payment for tax year 1996 by electronic funds transfer as prescribed by divisions (B) and (C) of this section. For tax year 1997 and any succeeding tax year, if a taxpayer's total liability for taxes, after reduction for all nonrefundable credits allowed the taxpayer, exceeds fifty thousand dollars for the second preceding tax year, the taxpayer shall remit each tax payment for the tax year by electronic funds transfer as prescribed by divisions (B) and (C) of this section.

The tax commissioner shall notify each taxpayer required to remit taxes by electronic funds transfer of the taxpayer's obligation to do so, shall maintain an updated list of those taxpayers, and shall provide the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a taxpayer subject to this section to remit

taxes by electronic funds transfer does not relieve the taxpayer of its obligation to remit taxes by electronic funds transfer.

(B) Taxpayers required by this section to remit payments by electronic funds transfer shall remit such payments to the treasurer of state in the manner prescribed by rules adopted by the treasurer under section 113.061 of the Revised Code.

Except as otherwise provided in this paragraph, the payment of taxes by electronic funds transfer does not affect a taxpayer's obligation to file the annual corporation report or the declaration of estimated tax report as required under sections 5733.02 and 5733.021 of the Revised Code. If the taxpayer remits estimated tax payments in a manner, designated by rule of the treasurer of state, that permits the inclusion of all information necessary for the treasurer of state to process the tax payment, the taxpayer need not file the declaration of estimated tax report as required by section 5733.021 of the Revised Code.

(C) If two or more taxpayers have elected or are required to file a combined report under section 5733.052 of the Revised Code, the tax liability of those taxpayers for purposes of division (A) of this section is the aggregate tax liability of those taxpayers after reduction for nonrefundable credits allowed the taxpayers.

(D) A taxpayer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer to be excused from that requirement. The treasurer of state may excuse the taxpayer from remittance by electronic funds transfer for good cause shown for the period of time requested by the taxpayer or for a portion of that period. The treasurer shall notify the tax commissioner and the taxpayer of the treasurer's decision as soon as is practicable.

(E) If a taxpayer required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5733.11 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes or estimated tax payments required to be paid by electronic funds transfer, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge

imposed under this chapter, and shall be considered as revenue arising from the ~~tax~~ taxes imposed under this chapter. The tax commissioner may remit all or a portion of such a charge and may adopt rules governing such remission.

No additional charge shall be assessed under this division against a taxpayer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the taxpayer remits by some means other than electronic funds transfer.

Sec. 5733.03. The annual corporation report shall include statements of the following facts as of the date of the beginning of the corporation's annual accounting period that includes the first day of January of the tax year:

(A) The name of the corporation;

(B) The name of the state or country under the laws of which it is incorporated;

(C) The location of its principal office and, in the case of a foreign corporation, the location of its principal place of business in this state and the name and address of the officer or agent of the corporation in charge of the business in this state;

(D) The names of its president, secretary, treasurer, and statutory agent in this state, with the post office address of each;

(E) The kind of business in which the corporation is engaged;

(F) The date of the beginning of the corporation's annual accounting period that includes the first day of January of the tax year;

(G) ~~The amount of its capital, surplus, whether earned or unearned, undivided profits, and reserves, as shown by the books of the corporation. A complete schedule shall be filed with the report showing the object and amount of each such reserve. There shall also be filed with the report a schedule of the annual rates of depreciation and depletion.~~

~~(H) The location and value of the property owned or used by the corporation as shown on its books, both within and without the state, given separately;~~

~~(I) The total amount of business done and the amount of business done within the state by the corporation during its preceding annual accounting period, given separately. Business done within this state by domestic corporations shall include all business except extra-state business.~~

~~(J) The value of the good will of the corporation, as shown on its books, if carried as an asset;~~

~~(K) The taxpayer's net income during the year or portion thereof preceding the date of commencement of its annual accounting period that includes the first day of January of the tax year;~~

~~(L)(1) The cost or rental rate of the real and tangible personal property owned or rented and used by the corporation and whether located in or outside Ohio;~~

~~(2) The total payroll compensation paid and the payroll compensation paid in this state;~~

~~(3) The total sales made by the corporation and the total sales made within this state.~~

~~(M)~~ All other information that the tax commissioner requires for the proper administration and enforcement of this chapter.

The tax commissioner may prescribe requirements as to the keeping of records and other pertinent documents, the filing of copies of federal income tax returns and determinations, and computations reconciling federal income tax returns with the report required by section 5733.02 or 5733.021 of the Revised Code. The commissioner may require any corporation, by rule or notice served on such corporation, to keep such records as ~~he~~ the commissioner considers necessary to show whether, and the extent to which, a corporation is subject to this chapter. Such records and other documents shall be open during business hours to the inspection of the commissioner, and shall be preserved for a period of four years, unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

Any information gained as the result of returns, investigations, hearings, or verifications required or authorized by Chapter 5733. of the Revised Code is confidential, and no person shall disclose such information, except for official purposes, or as provided by division (B) of section 5703.21 or section 5715.50 of the Revised Code, or in accordance with a proper judicial order. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to individual taxpayers.

By the thirty-first day of March each year, the tax commissioner shall release to the secretary of state the name and address of each corporation and the name and address of the statutory agent of that corporation as indicated in the corporation's annual report filed during the preceding calendar year.

Sec. 5733.031. (A) A ~~taxpayer's~~ corporation's TAXABLE YEAR IS A PERIOD ENDING ON THE DATE IMMEDIATELY PRECEDING THE

DATE OF COMMENCEMENT OF THE corporation's ANNUAL ACCOUNTING PERIOD THAT INCLUDES THE FIRST DAY OF JANUARY OF THE TAX YEAR. Except as otherwise provided, a corporation's taxable year is the same as ~~its~~ the corporation's taxable year for federal income tax purposes. If a ~~taxpayer's~~ corporation's taxable year is changed for federal income tax purposes, the taxable year for purposes of this chapter is changed accordingly BUT MAY CONSIST OF AN AGGREGATION OF MORE THAN ONE TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES. THE TAX COMMISSIONER MAY PRESCRIBE BY RULE, AN APPROPRIATE PERIOD AS THE TAXABLE YEAR FOR A corporation THAT HAS HAD A CHANGE OF its TAXABLE YEAR FOR FEDERAL INCOME TAX PURPOSES, FOR A corporation THAT HAS TWO OR MORE SHORT TAXABLE YEARS FOR FEDERAL INCOME TAX PURPOSES AS THE RESULT OF A CHANGE OF OWNERSHIP, OR FOR A NEW TAXPAYER THAT WOULD OTHERWISE HAVE NO TAXABLE YEAR.

(B) A ~~taxpayer's~~ corporation's method of accounting for the base calculated under division (B) of section 5733.05 of the Revised Code shall be the same as its method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, income shall be computed under such method as in the opinion of the tax commissioner clearly reflects income~~:~~.

~~(1) If~~ If a ~~taxpayer's~~ corporation's method of accounting is changed for federal income tax purposes, its method of accounting for purposes of this chapter shall be changed accordingly.

~~(2) If a taxpayer's method of accounting is changed, other than from an accrual to an installment method, any additional tax that results from adjustments determined to be necessary solely by reason of the change shall not be greater than if such adjustments were ratably allocated and included for the taxable year of the change and the preceding taxable year or years not in excess of two, during which the taxpayer used the method of accounting from which the change is made.~~

~~(3) If a taxpayer's method of accounting is changed from an accrual to an installment method, any additional tax for the year of such change of method, and for any subsequent year, that is attributable to the receipt of installment payments properly accrued in a prior year shall be reduced by the portion of the tax for any prior taxable year attributable to the accrual of such installment payments, in accordance with the rules of the tax commissioner.~~

(C) If any of the facts, figures, computations, or attachments required in

a corporation's annual report to determine the tax ~~charged by this chapter~~ imposed by section 5733.06 of the Revised Code must be altered as the result of an adjustment to the corporation's federal income tax return, whether the adjustment is initiated by the corporation or the internal revenue service, and such alteration affects the corporation's ~~tax~~ liability ~~under this chapter~~ for the tax imposed by section 5733.06 of the Revised Code, the corporation shall file an amended report with the tax commissioner in such form as the commissioner requires. The amended report shall be filed not later than one year after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(1) In the case of an underpayment, the amended report shall be accompanied by payment of an additional tax and interest due and is a report subject to assessment under section 5733.11 of the Revised Code for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed report no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return.

(2) In the case of an overpayment, an application for refund may be filed under this division within the one-year period prescribed for filing the amended report even if it is filed beyond the period prescribed in division (B) of section 5733.12 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the corporation's annual report that are affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return unless it is also filed within the time prescribed in division (B) of section 5733.12 of the Revised Code. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the corporation's federal income tax return.

Sec. 5733.04. As used in this chapter:

(A) "Issued and outstanding shares of stock" applies to nonprofit corporations, as provided in section 5733.01 of the Revised Code, and includes but is not limited to, membership certificates and other instruments evidencing ownership of an interest in such nonprofit corporations, and with respect to a financial institution which does not have capital stock, "issued and outstanding shares of stock" includes, but is not limited to, ownership

interests of depositors in the capital employed in such an institution.

(B) "Taxpayer" means a corporation subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

(C) "Resident" means a corporation organized under the laws of this state.

(D) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(E) "Taxable year" means the ~~year or portion thereof~~ period prescribed by division (A) of section 5733.031 of the Revised Code upon the net income of which the value of the taxpayer's issued and outstanding shares of stock is determined ~~or the year at the end~~ under division (B) of section 5733.05 of the Revised Code or the period prescribed by division (A) of section 5733.031 of the REVISED Code that immediately precedes the date as of which the total value of the corporation is determined under division (A) or (C) of section 5733.05 of the Revised Code.

(F) "Tax year" means the calendar year in and for which the tax ~~provided by this chapter~~ imposed by section 5733.06 of the Revised Code is required to be paid.

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

(H) "Federal income tax" means the income tax imposed by the Internal Revenue Code.

(I) "Net income" means the taxpayer's taxable income before operating loss deduction and special deductions, as required to be reported for the taxpayer's taxable year under the Internal Revenue Code, subject to the following adjustments:

(1)(a) Deduct any net operating loss incurred in any taxable years ending in 1971 or thereafter but exclusive of any net operating loss incurred in taxable years ending prior to January 1, 1971. This deduction shall not be allowed in any tax year commencing before December 31, 1973, but shall be carried over and allowed in tax years commencing after December 31, 1973, until fully utilized in the next succeeding taxable year or years in which the taxpayer has net income, but in no case for more than the designated carryover period as described in division (I)(1)(b) of this section. The amount of such net operating loss, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code for the year in which the net operating loss occurs, shall be deducted from net income, as determined under the allocation and apportionment provisions of section 5733.051 and division (B) of section 5733.05 of the Revised Code, to the extent necessary to

reduce net income to zero with the remaining unused portion of the deduction, if any, carried forward to the remaining years of the designated carryover period as described in division (I)(1)(b) of this section, or until fully utilized, whichever occurs first.

(b) For losses incurred in taxable years ending on or before December 31, 1981, the designated carryover period shall be the five consecutive taxable years after the taxable year in which the net operating loss occurred. For losses incurred in taxable years ending on or after January 1, 1982, the designated carryover period shall be the fifteen consecutive taxable years after the taxable year in which the net operating loss occurs.

(c) The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for deduction under division (I)(1)(a) of this section and no deduction shall be allowed unless the information is furnished.

(2) Deduct any amount included in net income by application of section 78 or 951 of the Internal Revenue Code, amounts received for royalties, technical or other services derived from sources outside the United States, and dividends received from a subsidiary, associate, or affiliated corporation that neither transacts any substantial portion of its business nor regularly maintains any substantial portion of its assets within the United States. For purposes of determining net foreign source income deductible under division (I)(2) of this section, the amount of gross income from all such sources other than income derived by application of section 78 or 951 of the Internal Revenue Code shall be reduced by:

(a) The amount of any reimbursed expenses for personal services performed by employees of the taxpayer for the subsidiary, associate, or affiliated corporation;

(b) Ten per cent of the amount of royalty income and technical assistance fees;

(c) Fifteen per cent of the amount of dividends and all other income.

The amounts described in divisions (I)(2)(a) to (c) of this section are deemed to be the expenses attributable to the production of deductible foreign source income unless the taxpayer shows, by clear and convincing evidence, less actual expenses or the tax commissioner shows, by clear and convincing evidence, more actual expenses.

(3) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of a capital asset, or an asset described in section 1231 of the Internal Revenue Code, to the extent that such loss or gain occurred prior to the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income.

For purposes of division (I)(3) of this section, the amount of the prior loss or gain shall be measured by the difference between the original cost or other basis of the asset and the fair market value as of the beginning of the first taxable year on which the tax provided for in section 5733.06 of the Revised Code is computed on the corporation's net income. At the option of the taxpayer, the amount of the prior loss or gain may be a percentage of the gain or loss, which percentage shall be determined by multiplying the gain or loss by a fraction, the numerator of which is the number of months from the acquisition of the asset to the beginning of the first taxable year on which the fee provided in section 5733.06 of the Revised Code is computed on the corporation's net income, and the denominator of which is the number of months from the acquisition of the asset to the sale, exchange, or other disposition of the asset.

(4) Deduct the dividend received deduction provided by section 243 of the Internal Revenue Code.

(5) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent included in federal taxable income. As used in divisions (I)(5) and (6) 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.

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

(7) To the extent not otherwise allowed, deduct any dividends or distributions received by a taxpayer from a public utility, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the utility. As used in division (I)(7) of this section, "public utility" or "utility" means a public utility as defined in Chapter 5727. of the Revised Code, whether or not the utility is doing business in the state.

(8) To the extent not otherwise allowed, deduct any dividends received by a taxpayer from an insurance company, if the taxpayer owns at least eighty per cent of the issued and outstanding common stock of the insurance company. As used in division (I)(8) of this section, "insurance company" means an insurance company which is taxable under Chapter 5725. or 5729. of the Revised Code.

(9) Deduct expenditures for modifying existing buildings or structures to meet American national standards institute standard A-117.1-1961 (R-1971), as amended; provided, that no deduction shall be allowed to the extent that such deduction is not permitted under federal law or under rules of the tax commissioner. Those deductions as are allowed may be taken over

a period of five years. The tax commissioner shall adopt rules under Chapter 119. of the Revised Code establishing reasonable limitations on the extent that expenditures for modifying existing buildings or structures are attributable to the purpose of making the buildings or structures accessible to and usable by physically handicapped persons.

(10) 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 before operating loss deduction and special deductions 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.

(11) Deduct net interest income 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 the laws of the United States prohibit inclusion of the net interest for purposes of determining the value of the taxpayer's issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code. As used in division (I)(11) of this section, "net interest" means interest net of any expenses taken on the federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code if the interest were exempt from federal income tax.

(12)(a) Except as set forth in division (I)(12)(d) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions, made by a related entity who is not a taxpayer, of the taxpayer's indirect, beneficial, or constructive investment in the stock or debt of another entity, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related investment in the stock or debt of the other entity. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(b) Except as set forth in division (I)(12)(e) of this section, to the extent not included in computing the taxpayer's federal taxable income before operating loss deduction and special deductions, add gains and deduct losses from direct or indirect sales, exchanges, or other dispositions made by a related entity who is not a taxpayer, of intangible property other than stock,

securities, and debt, if such property was owned, or used in whole or in part, at any time prior to or at the time of the sale, exchange, or disposition by either the taxpayer or by a related entity that was a taxpayer at any time during the related entity's ownership or use of such property, unless the gain or loss has been included in computing the federal taxable income before operating loss deduction and special deductions of another taxpayer with a more closely related ownership or use of such intangible property. The amount of gain added or loss deducted shall not exceed the product obtained by multiplying such gain or loss by the taxpayer's proportionate share, directly, indirectly, beneficially, or constructively, of the outstanding stock of the related entity immediately prior to the direct or indirect sale, exchange, or other disposition.

(c) As used in division (I)(12) of this section, "related entity" means those entities described in divisions (I)(12)(c)(i) to (iii) of this section:

(i) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(ii) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, and corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(iii) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (I)(12)(c)(iv) of this section, if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock.

(iv) The attribution rules of section 318 of the Internal Revenue Code apply for purposes of determining whether the ownership requirements in divisions (I)(12)(c)(i) to (iii) of this section have been met.

(d) For purposes of the adjustments required by division (I)(12)(a) of this section, the term "investment in the stock or debt of another entity" means only those investments where the taxpayer and the taxpayer's related entities directly, indirectly, beneficially, or constructively own, in the aggregate, at any time during the twenty-four month period commencing one year prior to the direct or indirect sale, exchange, or other disposition of such investment at least fifty per cent or more of the value of either the outstanding stock or such debt of such other entity.

(e) For purposes of the adjustments required by division (I)(12)(b) of this section, the term "related entity" excludes all of the following:

(i) Foreign corporations as defined in section 7701 of the Internal Revenue Code;

(ii) Foreign partnerships as defined in section 7701 of the Internal Revenue Code;

(iii) Corporations, partnerships, estates, and trusts created or organized in or under the laws of the Commonwealth of Puerto Rico or any possession of the United States;

(iv) Foreign estates and foreign trusts as defined in section 7701 of the Internal Revenue Code.

The exclusions described in divisions (I)(12)(e)(i) to (iv) of this section do not apply if the corporation, partnership, estate, or trust is described in any one of divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(f) Nothing in division (I)(12) of this section shall require or permit a taxpayer to add any gains or deduct any losses described in divisions (I)(12)(f)(i) and (ii) of this section:

(i) Gains or losses recognized for federal income tax purposes by an individual, estate, or trust without regard to the attribution rules described in division (I)(12)(c) of this section, and

(ii) A related entity's gains or losses described in division (I)(12)(b) if the taxpayer's ownership of or use of such intangible property was limited to a period not exceeding nine months and was attributable to a transaction or a series of transactions executed in accordance with the election or elections made by the taxpayer or a related entity pursuant to section 338 of the Internal Revenue Code.

(13) Any adjustment required by section 5733.042 of the Revised Code.

(14) ADD ANY AMOUNT CLAIMED AS A CREDIT UNDER SECTION 5733.0611 OF THE REVISED CODE TO THE EXTENT THAT SUCH AMOUNT satisfies either of the following:

(a) It WAS DEDUCTED OR EXCLUDED FROM THE COMPUTATION OF THE CORPORATION'S TAXABLE INCOME BEFORE OPERATING LOSS DEDUCTION AND SPECIAL DEDUCTIONS AS REQUIRED TO BE REPORTED FOR THE CORPORATION'S TAXABLE YEAR UNDER THE INTERNAL REVENUE CODE;

(b) It RESULTED IN A REDUCTION OF THE CORPORATION'S TAXABLE INCOME BEFORE OPERATING LOSS DEDUCTION AND SPECIAL DEDUCTIONS AS REQUIRED TO BE REPORTED FOR ANY OF THE CORPORATION'S TAXABLE YEARS UNDER THE

INTERNAL REVENUE CODE.

(J) Any term used in this chapter has the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(K) "Financial institution" has the meaning given by section 5725.01 of the Revised Code BUT DOES NOT INCLUDE A PRODUCTION CREDIT ASSOCIATION AS DESCRIBED IN 85 STAT. 597, 12 U.S.C.A. 2091.

(L)(1) A "QUALIFYING HOLDING COMPANY" IS ANY CORPORATION satisfying ALL OF THE FOLLOWING REQUIREMENTS:

(a) SUBJECT TO DIVISIONS (L)(2) AND (3) OF THIS SECTION, THE NET BOOK VALUE OF THE CORPORATION'S INTANGIBLE ASSETS IS GREATER THAN OR EQUAL TO NINETY PER CENT OF THE NET BOOK VALUE OF ALL OF ITS ASSETS AND AT LEAST FIFTY PER CENT OF THE NET BOOK VALUE OF ALL OF ITS ASSETS REPRESENTS DIRECT OR INDIRECT INVESTMENTS IN THE EQUITY OF, LOANS AND ADVANCES TO, AND ACCOUNTS RECEIVABLE DUE FROM RELATED MEMBERS;

(b) AT LEAST NINETY PER CENT OF THE CORPORATION'S GROSS INCOME FOR THE TAXABLE YEAR IS ATTRIBUTABLE TO THE FOLLOWING:

(i) THE MAINTENANCE, MANAGEMENT, ownership, ACQUISITION, use, and DISPOSITION OF ITS INTANGIBLE PROPERTY, its AIRCRAFT THE USE OF WHICH IS NOT SUBJECT TO REGULATION UNDER 14 C.F.R. PART 121 OR PART 135, AND ANY REAL PROPERTY DESCRIBED IN DIVISION (L)(2)(c) OF THIS SECTION;

(ii) THE COLLECTION AND DISTRIBUTION OF INCOME FROM SUCH PROPERTY.

(c) THE CORPORATION IS NOT A FINANCIAL INSTITUTION ON THE LAST DAY OF THE TAXABLE YEAR ending prior to the first day OF THE TAX YEAR;

(d) THE CORPORATION'S RELATED MEMBERS MAKE A GOOD FAITH AND REASONABLE EFFORT TO MAKE TIMELY AND FULLY THE ADJUSTMENTS REQUIRED BY DIVISION (C)(2) OF SECTION 5733.05 OF THE REVISED CODE and to pay timely and fully all uncontested taxes, interest, penalties, and other fees and charges imposed under this chapter;

(e) SUBJECT TO DIVISION (L)(4) OF THIS SECTION, THE CORPORATION ELECTS TO BE TREATED AS A QUALIFYING HOLDING COMPANY FOR THE TAX YEAR.

A CORPORATION otherwise satisfying divisions (L)(1)(a)to (e) of this section that DOES NOT ELECT TO BE A QUALIFYING HOLDING COMPANY IS NOT A QUALIFYING HOLDING COMPANY for the purposes of this chapter.

(2)(a)(i) FOR PURPOSES OF MAKING THE ninety per cent COMPUTATION UNDER DIVISION (L)(1)(a) OF THIS SECTION, THE NET BOOK VALUE OF THE CORPORATION'S ASSETS SHALL NOT INCLUDE THE NET BOOK VALUE OF AIRCRAFT or REAL PROPERTY DESCRIBED IN DIVISION (L)(1)(b)(i) OF THIS SECTION.

(ii) FOR PURPOSES OF MAKING THE fifty per cent COMPUTATION under DIVISION (L)(1)(a) OF THIS SECTION, THE NET BOOK VALUE OF ASSETS SHALL INCLUDE THE NET BOOK VALUE OF AIRCRAFT or REAL PROPERTY DESCRIBED IN DIVISION (L)(1)(b)(i) OF THIS SECTION.

(b)(i) AS USED IN division (L) of THIS SECTION, "INTANGIBLE ASSET" INCLUDES, BUT IS NOT LIMITED TO, THE CORPORATION'S DIRECT INTEREST IN EACH PASS-THROUGH ENTITY ONLY IF AT ALL TIMES DURING THE CORPORATION'S TAXABLE YEAR ENDING PRIOR TO THE FIRST DAY OF THE TAX YEAR THE CORPORATION'S AND THE CORPORATION'S RELATED MEMBERS' COMBINED DIRECT AND INDIRECT INTERESTS IN THE CAPITAL OR PROFITS OF SUCH PASS-THROUGH ENTITY DO NOT EXCEED fifty per cent. IF THE CORPORATION'S INTEREST IN the PASS-THROUGH ENTITY IS AN INTANGIBLE ASSET FOR that TAXABLE YEAR, THEN THE DISTRIBUTIVE SHARE OF ANY INCOME FROM the pass-through ENTITY SHALL BE INCOME FROM AN INTANGIBLE ASSET FOR that TAXABLE YEAR.

(ii) If a CORPORATION'S AND THE CORPORATION'S RELATED MEMBERS' COMBINED DIRECT AND INDIRECT INTERESTS IN THE CAPITAL OR PROFITS OF A PASS-THROUGH ENTITY EXCEED fifty per cent AT ANY TIME DURING THE CORPORATION'S TAXABLE YEAR ENDING PRIOR TO THE FIRST DAY OF THE TAX YEAR, "INTANGIBLE ASSET" does NOT INCLUDE THE CORPORATION'S DIRECT INTEREST IN the PASS-THROUGH ENTITY, AND THE CORPORATION SHALL INCLUDE IN ITS ASSETS ITS PROPORTIONATE SHARE OF THE ASSETS OF ANY SUCH PASS-THROUGH ENTITY AND shall include IN ITS GROSS

INCOME ITS DISTRIBUTIVE SHARE OF THE GROSS INCOME OF SUCH PASS-THROUGH ENTITY in the same form as was earned by the pass-through entity.

(iii) A PASS-THROUGH ENTITY'S DIRECT OR INDIRECT PROPORTIONATE SHARE OF ANY OTHER PASS-THROUGH ENTITY'S ASSETS SHALL BE INCLUDED FOR the PURPOSE OF COMPUTING THE CORPORATION'S PROPORTIONATE SHARE OF THE PASS-THROUGH ENTITY'S ASSETS under DIVISION (L)(2)(b)(ii) OF THIS SECTION, AND SUCH PASS-THROUGH ENTITY'S DISTRIBUTIVE SHARE OF ANY OTHER PASS-THROUGH ENTITY'S GROSS INCOME SHALL BE INCLUDED FOR PURPOSES OF COMPUTING THE CORPORATION'S DISTRIBUTIVE SHARE OF THE PASS-THROUGH ENTITY'S GROSS INCOME under DIVISION (L)(2)(b)(ii) OF THIS SECTION.

(c) For the PURPOSES of DIVISIONs (L)(1)(b)(i), (1)(b)(ii), (2)(a)(i), and (2)(a)(ii) OF THIS SECTION, REAL PROPERTY IS DESCRIBED IN DIVISION (L)(2)(c) OF THIS SECTION ONLY IF all of THE FOLLOWING CONDITIONS ARE PRESENT AT ALL TIMES DURING THE TAXABLE YEAR ENDING PRIOR TO THE FIRST DAY OF THE TAX YEAR:

(i) THE REAL PROPERTY SERVES AS THE HEADQUARTERS OF THE CORPORATION'S TRADE OR BUSINESS, or IS THE PLACE FROM WHICH THE CORPORATION'S TRADE OR BUSINESS IS PRINCIPALLY MANAGED OR DIRECTED;

(ii) NOt MORE THAN TEN PER CENT OF THE VALUE OF THE REAL PROPERTY and not more than ten per cent of the square footage of the building or buildings that are part of the real property IS USED, MADE AVAILABLE, OR OCCUPIED FOR THE PURPOSE OF PROVIDING, ACQUIRING, TRANSFERRING, SELLING, OR DISPOSING OF TANGIBLE PROPERTY OR SERVICES IN THE NORMAL COURSE OF BUSINESS TO PERSONS OTHER THAN RELATED MEMBERS, THE CORPORATION'S EMPLOYEES AND THEIR FAMILIES, AND SUCH RELATED MEMBERS' EMPLOYEES AND THEIR FAMILIES.

(d) As used in division (L) of this section, "RELATED MEMBER" HAS THE SAME MEANING AS IN DIVISION (A)(6) OF SECTION 5733.042 OF THE REVISED CODE WITHOUT REGARD TO DIVISION (B) OF THAT SECTION.

(3) THE PERCENTAGES DESCRIBED IN DIVISION (L)(1)(a) OF THIS SECTION SHALL BE EQUAL TO THE QUARTERLY AVERAGE OF THOSE PERCENTAGES AS CALCULATED DURING THE

ORATION'S TAXABLE YEAR ending prior to the first day OF THE TAX YEAR.

(4) WITH RESPECT TO THE ELECTION DESCRIBED IN DIVISION (L)(1)(e) OF THIS SECTION:

(a) THE ELECTION NEED NOT ACCOMPANY A TIMELY FILED REPORT;

(b) THE ELECTION NEED NOT ACCOMPANY THE REPORT; RATHER, THE ELECTION MAY ACCOMPANY A SUBSEQUENTLY FILED BUT TIMELY APPLICATION FOR REFUND AND TIMELY AMENDED REPORT, OR A SUBSEQUENTLY FILED BUT TIMELY PETITION FOR REASSESSMENT;

(c) THE ELECTION IS NOT IRREVOCABLE;

(d) THE ELECTION APPLIES ONLY TO THE TAX YEAR SPECIFIED BY THE CORPORATION;

(e) The corporation's related members comply with division (L)(1)(d) of this section.

NOTHING IN division (l)(4) of this section SHALL BE CONSTRUED TO EXTEND ANY STATUTE OF LIMITATIONS SET FORTH IN THIS CHAPTER.

(M) "QUALIFYING CONTROLLED GROUP" MEANS TWO OR MORE CORPORATIONS that SATISFY THE OWNERSHIP AND CONTROL REQUIREMENTS OF DIVISION (A) OF SECTION 5733.052 OF THE REVISED CODE.

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

(O) "Pass-through entity" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year under that code, or a partnership, limited liability company, or any other person, other than an individual, trust, or estate, if the partnership, limited liability company, or other person is not classified for federal income tax purposes as an association taxed as a corporation.

Sec. 5733.042. (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Asset value" means the adjusted basis of assets as determined in accordance with Subchapter O of the Internal Revenue Code and the Treasury Regulations thereunder.

(3) "Intangible expenses and costs" include expenses, losses, and costs for ~~the use~~, related to, or in connection directly or indirectly with the direct

or indirect acquisition of, the direct or indirect use of, the direct or indirect maintenance or management of, the direct or indirect ownership of, the direct or indirect sale of, the direct or indirect exchange of, or any other direct or indirect disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Internal Revenue Code. Such expenses and costs include, but are not limited to, losses related to or incurred in connection directly or indirectly with factoring transactions, losses related to or incurred in connection directly or indirectly with discounting transactions, royalty, patent, technical, and copyright fees, licensing fees, and other similar expenses and costs.

(4) "Interest expenses and costs" include but are not limited to amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code.

(5) "Member" has the same meaning as in U.S. Treasury Regulation section 1.1502-1.

(6) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a "related entity" as defined in division (I)(12)(c) of section 5733.04 of the Revised Code, is a component member as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 per cent" wherever "5 per cent" appears in section 1563(e) of the Internal Revenue Code.

(B) This section applies to all corporations for tax years 1999 and thereafter. For tax years prior to 1999, this section applies only to a ~~taxpayer~~ corporation that has, or is a member of an affiliated group that has, or is a member of an affiliated group with another member that has, one or more of the following:

(1) Gross sales, including sales to other members of the affiliated group, during the taxable year of at least fifty million dollars;

(2) Total assets whose asset value at any time during the taxable year is at least twenty-five million dollars;

(3) Taxable income before operating loss deduction and special deductions during the taxable year of at least five hundred thousand dollars.

(C) For purposes of computing its net income under division (I) of section 5733.04 of the Revised Code, the ~~taxpayer~~ corporation shall add

interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more of the following related members:

(1) Any related member whose activities, in any one state, are primarily limited to the maintenance and management of intangible investments or of the intangible investments of corporations, business trusts, or other entities registered as investment companies under the "Investment Company Act of 1940," 15 U.S.C. 80a-1 et seq., as amended, and the collection and distribution of the income from such investments or from tangible property physically located outside such state. For purposes of division (C)(1) of this section, "intangible investments" includes, without limitation, investments in stocks, bonds, notes, and other debt obligations, including debt obligations of related members, interests in partnerships, patents, patent applications, trademarks, trade names, and similar types of intangible assets.

(2) Any related member that is a personal holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;

(3) Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a personal holding company as defined in section 542 of the Internal Revenue Code without regard to the stock ownership requirements set forth in section 542(a)(2) of the Internal Revenue Code;

(4) Any related member that is a foreign personal holding company as defined in section 552 of the Internal Revenue Code;

(5) Any related member that is not a corporation and is directly, indirectly, constructively, or beneficially owned in whole or in part by a foreign personal holding company as defined in section 552 of the Internal Revenue Code;

(6) Any related member if that related member or another related member directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, another related member any interest expenses and costs or intangible expenses and costs in an amount less than, equal to, or greater than such amounts received from the ~~taxpayer~~ corporation. Division (C)(6) of this section applies only if, within a one-hundred-twenty-month period commencing three years prior to the beginning of the tax year, a related member directly or indirectly paid, accrued, or incurred such amounts ~~to~~ or losses with respect to one or more direct or indirect transactions with an

entity described in divisions (C)(1) to (5) of this section. A rebuttable presumption exists that a related member did so pay, accrue, or incur such amounts ~~to~~ or losses with respect to one or more direct or indirect transactions with an entity described in divisions (C)(1) to (5) of this section. A ~~taxpayer~~ corporation can rebut this presumption only with a preponderance of the evidence to the contrary.

(7) Any related member that, with respect to indebtedness directly or indirectly owed by the ~~taxpayer~~ corporation to the related member, directly or indirectly charged or imposed on the ~~taxpayer~~ corporation an excess interest rate. If the related member has charged or imposed on the ~~taxpayer~~ corporation an excess interest rate, the adjustment required by division (C)(7) of this section with respect to such interest expenses and costs directly or indirectly paid, accrued, or incurred to the related member in connection with such indebtedness does not include so much of such interest expenses and costs that the ~~taxpayer~~ corporation would have directly or indirectly paid, accrued, or incurred if the related member had charged or imposed the highest possible interest rate that would not have been an excess interest rate. For purposes of division (C)(7) of this section, an excess interest rate is an annual rate that exceeds by more than three per cent the greater of the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time of the origination of the indebtedness, or the rate per annum prescribed by section 5703.47 of the Revised Code in effect at the time the ~~taxpayer~~ corporation paid, accrued, or incurred the interest expense or cost to the related member.

(D)(1) In making the adjustment required by division (C) of this section, the corporation shall make the adjustment required by section 5733.057 of the Revised Code. The adjustments required by division (C) of this section are not required if either of the following applies:

(a) The ~~taxpayer~~ corporation establishes by clear and convincing evidence that the adjustments are unreasonable.

(b) The ~~taxpayer~~ corporation and the tax commissioner agree in writing to the application or use of alternative adjustments and computations to more properly reflect the base required to be determined in accordance with division (B) of section 5733.05 of the Revised Code. Nothing in division (D)(1)(b) of this section shall be construed to limit or negate the tax commissioner's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(2) The adjustments required by divisions (C)(1) to (5) of this section do not apply to such portion of interest expenses and costs and intangible expenses and costs that the ~~taxpayer~~ corporation can establish by the

reponderance of the evidence meets both of the following:

(a) The related member during the same taxable year directly or indirectly paid, accrued, or incurred such portion to a person who is not a related member.

(b) The transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the ~~taxpayer~~ corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

(3) The adjustments required by division (C)(6) of this section do not apply to such portion of interest expenses and costs and intangible expenses and costs that the ~~taxpayer~~ corporation can establish by the preponderance of the evidence meets both of the following:

(a) The entity described in any of divisions (C)(1) to (6) of this section to whom the related member directly or indirectly paid, accrued, or incurred such portion, in turn during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and

(b) The transaction or transactions giving rise to the interest expenses and costs or the intangible expenses and costs between the ~~taxpayer~~ corporation, the related member, and the entity described in any of divisions (C)(1) to (5) did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

(4) The adjustments required by division (C) of this section apply except to the extent that the increased tax, if any, attributable to such adjustments would have been avoided if both the ~~taxpayer~~ corporation and the related member had been eligible to make and had timely made the election to combine in accordance with division (B) of section 5733.052 of the Revised Code.

(E) Except as otherwise provided in division (F) of this section, if, on the day that is one year after the day the ~~taxpayer~~ corporation files its report, the ~~taxpayer~~ corporation has not made the adjustment required by this section or has not fully paid the tax and interest, if any, imposed by this chapter and attributable to such adjustment, the ~~taxpayer~~ corporation is subject to a penalty equal to twice the interest charged under division (A) of section 5733.26 of the Revised Code for the delinquent payment of such tax and interest. For the purpose of the computation of the penalty imposed by this division, such penalty shall be deemed to be part of the tax due on the dates prescribed by this chapter without regard to the one-year period set forth in this division. The penalty imposed by this division is not in lieu of but is in addition to all other penalties, other similar charges, and interest

imposed by this chapter. The tax commissioner may waive, abate, modify, or refund, with interest, all or any portion of the penalty imposed by this division only if the ~~taxpayer~~ corporation establishes beyond a reasonable doubt that both the failure to fully comply with this section and the failure to fully pay such tax and interest within one year after the date the ~~taxpayer~~ corporation files its report were not in any part attributable to the avoidance of any portion of the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

(F)(1) For purposes of this division, "tax differential" means the difference between the tax that is imposed by ~~this chapter~~ section 5733.06 of the Revised Code and that is attributable to the adjustment required by this section and the amount paid that is so attributable, prior to the day that is one year after the day the ~~taxpayer~~ corporation files its report.

(2) The penalty imposed by division (E) of this section does not apply if the tax differential meets both of the following requirements:

(a) The tax differential is less than ten per cent of the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code; and

(b) The difference is less than fifty thousand dollars.

(3) Nothing in division (F) of this section shall be construed to waive, abate, or modify any other penalties, other similar charges, or interest imposed by other sections of this chapter.

(G) Nothing in this section shall require a corporation to add to its net income more than once any amount of interest expenses and costs or intangible expenses and costs that the corporation pays, accrues, or incurs to a related member described in division (c) of this section.

Sec. 5733.05. As used in this section, "qualified research" means laboratory research, experimental research, and other similar types of research; research in developing or improving a product; or research in developing or improving the means of producing a product. It does not include market research, consumer surveys, efficiency surveys, management studies, ordinary testing or inspection of materials or products for quality control, historical research, or literary research. "Product" as used in this paragraph does not include services or intangible property.

The annual ~~corporation~~ report determines the value of the issued and outstanding shares of stock of the taxpayer, which under division (A) or divisions (B) and (C) of this section is the base or measure of the franchise tax liability. Such determination shall be made as of the date shown by the report to have been the beginning of the corporation's annual accounting period that includes the first day of January of the tax year. For the ~~purpose~~ purposes of this ~~section~~ chapter, the value of the issued and outstanding

es of stock of any ~~such~~ corporation that is a financial institution shall be deemed to be the value as calculated in accordance with ~~either~~ division (A) ~~or (B)~~ of this section. FOR THE PURPOSEs OF THIS CHAPTER, THE VALUE OF THE ISSUED AND OUTSTANDING SHARES OF STOCK OF ANY CORPORATION that IS NOT A FINANCIAL INSTITUTION SHALL BE DEEMED TO BE THE VALUES AS CALCULATED IN ACCORDANCE WITH DIVISIONS (B) AND (C) OF THIS SECTION.

(A) The total value, as shown by the books of the ~~company~~ financial institution, of its capital, surplus, whether earned or unearned, undivided profits, and reserves~~, but exclusive of:~~

~~(1) Reserves for accounts receivable, depreciation, depletion and any other valuation reserves with respect to specific assets;~~

~~(2) Taxes due and payable during the year for which such report was made;~~

~~(3) Voting stock and participation certificates in corporations chartered pursuant to the "Farm Credit Act of 1971," 85 Stat. 597, 12 U.S.C. 2091, or as hereafter amended;~~

~~(4) Good will, appreciation, and abandoned property as set up in the annual report of the corporation, provided a certified balance sheet of the company is made available upon the request of the tax commissioner. Such balance sheet shall not be a part of the public records, but shall be a confidential report for use of the tax commissioner only.~~

~~(5) A portion of the value of the issued and outstanding shares of stock of such corporation equal to the amount obtained by multiplying such value by the quotient obtained by:~~

~~(a) Dividing (1) the amount of the corporation's assets, as shown on its books, represented by investments in the capital stock and indebtedness of public utilities of which at least eighty per cent of the utility's issued and outstanding common stock is owned by the corporation by (2) the total assets of such corporation as shown on its books;~~

~~(b) Dividing (1) the amount of the corporation's assets, as shown on its books, represented by investments in the capital stock and indebtedness of insurance companies of which at least eighty per cent of the insurance company's issued and outstanding common stock is owned by the corporation by (2) the total assets of such corporation as shown on its books;~~

~~(c) Dividing (1) the amount of the corporation's assets, as shown on its books, represented by investments in the capital stock and indebtedness of financial institutions of which at least twenty-five per cent of the financial institution's issued and outstanding common stock is owned by the corporation by (2) the total assets of such corporation as shown on its books.~~

~~(6) Land that has been determined pursuant to section 5713.31 of the Revised Code by the county auditor of the county in which such land is located to be devoted exclusively to agricultural use as of the first Monday of June in the corporation's taxable year.~~

~~(7) Property within Ohio used exclusively during the taxable year for qualified research.~~

~~The commissioner shall then determine the base upon which the fee provided for in section 5733.06 of the Revised Code shall be computed as follows: divide into two equal parts the value as determined in division (A) of this section of the issued and outstanding shares of stock of each corporation filing such report. Take one part and multiply it by a fraction whose numerator is the net book value of all the corporation's property owned or used by it in this state, and whose denominator is the net book value of all its property wherever situated, in each case eliminating, to the extent included, the investments in the capital stock or in the indebtedness of public utilities, insurance companies, and financial institutions as described in division (A) (5) of this section; any item of good will, appreciation, and abandoned property; and property within Ohio used exclusively during the taxable year for qualified research. Take the other part and multiply it by a fraction whose numerator is the value of the business done, measured by sales of tangible personal property, by the corporation in this state during the year preceding the date of the commencement of its current annual accounting period, and whose denominator is the total value of its business, measured by sales of tangible personal property, during said year wherever transacted.~~

~~To the extent that the value of business done in this state is measured by sales of tangible personal property, it shall, for the purpose of this section and section 5733.03 of the Revised Code, mean sales where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.~~

~~In the case of corporations whose business does not consist of the making of sales of tangible personal property and to which the sales~~

~~numerator and denominator cannot apply, but which business consists of such activities as receiving commissions, rents, interest, dividends or distributions, and fees, the fraction shall be determined by allocating such business activities in and out of this state according to their situs.~~

~~In determining the numerator and denominator of the value of the business done fraction in the case of a reporting corporation owning at least eighty per cent of the issued and outstanding common stock of one or more public utilities or insurance companies, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the reporting corporation from such utilities, insurance companies, and financial institutions shall be eliminated.~~

~~In determining the value of intangible property, including capital investments, owned or used in this state by either a domestic or foreign corporation, the commissioner shall be guided by sections 5709.02 and 5709.03 of the Revised Code, except that investments in the capital stock of or loans and advances to subsidiary corporations at least fifty-one per cent of whose common stock is owned by the reporting corporation shall be allocated in and out of state in accordance with the value of physical property in and out of the state representing such investments, loans, and advances, and except that a lessor's lease receivable from a sales-type, direct financing, or leveraged lease accounted for in accordance with generally accepted accounting principles as set forth in financial accounting standards board statement 13 and its subsequent amendments shall be allocated in and out of state in accordance with the physical location of the property subject to the lease.~~

~~As used in this section, "public utility" or "utility" means a public utility as defined in Chapter 5727. of the Revised Code whether such utility is doing business in this state or elsewhere. "Insurance company" means an insurance company as defined in Chapter 5725.~~ shall be determined as prescribed by section 5733.056 of the Revised Code for tax years 1998 and thereafter.

(B) The sum of the corporation's net income~~,~~ during the ~~year or portion thereof preceding the date of commencement of its annual accounting period that includes the first day of January of the tax~~ corporation's taxable year, allocated or apportioned to this state as ~~follows~~ prescribed in divisions (B)(1) and (2) of this section, and subject to sections 5733.052, 5733.053, and 5733.057 of the Revised Code:

(1) The net income allocated to this state as provided by section 5733.051 of the Revised Code~~;~~.

(2) The amount of Ohio apportioned net income from sources other than

those allocated under section 5733.051 of the Revised Code, which shall be determined by multiplying the corporation's net income by a fraction~~, the~~. The numerator of ~~which is~~ the fraction is the sum of the following products: the property factor ~~plus~~ multiplied by twenty, the payroll factor ~~plus~~ multiplied by twenty, and the sales factor ~~plus the sales factor, and the~~ multiplied by sixty. The denominator of ~~which is four~~ the fraction is one hundred, provided that the denominator ~~of four~~ shall be reduced by ~~the number of fractions which have a denominator of zero. The~~ twenty if the property factor has a denominator of zero, by twenty if the payroll factor has a denominator of zero, and by sixty if the sales factor has a denominator of zero.

The property, payroll, and sales factors shall be determined as follows:

(a) The property factor is a fraction the numerator of which is the average value of the corporation's real and tangible personal property owned or rented, and used in the trade or business in this state during the taxable year, and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented, and used in the trade or business everywhere during such year. There shall be excluded from the numerator and denominator of the property factor the original cost of all of the following property within Ohio: property with respect to which a "pollution control facility" certificate has been issued pursuant to section 5709.21 of the Revised Code; property with respect to which an "industrial water pollution control certificate" has been issued pursuant to section 6111.31 of the Revised Code; and property used exclusively during the taxable year for qualified research.

(i) Property owned by the corporation is valued at its original cost. Property rented by the corporation is valued at eight times the net annual rental rate. "Net annual rental rate" means the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals.

(ii) The average value of property shall be determined by averaging the values at the beginning and the end of the taxable year, but the tax commissioner may require the averaging of monthly values during the taxable year, if reasonably required to reflect properly the average value of the corporation's property.

(b) The payroll factor is a fraction the numerator of which is the total amount paid in this state during the taxable year by the corporation for compensation, and the denominator of which is the total compensation paid everywhere by the corporation during such year. There shall be excluded from the numerator and the denominator of the payroll factor the total

compensation paid in this state to employees who are primarily engaged in qualified research.

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

(ii) Compensation is paid in this state if: (1) the recipient's service is performed entirely within this state, (2) the recipient's service is performed both within and without this state, but the service performed without this state is incidental to the recipient's service within this state, (3) some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the recipient's residence is in this state.

(iii) Compensation is paid in this state to any employee of a common or contract motor carrier corporation, who performs ~~his~~ the employee's regularly assigned duties on a motor vehicle in more than one state, in the same ratio by which the mileage traveled by such employee within the state bears to the total mileage traveled by such employee everywhere during the taxable year.

(c) The sales factor is a fraction the numerator of which is the total sales in this state by the corporation during the taxable year, and the denominator of which is the total sales by the corporation everywhere during such year. In determining the numerator and denominator of the sales factor, receipts from the sale or other disposal of a capital asset or an asset described in section 1231 of the Internal Revenue Code shall be eliminated. Also, in determining the numerator and denominator of the sales factor, in the case of a reporting corporation owning at least eighty per cent of the issued and outstanding common stock of one or more public utilities or insurance companies, or owning at least twenty-five per cent of the issued and outstanding common stock of one or more financial institutions, receipts received by the reporting corporation from such utilities, insurance companies, and financial institutions shall be eliminated.

For the purpose of this section and section 5733.03 of the Revised Code, sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or by other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a

purchaser constitutes delivery to the purchaser in this state, and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

Sales, other than sales of tangible personal property, are in this state if either:

(i) The income-producing activity is performed solely in this state;

(ii) The income-producing activity is performed both within and without this state and a greater proportion of the income-producing activity is performed within this state than in any other state, based on costs of performance. ~~If the income-producing activity involves the solicitation of a sale, the location of the solicitation shall control. If the sale is principally solicited by the taxpayer or his agent from an office within Ohio, such activity shall be allocated to Ohio. If the sale is principally solicited by the taxpayer or agent from an office outside Ohio, such activity shall not be allocated to Ohio.~~

(d) If the allocation and apportionment provisions of division (B) of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may request, which request must be in writing and must accompany the report, timely filed petition for reassessment, or timely filed amended report, or the tax commissioner may require, in respect to all or any part of the taxpayer's allocated or apportioned base, if reasonable, any one or more of the following:

(i) Separate accounting;

(ii) The exclusion of any one or more of the factors;

(iii) The inclusion of one or more additional factors which will fairly represent the taxpayer's allocated or apportioned base in this state.

An alternative method will be effective only with approval by the tax commissioner.

NOTHING IN this section SHALL BE CONSTRUED TO EXTEND ANY STATUTE OF LIMITATIONS SET FORTH IN THIS CHAPTER.

(C)(1) Subject to divisions (C)(2) and (3) of this section, the total value, as shown on the books of each corporation that is not a qualified holding company, of the net book value of a corporation's assets less the net carrying value of its liabilities. for the purposes of determining that total value, any reserves shown on the corporation's books shall be considered liabilities or contra assets except for any reserves that are deemed appropriations of retained earnings under generally accepted accounting principles.

(2)(a) If, on the last day of the taxpayer's taxable year preceding the tax year, the taxpayer is a related member to a corporation that elects to be a

qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year, or if, on the last day of the taxpayer's taxable year preceding the tax year, a corporation that elects to be a qualifying holding company for the tax year beginning after the last day of the taxpayer's taxable year is a related member to the taxpayer, then the taxpayer's total value shall be adjusted by the qualifying amount. except as otherwise provided under division (c)(2)(b) of this section, "qualifying amount" means the amount that, when added to the taxpayer's total value, and when subtracted from the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, or when subtracted from the taxpayer's total value and when added to the net carrying value of the taxpayer's liabilities computed without regard to division (C)(2) of this section, results in the taxpayer's debt-to-equity ratio equaling the debt-to-equity ratio of the qualifying controlled group on the last day of the taxable year ending prior to the first day of the tax year computed on a consolidated basis in accordance with general accepted accounting principles. for the purposes of division (c)(2)(a) of this section, the corporation's total value, after the adjustment required by that division, shall not exceed the net book value of the corporation's assets.

(b)(i) the amount added to the taxpayer's total value and subtracted from the net carrying value of the taxpayer's liabilities shall not exceed the amount of the net carrying value of the taxpayer's liabilities owed to the taxpayer's related members.

(ii) A liability owed to the taxpayer's related members includes, but is not limited to, any amount that the corporation owes to a person that is not a related member if the corporation's related member or related members in whole or in part guarantee any portion or all of that amount, or pledge, hypothecate, mortgage, or carry out any similar transactions to secure any portion or all of that amount.

(3) the base upon which the tax is levied under division (C) of section 5733.06 of the Revised Code shall be computed by multiplying the amount determined under divisions (C)(1) and (2) of this section by the fraction determined under divisions (b)(2)(a) to (c) of this section and, if applicable, divisions (b)(2)(d)(ii) to (iv) of this section but without regard to section 5733.052 of the Revised Code.

(4) for purposes of division (c) of this section, "related member" has the same meaning as in division (a)(6) of section 5733.042 of the Revised Code without regard to division (b) of that section.

Sec. 5733.051. Net income of a corporation subject to the tax imposed by ~~this chapter~~section 5733.06 of the Revised Code shall be allocated and

apportioned to this state as follows:

(A) Net rents and royalties from real property located in this state are allocable to this state;

(B) Net rents and royalties from tangible personal property, to the extent such property is utilized in this state, are allocable to this state if the taxpayer is otherwise subject to the tax ~~provided~~ imposed by ~~this chapter~~ section 5733.06 of the Revised Code;

(C) Capital gains and losses from the sale or other disposition of real property located in this state are allocable to this state;

(D) Capital gains and losses from the sale or other disposition of tangible personal property are allocable to this state if the property had a situs in this state at the time of sale and the taxpayer is otherwise subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code;

(E) Capital gains and losses from the sale or other disposition of intangible property which may produce income enumerated in division (F) of this section are allocable on the same basis as set forth in such division. Capital gains and losses from the sale or other disposition of all other intangible property are apportionable under division (H) of this section.

(F) Dividends or distributions which are not otherwise deducted or excluded from net income, other than dividends or distributions from a domestic international sales corporation, are allocable to this state in accordance with the ratio of the book value of the physical assets of the payor of the dividends or distributions located in this state divided by the book value of the total physical assets of the payor located everywhere. Dividends or distributions received from a domestic international sales corporation, or from a payor the location of whose physical assets is unavailable to the taxpayer, are apportionable under division (H) of this section.

(G) Patent and copyright royalties and technical assistance fees, not representing the principal source of gross receipts of the taxpayer, are allocable to this state to the extent that the activity of the payor thereof giving rise to the payment takes place in this state. If the location of the payor's activity is unavailable to the taxpayer, such royalties and fees are apportionable under division (H) of this section.

(H) Any other net income, from sources other than those enumerated in divisions (A) to (G) of this section, is apportionable to this state on the basis of the mechanism provided in division (B)(2) of section 5733.05 of the Revised Code.

Sec. 5733.052. (A) At the discretion of the tax commissioner, any taxpayer that owns or controls either directly or indirectly more than fifty

per cent of the capital stock with voting rights of one or more other corporations, or has more than fifty per cent of its capital stock with voting rights owned or controlled either directly or indirectly by another corporation, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of one or more other corporations, may be required or permitted, for purposes of computing the value of its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, to combine its net income with the net income of any such other corporations.

(B) A combination of net income may also be made at the election of any two or more taxpayers each having income, other than dividend or distribution income, from sources within Ohio, provided the ownership or control requirements contained in the division (A) of this section are satisfied and such combination is elected in a timely report which sets forth such information as the commissioner requires. This election, once made by two or more such taxpayers, may not be changed by such taxpayers with respect to amended reports or reports for future years without the written consent of the commissioner. As used in this section, "income from sources within Ohio" means income that would be allocated or apportioned to Ohio if the taxpayer computed its franchise tax without regard to this section.

(C) No combination of net income under division (A) of this section shall be required unless the commissioner determines that, in order to properly reflect income, such a combination is necessary because of intercorporate transactions and the tax liability imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

(D) In case of a combination of income, the net income of each taxpayer shall be measured by the combined net income of all the corporations included in the combination. For purposes of such measurement, each corporation's net income shall be determined in the same manner as if the corporation were a taxpayer under this chapter. In computing combined net income, intercorporate transactions, including dividends or distributions, between corporations included in the combination shall be eliminated. If the computation of net income on a combination of income involves the use of any of the formulas set forth in this chapter, the factors used in the formulas shall be the combined totals of the factors for each corporation included in the combination after the elimination of any intercorporate transactions. The exemptions and deductions permitted under this chapter shall be taken in the same manner as if each corporation filed a separate report.

(E) For purposes of division (B) of section 5733.05 of the Revised Code, each taxpayer's net income allocated or apportioned to this state shall

be computed as follows: to compute the taxpayer's net income allocated to this state for purposes of division (B)(1) of section 5733.05 of the Revised Code, the taxpayer's net income for sources allocated under section 5733.051 of the Revised Code shall be separately determined, eliminating intercorporate transactions, and allocated to this state as provided by section 5733.051 of the Revised Code. To compute the taxpayer's net income apportioned to this state for purposes of division (B)(2) of section 5733.05 of the Revised Code, the combined net income, other than net income from sources allocated under section 5733.051 of the Revised Code, shall be apportioned to Ohio and then prorated to the taxpayer on the basis of its proportionate part of the factors used to apportion the total of such net income to Ohio.

Sec. 5733.053. (A) As used in this section:

(1) "Transfer" means a transaction or series of related transactions in which a corporation directly or indirectly transfers or distributes its assets or equity to another corporation.

(2) "Transferor" means a corporation that has made a transfer if on the completion of the transfer the corporation no longer does business in this state or owns or uses any capital or property in this state.

~~(3) "The tax imposed by this chapter" includes the taxes imposed under sections 5733.06, 5733.065, and 5733.066 of the Revised Code.~~

(B) A taxpayer is subject to this section only if all of the following apply:

(1) It received the assets or equity of a transferor in a transfer;

(2) The transferor is not subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for the tax year;

(3) The taxpayer would have met the ownership or control requirements of division (A) of section 5733.052 of the Revised Code for a combined report with the transferor if both had been in existence on the first day of January immediately before and after the transfer and if the transfer had not been made.

(C) For purposes of valuing its issued and outstanding shares of stock under division (B) of section 5733.05 of the Revised Code, a taxpayer subject to this section shall add to its net income allocated or apportioned to this state, its transferor's net income allocated or apportioned to this state. The taxpayer shall add such income in computing its tax for the same tax year or years that such income would have been reported by the transferor if the transfer had not been made and the transferor had remained subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code on the first day of January of the tax year.

(D) The following shall be determined in the same manner as if the transfer had not been made and the transferor remained subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code on the first day of January of the tax year:

(1) The transferor's net income allocated or apportioned to this state for the tax year under divisions (B)(1) and (2) of section 5733.05 of the Revised Code;

(2) The transferor's requirements for the combination of net income under section 5733.052 of the Revised Code;

(3) Any other determination regarding the transferor that is necessary to avoid an absurd or unreasonable result in the application of this chapter.

(E) A taxpayer shall be allowed the following credits and deductions in the same manner that they would have been available to its transferor:

(1) The credit allowed by section 5733.061 of the Revised Code with regard to property acquired from its transferor;

(2) The deduction under division (I)(1) of section 5733.04 of the Revised Code for net operating losses incurred by its transferor, subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code concerning net operating loss carryovers;

(3) The deductions allowed by divisions (C)(2), (D)(2), (E)(2), (F)(2), (G)(2), and (H) of section 5733.041 of the Revised Code for prior depreciation addbacks of its transferor;

(4) The credit allowed under section 5733.069 of the Revised Code, and any other deduction or credit under this chapter involving the transferor the disallowance of which would be absurd or unreasonable. The allowance of such a deduction or credit shall be subject to the limitations set forth in sections 381 and 382 of the Internal Revenue Code and regulations prescribed thereunder concerning an acquiring corporation's taking into account the credits of a transferor corporation.

(F) If a taxpayer subject to this section subsequently becomes a transferor, any net income that the taxpayer would have been required to add under division (C) of this section shall be included in its income as a transferor and any credits or deductions that the taxpayer would have been entitled to under division (E) of this section shall be available to it as a transferor.

Sec. 5733.055. (A) As used in this section:

(1) "Ceiling amount" means the excess of the amount described in division (A)(1)(a) of this section over the amount described in division (A)(1)(b) of this section:

(a) The amount of income allocated and apportioned to this state in

accordance with this chapter but without regard to and without application of the adjustments required by this section;

(b) The amount of income allocated and apportioned to this state in accordance with this chapter but without regard to and without application of the adjustments required by both this section and division (I)(13) of section 5733.04 of the Revised Code.

(2) "Income adjustment amount" means the sum of the amounts described in divisions (A)(2)(a) and (b) of this section:

(a) The related member's net interest income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules;

(b) The related member's net intangible income actually allocated and apportioned to other states that impose a tax on or measured by income, in accordance with the other states' allocation and apportionment rules.

For purposes of division (A)(2) of this section, "other states" does not include those states under whose laws the taxpayer files or could have elected to file with the related member, or the related member files or could have elected to file with another related member, a combined income tax report or return, a consolidated income tax report or return, or any other report or return where such report or return is due because of the imposition of a tax measured on or by income and such report or return results in the elimination of the tax effects from transactions directly or indirectly between either the taxpayer and the related member or between the related member and another corporation if such other corporation, during a one-hundred-twenty-month period commencing three years prior to the beginning of the tax year, directly or indirectly paid, accrued, or incurred intangible expenses and costs or interest expenses and costs to an entity described in divisions (C)(1) to (5) of section 5733.042 of the Revised Code.

(3) "Intangible expenses and costs" has the same meaning as in division (A)(3) of section 5733.042 of the Revised Code.

(4) "Interest expenses and costs" has the same meaning as in division (A)(4) of section 5733.042 of the Revised Code.

(5) "Intangible income and revenue" are those amounts earned or received by a related member from a taxpayer for the taxpayer's use of intangible property. Such amounts include, but are not limited to, royalty, patent, technical, and copyright fees, licensing fees, and other similar income and revenue.

(6) "Interest income and revenue" are those amounts earned or received by a related member from a taxpayer to the extent such amounts are allowed as deductions under section 163 of the Internal Revenue Code for purposes

of determining the taxpayer's taxable income under the Internal Revenue Code.

(7) "Net intangible income" means intangible income and revenue reduced by intangible expenses and costs paid or accrued directly or indirectly to a related member described in any of divisions (C)(1) to (7) of section 5747.042 of the Revised Code.

(8) "Net interest income" means interest income and revenue reduced by interest expenses and costs paid or accrued directly or indirectly to a related member described in any of divisions (C)(1) to (7) of section 5747.042 of the Revised Code.

(B) Except as set forth in division (C) of this section, a deduction from the corporation's net income allocated and apportioned to this state shall be allowed in an amount equal to the income adjustment amount described in division (A)(2) of this section. However, in no case shall the deduction be greater than the ceiling amount described in division (A)(1) of this section.

(C) The deduction provided by division (B) of this section is available to the taxpayer only if the taxpayer establishes with clear and convincing evidence that the intangible expenses and costs and the interest expenses and costs paid, accrued, or incurred by the corporation to a related member did not have as a principal purpose the ~~advoidance~~ AVOIDANCE of any portion of the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

Sec. 5733.056. (A) AS USED IN THIS SECTION:

(1) "BILLING ADDRESS" MEANS the address where any notice, statement, or bill relating to a customer's account is mailed, as INDICATED IN THE BOOKS AND RECORDS OF THE TAXPAYER ON THE FIRST DAY OF THE TAXABLE YEAR OR ON SUCH LATER DATE IN THE TAXABLE YEAR WHEN THE CUSTOMER RELATIONSHIP BEGAN.

(2) "BORROWER OR CREDIT CARD HOLDER LOCATED IN THIS STATE" MEANS:

(a) A BORROWER, OTHER THAN A CREDIT CARD HOLDER, THAT IS ENGAGED IN A TRADE OR BUSINESS AND MAINTAINS ITS COMMERCIAL DOMICILE IN THIS STATE; OR

(b) A BORROWER THAT IS NOT ENGAGED IN A TRADE OR BUSINESS, OR A CREDIT CARD HOLDER, WHOSE BILLING ADDRESS IS IN THIS STATE.

(3) "BRANCH" MEANS A "DOMESTIC BRANCH" AS DEFINED IN SECTION 3 OF THE "FEDERAL DEPOSIT INSURANCE ACT," 64 STAT. 873, 12 U.S.C. 1813(o), AS AMENDED.

(4) "COMPENSATION" MEANS WAGES, SALARIES,

COMMISSIONS, AND ANY OTHER FORM OF REMUNERATION PAID TO EMPLOYEES FOR PERSONAL SERVICES THAT ARE INCLUDED IN SUCH EMPLOYEE'S GROSS INCOME UNDER THE INTERNAL REVENUE CODE. IN THE CASE OF EMPLOYEES NOT SUBJECT TO THE INTERNAL REVENUE CODE, SUCH AS THOSE EMPLOYED IN FOREIGN COUNTRIES, THE DETERMINATION OF WHETHER SUCH PAYMENTS WOULD CONSTITUTE GROSS INCOME TO SUCH EMPLOYEES UNDER THE INTERNAL REVENUE CODE SHALL BE MADE AS THOUGH SUCH EMPLOYEES WERE SUBJECT TO THE INTERNAL REVENUE CODE.

(5) "CREDIT CARD" MEANS A CREDIT, TRAVEL, OR ENTERTAINMENT CARD.

(6) "CREDIT CARD ISSUER'S REIMBURSEMENT FEE" MEANS THE FEE A TAXPAYER RECEIVES FROM A MERCHANT'S BANK BECAUSE ONE OF THE PERSONS TO WHOM THE TAXPAYER HAS ISSUED A CREDIT CARD HAS CHARGED MERCHANDISE OR SERVICES TO THE CREDIT CARD.

(7) "DEPOSITS" HAS THE MEANING GIVEN IN SECTION 3 OF THE "FEDERAL DEPOSIT INSURANCE ACT," 64 STAT. 873, 12 U.S.C. 1813(1), AS AMENDED.

(8) "EMPLOYEE" MEANS, WITH RESPECT TO A PARTICULAR TAXPAYER, ANY INDIVIDUAL WHO UNDER THE USUAL COMMON LAW RULES APPLICABLE IN DETERMINING THE EMPLOYER-EMPLOYEE RELATIONSHIP, HAS THE STATUS OF AN EMPLOYEE OF THAT TAXPAYER.

(9) "GROSS RENTS" MEANS THE ACTUAL SUM OF MONEY OR OTHER CONSIDERATION PAYABLE FOR THE USE OR POSSESSION OF PROPERTY. "GROSS RENTS" INCLUDES:

(a) ANY AMOUNT PAYABLE FOR THE USE OR POSSESSION OF REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY WHETHER DESIGNATED AS A FIXED SUM OF MONEY OR AS A PERCENTAGE OF RECEIPTS, PROFITS, OR OTHERWISE;

(b) ANY AMOUNT PAYABLE AS ADDITIONAL RENT OR IN LIEU OF RENT, SUCH AS INTEREST, TAXES, INSURANCE, REPAIRS, OR ANY OTHER AMOUNT REQUIRED TO BE PAID BY THE TERMS OF A LEASE OR OTHER ARRANGEMENT; AND

(c) A PROPORTIONATE PART OF THE COST OF ANY IMPROVEMENT TO REAL PROPERTY MADE BY OR ON BEHALF OF THE TAXPAYER WHICH REVERTS TO THE OWNER OR LESSOR UPON TERMINATION OF A LEASE OR OTHER ARRANGEMENT.

THE AMOUNT TO BE INCLUDED IN GROSS RENTS IS THE AMOUNT OF AMORTIZATION OR DEPRECIATION ALLOWED IN COMPUTING THE TAXABLE INCOME BASE FOR THE TAXABLE YEAR. HOWEVER, WHERE A BUILDING IS ERECTED ON LEASED LAND, BY OR ON BEHALF OF THE TAXPAYER, THE VALUE OF THE LAND IS DETERMINED BY MULTIPLYING THE GROSS RENT BY EIGHT, AND THE VALUE OF THE BUILDING IS DETERMINED IN THE SAME MANNER AS IF OWNED BY THE TAXPAYER.

(d) THE FOLLOWING ARE NOT INCLUDED IN THE TERM "GROSS RENTS":

(i) REASONABLE AMOUNTS PAYABLE AS SEPARATE CHARGES FOR WATER AND ELECTRIC SERVICE FURNISHED BY THE LESSOR;

(ii) REASONABLE AMOUNTS PAYABLE AS SERVICE CHARGES FOR JANITORIAL SERVICES FURNISHED BY THE LESSOR;

(iii) REASONABLE AMOUNTS PAYABLE FOR STORAGE, PROVIDED SUCH AMOUNTS ARE PAYABLE FOR SPACE NOT DESIGNATED AND NOT UNDER THE CONTROL OF THE TAXPAYER; AND

(iv) THAT PORTION OF ANY RENTAL PAYMENT WHICH IS APPLICABLE TO THE SPACE SUBLEASED FROM THE TAXPAYER AND NOT USED BY IT.

(10) "LOAN" MEANS ANY EXTENSION OF CREDIT RESULTING FROM DIRECT NEGOTIATIONS BETWEEN THE TAXPAYER AND ITS CUSTOMER, OR THE PURCHASE, IN WHOLE OR IN PART, OF SUCH EXTENSION OF CREDIT FROM ANOTHER. LOANS INCLUDE DEBT OBLIGATIONS OF SUBSIDIARIES, PARTICIPATIONS, SYNDICATIONS, AND LEASES TREATED AS LOANS FOR FEDERAL INCOME TAX PURPOSES. "LOAN" DOES NOT INCLUDE: PROPERTIES TREATED AS LOANS UNDER SECTION 595 OF THE INTERNAL REVENUE CODE; FUTURES OR FORWARD CONTRACTS; OPTIONS; NOTIONAL PRINCIPAL CONTRACTS SUCH AS SWAPS; CREDIT CARD RECEIVABLES, INCLUDING PURCHASED CREDIT CARD RELATIONSHIPS; NON-INTEREST BEARING BALANCES DUE FROM DEPOSITOR INSTITUTIONS; CASH ITEMS IN THE PROCESS OF COLLECTION; FEDERAL FUNDS SOLD; SECURITIES PURCHASED UNDER AGREEMENTS TO RESELL; ASSETS HELD IN A TRADING ACCOUNT; SECURITIES; INTERESTS IN A REAL ESTATE MORTGAGE INVESTMENT CONDUIT OR OTHER MORTGAGE-BACKED OR ASSET-BACKED

SECURITY; AND OTHER SIMILAR ITEMS.

(11) "LOAN SECURED BY REAL PROPERTY" MEANS THAT FIFTY PER CENT OR MORE OF THE AGGREGATE VALUE OF THE COLLATERAL USED TO SECURE A LOAN OR OTHER OBLIGATION, WHEN VALUED AT FAIR MARKET VALUE AS OF THE TIME THE ORIGINAL LOAN OR OBLIGATION WAS INCURRED, WAS REAL PROPERTY.

(12) "MERCHANT DISCOUNT" MEANS THE FEE, OR NEGOTIATED DISCOUNT, CHARGED TO A MERCHANT BY THE TAXPAYER FOR THE PRIVILEGE OF PARTICIPATING IN A PROGRAM WHEREBY A CREDIT CARD IS ACCEPTED IN PAYMENT FOR MERCHANDISE OR SERVICES SOLD TO THE CARD HOLDER.

(13) "PARTICIPATION" MEANS AN EXTENSION OF CREDIT IN WHICH AN UNDIVIDED OWNERSHIP INTEREST IS HELD ON A PRO RATA BASIS IN A SINGLE LOAN OR POOL OF LOANS AND RELATED COLLATERAL. IN A LOAN PARTICIPATION, THE CREDIT ORIGINATOR INITIALLY MAKES THE LOAN AND THEN SUBSEQUENTLY RESELLS ALL OR A PORTION OF IT TO OTHER LENDERS. THE PARTICIPATION MAY OR MAY NOT BE KNOWN TO THE BORROWER.

(14) "PRINCIPAL BASE OF OPERATIONS" WITH RESPECT TO TRANSPORTATION PROPERTY MEANS THE PLACE OF MORE OR LESS PERMANENT NATURE FROM WHICH THE PROPERTY IS REGULARLY DIRECTED OR CONTROLLED. WITH RESPECT TO AN EMPLOYEE, THE "PRINCIPAL BASE OF OPERATIONS" MEANS THE PLACE OF MORE OR LESS PERMANENT NATURE FROM WHICH THE EMPLOYEE REGULARLY (a) STARTS WORK AND TO WHICH THE EMPLOYEE CUSTOMARILY RETURNS IN ORDER TO RECEIVE INSTRUCTIONS FROM THE EMPLOYER OR (b) COMMUNICATES WITH THE EMPLOYEE'S CUSTOMERS OR OTHER PERSONS OR (c) PERFORMS ANY OTHER FUNCTIONS NECESSARY TO THE EXERCISE OF THE TRADE OR PROFESSION AT SOME OTHER POINT OR POINTS.

(15) "QUALIFIED INSTITUTION" MEANS A FINANCIAL INSTITUTION THAT ON OR AFTER JUNE 1, 1997:

(a)(i) HAS CONSUMMATED ONE OR MORE APPROVED TRANSACTIONS WITH INSURED BANKS WITH DIFFERENT HOME STATES THAT WOULD QUALIFY UNDER SECTION 102 OF THE "RIEGLE-NEAL INTERSTATE BANKING AND BRANCHING

ICIENCY ACT OF 1994," PUBLIC LAW 103-328, 108 STAT. 2338;

(ii) IS A FEDERAL SAVINGS ASSOCIATION OR FEDERAL SAVINGS BANK THAT HAS CONSUMMATED ONE OR MORE INTERSTATE ACQUISITIONS THAT RESULT IN A FINANCIAL INSTITUTION THAT HAS BRANCHES IN MORE THAN ONE STATE; OR

(iii) HAS CONSUMMATED ONE OR MORE APPROVED INTERSTATE ACQUISITIONS UNDER AUTHORITY OF TITLE XI OF THE REVISED CODE THAT RESULT IN A FINANCIAL INSTITUTION THAT HAS BRANCHES IN MORE THAN ONE STATE; AND

(b) HAS AT LEAST TEN PER CENT OF ITS DEPOSITS IN THIS STATE AS OF THE LAST DAY OF JUNE PRIOR TO THE BEGINNING OF THE TAX YEAR.

(16) "REAL PROPERTY OWNED" AND "TANGIBLE PERSONAL PROPERTY OWNED" MEAN REAL AND TANGIBLE PERSONAL PROPERTY, RESPECTIVELY, ON WHICH THE TAXPAYER MAY CLAIM DEPRECIATION FOR FEDERAL INCOME TAX PURPOSES, OR TO WHICH THE TAXPAYER HOLDS LEGAL TITLE AND ON WHICH NO OTHER PERSON MAY CLAIM DEPRECIATION FOR FEDERAL INCOME TAX PURPOSES, OR COULD CLAIM DEPRECIATION IF SUBJECT TO FEDERAL INCOME TAX. REAL AND TANGIBLE PERSONAL PROPERTY DO NOT INCLUDE COIN, CURRENCY, OR PROPERTY ACQUIRED IN LIEU OF OR PURSUANT TO A FORECLOSURE.

(17) "REGULAR PLACE OF BUSINESS" MEANS AN OFFICE AT WHICH THE TAXPAYER CARRIES ON ITS BUSINESS IN A REGULAR AND SYSTEMATIC MANNER AND WHICH IS CONTINUOUSLY MAINTAINED, OCCUPIED, AND USED BY EMPLOYEES OF THE TAXPAYER.

(18) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, OR ANY TERRITORY OR POSSESSION OF THE UNITED STATES.

(19) "SYNDICATION" MEANS AN EXTENSION OF CREDIT IN WHICH TWO OR MORE PERSONS FUND AND EACH PERSON IS AT RISK ONLY UP TO A SPECIFIED PERCENTAGE OF THE TOTAL EXTENSION OF CREDIT OR UP TO A SPECIFIED DOLLAR AMOUNT.

(20) "TRANSPORTATION PROPERTY" MEANS VEHICLES AND

VESSELS CAPABLE OF MOVING UNDER THEIR OWN POWER, SUCH AS AIRCRAFT, TRAINS, WATER VESSELS AND MOTOR VEHICLES, AS WELL AS ANY EQUIPMENT OR CONTAINERS ATTACHED TO SUCH PROPERTY, SUCH AS ROLLING STOCK, BARGES, TRAILERS, OR THE LIKE.

(B) THE ANNUAL FINANCIAL INSTITUTION REPORT DETERMINES THE VALUE OF THE ISSUED AND OUTSTANDING SHARES OF STOCK OF THE TAXPAYER, AND IS THE BASE OR MEASURE OF THE FRANCHISE TAX LIABILITY. SUCH DETERMINATION SHALL BE MADE AS OF THE DATE SHOWN BY THE REPORT TO HAVE BEEN THE BEGINNING OF THE FINANCIAL INSTITUTION'S ANNUAL ACCOUNTING PERIOD THAT INCLUDES THE FIRST DAY OF JANUARY OF THE TAX YEAR. FOR PURPOSES OF THIS SECTION, DIVISION (A) OF SECTION 5733.05, AND DIVISION (D) OF section 5733.06 of the Revised Code, THE VALUE OF THE ISSUED AND OUTSTANDING SHARES OF STOCK OF THE FINANCIAL INSTITUTION SHALL INCLUDE THE TOTAL VALUE, AS SHOWN BY THE BOOKS OF THE FINANCIAL INSTITUTION, OF ITS CAPITAL, SURPLUS, WHETHER EARNED OR UNEARNED, UNDIVIDED PROFITS, AND RESERVES, BUT EXCLUSIVE OF:

(1) RESERVES FOR ACCOUNTS RECEIVABLE, DEPRECIATION, DEPLETION, AND ANY OTHER VALUATION RESERVES WITH RESPECT TO SPECIFIC ASSETS;

(2) TAXES DUE AND PAYABLE DURING THE YEAR FOR WHICH SUCH REPORT WAS MADE;

(3) VOTING STOCK AND PARTICIPATION CERTIFICATES IN CORPORATIONS CHARTERED PURSUANT TO THE "FARM CREDIT ACT OF 1971," 85 STAT. 597, 12 U.S.C. 2091, AS AMENDED;

(4) GOOD WILL, APPRECIATION, AND ABANDONED PROPERTY AS SET UP IN THE ANNUAL REPORT OF THE FINANCIAL INSTITUTION, PROVIDED A CERTIFIED BALANCE SHEET OF THE COMPANY IS MADE AVAILABLE UPON THE REQUEST OF THE TAX COMMISSIONER. SUCH BALANCE SHEET SHALL NOT BE A PART OF THE PUBLIC RECORDS, BUT SHALL BE A CONFIDENTIAL REPORT FOR USE OF THE TAX COMMISSIONER ONLY.

(5) A PORTION OF THE VALUE OF THE ISSUED AND OUTSTANDING SHARES OF STOCK OF SUCH FINANCIAL INSTITUTION EQUAL TO THE AMOUNT OBTAINED BY

MULTIPLYING SUCH VALUE BY THE QUOTIENT OBTAINED BY:

(a) DIVIDING (1) THE AMOUNT OF THE FINANCIAL INSTITUTION'S ASSETS, AS SHOWN ON ITS BOOKS, REPRESENTED BY INVESTMENTS IN THE CAPITAL STOCK AND INDEBTEDNESS OF PUBLIC UTILITIES OF WHICH AT LEAST EIGHTY PER CENT OF THE UTILITY'S ISSUED AND OUTSTANDING COMMON STOCK IS OWNED BY THE FINANCIAL INSTITUTION BY (2) THE TOTAL ASSETS OF SUCH FINANCIAL INSTITUTION AS SHOWN ON ITS BOOKS;

(b) DIVIDING (1) THE AMOUNT OF THE FINANCIAL INSTITUTION'S ASSETS, AS SHOWN ON ITS BOOKS, REPRESENTED BY INVESTMENTS IN THE CAPITAL STOCK AND INDEBTEDNESS OF INSURANCE COMPANIES OF WHICH AT LEAST EIGHTY PER CENT OF THE INSURANCE COMPANY'S ISSUED AND OUTSTANDING COMMON STOCK IS OWNED BY THE FINANCIAL INSTITUTION BY (2) THE TOTAL ASSETS OF SUCH FINANCIAL INSTITUTION AS SHOWN ON ITS BOOKS;

(c) DIVIDING (1) THE AMOUNT OF THE FINANCIAL INSTITUTION'S ASSETS, AS SHOWN ON ITS BOOKS, REPRESENTED BY INVESTMENTS IN THE CAPITAL STOCK AND INDEBTEDNESS OF OTHER FINANCIAL INSTITUTIONS OF WHICH AT LEAST TWENTY-FIVE PER CENT OF THE OTHER FINANCIAL INSTITUTION'S ISSUED AND OUTSTANDING COMMON STOCK IS OWNED BY THE FINANCIAL INSTITUTION BY (2) THE TOTAL ASSETS OF THE FINANCIAL INSTITUTION AS SHOWN ON ITS BOOKS. Division (B)(5)(c) of this section applies only with respect to such other financial institutions that for the tax year immediately following the taxpayer's taxable year will pay the tax imposed by division (D) of section 5733.06 of the Revised Code.

(6) LAND THAT HAS BEEN DETERMINED PURSUANT TO SECTION 5713.31 OF THE REVISED CODE BY THE COUNTY AUDITOR OF THE COUNTY IN WHICH THE LAND IS LOCATED TO BE DEVOTED EXCLUSIVELY TO AGRICULTURAL USE AS OF THE FIRST MONDAY OF JUNE IN THE FINANCIAL INSTITUTION'S TAXABLE YEAR.

(7) PROPERTY WITHIN THIS STATE USED EXCLUSIVELY DURING THE TAXABLE YEAR FOR QUALIFIED RESEARCH AS DEFINED IN SECTION 5733.05 OF THE REVISED CODE.

(C) The base upon which the tax levied under division (D) of SECTION 5733.06 OF THE REVISED CODE SHALL BE COMPUTED BY

MULTIPLYING THE VALUE OF A FINANCIAL INSTITUTION'S ISSUED AND OUTSTANDING SHARES OF STOCK AS DETERMINED IN DIVISION (B) OF THIS SECTION BY A fraction. The numerator of the fraction IS THE SUM OF THE FOLLOWING: THE PROPERTY FACTOR MULTIPLIED BY FIFTEEN, THE PAYROLL FACTOR MULTIPLIED BY FIFTEEN, and THE SALES FACTOR MULTIPLIED BY SEVENTY. The denominator of the fraction is one hundred, provided that the DENOMINATOR shall be reduced by fifteen if the property factor has a denominator of zero, by fifteen if the payroll factor has a denominator of zero, and by seventy if the sales factor has a denominator of zero.

(D) A FINANCIAL INSTITUTION SHALL CALCULATE THE PROPERTY FACTOR AS FOLLOWS:

(1) THE PROPERTY FACTOR IS A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE VALUE OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY RENTED TO THE TAXPAYER THAT IS LOCATED OR USED WITHIN THIS STATE DURING THE TAXABLE YEAR, THE AVERAGE VALUE OF REAL AND TANGIBLE PERSONAL PROPERTY OWNED BY THE TAXPAYER THAT IS LOCATED OR USED WITHIN THIS STATE DURING THE TAXABLE YEAR, AND THE AVERAGE VALUE OF THE TAXPAYER'S LOANS AND CREDIT CARD RECEIVABLES THAT ARE LOCATED WITHIN THIS STATE DURING THE TAXABLE YEAR; AND THE DENOMINATOR OF WHICH IS THE AVERAGE VALUE OF ALL SUCH PROPERTY LOCATED OR USED WITHIN AND WITHOUT THIS STATE DURING THE TAXABLE YEAR.

(2)(a) THE VALUE OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY OWNED BY THE TAXPAYER IS THE ORIGINAL COST OR OTHER BASIS OF SUCH PROPERTY FOR FEDERAL INCOME TAX PURPOSES WITHOUT REGARD TO DEPLETION, DEPRECIATION, OR AMORTIZATION.

(b) LOANS ARE VALUED AT THEIR OUTSTANDING PRINCIPAL BALANCE, WITHOUT REGARD TO ANY RESERVE FOR BAD DEBTS. IF A LOAN IS CHARGED-OFF IN WHOLE OR IN PART FOR FEDERAL INCOME TAX PURPOSES, THE PORTION OF THE LOAN CHARGED-OFF IS NOT OUTSTANDING. A SPECIFICALLY ALLOCATED RESERVE ESTABLISHED PURSUANT TO FINANCIAL ACCOUNTING GUIDELINES WHICH IS TREATED AS CHARGED-OFF FOR FEDERAL INCOME TAX PURPOSES SHALL BE TREATED AS CHARGED-OFF FOR PURPOSES OF THIS SECTION.

(c) CREDIT CARD RECEIVABLES ARE VALUED AT THEIR OUTSTANDING PRINCIPAL BALANCE, WITHOUT REGARD TO ANY RESERVE FOR BAD DEBTS. IF A CREDIT CARD RECEIVABLE IS CHARGED-OFF IN WHOLE OR IN PART FOR FEDERAL INCOME TAX PURPOSES, THE PORTION OF THE RECEIVABLE CHARGED-OFF IS NOT OUTSTANDING.

(3) THE AVERAGE VALUE OF PROPERTY OWNED BY THE TAXPAYER IS COMPUTED ON AN ANNUAL BASIS BY ADDING THE VALUE OF THE PROPERTY ON THE FIRST DAY OF THE TAXABLE YEAR AND THE VALUE ON THE LAST DAY OF THE TAXABLE YEAR AND DIVIDING THE SUM BY TWO. IF AVERAGING ON THIS BASIS DOES NOT PROPERLY REFLECT AVERAGE VALUE, THE TAX COMMISSIONER MAY REQUIRE AVERAGING ON A MORE FREQUENT BASIS. THE TAXPAYER MAY ELECT TO AVERAGE ON A MORE FREQUENT BASIS. WHEN AVERAGING ON A MORE FREQUENT BASIS IS REQUIRED BY THE TAX COMMISSIONER OR IS ELECTED BY THE TAXPAYER, THE SAME METHOD OF VALUATION MUST BE USED CONSISTENTLY BY THE TAXPAYER WITH RESPECT TO PROPERTY WITHIN AND WITHOUT THIS STATE AND ON ALL SUBSEQUENT RETURNS UNLESS THE TAXPAYER RECEIVES PRIOR PERMISSION FROM THE TAX COMMISSIONER OR THE TAX COMMISSIONER REQUIRES A DIFFERENT METHOD OF DETERMINING VALUE.

(4)(a) THE AVERAGE VALUE OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY THAT THE TAXPAYER HAS RENTED FROM ANOTHER AND IS NOT TREATED AS PROPERTY OWNED BY THE TAXPAYER FOR FEDERAL INCOME TAX PURPOSES, SHALL BE DETERMINED ANNUALLY BY MULTIPLYING THE GROSS RENTS PAYABLE DURING THE TAXABLE YEAR BY EIGHT.

(b) WHERE THE USE OF THE GENERAL METHOD DESCRIBED IN DIVISION (D)(4)(a) OF THIS SECTION RESULTS IN INACCURATE VALUATIONS OF RENTED PROPERTY, ANY OTHER METHOD WHICH PROPERLY REFLECTS THE VALUE MAY BE ADOPTED BY THE TAX COMMISSIONER OR BY THE TAXPAYER WHEN APPROVED IN WRITING BY THE TAX COMMISSIONER. ONCE APPROVED, SUCH OTHER METHOD OF VALUATION MUST BE USED ON ALL SUBSEQUENT RETURNS UNLESS THE TAXPAYER RECEIVES PRIOR APPROVAL FROM THE TAX COMMISSIONER OR THE TAX COMMISSIONER REQUIRES A DIFFERENT METHOD OF

VALUATION.

(5)(a) EXCEPT AS DESCRIBED IN DIVISION (D)(5)(b) OF THIS SECTION, REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY OWNED BY OR RENTED TO THE TAXPAYER IS CONSIDERED TO BE LOCATED WITHIN THIS STATE IF IT IS PHYSICALLY LOCATED, SITUATED, OR USED WITHIN THIS STATE.

(b) TRANSPORTATION PROPERTY IS INCLUDED IN THE NUMERATOR OF THE PROPERTY FACTOR TO THE EXTENT THAT THE PROPERTY IS USED IN THIS STATE. THE EXTENT AN AIRCRAFT WILL BE DEEMED TO BE USED IN THIS STATE AND THE AMOUNT OF VALUE THAT IS TO BE INCLUDED IN THE NUMERATOR OF THIS STATE'S PROPERTY FACTOR IS DETERMINED BY MULTIPLYING THE AVERAGE VALUE OF THE AIRCRAFT BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF LANDINGS OF THE AIRCRAFT IN THIS STATE AND THE DENOMINATOR OF WHICH IS THE TOTAL NUMBER OF LANDINGS OF THE AIRCRAFT EVERYWHERE. IF THE EXTENT OF THE USE OF ANY TRANSPORTATION PROPERTY WITHIN THIS STATE CANNOT BE DETERMINED, THEN THE PROPERTY WILL BE DEEMED TO BE USED WHOLLY IN THE STATE IN WHICH THE PROPERTY HAS ITS PRINCIPAL BASE OF OPERATIONS. A MOTOR VEHICLE WILL BE DEEMED TO BE USED WHOLLY IN THE STATE IN WHICH IT IS REGISTERED.

(6)(a)(i) A LOAN, OTHER THAN A LOAN OR ADVANCE DESCRIBED IN DIVISION (D)(6)(d) OF THIS SECTION, IS CONSIDERED TO BE LOCATED WITHIN THIS STATE IF IT IS PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE.

(ii) A LOAN IS PROPERLY ASSIGNED TO THE REGULAR PLACE OF BUSINESS WITH WHICH IT HAS A PREPONDERANCE OF SUBSTANTIVE CONTACTS. A LOAN ASSIGNED BY THE TAXPAYER TO A REGULAR PLACE OF BUSINESS WITHOUT THE STATE SHALL BE PRESUMED TO HAVE BEEN PROPERLY ASSIGNED IF:

(I) THE TAXPAYER HAS ASSIGNED, IN THE REGULAR COURSE OF ITS BUSINESS, SUCH LOAN ON ITS RECORDS TO A REGULAR PLACE OF BUSINESS CONSISTENT WITH FEDERAL OR STATE REGULATORY REQUIREMENTS;

(II) SUCH ASSIGNMENT ON ITS RECORDS IS BASED UPON

SUBSTANTIVE CONTACTS OF THE LOAN TO SUCH REGULAR PLACE OF BUSINESS; AND

(III) THE TAXPAYER USES THE RECORDS REFLECTING ASSIGNMENT OF LOANS FOR THE FILING OF ALL STATE AND LOCAL TAX RETURNS FOR WHICH AN ASSIGNMENT OF LOANS TO A REGULAR PLACE OF BUSINESS IS REQUIRED.

(iii) THE PRESUMPTION OF PROPER ASSIGNMENT OF A LOAN PROVIDED IN DIVISION (D)(6)(a)(ii) OF THIS SECTION MAY BE REBUTTED UPON A SHOWING BY THE TAX COMMISSIONER, SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING SUCH LOAN DID NOT OCCUR AT THE REGULAR PLACE OF BUSINESS TO WHICH IT WAS ASSIGNED ON THE TAXPAYER'S RECORDS. WHEN SUCH PRESUMPTION HAS BEEN REBUTTED, THE LOAN SHALL THEN BE LOCATED WITHIN THIS STATE IF (1) THE TAXPAYER HAD A REGULAR PLACE OF BUSINESS WITHIN THIS STATE AT THE TIME THE LOAN WAS MADE; AND (2) THE TAXPAYER FAILS TO SHOW, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING SUCH LOAN DID NOT OCCUR WITHIN THIS STATE.

(b) IN THE CASE OF A LOAN WHICH IS ASSIGNED BY THE TAXPAYER TO A PLACE WITHOUT THIS STATE WHICH IS NOT A REGULAR PLACE OF BUSINESS, IT SHALL BE PRESUMED, SUBJECT TO REBUTTAL BY THE TAXPAYER ON A SHOWING SUPPORTED BY THE PREPONDERANCE OF EVIDENCE, THAT THE PREPONDERANCE OF SUBSTANTIVE CONTACTS REGARDING THE LOAN OCCURRED WITHIN THIS STATE IF, AT THE TIME THE LOAN WAS MADE THE TAXPAYER'S COMMERCIAL DOMICILE WAS WITHIN THIS STATE.

(c) TO DETERMINE THE STATE IN WHICH THE PREPONDERANCE OF SUBSTANTIVE CONTACTS RELATING TO A LOAN HAVE OCCURRED, THE FACTS AND CIRCUMSTANCES REGARDING THE LOAN AT ISSUE SHALL BE REVIEWED ON A CASE-BY-CASE BASIS AND CONSIDERATION SHALL BE GIVEN TO SUCH ACTIVITIES AS THE SOLICITATION, INVESTIGATION, NEGOTIATION, APPROVAL, AND ADMINISTRATION OF THE LOAN. THE TERMS "SOLICITATION," "INVESTIGATION," "NEGOTIATION," "APPROVAL," AND "ADMINISTRATION" ARE DEFINED AS FOLLOWS:

(i) "SOLICITATION" IS EITHER ACTIVE OR PASSIVE. ACTIVE SOLICITATION OCCURS WHEN AN EMPLOYEE OF THE TAXPAYER INITIATES THE CONTACT WITH THE CUSTOMER. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE TAXPAYER'S EMPLOYEE IS REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEE WERE ACTUALLY PERFORMED. PASSIVE SOLICITATION OCCURS WHEN THE CUSTOMER INITIATES THE CONTACT WITH THE TAXPAYER. IF THE CUSTOMER'S INITIAL CONTACT WAS NOT AT A REGULAR PLACE OF BUSINESS OF THE TAXPAYER, THE REGULAR PLACE OF BUSINESS, IF ANY, WHERE THE PASSIVE SOLICITATION OCCURRED IS DETERMINED BY THE FACTS IN EACH CASE.

(ii) "INVESTIGATION" IS THE PROCEDURE WHEREBY EMPLOYEES OF THE TAXPAYER DETERMINE THE CREDITWORTHINESS OF THE CUSTOMER AS WELL AS THE DEGREE OF RISK INVOLVED IN MAKING A PARTICULAR AGREEMENT. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS WHICH THE TAXPAYER'S EMPLOYEES ARE REGULARLY CONNECTED WITH OR WORKING OUT OF, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEES WERE ACTUALLY PERFORMED.

(iii) NEGOTIATION IS THE PROCEDURE WHEREBY EMPLOYEES OF THE TAXPAYER AND ITS CUSTOMER DETERMINE THE TERMS OF THE AGREEMENT, SUCH AS THE AMOUNT, DURATION, INTEREST RATE, FREQUENCY OF REPAYMENT, CURRENCY DENOMINATION, AND SECURITY REQUIRED. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS TO WHICH THE TAXPAYER'S EMPLOYEES ARE REGULARLY CONNECTED OR WORKING FROM, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEES WERE ACTUALLY PERFORMED.

(iv) "APPROVAL" IS THE PROCEDURE WHEREBY EMPLOYEES OR THE BOARD OF DIRECTORS OF THE TAXPAYER MAKE THE FINAL DETERMINATION WHETHER TO ENTER INTO THE AGREEMENT. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS TO WHICH THE TAXPAYER'S EMPLOYEES ARE REGULARLY CONNECTED OR WORKING FROM, REGARDLESS OF WHERE THE SERVICES OF SUCH EMPLOYEES WERE ACTUALLY PERFORMED. IF THE BOARD OF DIRECTORS

MAKES THE FINAL DETERMINATION, SUCH ACTIVITY IS LOCATED AT THE COMMERCIAL DOMICILE OF THE TAXPAYER.

(v) "ADMINISTRATION" IS THE PROCESS OF MANAGING THE ACCOUNT. THIS PROCESS INCLUDES BOOKKEEPING, COLLECTING THE PAYMENTS, CORRESPONDING WITH THE CUSTOMER, REPORTING TO MANAGEMENT REGARDING THE STATUS OF THE AGREEMENT, AND PROCEEDING AGAINST THE BORROWER OR THE SECURITY INTEREST IF THE BORROWER IS IN DEFAULT. SUCH ACTIVITY IS LOCATED AT THE REGULAR PLACE OF BUSINESS THAT OVERSEES THIS ACTIVITY.

(d) A LOAN OR ADVANCE TO A SUBSIDIARY CORPORATION AT LEAST FIFTY-ONE PER CENT OF WHOSE COMMON STOCK IS OWNED BY THE FINANCIAL INSTITUTION SHALL BE ALLOCATED IN AND OUT OF THE STATE BY THE APPLICATION OF A RATIO WHOSE NUMERATOR IS THE SUM OF THE NET BOOK VALUE OF THE SUBSIDIARY'S REAL PROPERTY OWNED IN THIS STATE AND THE SUBSIDIARY'S TANGIBLE PERSONAL PROPERTY OWNED IN THIS STATE AND WHOSE DENOMINATOR IS THE SUM OF THE SUBSIDIARY'S REAL PROPERTY OWNED WHEREVER LOCATED AND THE SUBSIDIARY'S TANGIBLE PERSONAL PROPERTY OWNED WHEREVER LOCATED. FOR PURPOSES OF CALCULATING THIS RATIO, THE TAXPAYER SHALL DETERMINE NET BOOK VALUE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. If the subsidiary corporation owns at least fifty-one per cent of the common stock of another corporation, the ratio shall be calculated by INCLUDING the other CORPORATION'S real property and tangible personal property. the calculation of the ratio applies with RESPECT to all lower-tiered subsidiaries, provided that the immediate parent corporation of the subsidiary owns at least fifty-one per cent of the common stock of that subsidiary.

(7) FOR PURPOSES OF DETERMINING THE LOCATION OF CREDIT CARD RECEIVABLES, CREDIT CARD RECEIVABLES SHALL BE TREATED AS LOANS AND SHALL BE SUBJECT TO DIVISION (D)(6) OF THIS SECTION.

(8) A LOAN THAT HAS BEEN PROPERLY ASSIGNED TO A STATE SHALL, ABSENT ANY CHANGE OF MATERIAL FACT, REMAIN ASSIGNED TO THAT STATE FOR THE LENGTH OF THE ORIGINAL TERM OF THE LOAN. THEREAFTER, THE LOAN MAY BE PROPERLY ASSIGNED TO ANOTHER STATE IF THE LOAN HAS A PREPONDERANCE OF SUBSTANTIVE CONTACT TO A REGULAR

PLACE OF BUSINESS THERE.

(E) A FINANCIAL INSTITUTION SHALL CALCULATE THE PAYROLL FACTOR AS FOLLOWS:

(1) THE PAYROLL FACTOR IS A FRACTION, THE NUMERATOR OF WHICH IS THE TOTAL AMOUNT PAID IN THIS STATE DURING THE TAXABLE YEAR BY THE TAXPAYER FOR COMPENSATION, AND THE DENOMINATOR OF WHICH IS THE TOTAL COMPENSATION PAID BOTH WITHIN AND WITHOUT THIS STATE DURING THE TAXABLE YEAR.

(2) COMPENSATION IS PAID IN THIS STATE IF ANY ONE OF THE FOLLOWING TESTS, APPLIED CONSECUTIVELY, IS MET:

(a) THE EMPLOYEE'S SERVICES ARE PERFORMED ENTIRELY WITHIN THIS STATE.

(b) THE EMPLOYEE'S SERVICES ARE PERFORMED BOTH WITHIN AND WITHOUT THIS STATE, BUT THE SERVICE PERFORMED WITHOUT THIS STATE IS INCIDENTAL TO THE EMPLOYEE'S SERVICE WITHIN THIS STATE. THE TERM "INCIDENTAL" MEANS ANY SERVICE WHICH IS TEMPORARY OR TRANSITORY IN NATURE, OR WHICH IS RENDERED IN CONNECTION WITH AN ISOLATED TRANSACTION.

(c) THE EMPLOYEE'S SERVICES ARE PERFORMED BOTH WITHIN AND WITHOUT THIS STATE, AND:

(i) THE EMPLOYEE'S PRINCIPAL BASE OF OPERATIONS IS WITHIN THIS STATE; OR

(ii) THERE IS NO PRINCIPAL BASE OF OPERATIONS IN ANY STATE IN WHICH SOME PART OF THE SERVICES ARE PERFORMED, BUT THE PLACE FROM WHICH THE SERVICES ARE DIRECTED OR CONTROLLED IS IN THIS STATE; OR

(iii) THE PRINCIPAL BASE OF OPERATIONS AND THE PLACE FROM WHICH THE SERVICES ARE DIRECTED OR CONTROLLED ARE NOT IN ANY STATE IN WHICH SOME PART OF THE SERVICE IS PERFORMED BUT THE EMPLOYEE'S RESIDENCE IS IN THIS STATE.

(F) A FINANCIAL INSTITUTION SHALL CALCULATE THE SALES FACTOR AS FOLLOWS:

(1) THE SALES FACTOR IS A FRACTION, THE NUMERATOR OF WHICH IS THE RECEIPTS OF THE TAXPAYER IN THIS STATE DURING THE TAXABLE YEAR AND THE DENOMINATOR OF WHICH IS THE RECEIPTS OF THE TAXPAYER WITHIN AND WITHOUT THIS STATE DURING THE TAXABLE YEAR. THE

METHOD OF CALCULATING RECEIPTS FOR PURPOSES OF THE DENOMINATOR IS THE SAME AS THE METHOD USED IN DETERMINING RECEIPTS FOR PURPOSES OF THE NUMERATOR.

(2) THE NUMERATOR OF THE SALES FACTOR INCLUDES RECEIPTS FROM THE LEASE OR RENTAL OF REAL PROPERTY OWNED BY THE TAXPAYER IF THE PROPERTY IS LOCATED WITHIN THIS STATE, OR RECEIPTS FROM THE SUBLEASE OF REAL PROPERTY IF THE PROPERTY IS LOCATED WITHIN THIS STATE.

(3)(a) EXCEPT AS DESCRIBED IN DIVISION (F)(3)(b) OF THIS SECTION THE NUMERATOR OF THE SALES FACTOR INCLUDES RECEIPTS FROM THE LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY OWNED BY THE TAXPAYER IF THE PROPERTY IS LOCATED WITHIN THIS STATE WHEN IT IS FIRST PLACED IN SERVICE BY THE LESSEE.

(b) RECEIPTS FROM THE LEASE OR RENTAL OF TRANSPORTATION PROPERTY OWNED BY THE TAXPAYER ARE INCLUDED IN THE NUMERATOR OF THE SALES FACTOR TO THE EXTENT THAT THE PROPERTY IS USED IN THIS STATE. THE EXTENT AN AIRCRAFT WILL BE DEEMED TO BE USED IN THIS STATE AND THE AMOUNT OF RECEIPTS THAT IS TO BE INCLUDED IN THE NUMERATOR OF THIS STATE'S SALES FACTOR IS DETERMINED BY MULTIPLYING ALL THE RECEIPTS FROM THE LEASE OR RENTAL OF THE AIRCRAFT BY A FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF LANDINGS OF THE AIRCRAFT IN THIS STATE AND THE DENOMINATOR OF WHICH IS THE TOTAL NUMBER OF LANDINGS OF THE AIRCRAFT. IF THE EXTENT OF THE USE OF ANY TRANSPORTATION PROPERTY WITHIN THIS STATE CANNOT BE DETERMINED, THEN THE PROPERTY WILL BE DEEMED TO BE USED WHOLLY IN THE STATE IN WHICH THE PROPERTY HAS ITS PRINCIPAL BASE OF OPERATIONS. A MOTOR VEHICLE WILL BE DEEMED TO BE USED WHOLLY IN THE STATE IN WHICH IT IS REGISTERED.

(4)(a) THE NUMERATOR OF THE SALES FACTOR INCLUDES INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM LOANS SECURED BY REAL PROPERTY IF THE PROPERTY IS LOCATED WITHIN THIS STATE. IF THE PROPERTY IS LOCATED BOTH WITHIN THIS STATE AND ONE OR MORE OTHER STATES, THE RECEIPTS DESCRIBED IN THIS PARAGRAPH

ARE INCLUDED IN THE NUMERATOR OF THE SALES FACTOR IF MORE THAN FIFTY PER CENT OF THE FAIR MARKET VALUE OF THE REAL PROPERTY IS LOCATED WITHIN THIS STATE. IF MORE THAN FIFTY PER CENT OF THE FAIR MARKET VALUE OF THE REAL PROPERTY IS NOT LOCATED WITHIN ANY ONE STATE, THEN THE RECEIPTS DESCRIBED IN THIS PARAGRAPH SHALL BE INCLUDED IN THE NUMERATOR OF THE SALES FACTOR IF THE BORROWER IS LOCATED IN THIS STATE.

(b) THE DETERMINATION OF WHETHER THE REAL PROPERTY SECURING A LOAN IS LOCATED WITHIN THIS STATE SHALL BE MADE AS OF THE TIME THE ORIGINAL AGREEMENT WAS MADE AND ANY AND ALL SUBSEQUENT SUBSTITUTIONS OF COLLATERAL SHALL BE DISREGARDED.

(5) THE NUMERATOR OF THE SALES FACTOR INCLUDES INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY IF THE BORROWER IS LOCATED IN THIS STATE.

(6) THE NUMERATOR OF THE SALES FACTOR INCLUDES NET GAINS FROM THE SALE OF LOANS. NET GAINS FROM THE SALE OF LOANS INCLUDES INCOME RECORDED UNDER THE COUPON STRIPPING RULES OF SECTION 1286 OF THE INTERNAL REVENUE CODE.

(a) THE AMOUNT OF NET GAINS, BUT NOT LESS THAN ZERO, FROM THE SALE OF LOANS SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(4) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM LOANS SECURED BY REAL PROPERTY.

(b) THE AMOUNT OF NET GAINS, BUT NOT LESS THAN ZERO, FROM THE SALE OF LOANS NOT SECURED BY REAL PROPERTY INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING SUCH NET GAINS BY A FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(5) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN

THE NATURE OF INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY.

(7) THE NUMERATOR OF THE SALES FACTOR INCLUDES INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM CREDIT CARD RECEIVABLES AND RECEIPTS FROM FEES CHARGED TO CARD HOLDERS, SUCH AS ANNUAL FEES, IF THE BILLING ADDRESS OF THE CARD HOLDER IS IN THIS STATE.

(8) THE NUMERATOR OF THE SALES FACTOR INCLUDES NET GAINS, BUT NOT LESS THAN ZERO, FROM THE SALE OF CREDIT CARD RECEIVABLES MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(7) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM CREDIT CARD RECEIVABLES AND FEES CHARGED TO CARD HOLDERS.

(9) THE NUMERATOR OF THE SALES FACTOR INCLUDES ALL CREDIT CARD ISSUER'S REIMBURSEMENT FEES MULTIPLIED BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(7) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS THE TAXPAYER'S TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM CREDIT CARD RECEIVABLES AND FEES CHARGED TO CARD HOLDERS.

(10) THE NUMERATOR OF THE SALES FACTOR INCLUDES RECEIPTS FROM MERCHANT DISCOUNT IF THE COMMERCIAL DOMICILE OF THE MERCHANT IS IN THIS STATE. SUCH RECEIPTS SHALL BE COMPUTED NET OF ANY CARD HOLDER CHARGE BACKS, BUT SHALL NOT BE REDUCED BY ANY INTERCHANGE TRANSACTION FEES OR BY ANY ISSUER'S REIMBURSEMENT FEES PAID TO ANOTHER FOR CHARGES MADE BY ITS CARD HOLDERS.

(11)(a)(i) THE NUMERATOR OF THE SALES FACTOR INCLUDES LOAN SERVICING FEES DERIVED FROM LOANS SECURED BY REAL PROPERTY MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(4) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS

THE TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM LOANS SECURED BY REAL PROPERTY.

(ii) THE NUMERATOR OF THE SALES FACTOR INCLUDES LOAN SERVICING FEES DERIVED FROM LOANS NOT SECURED BY REAL PROPERTY MULTIPLIED BY A FRACTION THE NUMERATOR OF WHICH IS THE AMOUNT INCLUDED IN THE NUMERATOR OF THE SALES FACTOR PURSUANT TO DIVISION (F)(5) OF THIS SECTION AND THE DENOMINATOR OF WHICH IS THE TOTAL AMOUNT OF INTEREST AND FEES OR PENALTIES IN THE NATURE OF INTEREST FROM LOANS NOT SECURED BY REAL PROPERTY.

(b) IN CIRCUMSTANCES IN WHICH THE TAXPAYER RECEIVES LOAN SERVICING FEES FOR SERVICING EITHER THE SECURED OR THE UNSECURED LOANS OF ANOTHER, THE NUMERATOR OF THE SALES FACTOR SHALL INCLUDE SUCH FEES IF THE BORROWER IS LOCATED IN THIS STATE.

(12) THE NUMERATOR OF THE SALES FACTOR INCLUDES RECEIPTS FROM SERVICES NOT OTHERWISE APPORTIONED UNDER THIS SECTION IF THE SERVICE IS PERFORMED IN THIS STATE. IF THE SERVICE IS PERFORMED BOTH WITHIN AND WITHOUT THIS STATE, THE NUMERATOR OF THE SALES FACTOR INCLUDES RECEIPTS FROM SERVICES NOT OTHERWISE APPORTIONED UNDER THIS SECTION, IF A GREATER PROPORTION OF THE INCOME PRODUCING ACTIVITY IS PERFORMED IN THIS STATE BASED ON COST OF PERFORMANCE.

(13)(a) INTEREST, DIVIDENDS, NET GAINS, BUT NOT LESS THAN ZERO, AND OTHER INCOME FROM INVESTMENT ASSETS AND ACTIVITIES AND FROM TRADING ASSETS AND ACTIVITIES SHALL BE INCLUDED IN THE SALES FACTOR. INVESTMENT ASSETS AND ACTIVITIES AND TRADING ASSETS AND ACTIVITIES INCLUDE BUT ARE NOT LIMITED TO: INVESTMENT SECURITIES; TRADING ACCOUNT ASSETS; FEDERAL FUNDS; SECURITIES PURCHASED AND SOLD UNDER AGREEMENTS TO RESELL OR REPURCHASE; OPTIONS; FUTURES CONTRACTS; FORWARD CONTRACTS; NOTIONAL PRINCIPAL CONTRACTS SUCH AS SWAPS; EQUITIES; AND FOREIGN CURRENCY TRANSACTIONS. WITH RESPECT TO THE INVESTMENT AND TRADING ASSETS AND ACTIVITIES DESCRIBED IN DIVISIONS (F)(13)(a)(i) AND (ii) OF THIS SECTION, THE SALES FACTOR SHALL

INCLUDE THE AMOUNTS DESCRIBED IN SUCH DIVISIONS.

(i) THE SALES FACTOR SHALL INCLUDE THE AMOUNT BY WHICH INTEREST FROM FEDERAL FUNDS SOLD AND SECURITIES PURCHASED UNDER RESALE AGREEMENTS EXCEEDS INTEREST EXPENSE ON FEDERAL FUNDS PURCHASED AND SECURITIES SOLD UNDER REPURCHASE AGREEMENTS.

(ii) THE SALES FACTOR SHALL INCLUDE THE AMOUNT BY WHICH INTEREST, DIVIDENDS, GAINS, AND OTHER INCOME FROM TRADING ASSETS AND ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, ASSETS AND ACTIVITIES IN THE MATCHED BOOK, IN THE ARBITRAGE BOOK, AND FOREIGN CURRENCY TRANSACTIONS, EXCEED AMOUNTS PAID IN LIEU OF INTEREST, AMOUNTS PAID IN LIEU OF DIVIDENDS, AND LOSSES FROM SUCH ASSETS AND ACTIVITIES.

(b) THE NUMERATOR OF THE SALES FACTOR INCLUDES INTEREST, DIVIDENDS, NET GAINS, BUT NOT LESS THAN ZERO, AND OTHER INCOME FROM INVESTMENT ASSETS AND ACTIVITIES AND FROM TRADING ASSETS AND ACTIVITIES DESCRIBED IN DIVISION (F)(13)(a) OF THIS SECTION THAT ARE ATTRIBUTABLE TO THIS STATE.

(i) THE AMOUNT OF INTEREST, OTHER THAN INTEREST DESCRIBED IN DIVISION (F)(13)(b)(iv) OF THIS SECTION, DIVIDENDS, OTHER THAN DIVIDENDS DESCRIBED IN THAT DIVISION, NET GAINS, BUT NOT LESS THAN ZERO, AND OTHER INCOME FROM INVESTMENT ASSETS AND ACTIVITIES IN THE INVESTMENT ACCOUNT TO BE ATTRIBUTED TO THIS STATE AND INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING ALL SUCH INCOME FROM SUCH ASSETS AND ACTIVITIES BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE VALUE OF SUCH ASSETS WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE AND THE DENOMINATOR OF WHICH IS THE AVERAGE VALUE OF ALL SUCH ASSETS.

(ii) THE AMOUNT OF INTEREST FROM FEDERAL FUNDS SOLD AND PURCHASED AND FROM SECURITIES PURCHASED UNDER RESALE AGREEMENTS AND SECURITIES SOLD UNDER REPURCHASE AGREEMENTS ATTRIBUTABLE TO THIS STATE AND INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING THE AMOUNT DESCRIBED IN DIVISION (F)(13)(a)(i) OF THIS SECTION FROM SUCH FUNDS AND SUCH SECURITIES BY

A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE VALUE OF FEDERAL FUNDS SOLD AND SECURITIES PURCHASED UNDER AGREEMENTS TO RESELL WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE AND THE DENOMINATOR OF WHICH IS THE AVERAGE VALUE OF ALL SUCH FUNDS AND SUCH SECURITIES.

(iii) THE AMOUNT OF INTEREST, DIVIDENDS, GAINS, AND OTHER INCOME FROM TRADING ASSETS AND ACTIVITIES, INCLUDING BUT NOT LIMITED TO ASSETS AND ACTIVITIES IN THE MATCHED BOOK, IN THE ARBITRAGE BOOK, AND FOREIGN CURRENCY TRANSACTION, BUT EXCLUDING AMOUNTS DESCRIBED IN DIVISION (F)(13)(b)(i) OR (ii) OF THIS SECTION, ATTRIBUTABLE TO THIS STATE AND INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING THE AMOUNT DESCRIBED IN DIVISION (F)(13)(a)(ii) OF THIS SECTION BY A FRACTION, THE NUMERATOR OF WHICH IS THE AVERAGE VALUE OF SUCH TRADING ASSETS WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE AND THE DENOMINATOR OF WHICH IS THE AVERAGE VALUE OF ALL SUCH ASSETS.

(iv) THE AMOUNT OF DIVIDENDS RECEIVED ON THE CAPITAL STOCK OF, AND THE AMOUNT OF INTEREST RECEIVED FROM LOANS AND ADVANCES TO, SUBSIDIARY CORPORATIONS AT LEAST FIFTY-ONE PER CENT OF WHOSE COMMON STOCK IS OWNED BY THE REPORTING FINANCIAL INSTITUTION SHALL BE ALLOCATED IN AND OUT OF THIS STATE BY THE APPLICATION OF A RATIO WHOSE NUMERATOR IS THE SUM OF THE NET BOOK VALUE OF THE PAYOR'S REAL PROPERTY OWNED IN THIS STATE AND THE PAYOR'S TANGIBLE PERSONAL PROPERTY OWNED IN THIS STATE AND WHOSE DENOMINATOR IS THE SUM OF THE NET BOOK VALUE OF THE PAYOR'S REAL PROPERTY OWNED WHEREVER LOCATED AND THE PAYOR'S TANGIBLE PERSONAL PROPERTY OWNED WHEREVER LOCATED. FOR PURPOSES OF CALCULATING THIS RATIO, THE TAXPAYER SHALL DETERMINE NET BOOK VALUE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(v) FOR PURPOSES OF THIS DIVISION, AVERAGE VALUE SHALL BE DETERMINED USING THE RULES FOR DETERMINING THE AVERAGE VALUE OF TANGIBLE PERSONAL PROPERTY SET

FORTH IN DIVISION (D)(2) AND (3) OF THIS SECTION.

(c) IN LIEU OF USING THE METHOD SET FORTH IN DIVISION (F)(13)(b) OF THIS SECTION, THE TAXPAYER MAY ELECT, OR THE TAX COMMISSIONER MAY REQUIRE IN ORDER TO FAIRLY REPRESENT THE BUSINESS ACTIVITY OF THE TAXPAYER IN THIS STATE, THE USE OF THE METHOD SET FORTH IN DIVISION (F)(13)(c) OF THIS SECTION.

(i) THE AMOUNT OF INTEREST, OTHER THAN INTEREST DESCRIBED IN DIVISION (F)(13)(b)(iv) OF THIS SECTION, DIVIDENDS, OTHER THAN DIVIDENDS DESCRIBED IN THAT DIVISION, NET GAINS, BUT NOT LESS THAN ZERO, AND OTHER INCOME FROM INVESTMENT ASSETS AND ACTIVITIES IN THE INVESTMENT ACCOUNT TO BE ATTRIBUTED TO THIS STATE AND INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING ALL SUCH INCOME FROM SUCH ASSETS AND ACTIVITIES BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INCOME FROM SUCH ASSETS AND ACTIVITIES WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE, AND THE DENOMINATOR OF WHICH IS THE GROSS INCOME FROM ALL SUCH ASSETS AND ACTIVITIES.

(ii) THE AMOUNT OF INTEREST FROM FEDERAL FUNDS SOLD AND PURCHASED AND FROM SECURITIES PURCHASED UNDER RESALE AGREEMENTS AND SECURITIES SOLD UNDER REPURCHASE AGREEMENTS ATTRIBUTABLE TO THIS STATE AND INCLUDED IN THE NUMERATOR IS DETERMINED BY MULTIPLYING THE AMOUNT DESCRIBED IN DIVISION (F)(13)(a)(i) OF THIS SECTION FROM SUCH FUNDS AND SUCH SECURITIES BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INCOME FROM SUCH FUNDS AND SUCH SECURITIES WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE AND THE DENOMINATOR OF WHICH IS THE GROSS INCOME FROM ALL SUCH FUNDS AND SUCH SECURITIES.

(iii) THE AMOUNT OF INTEREST, DIVIDENDS, GAINS, AND OTHER INCOME FROM TRADING ASSETS AND ACTIVITIES, INCLUDING, BUT NOT LIMITED TO, ASSETS AND ACTIVITIES IN THE MATCHED BOOK, IN THE ARBITRAGE BOOK, AND FOREIGN CURRENCY TRANSACTIONS, BUT EXCLUDING AMOUNTS DESCRIBED IN DIVISION (F)(13)(a)(i) OR (ii) OF THIS SECTION,

ATTRIBUTABLE TO THIS STATE AND INCLUDED IN THE NUMERATOR, IS DETERMINED BY MULTIPLYING THE AMOUNT DESCRIBED IN DIVISION (F)(13)(a)(ii) OF THIS SECTION BY A FRACTION, THE NUMERATOR OF WHICH IS THE GROSS INCOME FROM SUCH TRADING ASSETS AND ACTIVITIES WHICH ARE PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OF THE TAXPAYER WITHIN THIS STATE AND THE DENOMINATOR OF WHICH IS THE GROSS INCOME FROM ALL SUCH ASSETS AND ACTIVITIES.

(iv) THE AMOUNT OF DIVIDENDS RECEIVED ON THE CAPITAL STOCK OF, AND THE AMOUNT OF INTEREST RECEIVED FROM LOANS AND ADVANCES TO, SUBSIDIARY CORPORATIONS AT LEAST FIFTY-ONE PER CENT OF WHOSE COMMON STOCK IS OWNED BY THE REPORTING FINANCIAL INSTITUTION SHALL BE ALLOCATED IN AND OUT OF THIS STATE BY THE APPLICATION OF A RATIO WHOSE NUMERATOR IS THE SUM OF THE NET BOOK VALUE OF THE PAYOR'S REAL PROPERTY OWNED IN THIS STATE AND THE PAYOR'S TANGIBLE PERSONAL PROPERTY OWNED IN THIS STATE AND WHOSE DENOMINATOR IS THE SUM OF THE PAYOR'S REAL PROPERTY OWNED WHEREVER LOCATED AND THE PAYOR'S TANGIBLE PERSONAL PROPERTY OWNED WHEREVER LOCATED. FOR PURPOSES OF CALCULATING THIS RATIO, THE TAXPAYER SHALL DETERMINE NET BOOK VALUE IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(d) IF THE TAXPAYER ELECTS OR IS REQUIRED BY THE TAX COMMISSIONER TO USE THE METHOD SET FORTH IN DIVISION (F)(13)(c) OF THIS SECTION, IT SHALL USE THIS METHOD ON ALL SUBSEQUENT RETURNS UNLESS THE TAXPAYER RECEIVES PRIOR PERMISSION FROM THE TAX COMMISSIONER TO USE OR THE TAX COMMISSIONER REQUIRES A DIFFERENT METHOD.

(e) THE TAXPAYER SHALL HAVE THE BURDEN OF PROVING THAT AN INVESTMENT ASSET OR ACTIVITY OR TRADING ASSET OR ACTIVITY WAS PROPERLY ASSIGNED TO A REGULAR PLACE OF BUSINESS OUTSIDE OF THIS STATE BY DEMONSTRATING THAT THE DAY-TO-DAY DECISIONS REGARDING THE ASSET OR ACTIVITY OCCURRED AT A REGULAR PLACE OF BUSINESS OUTSIDE THIS STATE. WHERE THE DAY-TO-DAY DECISIONS REGARDING AN INVESTMENT ASSET OR ACTIVITY OR TRADING ASSET OR ACTIVITY OCCUR AT MORE THAN ONE REGULAR

PLACE OF BUSINESS AND ONE SUCH REGULAR PLACE OF BUSINESS IS IN THIS STATE AND ONE SUCH REGULAR PLACE OF BUSINESS IS OUTSIDE THIS STATE SUCH ASSET OR ACTIVITY SHALL BE CONSIDERED TO BE LOCATED AT THE REGULAR PLACE OF BUSINESS OF THE TAXPAYER WHERE THE INVESTMENT OR TRADING POLICIES OR GUIDELINES WITH RESPECT TO THE ASSET OR ACTIVITY ARE ESTABLISHED. UNLESS THE TAXPAYER DEMONSTRATES TO THE CONTRARY, SUCH POLICIES AND GUIDELINES SHALL BE PRESUMED TO BE ESTABLISHED AT THE COMMERCIAL DOMICILE OF THE TAXPAYER.

(14) THE NUMERATOR OF THE SALES FACTOR INCLUDES ALL OTHER RECEIPTS IF EITHER:

(a) THE INCOME-PRODUCING ACTIVITY IS PERFORMED SOLELY IN THIS STATE; OR

(b) THE INCOME-PRODUCING ACTIVITY IS PERFORMED BOTH WITHIN AND WITHOUT THIS STATE AND A GREATER PROPORTION OF THE INCOME-PRODUCING ACTIVITY IS PERFORMED WITHIN THIS STATE THAN IN ANY OTHER STATE, BASED ON COSTS OF PERFORMANCE.

(G) A QUALIFIED INSTITUTION MAY CALCULATE THE BASE UPON WHICH THE FEE PROVIDED FOR IN SECTION 5733.06 (D) OF THE REVISED CODE IS DETERMINED FOR EACH OF THE TAX YEARS 1998, 1999, 2000, AND 2001 BY MULTIPLYING THE VALUE OF ITS ISSUED AND OUTSTANDING SHARES OF STOCK DETERMINED UNDER DIVISION (B) OF THIS SECTION BY A SINGLE DEPOSITS FRACTION WHOSE NUMERATOR IS THE DEPOSITS ASSIGNED TO BRANCHES IN THIS STATE AND WHOSE DENOMINATOR IS THE DEPOSITS ASSIGNED TO BRANCHES EVERYWHERE. DEPOSITS SHALL BE ASSIGNED TO BRANCHES IN THE SAME MANNER IN WHICH THE ASSIGNMENT IS MADE FOR REGULATORY PURPOSES. IF THE BASE CALCULATED UNDER THIS DIVISION IS LESS THAN THE BASE CALCULATED UNDER DIVISION (C) OF THIS SECTION, THEN THE QUALIFYING INSTITUTION MAY ELECT TO SUBSTITUTE THE BASE CALCULATED UNDER THIS DIVISION FOR THE BASE CALCULATED UNDER DIVISION (C) OF THIS SECTION. SUCH ELECTION MAY BE MADE ANNUALLY FOR EACH OF THE TAX YEARS 1998, 1999, 2000, AND 2001 ON THE CORPORATE REPORT. The election need not accompany the report; rather, the election may

accompany a subsequently filed but timely application for refund, a subsequently filed but timely amended report, or a subsequently filed but timely petition for reassessment. the election is not irrevocable and it applies only to the specified tax year. nothing in this division shall be construed to extend any statute of limitations set forth in this chapter

(H) IF THE APPORTIONMENT PROVISIONS OF THIS SECTION DO NOT FAIRLY REPRESENT THE EXTENT OF THE TAXPAYER'S BUSINESS ACTIVITY IN THIS STATE, THE TAXPAYER MAY PETITION FOR OR THE TAX COMMISSIONER MAY REQUIRE, IN RESPECT TO ALL OR ANY PART OF THE TAXPAYER'S BUSINESS ACTIVITY, IF REASONABLE:

(1) SEPARATE ACCOUNTING;

(2) THE EXCLUSION OF ANY ONE OR MORE OF THE FACTORS;

(3) THE INCLUSION OF ONE OR MORE ADDITIONAL FACTORS WHICH WILL FAIRLY REPRESENT THE TAXPAYER'S BUSINESS ACTIVITY IN THIS STATE; OR

(4) THE EMPLOYMENT OF ANY OTHER METHOD TO EFFECTUATE AN EQUITABLE ALLOCATION AND APPORTIONMENT OF THE TAXPAYER'S VALUE.

UNDETERMINED

Sec. 5733.057. In making any computation under sections 5733.042, 5733.05, 5733.051, 5733.052, and 5733.053 of the Revised Code, a corporation shall include in its items of allocable income or loss, apportionable income or loss, property, compensation, and sales, the corporation's entire distributive share or proportionate share of the items of allocable income or loss, apportionable income or loss, property, compensation, and sales of any pass-through entity in which the corporation has a direct or indirect ownership interest at any time during the corporation's taxable year. A pass-through entity's direct or indirect distributive share or proportionate share of any other pass-through entity's items of allocable income or loss, apportionable income or loss, property, compensation, and sales shall be included for the purposes of computing the corporation's distributive share or proportionate share of the pass-through entity's items of allocable income or loss, apportionable income or loss, property, compensation, and sales under this section. Those items shall be in the same form as was recognized by the pass-through entity.

Sec. 5733.06. ~~As used in this section, "financial institution" does not include a production credit association as described in 85 Stat. 597, 12 U.S.C.A. 2091.~~

The tax hereby charged each corporation subject to this chapter shall be

the sum of divisions (A) and (B) of this section or division (C) of this section, whichever is greater, except that the tax hereby charged each financial institution subject to this chapter shall be the amount computed under division (D) of this section:

(A) Except as set forth in division (F) of this section, five and one-tenth per cent upon the first fifty thousand dollars of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code;

(B) Except as set forth in division (F) of this section, eight and ~~nine-tenths~~ one-half per cent upon the value so determined in excess of fifty thousand dollars; or

(C) ~~Five-and-eighty-two-one-hundredths~~ Except as otherwise provided under division (G) of this section, four mills times that portion of the value of the issued and outstanding shares of stock as determined under division ~~(A)~~(C) of section 5733.05 of the Revised Code. FOR the PURPOSES OF DIVISION (C) OF THIS SECTION, DIVISION (C)(2) OF SECTION 5733.065, AND DIVISION (C) OF SECTION 5733.066 OF THE REVISED CODE, the VALUE of the ISSUED AND OUTSTANDING SHARES OF STOCK of A QUALIFIED HOLDING COMPANY is zero.

(D) The tax charged each financial institution subject to this chapter shall be that portion of the value of the issued and outstanding shares of stock as determined under division (A) of section 5733.05 of the Revised Code ~~times~~, multiplied by the following amounts:

(1) For tax years prior to the 1999 tax year, fifteen mills;

(2) For the 1999 tax year, fourteen mills;

(3) For tax year 2000 and thereafter, thirteen mills.

(E) No tax shall be charged from any corporation which has been adjudicated bankrupt, or for which a receiver has been appointed, or which has made a general assignment for the benefit of creditors, except for the portion of the then current tax year during which the tax commissioner finds such corporation had the power to exercise its corporate franchise unimpaired by such proceedings or act. The minimum payment for all corporations shall be fifty dollars.

The tax charged to corporations under this chapter for the privilege of engaging in business in this state, which is an excise tax levied on the value of the issued and outstanding shares of stock, shall in no manner be construed as prohibiting or otherwise limiting the powers of municipal corporations, joint economic development zones created under section 715.691 of the Revised Code, and joint economic development districts created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the

Revised Code in this state to impose an income tax on the income of such corporations.

(F) ~~If a combined group's net income value exceeds fifty thousand dollars, each taxpayer with a positive net income value in the combined group shall substitute for "fifty thousand dollars" in divisions (A) and (B) of this section the product obtained by multiplying fifty thousand dollars by a fraction, the numerator of which is the taxpayer's net income value, and the denominator of which is the combined group's net income value. As used in this division, the taxpayer's net income value is the sum of the taxpayer's net income allocated and apportioned to this state as determined in accordance with section 5733.052 of the Revised Code and after any deduction for net operating losses to which the taxpayer is entitled, and the combined group's net income value is the sum of the net income values of each taxpayer with a positive net income value in the combined group. The taxpayers in the combined group may elect in the manner prescribed by the tax commissioner to divide the first fifty thousand dollars of the combined group's net income value among themselves in a manner other than in proportion to their respective net income values. If the taxpayers so elect, each taxpayer shall substitute for "fifty thousand dollars" in divisions (A) and (B) of this section the taxpayer's divided portion of the fifty thousand dollars as so elected.~~ IF TWO OR MORE TAXPAYERS satisfy THE OWNERSHIP OR CONTROL REQUIREMENTS OF DIVISION (A) OF SECTION 5733.052 OF THE REVISED CODE, EACH SUCH TAXPAYER SHALL SUBSTITUTE "THE TAXPAYER'S PRO-RATA AMOUNT" FOR "FIFTY THOUSAND DOLLARS" IN DIVISIONS (A) AND (B) OF THIS SECTION. FOR PURPOSES OF this DIVISION, "THE TAXPAYER'S PRO-RATA AMOUNT" IS AN AMOUNT that, wHEN ADDED TO THE OTHER SUCH TAXPAYERS' PRO-RATA AMOUNTS, DOES NOT EXCEED FIFTY THOUSAND DOLLARS. FOR the PURPOSE OF MAKING THat COMPUTATION, THE TAXPAYER'S PRO-RATA AMOUNT shall NOT BE LESS THAN ZERO. Nothing in this division derogates from or eliminates the requirement to make the alternative computation of tax under division (C) of this section.

(G) THE TAX LIABILITY OF ANY CORPORATION UNDER DIVISION (C) OF THIS SECTION SHALL NOT EXCEED ONE HUNDRED FIFTY THOUSAND DOLLARS.

(H)(1) FOR the PURPOSES OF DIVISION (H) of this section, "EXITING CORPORATION" MEANS A CORPORATION THAT SATISFIES ALL OF THE FOLLOWING CONDITIONS:

(a) The corporation HAD NEXUS WITH OR IN THIS STATE

UNDER THE CONSTITUTION OF THE UNITED STATES DURING ANY PORTION OF A CALENDAR YEAR;

(b) The corporation WAS NOT A TAXPAYER ON THE first day of JANUARY IMMEDIATELY FOLLOWING that CALENDAR YEAR;

(c) The CORPORATION WAS NOT A FINANCIAL INSTITUTION ON THE first day of JANUARY IMMEDIATELY FOLLOWING that CALENDAR YEAR;

(d) the CORPORATION WAS NOT A TRANSFEROR AS DEFINED IN SECTION 5733.053 OF THE REVISED CODE DURING ANY PORTION OF that CALENDAR YEAR;

(e) DURING ANY PORTION OF that CALENDAR YEAR, OR ANY PORTION OF THE IMMEDIATELY PRECEDING CALENDAR YEAR, THE CORPORATION HAD NET INCOME that WAS NOT INCLUDED IN A REPORT FILED PURSUANT TO SECTION 5733.02, 5733.021, 5733.03, OR 5733.031 OF THE REVISED CODE;

(f) THE CORPORATION WOULD HAVE BEEN SUBJECT TO THE TAX COMPUTED UNDER DIVISIONS (A), (B), (C), (F), AND (G) OF THIS SECTION IF THE CORPORATION IS ASSUMED TO HAVE HAD NEXUS WITH OR IN THIS STATE UNDER THE CONSTITUTION of the United States ON THE first day of JANUARY IMMEDIATELY FOLLOWING THE CALENDAR YEAR REFERRED TO IN DIVISION (H)(1)(a) of this section.

(2) FOR the PURPOSES OF DIVISION (H) of this section, "UNREPORTED NET INCOME" MEANS NET INCOME that WAS NOT PREVIOUSLY INCLUDED IN A REPORT FILED PURSUANT TO SECTION 5733.02, 5733.021, 5733.03, OR 5733.031 OF THE REVISED CODE AND that WAS REALIZED OR RECOGNIZED DURING THE CALENDAR YEAR REFERRED TO IN DIVISION (H)(1) of this section OR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(3) EACH EXITING CORPORATION SHALL PAY A TAX COMPUTED BY FIRST ALLOCATING AND APPORTIONING THE UNREPORTED NET INCOME PURSUANT TO DIVISION (B) OF SECTION 5733.05 AND SECTIONS 5733.051 AND, IF APPLICABLE, section 5733.052 OF THE REVISED CODE. THE EXITING CORPORATION then SHALL COMPUTE THE TAX DUE ON ITS UNREPORTED NET INCOME ALLOCATED AND APPORTIONED TO THIS STATE BY APPLYING DIVISIONS (A), (B), AND (F) OF THIS SECTION TO that INCOME.

(4) DIVISIONS (C) AND (G) OF THIS SECTION, division (D)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code

do NOT APPLY TO AN EXITING CORPORATION, BUT EXITING CORPORATIONs are SUBJECT TO EVERY OTHER PROVISION OF THIS CHAPTER.

(5) NOTWITHSTANDING SECTIONS 5733.02, 5733.021, AND 5733.03 OF THE REVISED CODE TO THE CONTRARY, Each EXITING CORPORATION SHALL REPORT AND PAY THE TAX DUE UNDER DIVISION (H) of this section ON OR BEFORE THE thirty-first day of MAY IMMEDIATELY FOLLOWING THE CALENDAR YEAR REFERRED TO IN DIVISION (H)(1)(a) of this section. THE EXITING CORPORATION SHall FILE that REPORT ON THE FORM MOST RECENTLY PRESCRIBED BY THE TAX COMMISSIONER FOR the PURPOSES OF COMPLYING WITH SECTIONS 5733.02 AND 5733.03 OF THE REVISED CODE. Upon request by the corporation, the tax commissioner may extend the date for filing the report.

(6) The tax commissioner may adopt rules governing division (H) of this section.

(I) Any reference in the Revised Code to "the tax imposed by section 5733.06 of the Revised Code" or "the tax due under section 5733.06 of the Revised Code" includes the taxes imposed under sections 5733.065 and 5733.066 of the Revised Code.

Sec. 5733.061. A credit shall be allowed against the tax imposed by ~~Chapter 5733.~~section 5733.06 of the Revised Code for each taxable year. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit shall equal the lesser of the amount of tax due under ~~this chapter~~ that section after allowing for any other credits that precede the credit under this section in that order or the difference between:

(A) The tangible personal property taxes timely paid in the taxable year that were charged against engines, machinery, tools, and implements owned by the taxpayer, listed for taxation in this state under section 5711.16 of the Revised Code as used or designed to be used in refining or manufacturing, and acquired on or after January 1, 1978; minus

(B) The taxes that would have been charged against such property and paid during such year had it been listed and assessed for taxation at a percentage of its true value for the year it was required to be listed, determined as follows:

(1) For 1984 through 1988, twenty per cent;

(2) For 1989, twenty-one per cent;

(3) For 1990, twenty-two per cent;

(4) For 1991, twenty-three per cent;

(5) For 1992, twenty-four per cent;

(6) For 1993 and thereafter, twenty-five per cent.

The tax commissioner may require a taxpayer to furnish any information necessary to support a claim for credit under this section, and no credit shall be allowed unless such information is provided.

No credit shall be allowed against any taxes paid on property previously required to be listed for taxation in this state by a person other than the taxpayer.

If the sum of the credits to which the taxpayer would otherwise be entitled under this section in any tax year is greater than the tax due under ~~this chapter~~ section 5733.06 of the Revised Code for that year after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, such excess shall be allowed as a credit in each of the ensuing three tax years that the taxpayer owns the property, but the amount of any excess credit allowed in any such year shall be deducted from the balance carried forward to the ensuing tax year.

(C) A refundable credit, computed under division (D) of this section, is hereby provided for tax year 1994 if all of the following conditions are met:

(1) In a taxable year ending prior to July 1, 1989, the taxpayer acquired property by transfer from a transferor as defined in division (A) of section 5733.053 of the Revised Code;

(2) Such property acquired from the taxpayer's transferor does not qualify for the credit provided by this section for one or more of the tax years 1989, 1990, 1991, 1992, or 1993 solely because the property previously was required to be listed for taxation in this state by a person other than the taxpayer;

(3) If section 5733.053 of the Revised Code had been in effect by the end of the taxable year in which the transfer occurred, division (E)(1) of section 5733.053 of the Revised Code would have allowed the taxpayer the credit provided by this section for the property acquired from the taxpayer's transferor for one or more of the tax years 1989, 1990, 1991, 1992, or 1993.

(D) The credit provided by division (C) of this section shall equal the difference between the following quantities:

(1) The lesser of the tax imposed or the tax paid for each of the tax years 1989, 1990, 1991, 1992, and 1993;

(2) The tax that would have been due for each of such years if both of the following apply:

(a) Division (E)(1) of section 5733.053 of the Revised Code had been in effect prior to the end of the taxable year in which the transfer occurred;

(b) Divisions (C) and (D) of section 5733.053 of the Revised Code had

been in effect prior to the end of the taxable year in which the transfer occurred.

Division (D)(2)(b) of this section applies only if the amount described in divisions (C) and (D)(1) of section 5733.053 of the Revised Code for the taxable year ending in 1988 was greater than zero.

In no event shall the credit provided by division (C) of this section be less than zero. If the credit is affected by an adjustment to a report for a prior tax year, or by a report or an adjustment to a report for a subsequent tax year, the taxpayer shall file an amended annual corporation report in the manner prescribed by division (D) of section 5733.067 of the Revised Code.

Sec. 5733.065. (A) As used in this section, "litter stream products" means:

(1) Intoxicating liquor, beer, malt beverages, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;

(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(5) Packaging materials transferred or intended for transfer of use or possession in conjunction with retail sales of products enumerated in divisions (A)(1) and (2) of this section;

(6) Packaging materials in the finished form in which they are to be used, including sacks, bags, cups, lids, straws, plates, wrappings, boxes, or containers of any type used in the packaging or serving of food or beverages, when the food or beverages are prepared for human consumption by a restaurant or take-out food outlet at the premises where sold at retail and are delivered to a purchaser for consumption off the premises where the food or beverages are sold;

(7) Cigarettes, cigars, tobacco, matches, candy, and gum.

(B) For the purpose of providing additional funding for the division of recycling and litter prevention under Chapter 1502. of the Revised Code, there is hereby levied an additional tax on corporations for the privilege of manufacturing or selling litter stream products in this state. The tax imposed by this section is in addition to the tax charged under section 5733.06 of the Revised Code, computed at the rate prescribed by section 5733.066 of the Revised Code. This section does not apply for tax year 1981 to a corporation whose taxable year for tax year 1981 ended on or before June 30, 1980.

(C) The tax shall be imposed upon each corporation subject to the tax imposed by section 5733.06 of the Revised Code that manufactures or sells litter stream products in this state. The tax for each year shall be in an amount equal to the greater of either:

(1) Twenty-two hundredths of one per cent upon the value of that portion of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code that is subject to the rate contained in division (B) of section 5733.06 of the Revised Code;

(2) Fourteen one-hundredths of a mill times the value of the taxpayer's issued and outstanding shares of stock as determined under division ~~(A)~~(C) of section 5733.05 of the Revised Code.

The additional tax charged any taxpayer or group of combined taxpayers pursuant to this section for any tax year shall not exceed five thousand dollars.

(D)(1) In the case of a corporation engaged in the business of manufacturing litter stream products, no tax shall be due under this section unless the sale of litter stream products in this state during the taxable year exceeds five per cent of the total sales in this state of the corporation during that period or unless the total sales in this state of litter stream products by the corporation during the taxable year exceed ten million dollars.

(2) In the case of a corporation engaged in the business of selling litter stream products in the form in which the item is or is to be received, no tax shall be due under this section unless the corporation's sales of litter stream products in this state during the taxable year constitute more than five per cent of its total sales in this state during that period.

(3) In the case of a corporation transferring possession of litter stream products included in division (A)(6) of this section, in which food or beverages prepared for human consumption are placed, when the food or beverages are prepared for retail sale at the premises where sold and are delivered to a purchaser for consumption off the premises where the food or beverages are sold, no tax shall be due under this section unless such sales for off-premises consumption during the taxable year exceed five per cent of the corporation's total annual sales during the taxable year.

(E)(1) The tax imposed by this section is due in the proportions and on the dates on which the tax imposed by section 5733.06 of the Revised Code may be paid without penalty.

(2) Payment of the tax and any reports or returns required to enable the tax commissioner to determine the correct amount of the tax shall be submitted with and are due at the same time as payments and reports

required to be submitted under this chapter.

(3) If the tax is not paid in full on or before the date required by division (E)(1) of this section, the unpaid portion of the tax due and unpaid shall be subject to all provisions of this chapter for the collection of unpaid, delinquent taxes imposed by section 5733.06 of the Revised Code, except that all such taxes, interest, and penalties, when collected, shall be treated as proceeds arising from the tax imposed by this section and shall be deposited in the general revenue fund.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.

Sec. 5733.066. There shall be added to the rates contained in section 5733.06 of the Revised Code the following:

(A) To the rate in division (A) of that section upon that portion of the value of the taxpayer's issued and outstanding shares of stock as determined under division (B) of section 5733.05 of the Revised Code that is subject to such rate, an additional eleven-hundredths per cent upon that value to provide funding for the division of recycling and litter prevention under Chapter 1502. of the Revised Code;

(B) To the rate in division (B) of that section upon that portion of the value so determined that is subject to that rate, an additional twenty-two-hundredths per cent upon that value to provide funding for the division recycling and litter prevention under Chapter 1502. of the Revised Code;

(C) To the rate in division (C) of that section times that portion of the value of the taxpayer's issued and outstanding shares of stock as determined under division ~~(A)~~(C) of section 5733.05 of the Revised Code, an additional fourteen one-hundredths mills times that value to provide funding for the division of recycling and litter prevention under Chapter 1502. of the Revised Code.

The additional tax charged any taxpayer or group of combined taxpayers pursuant to this section for any tax year shall not exceed five thousand dollars.

This section does not apply to any family farm corporation as defined in section 4123.01 of the Revised Code.

The tax levied on corporations under this section does not prohibit or otherwise limit the authority of municipal corporations to impose an income tax on the income of such corporations.

Sec. 5733.067. (A) As used in this section, "subsidiary" means a corporation that satisfies both of the following requirements:

(1) More than fifty per cent of its capital stock with voting rights is owned or controlled either directly or indirectly by the taxpayer, or by related interests that own or control either directly or indirectly more than fifty per cent of the capital stock with voting rights of the taxpayer;

(2) Its tax is charged and paid under division (C) of section 5733.06 of the Revised Code.

(B) For tax year 1990 and each subsequent tax year prior to tax year 1999, a taxpayer whose tax is charged and paid under division (C) of section 5733.06 of the Revised Code shall be allowed a credit against the tax imposed under section 5733.06 of the Revised Code. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit shall be computed by multiplying the percentage specified in division (C) of this section by the least of the following:

(1) The tax charged under division (C) of section 5733.06 of the Revised Code on that portion of the net value of the taxpayer's issued and outstanding shares of stock in this state represented by investments in its subsidiaries, which shall be determined as follows:

(a) Exclude from the net book value of the taxpayer's direct investments in its subsidiaries any goodwill and appreciation therein that is excludable under division (A)(4) of section 5733.05 of the Revised Code;

(b) Multiply the result in division (B)(1)(a) of this section by one-half the sum of the taxpayer's property and business done fractions as determined under division (A) of section 5733.05 of the Revised Code;

(c) Multiply the result in division (B)(1)(b) of this section by the tax rate charged under division (C) of section 5733.06 of the Revised Code against the value of the taxpayer's issued and outstanding shares of stock.

(2) The amount by which the tax charged the taxpayer under division (C) of section 5733.06 of the Revised Code exceeds the tax that would have been charged if the tax were computed as the sum of divisions (A) and (B) of section 5733.06 of the Revised Code;

(3) The sum of the amounts by which the tax charged each subsidiary of the taxpayer under division (C) of section 5733.06 of the Revised Code, reduced by the amount of any credit to which the subsidiary is entitled under this section, exceeds the tax that would have been charged each subsidiary if the tax were computed as the sum of divisions (A) and (B) of section 5733.06 of the Revised Code.

(C) For tax year 1990 and each subsequent tax year prior to tax year 1999, the percentage used in computing the credit allowed by division (B) of this section shall be as follows:

(1) For tax year 1990, twenty-five per cent;

(2) For tax years 1991, 1992, 1993, 1994, and 1995, fifty per cent;

(3) For tax year 1996, seventy-five per cent;

(4) For tax ~~year~~ years 1997~~, and each subsequent tax year~~ and 1998, one hundred per cent.

(D) Notwithstanding section 5733.031 of the Revised Code, if the credit allowed by division (B) of this section is affected by an adjustment to either the federal income tax return or the annual corporation report of the taxpayer or a subsidiary, whether the adjustment is initiated by the taxpayer, the subsidiary, the internal revenue service, or the tax commissioner, the taxpayer shall file an amended annual corporation report with the commissioner in such form as the commissioner requires. The amended report shall be filed not later than one year after the adjustment to the federal income tax return or annual corporation report of the taxpayer or subsidiary has been agreed to or finally determined, whichever occurs first.

(1) In the case of an underpayment, the amended report shall be accompanied by payment of any additional tax and interest due and is a report subject to assessment under section 5733.11 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed report no longer subject to assessment except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

(2) In the case of an overpayment, an application for refund may be filed under this division within the one-year period prescribed for filing the amended report even if it is beyond the period prescribed in division (B) of section 5733.12 of the Revised Code if it otherwise conforms to the requirements of such section. An application filed under this division shall only claim refund of overpayments resulting from an adjustment to the credit allowed by division (B) of this section unless it is also filed within the time prescribed in division (B) of section 5733.12 of the Revised Code. It shall not reopen the computation of the taxpayer's tax liability under this chapter from a previously filed report except to the extent that such liability is affected by an adjustment to the credit allowed by division (B) of this section.

Sec. 5733.068. (A) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code and is ascertained on the last day of the taxable year.

(2) "Excess tax" means the difference, if any, between the amount described in division (A)(2)(a) of this section and the amount described in

division (A)(2)(b) of this section:

(a) The tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for the tax year without regard to any credits provided by the Revised Code;

(b) The tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for the tax year without regard to divisions (I)(12) and (13) of section 5733.04 of the Revised Code, sections 5733.054 and 5733.055 of the Revised Code, and any credits provided by the Revised Code.

(3) "Qualifying affiliated group" means an affiliated group meeting all of the following requirements:

(a) The aggregate of the excess tax for the tax year for the taxpayers that are members of the affiliated group exceeds three million five hundred thousand dollars;

(b) On January 1, 1991, the affiliated group had as a member of such affiliated group a corporation meeting all three of the following requirements:

(i) The corporation is described in division (C)(1) of section 5733.042 of the Revised Code.

(ii) The corporation was incorporated prior to January 1, 1991, in a state other than this state.

(iii) At no time since the date of incorporation did the corporation conduct activities other than those activities described in division (C)(1) of section 5733.042 of the Revised Code.

(c) If any member of an affiliated group was a taxpayer on January 1, 1991, the affiliated group, no later than September 30, 1991, under penalty of falsification under section 2921.13 of the Revised Code, informs the tax commissioner by certified mail of the affiliated group's estimated credit, allowed by divisions (B) and (C) of this section, against the tax imposed by this chapter for the 1992 tax year. The amount so reported does not prevent the affiliated group from claiming a credit amount greater than or less than the amount reported under division (A)(3)(c) of this section. Division (A)(3)(c) of this section does not apply to tax years after the 1992 tax year.

(B) Except as limited by divisions (C) and (E) of this section, a taxpayer that is a member of a qualifying affiliated group is allowed a nonrefundable credit for the tax year against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code. The nonrefundable credit shall be claimed in the order required under section 5733.98 of the Revised Code, and is equal to the lesser of the amounts described in divisions (B)(1) and (2) of this section:

(1) The excess tax reduced by three million five hundred thousand

dollars;

(2) One million five hundred thousand dollars.

(C) Notwithstanding division (B) of this section to the contrary, the maximum nonrefundable credit allowed by this section for the tax year to all taxpayers that are members of the same qualifying affiliated group cannot exceed in the aggregate one million five hundred thousand dollars.

(D) A taxpayer that is allowed the nonrefundable credit provided by this section shall allocate the nonrefundable credit to itself and to other taxpayers within the qualifying affiliated group in any proportion elected by the qualifying affiliated group.

(E) Notwithstanding any other division of this section to the contrary, the nonrefundable credit shall not be claimed or allowed any time prior to the first day of July following the tax year in which the nonrefundable credit would be allowed without regard to this division; nor shall the nonrefundable credit be claimed or allowed any time after the first day of August following the tax year in which the nonrefundable credit would be allowed without regard to this division. This division does not apply to tax years after tax year 1993.

Sec. 5733.069. (A) As used in this section:

(1) "Average of the payroll factor and the property factor" means one-half multiplied by the sum of the payroll factor and the property factor.

(2) Subject to divisions (C) and (H) of this section, "export sales" means sales used in determining the denominator of the sales factor under division (B)(2)(c) of section 5733.05 of the Revised Code, as long as the sales meet the requirements of division (A)(2)(a) of this section and either or both of divisions (A)(2)(b) and (c) of this section.

(a) The gross receipts with respect to the sales qualify as foreign trading gross receipts as defined under section 924 of the Internal Revenue Code and regulations prescribed thereunder, except not including foreign trading gross receipts defined under section 924(a)(5) of the Internal Revenue Code and regulations prescribed thereunder. In addition, for the purposes of division (A)(2)(a) of this section, section 924 of the Internal Revenue Code is considered to apply to any taxpayer, not just an FSC as that term is defined under section 922 of the Internal Revenue Code.

(b) In the case of sales of tangible personal property, the taxpayer establishes by preponderance of the evidence that the property is not received by the purchaser within the United States. If the property is delivered by common carrier or by other means of transportation, the place at which the property is ultimately received after all transportation has been completed shall be considered as the place at which the property is received

by the purchaser. Direct delivery in the United States, other than for purposes of transportation, to a person or firm designated by the purchaser constitutes delivery to the purchaser in the United States. Direct delivery outside the United States to a person or firm designated by the purchaser does not constitute delivery to the purchaser in the United States, regardless of where title passes or other condition of sale.

In addition, the taxpayer also establishes by clear and convincing evidence one of the following:

(i) With respect to sales of tangible personal property to a related member, within the twelve-month period subsequent to the delivery to the related member, the related member in turn sells the property, or leases it for a period of at least five years, and delivers the property in the same form or as a component part of other property to a purchaser or lessee who is not a related member. In addition, during the twenty-four-month period commencing with the date of such sale or lease by the related member, the purchaser or lessee or a related member of the purchaser or lessee does not receive, use, or consume the property, either in the same form or as a component part of other property, within the United States, and does not directly or indirectly sell or lease the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(ii) With respect to all other sales of tangible personal property, during the twenty-four-month period commencing with such sale, the purchaser or a related member of the purchaser does not receive, use, or consume the property, either in the same form or as a component part of other property, in the United States, and does not directly or indirectly sell the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(c) In the case of sales of services, the taxpayer establishes by preponderance of the evidence that the purchaser uses or consumes the services or the object of the services in a location other than the United States. If a purchaser will receive and use or consume the services or the object of the services both within and outside the United States, the sale is considered to be a sale of services or of the object of the services used or consumed outside the United States by the purchaser only to the extent of such proportionate use or consumption outside the United States. The taxpayer shall establish by preponderance of the evidence that the services or the object of the services was ultimately received and used or consumed outside the United States. Direct or indirect sales of services or the object of services to a related member do not meet the requirements of division

2)(c) of this section unless the taxpayer establishes by preponderance of the evidence that within the twelve-month period subsequent to the sale to the related member, the related member in turn sold and delivered or rendered the services or the object of the services to a person who is not a related member and such person ultimately received and used or consumed the services or the object of the services outside the United States. In no event shall a sale of services qualify as an export sale if the taxpayer or the taxpayer's related member directly or indirectly acquired such services from a person who is not a United States person and if the taxpayer or the taxpayer's related member in turn directly or indirectly sold such services in substantially the same form. For purposes of this section, services are sold in substantially the same form where more than fifty per cent of the fair market value of such services sold is attributable to services directly or indirectly purchased by the taxpayer or by the taxpayer's related member from a person who is not a United States person.

(3) "Incremental increase in export sales" means one-half the difference obtained by subtracting the amount of the taxpayer's export sales for the second preceding taxable year from the amount of the taxpayer's export sales for the taxable year.

If the taxpayer's taxable year is a period of greater than or less than three hundred sixty-five days, or three hundred sixty-six days for a taxable year that includes February twenty-nine, the amount of the export sales for that taxable year shall be adjusted and restated to an annualized amount.

(4) Subject to divisions (C), (F)(1), (H), and (I) of this section, "Ohio payroll increase factor" means twelve and one-half multiplied by the difference obtained by subtracting two one-hundredths from the largest of the following quotients:

(a) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the immediately preceding taxable year, divided by the numerator of the payroll factor for the immediately preceding taxable year;

(b) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the second preceding taxable year, divided by the numerator of the payroll factor for the second preceding taxable year;

(c) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the third preceding taxable year, divided by the numerator of the payroll factor for the third preceding taxable year.

If the numerator of the payroll factor for a taxable year represents payroll for a period of greater than or less than three hundred sixty-five

days, or three hundred sixty-six days for a taxable year that includes February twenty-nine, for purposes of this section the numerator for that taxable year shall be adjusted and restated to an annualized amount. If neither the taxpayer nor its related members were subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for any of the three immediately preceding tax years, the numerator of the payroll factor for any such year shall be considered to be one dollar.

In no event shall the Ohio payroll increase factor be greater than one or less than zero.

(5) Subject to divisions (C), (F)(2), and (H) of this section, "Ohio property increase factor" means ten multiplied by the largest of the following quotients:

(a) The numerator of the property factor for the taxable year minus the numerator of the property factor for the immediately preceding taxable year, divided by the numerator of the property factor for the immediately preceding taxable year;

(b) The numerator of the property factor for the taxable year minus the numerator of the property factor for the second preceding taxable year, divided by the numerator of the property factor for the second preceding taxable year;

(c) The numerator of the property factor for the taxable year minus the numerator of the property factor for the third preceding taxable year, divided by the numerator of the property factor for the third preceding taxable year.

If neither the taxpayer nor its related members were subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for any of the three immediately preceding tax years, the numerator of the property factor for any such year shall be considered to be one dollar.

In no event shall the Ohio property increase factor be greater than one or less than zero.

(6) Subject to divisions (H) and (I) of this section, "payroll factor" has the same meaning as in division (B)(2)(b) of section 5733.05 of the Revised Code with any adjustments, exclusions, or alterations made in accordance with division (B)(2)(d) of that section.

(7) "Pre-tax profit from the incremental increase in export sales" means fifteen per cent of the incremental increase in export sales, except that the taxpayer may establish by preponderance of the evidence that the pre-tax profit margin from such sales is an amount exceeding fifteen per cent but not exceeding fifty per cent. For purposes of this section, the pre-tax profit margin shall be determined on a product line by product line basis, and equals the quotient of the taxpayer's taxable income with respect to the

product line before operating loss deduction and special deductions, as required to be reported for the taxable year under the Internal Revenue Code, divided by the taxpayer's sales for the product line less sales returns, allowances, and discounts.

Nothing in division (A)(7) of this section shall be used or construed to support a request under division (B)(2)(d) of section 5733.05 of the Revised Code.

(8) Subject to division (H) of this section, "property factor" has the same meaning as in division (B)(2)(a) of section 5733.05 of the Revised Code with any adjustments, exclusions, or alterations made in accordance with division (B)(2)(d) of that section.

(9) "Related member" has the same meaning as under division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(10) "Tentative credit" means the credit under division (B) of this section without regard to the limitations set forth in division (D) of this section.

(11) "United States" means the United States and its territories and possessions.

(12) "United States person" has the same meaning as under section 7701(A)(30) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed ~~under this chapter~~ by section 5733.06 of the Revised Code. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. Subject to divisions (C), (D), and (G) of this section, the credit equals the sum of the following:

(1) For tax years 1993 to 2000, ten per cent of the product obtained by multiplying all of the following together:

(a) The pre-tax profit from the incremental increase in export sales for the taxable year;

(b) The average of the property factor and the payroll factor for the taxable year;

(c) The greater of the Ohio payroll increase factor or the Ohio property increase factor.

(2) For tax years 1994 to 2005, the sum of any amounts carried forward from tax years 1993 to 2000 in accordance with division (E) of this section.

(C)(1) In the case of a taxpayer having a related member or a group of taxpayers having a related member, the credit available under this section to the taxpayer or group of taxpayers shall be computed as if the taxpayer or all taxpayers of the group and all such related members were a consolidated,

single taxpayer. The credit shall be allocated to such taxpayer or to such group of taxpayers in any amount elected for the tax year by the taxpayer or group. Such election shall be revocable and amendable during the period described in division (B)(1) of section 5733.12 of the Revised Code. Nothing in this section shall be construed to treat as an export sale a sale by a related member who is not a United States person if such sale would not qualify as an export sale without regard to the consolidation requirement set forth in this section.

(2) For purposes of this section, a taxpayer's or related member's export sales and the numerators and denominators of the taxpayer's or related member's payroll and property factors shall include the taxpayer's or related member's proportionate shares of the export sales and numerators and denominators of the payroll and property factors, respectively, for all pass-through entities. For purposes of applying division (C)(2) of this section, the tax commissioner shall be guided by the concepts set forth in section 41(f)(2) of the Internal Revenue Code and regulations prescribed thereunder. Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5733.06 of the Revised Code and the credits allowed by this chapter.

~~As used in division (C)(2) of this section, "pass-through entity" has the same meaning as in division (A)(6) of section 5747.057 of the Revised Code.~~

(D) In no circumstance shall the credit provided by this section be less than zero.

If the tentative credit for a tax year for a taxpayer and any related members is greater than two hundred fifty thousand dollars or the aggregate tax due for the taxpayer and any related members after taking into account any other nonrefundable credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, then the credit allowed for the tax year for the taxpayer and any related members shall not exceed the lesser of two hundred fifty thousand dollars or the aggregate tax due for the taxpayer and any related members after taking into account any other nonrefundable credits that precede the credit under this section in that order.

(E)(1) Pursuant to division (B)(2) of this section, the greater of the amount described in division (E)(1)(a) or the amount described in division (E)(1)(b) of this section shall be allowed as a nonrefundable credit in each ensuing tax year:

(a) The excess, if any, of the tentative credit for the tax year over two

hundred fifty thousand dollars;

(b) The excess, if any, of the tentative credit for the tax year over the aggregate tax due for the tax year for the taxpayer and any related members, after taking into account any other nonrefundable credits for the tax year that precede the credit under this section in the order required under section 5733.98 of the Revised Code.

(2) Any such amount allowed as a credit in an ensuing tax year shall be deducted from the balance carried forward to the next ensuing tax year. Such credit shall be taken into account prior to the allowance of any credit for such tax year under division (B)(1) of this section. In no event shall any amount or any portion of any amount described in division (E)(1)(a) or (b) of this section be allowed in tax year 2006 or any subsequent tax year.

(F)(1) With respect to the computation of the Ohio payroll increase factor, divisions (A)(4)(b) and (c) of this section shall not apply to tax years 1993 and 1994, and division (A)(4)(c) of this section shall not apply to tax year 1995.

(2) With respect to the computation of the Ohio property increase factor, divisions (A)(5)(b) and (c) of this section shall not apply to tax years 1993 and 1994, and division (A)(5)(c) of this section shall not apply to tax year 1995.

(G) The aggregate credit allowed to the taxpayer and any related members for tax years 1993 to 2005 shall not exceed three million two hundred fifty thousand dollars.

(H)(1) If a taxpayer or a taxpayer's related member acquires the major portion of a trade or business of another person or the major portion of a separate unit of a trade or business of another person, then for purposes of applying this section for any tax year subsequent to the end of the taxable year in which the acquisition occurred, the amount of the taxpayer's export sales, payroll, subject to division (I) of this section, and property for periods before the acquisition shall be increased by so much of such amounts paid or incurred by the previous owner of the acquired trade, business, or separate unit as is attributable to the portion of such trade, business, or separate unit acquired by the taxpayer or related member.

(2) If a taxpayer or a taxpayer's related member disposes of a major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction to which division (H)(1) of this section applies, and if the taxpayer or the related member furnished the acquiring person such information as is necessary for the application of division (H)(1) of this section, then for purposes of applying this section to any tax year subsequent to the end of the taxable year in which the disposition

occurred, the amount of the taxpayer's export sales, payroll, subject to division (I) of this section, and property for periods before the disposition shall be decreased by so much of such amounts as is attributable to the portion of such trade, business, or separate unit disposed of by the taxpayer or related member.

(3) For purposes of applying this division, the tax commissioner shall be guided by the concepts set forth in section 41(f)(3) of the Internal Revenue Code and regulations prescribed thereunder.

(I) For purposes of this section, payroll and compensation do not include amounts in excess of two hundred thousand dollars directly or indirectly paid or accrued during the taxable year to an employee. For purposes of applying this division, the aggregate payroll and compensation directly or indirectly paid or accrued by the taxpayer and by the taxpayer's related members, if any, to an employee and to the employee's children, grandchildren, parents, and spouse, other than a spouse who is legally separated from the employee, shall be considered to be paid to the employee.

(J) With respect to allowing the credit provided by this section, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." The taxpayer shall bear the burden of establishing by preponderance of the evidence that any transaction giving rise to a claimed credit did not have as a principal purpose the avoidance of any portion of the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

Nothing in this section shall be construed to limit solely to this section the application of the doctrines listed in this division.

UNDETERMINED

Sec. 5733.0611. (A) THERE IS HEREBY ALLOWED A NONREFUNDABLE CREDIT against the tax imposed under section 5733.06 of the Revised Code. THE CREDIT SHALL BE EQUAL TO THE TAXPAYER'S PROPORTIONATE SHARE OF THE LESSER OF EITHER THE TAX DUE OR THE TAX PAID BY ANY QUALIFYING ENTITY under section 5733.41 OF THE REVISED CODE FOR THE qualifying TAXABLE YEAR OF THE QUALIFYING ENTITY that ENDS IN THE TAXABLE YEAR OF THE TAXPAYER. THE TAXPAYER SHALL CLAIM THE CREDIT FOR THE TAXPAYER'S TAXABLE YEAR IN WHICH ENDS THE qualifying ENTITY'S qualifying TAXABLE YEAR.

IN CLAIMING THE CREDIT AND DETERMINING ITS PROPORTIONATE SHARE OF THE TAX DUE AND THE TAX PAID

BY THE qualifying ENTITY, THE person claiming the credit SHALL FOLLOW THE CONCEPTS set forth IN subchapter K OF THE INTERNAL REVENUE CODE. Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed and the credits allowed under this chapter.

THE CREDIT SHALL BE CLAIMED IN THE ORDER REQUIRED UNDER SECTION 5733.98 OF THE REVISED CODE. ANY UNUSED CREDIT SHALL BE ALLOWED AS A CREDIT IN THE ENSUING TAX YEAR. ANY SUCH AMOUNT ALLOWED AS A CREDIT IN AN ENSUING TAX YEAR SHALL BE DEDUCTED FROM THE BALANCE CARRIED FORWARD TO THE NEXT ENSUING TAX YEAR.

(b) Any person that is not a taxpayer solely by reason of division (a) or (c) of section 5733.09 of the revised code, but that would be entitled to claim the nonrefundable credit under this section if that person were a taxpayer, may file an application for refund pursuant to section 5733.12 of the revised code. upon proper application for refund under that section, the tax commissioner shall issue a refund in the amount of the credit to which that person would have been entitled under division (a)(1) of this section had the person been a taxpayer, and as if the credit were a refundable credit.

(C) If a trust or fund is entitled to a proportionate share of the lesser of either the tax due or the tax paid by any qualifying entity under section 5733.41 of the Revised Code, and if that proportionate share is then allocable to an exempt person as defined in division (d) of this section, then the QUALIFYING trust or fund may file an application for refund with respect to such allocable amounts pursuant to section 5733.12 of the Revised Code. upon proper application for REFUND under that section, the tax commissioner shall issue a refund IN the AMOUNT of the credit to which the qualifying trust or fund would have been entitled under division (a)(1) of this section had the trust or fund been a taxpayer, and as if the credit were a refundable credit. to the extent that a trust or fund is PERMITTED to apply for a refund under this division, or TO the extent that a trust or fund has applied for such a refund, exempt persons are not entitled to the credit authorized under this section or section 5747.059 of the Revised Code.

(d)(1) for the purposes of division (c) of this section only, "exempt person" means any of the following:

(a) a person that is or may be the beneficiary of a trust if the trust is subject to Subchapter d of chapter 1 of subtitle a of the internal revenue code.

(b) a person that is or may be the beneficiary of or the recipient of payments from a nuclear decommissioning reserve fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468a(e), and 468b(d)(2) of the internal revenue code apply to the determination of whether such a person is an exempt person under division (d) of this section.

(c) a person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. division (d)(1)(c) of this section applies only if the trust IRREVOCABLY agrees that for the taxable year during or for which the trust distributes any of its income to any of the beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax as required under sections 5747.40 to 5747.453 of the Revised Code.

(2) an exempt person does not include any person that would not qualify as an exempt person under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." a trust or fund described in division (c) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to a claim for a refundable credit under this section does not have as a principal purpose a claim for that credit. nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in division (d)(2) of this section.

(e) nothing in this section shall be construed to allow a refund more than once with respect to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code.

Sec. 5733.09. (A) An incorporated company, whether foreign or domestic, owning and operating a public utility in this state, and as such required by law to file reports with the tax commissioner and to pay an excise tax upon its gross receipts, and insurance, fraternal, beneficial, bond investment, and other corporations required by law to file annual reports with the superintendent of insurance and dealers in intangibles, the shares of which or the capital or ownership in capital employed by such dealer is subject to the taxes imposed by section 5707.03 of the Revised Code, shall not be subject to this chapter, except for sections 5733.031, 5733.042, 5733.05, 5733.052, 5733.053, 5733.069, 5733.0611, 5733.40, 5733.41, and sections 5747.40 to 5747.453 of the Revised Code.

(B) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year under such code is exempt from the tax imposed by ~~this chapter~~ section 5733.06 of the

Revised Code that is based on that taxable year.

A corporation that makes such an election shall file a notice of such election with the tax commissioner between the first day of January and the thirty-first day of March of each tax year that the election is in effect.

(C) An entity defined to be a "real estate investment trust" by section 856 of the Internal Revenue Code, a "regulated investment company" by section 851 of the Internal Revenue Code, or a "real estate mortgage investment conduit" by section 860D of the Internal Revenue Code, is exempt from taxation for a tax year as a corporation under this chapter and is exempt from taxation for a return year as a dealer in intangibles under Chapter 5725. of the Revised Code if it provides the report required by this division. By the last day of March of the tax or return year the entity shall submit to the tax commissioner the name of the entity with a list of the names, addresses, and social security or federal identification numbers of all investors, shareholders, and other similar investors who owned any interest or invested in the entity during the preceding calendar year. The commissioner may extend the date by which the report must be submitted for reasonable cause shown by the entity. The commissioner may prescribe the form of the report required for exemption under this division.

(D)(1) As used in this division:

(a) "Commercial printer" means a person primarily engaged in the business of commercial printing. However, "commercial printer" does not include a person primarily engaged in the business of providing duplicating services using photocopy machines or other xerographic processes.

(b) "Commercial printing" means printing by one or more common processes such as letterpress, lithography, gravure, screen, or digital imaging, and includes related activities such as binding, platemaking, prepress operation, cartographic composition, and typesetting.

(c) "Contract for printing" means an oral or written agreement for the purchase of printed materials produced by a commercial printer.

(d) "Intangible property located at the premises of a commercial printer" means intangible property of any kind owned or licensed by a customer of the commercial printer and furnished to the commercial printer for use in commercial printing.

(e) ~~"Pass-through entity" has the same meaning as in division (A)(6) of section 5747.057 of the Revised Code.~~

~~(f)~~ "Printed material" means any tangible personal property produced or processed by a commercial printer pursuant to a contract for printing.

~~(g)~~(f) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that

section.

(2) Except as provided in divisions (D)(3) and (4) of this section, a corporation not otherwise subject to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a tax year does not become subject to that tax for the tax year solely by reason of any one or more of the following occurring in this state during the taxable year that ends immediately prior to the tax year:

(a) Ownership by the corporation or a related member of the corporation of tangible personal property or intangible property located during all or any portion of the taxable year or on the first day of the tax year at the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(b) Sales by the corporation or a related member of the corporation of property produced at and shipped or distributed from the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing with respect to such property;

(c) Activities of employees, officers, agents, or contractors of the corporation or a related member of the corporation on the premises of a commercial printer with which the corporation or the corporation's related member has a contract for printing or the premises of a commercial printer's related member with which the corporation or the corporation's related member has a contract for printing, where the activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(3) The exemption under this division does not apply for a taxable year to any corporation having on the first day of January of the tax year or at any time during the taxable year ending immediately preceding the first day of January of the tax year a related member which, on the first day of January of the tax year or during any portion of such taxable year of the corporation, ~~owned or used all or a portion of its property or capital in this state or earned or received income in this state or was doing~~ has nexus in or with this state under the Constitution of the United States or holds a certificate of compliance with the laws of this state authorizing it to do

business in this state.

(4) With respect to allowing the exemption under this division, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A corporation shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this division did not have as a principal purpose the avoidance of any portion of the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code.

Application of the doctrines listed in division (D)(4) of this section is not limited to this division.

Sec. 5733.11. (A) If any corporation required to file a report under this chapter fails to file the report within the time prescribed, files an incorrect report, or fails to remit the full amount of the tax due for the period covered by the report, the tax commissioner may make an assessment against the corporation for any deficiency for the period for which the report or tax is due, based upon any information in ~~his~~the commissioner's possession.

No assessment shall be made or issued against a corporation more than three years after the later of the final date the report subject to assessment was required to be filed or the date the report was filed. Such time limit may be extended if both the corporation and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in division (B) of section 5733.12 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a corporation that fails to file a report subject to assessment as required by this chapter, or that files a fraudulent report.

The commissioner shall give the corporation assessed written notice of the assessment by personal service or certified mail. ~~Any portion of the assessment that is not paid within thirty days after service of the notice of assessment shall, in lieu of bearing subsequent interest as provided in section 5733.26 of the Revised Code, bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the thirty-first day after service of the notice of assessment until the date the portion is paid.~~

(B) Unless the corporation to which the notice of assessment is directed files with the commissioner within thirty days after service thereof, either personally or by certified mail, a petition for reassessment in writing, signed by the authorized agent of the corporation assessed having knowledge of the facts, and makes payment of the portion of the assessment required by division (E) of this section, the assessment shall become ~~conclusive~~ final, and the amount of the assessment shall be due and payable from the corporation assessed to the treasurer of state. The petition shall indicate the

corporation's objections, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner by personal service or by certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the corporation has an office or place of business in this state, the county in which the corporation's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the corporation assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state corporate franchise and litter taxes~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of an assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall be issued upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until the assessment is paid. interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter.

(E) The portion of an assessment which must be paid upon the filing of a petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or interest, full payment of the assessment including penalty and interest is required;

(2) If the corporation assessed failed to file, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, any amended report required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, or any amended report required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, full payment of the assessment including penalty and interest is required;

(3) If the corporation assessed filed, prior to the date of issuance of the assessment, the annual report required by section 5733.02 of the Revised Code, all amended reports required by division (C) of section 5733.031 of the Revised Code for the tax year at issue, and all amended reports required by division (D) of section 5733.067 of the Revised Code to indicate a reduction in the amount of the credit provided under that section, and a balance of the taxes shown due on the reports as computed on the reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance is required;

(4) If the corporation assessed does not dispute that it is a taxpayer but claims the protections of section 101 of Public Law 86-272, 73 Stat. 555, 15 U.S.C.A. 381, as amended, payment of only that portion of the assessment representing any balance of taxes shown due on the corporation's annual report required by section 5733.02 of the Revised Code, as computed on the report, that remains unpaid, and that represents taxes imposed by division (C) of section 5733.06, division (C)(2) of section 5733.065, and division (C) of section 5733.066 of the Revised Code, is required;

(5) If none of the conditions specified in divisions (E)(1) to (4) of this section apply, or if the corporation assessed disputes that it is a taxpayer, no payment is required.

(F) Notwithstanding the fact that a petition for reassessment is pending, the corporation may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the corporation under the corrected assessment is less than the portion paid, there shall be

issued to the corporation, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 5733.12 of the Revised Code, with interest on that amount as provided by section 5733.26 of the Revised Code, subject to section 5733.121 of the Revised Code.

Sec. 5733.111. in making any assessment of additional tax, penalty, or interest under this chapter, the tax commissioner may apply the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." to the extent the tax commissioner applies such doctrines in MAKING an assessment of additional tax, penalty, or interest under this CHAPTER, the tax commissioner bears the burden of establishing by a preponderance of the evidence that those doctrines should apply.

Sec. 5733.12. (A) Four and two-tenths per cent of all payments received by the treasurer of state from the taxes imposed under ~~this chapter~~ sections 5733.06 and 5733.41 of the Revised Code shall be credited to the local government fund for distribution in accordance with section 5747.50 of the Revised Code, six-tenths of one per cent shall be credited to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code, and ninety-five and two-tenths per cent shall be credited to the general revenue fund.

(B) ~~An~~ Except as otherwise provided under divisions (C) and (D) of this section, an application to refund to the corporation the amount of taxes imposed under section 5733.06 of the Revised Code that are overpaid, paid illegally or erroneously, or paid on any illegal, erroneous, or excessive assessment, with interest thereon as provided by section 5733.26 of the Revised Code, shall be filed with the tax commissioner, on the form prescribed by ~~him~~ the commissioner, within three years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (C)(2) of section 5733.031, division (D)(2) of section 5733.067, or division (A) of section 5733.11 of the Revised Code.

On the filing of the refund application, the commissioner shall determine the amount of refund due and certify such amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code.

(C) "NINETY DAYS" SHALL BE SUBSTITUTED FOR "THREE YEARS" IN DIVISION (B) OF THIS SECTION IF the taxpayer satisfies BOTH OF THE FOLLOWING:

(1) THE TAXPAYER HAS APPLIED FOR A REFUND BASED IN WHOLE OR IN PART UPON SECTION 5733.0611 OF THE REVISED CODE;

(2) THE TAXPAYER ASSERTS THAT THE IMPOSITION OR

COLLECTION OF THE TAX IMPOSED OR CHARGED BY section 5733.06 of the Revised Code OR ANY PORTION OF SUCH TAX VIOLATES THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF this state.

(D)(1) DIVISION (D)(2) OF THIS SECTION APPLies ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE satisfied:

(a) A QUALIFYING PASS-THROUGH ENTITY PAYS AN AMOUNT OF THE TAX IMPOSED BY section 5733.41 OF THE REVISED CODE;

(b) THE TAXPAYER IS A QUALIFYING INVESTOR AS TO THAT QUALIFYING PASS-THROUGH ENTITY;

(c) THE TAXPAYER DID NOT CLAIM THE CREDIT PROVIDED FOR IN SECTION 5733.0611 OF THE REVISED CODE AS TO THE TAX DESCRIBED IN DIVISION (D)(1)(a) OF THIS SECTION;

(d) THE THREE-YEAR PERIOD DESCRIBED IN DIVISION (B) OF THIS SECTION HAS ended AS TO THE TAXABLE YEAR FOR WHICH THE TAXPAYER OTHERWISE WOULD HAVE CLAIMED that CREDIT.

(2) A TAXPAYER SHALL FILE AN APPLICATION FOR REFUND PURSUANT TO THIS DIVISION WITHIN ONE YEAR AFTER THE DATE THE PAYMENT DESCRIBED IN DIVISION (D)(1)(a) OF THIS SECTION IS MADE. AN APPLICATION FILED UNDER THIS DIVISION SHALL ONLY CLAIM REFUND OF OVERPAYMENTS RESULTING FROM THE TAXPAYER'S FAILURE TO CLAIM THE CREDIT DESCRIBED IN DIVISION (D)(1)(c) OF THIS SECTION. NOTHING IN THIS DIVISION SHALL BE CONSTRUED TO RELIEVE A TAXPAYER FROM COMPLYING WITH THE PROVISIONS OF DIVISION (I)(13) OF SECTION 5733.04 OF THE REVISED CODE.

Sec. 5733.121. ~~Any refund, including interest thereon, that~~if a corporation ~~is~~ entitled to a refund under section 5733.11 or 5733.12 of the Revised Code ~~shall be reduced by the amount of~~ is indebted to this state for any tax ~~indebtedness due the~~ or fee administered by the tax commissioner that is paid to the state ~~from~~ or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax or fee, the ~~corporation. The~~ amount ~~of such reduction shall~~ refundable may be applied in satisfaction of ~~such indebtedness~~ the debt. If the amount refundable is less than the amount of ~~such indebtedness~~ the debt, it ~~shall~~ may be applied in partial satisfaction of ~~such indebtedness~~ the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the corporation

has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax due for any tax year, of the amount of any refund due the taxpayer under this chapter for a preceding tax year.

~~As used in this section, "tax indebtedness due the state" or "such indebtedness" means the unpaid portion of an assessment for any tax, penalty, or interest payable to the general revenue fund or imposed under this chapter, to the extent such assessment has become conclusive and has been or otherwise would be brought to judgment, together with any additional penalties or interest accrued.~~

Sec. 5733.26. (A) If the tax imposed by ~~this chapter~~section 5733.06 of the Revised Code, or any portion of that tax, whether determined by the tax commissioner or the taxpayer, is not paid on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the day an assessment is issued under section 5733.11 of the Revised Code, whichever occurs first.

(B) Interest shall be allowed and paid at the rate per annum prescribed by section 5703.47 of the Revised Code upon amounts refunded with respect to the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code. The interest shall run from whichever of the following dates is the latest until the date the refund is paid: the date of the illegal, erroneous, or excessive payment; the ninetieth day after the final date the annual report under section 5733.02 of the Revised Code was required to be filed; or the ninetieth day after the date that report was filed.

If the overpayment results from the carryback of a net capital loss to a previous taxable year, the overpayment is deemed not to have been made prior to the filing date, including any extension thereof, for the taxable year in which the net capital loss arises.

Sec. 5733.31. (A) As used in this section:

(1) "Component member" has the same meaning as in section 1563(b) of the Internal Revenue Code.

(2) "Controlled group" has the same meaning as in section 179(d)(7) of the Internal Revenue Code.

(3) "Cost" has the same meaning as in section 179(d)(3) of the Internal Revenue Code.

(4) "Eighteen-month period" means the eighteen-month period that

begins January 1, 1995, and ends June 30, 1996.

(5) "Manufacturer" has the same meaning as in section 5711.16 of the Revised Code.

(6) "Manufacturing machinery or equipment" has the same meaning as "engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing" in section 5711.16 of the Revised Code.

(7) "New manufacturing machinery or equipment" means manufacturing machinery or equipment, the original use of which commences with the taxpayer or with a partnership of which the taxpayer is a partner.

(8) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery or equipment that the taxpayer locates in this state and uses as a manufacturer. The credit also is allowed for a taxpayer that is a direct or indirect partner in a partnership that purchases new manufacturing machinery or equipment that the partnership locates in this state and uses as a manufacturer. In either event, the credit is available only if both of the following conditions are met:

(1) The purchases are made during the eighteen-month period;

(2) In the case of such new manufacturing machinery or equipment purchased by the taxpayer, the cumulative cost of the new machinery or equipment, when added to the cumulative cost of any other such manufacturing machinery or equipment purchased by other component members of a controlled group of corporations of which the taxpayer is a component member, equals or exceeds twenty per cent of the aggregate cost of all tangible personal property located in the United States and owned by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, at the close of the taxpayer's most recent taxable year ending before the eighteen-month period. In the case of such new manufacturing machinery or equipment purchased by a partnership of which the taxpayer is a direct or indirect partner, the cumulative cost of such property equals or exceeds twenty per cent of the aggregate cost of all tangible personal property located in the United States and owned by the partnership at the close of its most recent federal taxable year ending before the eighteen-month period, and the taxpayer's distributive share of such cumulative cost, when added to the cumulative cost of any other such new manufacturing machinery or

ipment purchased by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, equals or exceeds twenty per cent of the aggregate cost of all tangible personal property located in the United States and owned by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, at the close of the taxpayer's most recent taxable year ending before the eighteen-month period.

(C) The amount of the credit equals twenty per cent of the cost of the new manufacturing machinery and equipment located and used in this state by the manufacturer. However, the aggregate credit allowed to any taxpayer, or if the taxpayer is a component member of a controlled group of corporations, to the controlled group, shall not exceed five hundred thousand dollars. If the manufacturing machinery and equipment is purchased by a partnership, the five-hundred-thousand-dollar limit applies both to the partnership and to the taxpayer or controlled group. The taxpayer shall be allowed its distributive share of any credit available through the partnership, and such share shall be aggregated with any other credit available to the taxpayer or controlled group under this section before applying the five-hundred-thousand-dollar limit to the taxpayer or controlled group. The taxpayer may allocate the amount of credit, as so limited, among any of its taxable years that end after the purchase is made and include any portion of the eighteen-month period. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under this chapter after allowing for any other credits that precede the credit under this section in that order may be carried forward for three taxable years after the last taxable year that includes any portion of the eighteen-month period, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a partnership's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5733.06 of the Revised Code and the credits allowed by this chapter.

Sec. 5733.311. (A) As used in this section:

(1) "Component member" has the same meaning as in section 1563(b) of the Internal Revenue Code.

(2) "Controlled group" has the same meaning as in section 179(d)(7) of the Internal Revenue Code.

(3) "Cost" has the same meaning as in section 179(d)(3) of the Internal Revenue Code.

(4) "Seven-month period" means the seven-month period that begins December 1, 1995, and ends June 30, 1996.

(5) "Manufacturer" has the same meaning as in section 5711.16 of the Revised Code.

(6) "Manufacturing machinery or equipment" has the same meaning as "engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing" in section 5711.16 of the Revised Code.

(7) "New manufacturing machinery or equipment" means manufacturing machinery or equipment, the original use of which commences with the taxpayer or with a partnership of which the taxpayer is a partner.

(8) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery or equipment that the taxpayer locates in this state and uses as a manufacturer. The credit also is allowed for a taxpayer that is a direct or indirect partner in a partnership that purchases new manufacturing machinery or equipment that the partnership locates in this state and uses as a manufacturer. In either event, the credit is available only if the following conditions are met:

(1) The purchases are made during the seven-month period;

(2) In the case of such new manufacturing machinery or equipment purchased by the taxpayer, the cumulative cost of the new machinery or equipment, when added to the cumulative cost of any other such manufacturing machinery or equipment purchased by other component members of a controlled group of corporations of which the taxpayer is a component member, equals or exceeds twenty per cent of the aggregate of the cost of all manufacturing machinery or equipment located in the United States and owned by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, at the close of the taxpayer's most recent taxable year ending before January 1, 1995. In the case of such new manufacturing machinery or equipment purchased by a partnership of which the taxpayer is a direct or indirect partner, the cumulative cost of such property equals or exceeds twenty per cent of the aggregate of the cost of all manufacturing machinery or equipment located in the United States and owned by the partnership at the close of its most recent federal taxable year ending before January 1, 1995, and the taxpayer's distributive share of such cumulative cost, when

added to the cumulative cost of any other such new manufacturing machinery or equipment purchased by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, equals or exceeds twenty per cent of the aggregate of the cost of all manufacturing machinery or equipment located in the United States and owned by the taxpayer or other component members of a controlled group of corporations of which the taxpayer is a component member, at the close of the taxpayer's most recent taxable year ending before January 1, 1995.

(3) The taxpayer does not claim a credit under section 5733.31 of the Revised Code for purchases of new manufacturing machinery and equipment.

(C) In the case of new manufacturing machinery and equipment purchased by a manufacturer, the amount of the credit equals twenty per cent of the cost of the new manufacturing machinery and equipment located and used in this state by the manufacturer. However, the aggregate credit allowed to any taxpayer, or if the taxpayer is a component member of a controlled group of corporations, to the controlled group, shall not exceed five hundred thousand dollars. If the manufacturing machinery and equipment is purchased by a partnership, the five-hundred-thousand-dollar limit applies both to the partnership and to the taxpayer or controlled group. The taxpayer shall be allowed its distributive share of any credit available through the partnership, and such share shall be aggregated with any other credit available to the taxpayer or controlled group under this section before applying the five-hundred-thousand-dollar limit to the taxpayer or controlled group. The taxpayer may allocate the amount of credit, as so limited, among any of its taxable years that end after the purchase is made, and that include any portion of the seven-month period. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under this chapter after allowing for any other credits that precede the credit under this section in that order may be carried forward for three taxable years after the last taxable year that includes any portion of the seven-month period, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a partnership's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5733.06 of the Revised Code and the credits allowed by this chapter.

Sec. 5733.32. (A) As used in this section:

(1) "Qualifying property" means any property, plant, or equipment used to produce grapes in this state, and includes but is not limited to land and improvements to land, grape seeds and vines, stakes, wiring, tractors, and other machinery used in the growth, harvesting, or producing of grapes.

(2) "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code, without regard to division (B) of that section.

(B) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a taxpayer engaged in the business of producing grapes that purchases qualifying property on or after January 1, 1994. The amount of the credit equals ten per cent of the cost of purchasing and installing or constructing the qualifying property. The taxpayer shall claim the credit for the taxable year in which the qualifying property is placed in operation. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward for the ensuing seven taxable years any credit amount in excess of its tax due under ~~this chapter~~ section 5733.06 of the Revised Code for the taxable year in which the qualifying property is placed in operation after allowing for any other credits that precede the credit under this section in that order, and shall deduct the amount of the excess credit allowed for any such year from the balance carried forward to the next year. However, if the taxpayer is subject to a recapture tax under division (C)(1) of this section because it disposes of the qualifying property or ceases to use it as qualifying property during the seven-year recapture period prescribed under that division, it may claim no credit in connection with that property for the taxable year of disposal or cessation or any ensuing taxable year.

(C)(1) If, within the seven-year period after qualifying property is placed in operation, the taxpayer disposes of the property or ceases to use it as qualifying property, the amount of tax otherwise imposed on the taxpayer by ~~this chapter~~ section 5733.06 of the Revised Code shall be increased for the taxable year in which the property is disposed of or ceases to be used as qualifying property. The amount of the increase shall equal the recapture percentage multiplied by the aggregate credit the taxpayer has been allowed under this section for all prior taxable years in connection with that property. The recapture percentage shall be determined in accordance with the following table:

If the property is disposed of or ceases to be used as qualifying property within this amount of time after being placed in	The recapture percentage is:

eration:	
one year	100%
two years	86%
three years	72%
four years	58%
five years	44%
six years	30%
seven years	15%

(2) Division (C)(1) of this section does not apply in either of the following circumstances:

(a) The qualifying property is transferred to a related member and the related member continues to use the property to produce grapes in this state;

(b) There is an involuntary disposition of the qualifying property. The involuntary disposition may be due to, without limitation, a bankruptcy, a receivership, or destruction by natural forces.

(D) The tax commissioner, by rule, may prescribe guidelines for taxpayers to use in determining if their property is qualifying property for the purposes of this section.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing.

(2) "New manufacturing machinery and equipment" means manufacturing machinery and equipment, the original use in this state of which commences with the taxpayer or with a partnership of which the taxpayer is a partner.

(3)(a) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(b) Any purchase, for purposes of this section, is considered to occur at the time the agreement to acquire the property to be purchased becomes binding.

(c) Notwithstanding section 179(d) of the Internal Revenue Code, a taxpayer's direct or indirect acquisition of new manufacturing machinery and equipment is not purchased on or after July 1, 1995, if the taxpayer, or a person whose relationship to the taxpayer is described in subparagraphs (A), (B), or (C) of section 179(d)(2) of the Internal Revenue Code, had directly or indirectly entered into a binding agreement to acquire the property at any time prior to July 1, 1995.

(4) "Qualifying period" means the period that begins July 1, 1995, and ends December 31, ~~1998~~ 2000.

(5) "County average new manufacturing machinery and equipment investment" means either of the following:

(a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during ~~calendar~~ baseline years ~~1992, 1993, and 1994~~, in the case of a taxpayer or partnership that was in existence for more than one year during ~~calendar~~ baseline years ~~1992, 1993, and 1994~~.

(b) Zero, in the case of a taxpayer or partnership that was not in existence for more than one year during ~~calendar~~ baseline years ~~1992, 1993, and 1994~~.

(6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation.

(8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period;

(b) It has a per capita income equal to or below eighty per cent of the median county per capita income of the United States as determined by the most recently available figures from the United States census bureau;

(c)(i) In the case of a municipal corporation, at least twenty per cent of the residents have a total income for the most recent census year that is below the official poverty line;

(ii) In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than twenty-five per cent.

(9) "Eligible area" means a distressed area, a labor surplus area, an inner city area, or a situational distress area.

(10) "Inner city area" means, in a municipal corporation that has a population of at least one hundred thousand and does not meet the criteria of a labor surplus area or a distressed area, targeted investment areas

established by the municipal corporation within its boundaries that are comprised of the most recent census block tracts that individually have at least twenty per cent of their population at or below the state poverty level or other census block tracts contiguous to such census block tracts.

(11) "Labor surplus area" means an area designated as a labor surplus area by the United States department of labor.

(12) "Official poverty line" has the same meaning as in division (A) of section 3923.51 of the Revised Code.

(13) "Situational distress area" means a county or a municipal corporation that has experienced or is experiencing a closing or downsizing of a major employer, that will adversely affect the county's or municipal corporation's economy. In order to be designated as a situational distress area for a period not to exceed thirty-six months, the county or municipal corporation may petition the ~~Director~~ director of ~~Development~~ development. The petition shall include written documentation that demonstrates all of the following adverse effects on the local economy:

(a) The number of jobs lost by the closing or downsizing;

(b) The impact that the job loss has on the county's or municipal corporation's unemployment rate as measured by the Ohio ~~Bureau~~ bureau of ~~Employment Services~~ employment services;

(c) The annual payroll associated with the job loss;

(d) The amount of state and local taxes associated with the job loss;

(e) The impact that the closing or downsizing has on the suppliers located in the county or municipal corporation.

(14) "Cost" has the same meaning and limitation as in section 179(d)(3) of the Internal Revenue Code.

(15) "~~Pass-through entity" has the same meaning as in section5747.057 of the Revised Code.~~ Baseline years" means:

(a) Calendar years 1992, 1993, and 1994, with regard to a credit claimed for the purchase during calendar year 1995, 1996, 1997, or 1998 of new manufacturing machinery and equipment;

(b) Calendar years 1993, 1994, and 1995, with regard to a credit claimed for the purchase during calendar year 1999 of new manufacturing machinery and equipment;

(c) Calendar years 1994, 1995, and 1996, with regard to a credit claimed for the purchase during calendar year 2000 of new manufacturing machinery and equipment.

(B)(1) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period,

provided that the new manufacturing machinery and equipment is installed in this state no later than December 31, ~~1999~~ 2001.

(2) The credit is also available to a taxpayer that is a partner in a partnership that purchases new manufacturing machinery and equipment during the qualifying period, provided that the partnership installs the new manufacturing machinery and equipment in this state no later than December 31, ~~1999~~ 2001. The taxpayer shall determine the credit amount as provided in division (H) of this section.

(3)(a) Except as otherwise provided in division (B)(3)(b) of this section, a credit may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the credit on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year.

As used in division (B)(3)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the credit is claimed was purchased.

(b) Division (B)(3)(a) of this section does not apply if the taxpayer claiming the credit applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of the department of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the credit is necessary to increase or retain employees in this state, and that the credit has not caused relocation of manufacturing machinery and equipment among counties within this state for the primary purpose of qualifying for the credit.

(C)(1) Except as otherwise provided in division (C)(2) of this section, the credit amount is equal to seven and one-half per cent of the excess of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in a county over the county average new manufacturing machinery and equipment investment for that county.

(2) As used in division (C)(2) of this section, "county excess" means the taxpayer's excess cost for a county as computed under division (C)(1) of this section.

For a taxpayer with a county excess, whose purchases included purchases for use in any eligible area in the county, the credit amount is equal to thirteen and one-half per cent of the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in the eligible areas in the county, provided that the cost subject to the thirteen and one-half per cent rate shall not exceed the county excess. If the county

excess is greater than the cost of the new manufacturing machinery and equipment purchased during the calendar year for use in eligible areas in the county, the credit amount also shall include an amount equal to seven and one-half per cent of the amount of the difference.

(3) If a taxpayer is allowed a credit for purchases of new manufacturing machinery and equipment in more than one county or eligible area, it shall aggregate the amount of those credits each year.

(4) The taxpayer shall claim one-seventh of the credit amount for the tax year immediately following the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing tax years. Except for carried-forward amounts, the taxpayer is not allowed any credit amount remaining if the new manufacturing machinery and equipment is sold by the taxpayer or partnership or is transferred by the taxpayer or partnership out of the county before the end of the seven-year period.

(5)(a) A taxpayer that acquires manufacturing machinery and equipment as a result of a merger with the taxpayer with whom commenced the original use in this state of the manufacturing machinery and equipment, or with a taxpayer that was a partner in a partnership with whom commenced the original use in this state of the manufacturing machinery and equipment, is entitled to any remaining or carried-forward credit amounts to which the taxpayer was entitled.

(b) New manufacturing machinery and equipment is not considered sold if a pass-through entity transfers to another pass-through entity substantially all of its assets as part of a plan of reorganization under which substantially all gain and loss is not recognized by the pass-through entity that is transferring the new manufacturing machinery and equipment to the transferee and under which the transferee's basis in the new manufacturing machinery and equipment is determined, in whole or in part, by reference to the basis of the pass-through entity which transferred the new manufacturing machinery and equipment to the transferee.

(c) Division (C)(5) of this section shall apply only if the acquiring taxpayer or transferee does not sell the new manufacturing machinery and equipment or transfer the new manufacturing machinery and equipment out of the county before the end of the seven-year period to which division (C)(4) of this section refers.

(D) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. Each year, any credit amount in excess of the tax due under ~~this chapter~~ section 5733.06 of the Revised Code

after allowing for any other credits that precede the credit under this section in that order may be carried forward for three tax years.

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the credit shall file, with the department of development, a notice of intent to claim the credit on a form prescribed by the department of development. The department of development shall inform the tax commissioner of the notice of intent to claim the credit.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax credit for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) With regard to a taxpayer that is a partner in a partnership, the county average new manufacturing machinery and equipment investment shall be determined based on the number of years, if any, the partnership was in existence during ~~calendar~~ baseline years ~~1992, 1993, and 1994~~. In determining the county average new manufacturing machinery and equipment investment, the excess of the cost of new manufacturing machinery and equipment purchased during the calendar year, and all other amounts necessary to calculate the credit allowed by this section, the taxpayer shall include the taxpayer's distributive share of the cost of new manufacturing machinery and equipment purchased by a partnership in which the corporation had a direct or indirect investment during the calendar year prior to the first day of a tax year for which the taxpayer is claiming the credit. These determinations and calculations shall be made for the taxpayer's calendar year during which the partnership made the purchase.

(2) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5733.06 of the Revised Code and the credits allowed by this chapter.

Sec. 5733.34. (A) As used in this section:

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

~~(2)~~ "Partnership" includes a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

~~(3)~~(2) "Partner" includes a member of a limited liability company if the limited liability company is not treated as a corporation for purposes of this chapter and is not classified as an association taxable as a corporation for federal income tax purposes.

(B)(1) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5733.06 of the Revised Code for a taxpayer that has entered into an agreement with the director of development under section ~~122.19~~ 122.16 of the Revised Code, or for a taxpayer that is a partner in a partnership that has entered into such an agreement. If a taxpayer is a partner in such a partnership, the taxpayer shall be allowed its distributive share of the credit available through the partnership.

(2) If a taxpayer enters into more than one agreement under section ~~122.19~~ 122.16 of the Revised Code, the taxpayer may aggregate the amount of those credits each year.

(3) A taxpayer entitled to the credit allowed under this section shall claim one-fifth of the credit amount for the tax year immediately following the calendar year in which the agreement is entered into, and one-fifth of the credit amount for each of the four succeeding tax years.

(4) A taxpayer shall claim the credit in the order provided under section 5733.98 of the Revised Code~~,~~. The amount of the credit that a taxpayer may claim each year shall be the amount indicated on the certificate issued by the director of development under section ~~122.19~~ 122.16 of the Revised Code, or the taxpayer's distributive share of that amount if the taxpayer is entitled to the credit through a partnership. The taxpayer shall submit the certificate with the taxpayer's annual report filed under section 5733.02 of the Revised Code. Each tax year, any credit amount in excess of the tax due for that year under ~~this chapter~~ section 5733.06 of the Revised Code, after allowing for all other credits preceding the credit in that order, may be carried forward for no more than three tax years.

(5) A taxpayer shall not claim any credit amount remaining, including any amounts carried forward from prior tax years, for any tax year following the calendar year in which any of the following events occur, except as otherwise provided under division (B)(6) of this section:

(a) The taxpayer or partnership through which the taxpayer is entitled to the credit enters into a compliance schedule agreement pursuant to division (B)(3) of section 3746.12 of the Revised Code;

(b) The taxpayer or partnership through which the taxpayer is entitled to the credit has its covenant not to sue revoked pursuant to Chapter 3746. of the Revised Code and rules adopted under that chapter;

(c) The covenant not to sue issued to the taxpayer or partnership through

which the taxpayer is entitled to the credit is void pursuant to Chapter 3746. of the Revised Code;

(d) The director of development has determined that the taxpayer, or a partnership through which the taxpayer is entitled to the credit, has permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of section ~~122.19~~ 122.16 of the Revised Code.

If a taxpayer claims credits through more than one partnership, division (B)(5) of this section prohibits that taxpayer from claiming a credit through any of those partnerships that has entered into a compliance schedule agreement, has had its covenant not to sue revoked or voided, or has violated the commitment required in division (D) of section ~~122.19~~ 122.16 of the Revised Code. Division (B)(5) of this section does not prohibit such a taxpayer from claiming a credit through a partnership that has not entered into a compliance schedule agreement, has not had its covenant not to sue revoked or voided, or has not violated the commitment required in division (D) of section ~~122.19~~ 122.16 of the Revised Code.

(6) If a taxpayer has been prohibited from claiming the credit or a portion of the credit by reason of division (B)(5)(a) of this section, and the taxpayer, or a partnership in which the taxpayer is a partner, subsequently has returned the property to compliance with applicable standards pursuant to the compliance schedule agreement, the taxpayer may claim the credit for the tax year following the calendar year in which the director of environmental protection has determined that the taxpayer or partnership has returned the property to compliance with applicable standards and for each subsequent tax year for which the taxpayer is otherwise allowed to claim the credit under division (B)(3) of this section.

Sec. 5733.36. This section applies only to tax years 1999, 2000, 2001, 2002, and 2003.

A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code for a taxpayer that enters into an agreement with a child day-care center pursuant to this section. Under the terms of the agreement, the taxpayer must make one or more support payments to the day-care center on a periodic basis, and the center must agree to serve a child of an employee of the taxpayer for the period covered by each support payment. The center must be licensed under section 5104.03 of the Revised Code. The amount of the support payment must be set forth in the agreement, and cannot exceed a reasonable charge for a child to attend a day-care center in the vicinity of the taxpayer's

worksite. The agreement must specify that an employee has the option of refusing to place the employee's child in a day-care center that receives support payments from the taxpayer.

The amount of the credit equals fifty per cent of the total amount of support payments made by the taxpayer during the taxable year. The taxpayer shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal Revenue Code or under section 5733.38 of the Revised Code. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code.

Sec. 5733.37. (A) A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to the lesser of one hundred thousand dollars, or fifty per cent of the amount incurred by a taxpayer for equipment, supplies, labor, and real property, including renovation of real property, used exclusively to establish a child day-care center. The credit is allowed only for the tax year immediately following the taxable year in which the child day-care center begins operations. The credit may be claimed only for tax year 1999, 2000, 2001, 2002, or 2003, but may be carried forward pursuant to division (B) of this section.

The center must be licensed under section 5104.03 of the Revised Code, used exclusively by employees of the taxpayer, and located at the employees' worksite. Amounts incurred for supplies that are to be used after the center begins operations may be included only with regard to supplies that are expected to last more than one year under normal usage. To be eligible for the credit, the taxpayer must specify that an employee has the option of refusing to place the employee's child in the day-care center established by the taxpayer.

(B) The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, and shall deduct the amount of the excess credit allowed in any such year from the balance carried forward to the next taxable year. The credit may be carried forward for five tax years following the tax year for which the credit is claimed under division (A) of this section. However, if the taxpayer disposes of the day-care center or ceases to operate it at any time during the five-year period, it shall not claim or carry forward any credit in connection with that property in the taxable year of disposal or cessation of operation or in any ensuing taxable year.

Sec. 5733.38. This section applies only to tax years 1999, 2000, 2001, 2002, and 2003.

A nonrefundable credit is allowed against the tax imposed by sections 5733.06, 5733.065, 5733.066 of the Revised Code equal to fifty per cent of the amount incurred by a taxpayer during the taxable year immediately preceding the tax year to reimburse employees of the taxpayer for child day-care expenses. The amount of the credit for a tax year shall not exceed seven hundred fifty dollars per child.

The taxpayer shall count toward the credit only reimbursements it pays to or for the benefit of employees for amounts paid by those employees for child day-care provided to dependents of the employees at day-care centers licensed under section 5104.03 of the Revised Code. The taxpayer shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal Revenue Code or under section 5733.36 of the Revised Code. The taxpayer shall claim the credit in the order required under section 5733.98 of the Revised Code.

UNDETERMINED

Sec. 5733.40. As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code:

(A)(1) "ADJUSTED QUALIFYING AMOUNT" MEANS either of the following:

(a) THE net SUM OF A QUALIFYING INVESTOR'S DISTRIBUTIVE SHARE OF THE INCOME, GAIN, EXPENSE, OR LOSS OF A QUALIFYING PASS-THROUGH ENTITY FOR THE QUALIFYING TAXABLE YEAR OF THE QUALIFYING PASS-THROUGH ENTITY MULTIPLIED BY THE APPORTIONMENT FRACTION DEFINED IN DIVISION (B) OF THIS SECTION, subject to divisions (A)(2) to (6) of this section;

(b) THE SUM OF A QUALIFYING beneficiary'S SHARE OF THE qualifying net INCOME and qualifying net GAIN distributed by A QUALIFYING trust FOR THE qualifying TAXABLE YEAR OF THE QUALIFYING trust MULTIPLIED BY THE APPORTIONMENT FRACTION DEFINED IN DIVISION (B) OF THIS SECTION, subject to divisions (A)(2) to (5) of this section.

(2) The SUM SHALL EXCLUDE ANY AMOUNT WHICH, PURSUANT TO THE CONSTITUTION of the United States, THE CONSTITUTION of Ohio, OR ANY FEDERAL LAW IS NOT SUBJECT TO A TAX ON OR MEASURED BY NET INCOME.

(3) the SUM SHALL BE INCREASED BY ALL AMOUNTS

REPRESENTING EXPENSES other than amounts described in division (A)(6) of this section that THE TAXPAYER PAID TO OR INCURRED WITH RESPECT TO DIRECT or INDIRECT TRANSACTIONS WITH one or more RELATED MEMBERS, excluding the COST OF GOODS SOLD CALCULATED IN ACCORDANCE WITH SECTION 263A OF THE INTERNAL REVENUE CODE AND United States department of the tREASURY REGULATIONS ISSUED THEREUNDER. NOTHING in division (A)(3) of this section SHALL BE CONSTRUED TO LIMIT SOLELY TO THIS CHAPTER THE APPLICATION OF SECTION 263A OF THE INTERNAL REVENUE CODE AND United States department of the tREASURY REGULATIONS ISSUED THEREUNDER.

(4) The SUM SHALL BE INCREASED BY ALL RECOGNIZED LOSSES, OTHER THAN LOSSES FROM SALES OF inventory the COST OF which is CALCULATED IN ACCORDANCE WITH SECTION 263A of the Internal Revenue Code and United States department of the treasury regulations issued thereunder, WITH RESPECT TO ALL DIRECT or INDIRECT TRANSACTIONS WITH one or more RELATED MEMBERS. LOSSES FROM THE SALES OF such inventory SHALL BE CALCULATED IN ACCORDANCE WITH SECTION 482 OF THE INTERNAL REVENUE CODE AND United States department of the tREASURY REGULATIONS ISSUED THEREUNDER. NOTHING in division (A)(4) of this section SHALL BE CONSTRUED TO LIMIT SOLELY TO THIS section THE APPLICATION OF SECTION 236A and section 482 OF THE INTERNAL REVENUE CODE AND United States department of the tREASURY REGULATIONS ISSUED THEREUNDER.

(5) The SUM SHALL BE COMPUTED WITHOUT REGARD TO SECTION 5733.051 or DIVISION (D) OF SECTION 5733.052 OF THE REVISED CODE.

(6) for the purposes of chapters 5733. and 5747. of the Revised Code, guaranteed payments made by a partnership or by a limited liability company that is not subject to the tax imposed by section 5733.06 of the Revised Code, and compensation paid by an s corporation to its shareholders, shall be considered a distributive share of income of the partnership, limited liability company, or s corporation. division (a)(6) of this section applies only to such payments or such compensation made or paid to a qualifying investor who is a related member to or of the qualifying entity.

(B) "APPORTIONMENT FRACTION" MEANS:

(1) WITH RESPECT TO A QUALIFying PASS-THROUGH ENTITY OTHER THAN A FINANCIAL INSTITUTION, THE FRACTION

CALCULATED PURSUANT TO DIVISION (B)(2) OF SECTION 5733.05 of the Revised Code AS IF THE QUALIFYING PASS-THROUGH ENTITY WERE A CORPORATION SUBJECT TO the tax imposed by section 5733.06 of the Revised Code;

(2) WITH RESPECT TO A QUALIFying PASS-THROUGH ENTITY that IS A FINANCIAL INSTITUTION, THE FRACTION CALCULATED PURSUANT TO section 5133.056 of the Revised Code AS IF THE QUALIFYING PASS-THROUGH ENTITY WERE A financial institution SUBJECT TO the tax imposed by section 5733.06 of the Revised Code.

(3) WITH RESPECT TO A QUALIFying trust, THE FRACTION CALCULATED PURSUANT TO DIVISION (b)(2) OF SECTION 5733.05 OF THE REVISED CODE AS IF THE QUALIFYING trust WERE A CORPORATION SUBJECT TO the tax imposed by section 5733.06 OF THE REVISED CODE, EXCEPT that the property, payroll, and sales fractions shall be calculated by including in the numerator and denominator of the fractions only the property, payroll, and sales, respectively, directly related to the production of income or gain from acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the qualifying trust's qualifying taxable year or of real property located in this state.

(C) "Qualifying beneficiary" means any individual that, during the qualifying taxable year of a qualifying trust, is a beneficiary of that trust, but does not include AN INDIVIDUAL WHO is a resident taxpayer for the purposes of CHAPTER 5747. OF THE REVISED CODE FOR THE ENTIRE qualifying taxable year of the qualifying trust.

(D) "FISCAL YEAR" MEANS AN ACCOUNTING PERIOD ENDING ON ANY DAY OTHER THAN the thirty-first day of December.

(E) "Individual" means a natural person.

(F) "MoNTH" MEANS A CALENDAR MONTH.

(G) "PARTNERSHIP" has the same meaning as in section 5747.01 of the Revised Code.

(H) "INVESTOR" MEANS ANY PERSON that, DURING ANY PORTION OF A TAXABLE YEAR OF A QUALIFYING PASS-THROUGH ENTITY, IS A PARTNER, MEMBER, SHAREHOLDER, OR INVESTOR IN THAT QUALIFYING PASS-THROUGH ENTITY.

(I) "QUALIFYING INVESTOR" MEANS ANY INVESTOR except those described in divisions (I)(1) to (9) of this section.

(1) An investor satisfying one of the descriptions under SECTION 501(c) OF THE INTERNAL REVENUE CODE, division (F) of section

3334.01, or DIVISION (A) OR (C) OF SECTION 5733.09 OF THE REVISED CODE for the entire qualifying taxable year of the qualifying pass-through entity.

(2) AN investor who is an INDIVIDUAL and a resident taxpayer for the purposes of section 5747.01 of the Revised Code FOR THE ENTIRE qualifying TAXABLE YEAR of the qualifying pass-through entity.

(3) An investor who is AN INDIVIDUAL for whom THE QUALIFYING PASS-THROUGH ENTITY MAKES A GOOD FAITH AND REASONABLE EFFORT TO COMPLY FULLY AND TIMELY WITH THE FILING AND PAYMENT REQUIREMENTS SET FORTH IN DIVISION (D) OF SECTION 5747.08 OF THE REVISED CODE AND SECTION 5747.09 OF THE REVISED CODE WITH RESPECT TO the INDIVIDUAL's adjusted qualifying amount for the entire qualifying TAXABLE YEAR of the qualifying pass-through entity.

(4) An investor that is another QUALIFYING PASS-THROUGH ENTITY having only investors DESCRIBED IN DIVISION (I)(1), (2), (3), or (6) OF THIS SECTION DURING THE THREE-YEAR PERIOD BEGINNING TWELVE MONTHS PRIOR TO THE FIRST DAY OF THE qualifying TAXABLE YEAR of the qualifying pass-through entity.

(5) An investor that is another pass-through entity having no investors other than individuals and estates during the qualifying taxable year of the qualifying pass-through entity in which it is an investor, and that makes a good faith and reasonable effort to comply fully and timely with the filing and payment requirements set forth in division (D) of section 5747.08 of the REVISED CODE and section 5747.09 of the Revised Code WITH RESPECT TO investors that are not resident taxpayers of this state for the purposes of Chapter 5747. of the Revised Code for the entire qualifying taxable year of the qualifying pass-through entity in which it is an investor.

(6) An investor that is A FINANCIAL INSTITUTION REQUIRED TO CALCULATE THE TAX IN ACCORDANCE WITH DIVISION (D) OF SECTION 5733.06 OF THE REVISED CODE ON the first day of JANUARY OF THE CALENDAR YEAR IMMEDIATELY FOLLOWING THE LAST DAY OF THE FINANCIAL INSTITUTION'S CALENDAR OR FISCAL YEAR IN WHICH ENDS THE TAXPAYER'S TAXABLE YEAR.

(7) An investor other than an individual that satisfies all THE FOLLOWING:

(a) The investor submits a written statement to the qualifying pass-through entity stating that the investor irrevocably agrees that the investor has nexus with this state under the Constitution of the United States

AND IS SUBJECT TO AND LIABLE FOR THE TAX CALCULATED UNDER DIVISION (B) OF SECTION 5733.06 of the Revised Code with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity. the statement is subject to the penalties of perjury, shall be retained by the qualifying pass-through entity for no fewer than seven years, and shall be delivered to the tax commissioner upon request.

(b) The investor MAKES A GOOD FAITH AND REASONABLE EFFORT TO COMPLY TIMELY AND FULLY WITH ALL THE REPORTING AND PAYMENT REQUIREMENTS SET FORTH IN CHAPTER 5733. OF THE REVISED CODE with respect to the investor's adjusted qualifying amount for the entire qualifying taxable year of the qualifying pass-through entity.

(c) Neither the investor nor the qualifying pass-through entity in which it is an investor, before, during, or after the qualifying pass-through entity's qualifying taxable year, carries out any TRANSACTION OR TRANSACTIONS WITH one or more RELATED MEMBERS OF THE investor or the qualifying pass-through entity resulting IN A REDUCTION OR DEFERRAL OF TAX IMPOSED BY CHAPTER 5733. OF THE REVISED CODE with respect to all or any portion of the investor's adjusted qualifying amount for the qualifying pass-through entity's taxable year, or that CONSTITUTE A SHAM, LACK ECONOMIC REALITY, or ARE PART OF A SERIES OF TRANSACTIONS the form of which CONSTITUTes A STEP TRANSACTION OR TRANSACTIONS OR DOES NOT REFLECT THE SUBSTANCE of those transactions.

(8) ANY OTHER investor that THE TAX COMMISSIONER MAY DESIGNATE BY RULE. THE TAX COMMISSIONER MAY adopt RULEs INCLUDING a rule DEFINing "QUALIFYING INVESTOR" or "qualifying beneficiary" AND governing THE IMPOSITION OF THE WITHHOLDING TAX IMPOSED BY section 5747.41 of the Revised Code WITH RESPECT TO AN INDIVIDUAL WHO is a resident taxpayer for the purposes of Chapter 5747. of the Revised Code for only a portion of the qualifying taxable year of the qualifying entity.

(9) an investor that is a trust or fund the beneficiaries of which, during the qualifying TAXABLE year of the qualifying pass-through entity, are limited to the following:

(a) a person that is or may be the beneficiary of a trust subject to sUBCHAPTER D of chapter 1 of subtitle a of the internal revenue code.

(b) a person that is or may be the beneficiary of or the recipient of payments from a trust or fund that is a nuclear decommissioning reserve

fund, a designated settlement fund, or any other trust or fund established to resolve and satisfy claims that may otherwise be asserted by the beneficiary or a member of the beneficiary's family. Sections 267(c)(4), 468a(e), and 468b(d)(2) of the internal revenue code apply to the determination of whether such a person satisfies division (i)(9) of this section.

(c) a person who is or may be the beneficiary of a trust that, under its governing instrument, is not required to distribute all of its income currently. division (i)(9)(c) of this section applies only if the trust, prior to the due date for FILING the qualifying pass-through entity's return for taxes imposed by section 5733.41 and sections 5747.41 to 5747.453 of the Revised Code, IRREVOCABLY agrees in writing that for the taxable year during or for which the trust distributes any of its income to any of its beneficiaries, the trust is a qualifying trust and will pay the estimated tax, and will withhold and pay the withheld tax, as required under sections 5747.40 to 5747.453 of the Revised Code.

for the purposes of division (I)(9) of this section, a trust or fund shall be CONSIDERED to have a beneficiary other than persons described under divisions (I)(9)(a) to (c) of this section if a beneficiary would not qualify under those divisions under the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." a trust or fund described in division (i)(9) of this section bears the burden of establishing by a preponderance of the evidence that any transaction giving rise to the tax benefits provided under division (i)(9) of this section does not have as a principal purpose a claim of those tax benefits. nothing in this section shall be construed to limit solely to this section the application of the doctrines referred to in this paragraph.

(J) "Qualifying net gain" means any recognized net gain with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during a trust's qualifying taxable year or real property located in this state.

(K) "Qualifying net income" means any recognized income, net of related deductible expenses, other than distributions deductions with respect to the acquisition, ownership, use, maintenance, management, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state.

(L) "Qualifying entity" means a qualifying pass-through entity or a qualifying trust.

(M) "Qualifying trust" means a trust subject to subchapter J of the Internal Revenue Code that, during any portion of the trust's qualifying taxable year, has income or gain from the acquisition, management,

ership, use, or disposition of tangible personal property located in this state at any time during the trust's qualifying taxable year or real property located in this state. "qualifying trust" does not include A PERSON DESCRIBED IN SECTION 501(c) OF THE INTERNAL REVENUE COde or A PERSON DESCRIBED IN DIVISION (C) OF SECTION 5733.09 OF THE REVISED CODE.

(N) "QUALIFYING PASS-THROUGH ENTITY" MEANS A PASS-THROUGH ENTITY AS DEFINED IN SECTION 5733.04 OF THE REVISED CODE, excluding A PERSON DESCRIBED IN SECTION 501(c) OF THE INTERNAL REVENUE CODE, a partnership with equity securities registered with the United States securities and exchange commission under section 12 of the Securities Exchange Act of 1934, as amended, or A PERSON DESCRIBED IN DIVISION (C) OF SECTION 5733.09 OF THE REVISED CODE.

(O) "QUARTER" MEANS THE FIRST THREE MONTHS, THE SECOND THREE MONTHS, THE THIRD THREE MONTHS, OR THE LAST THREE MONTHS OF a qualifying entity's qualifying TAXABLE YEAR.

(P) "RELATED MEMBER" HAS THE SAME MEANING AS IN DIVISION (A)(6) OF SECTION 5733.042 of the Revised Code WITHOUT REGARD TO DIVISION (B) OF THAT SECTION. However, for the purposes of divisions (a)(3) and (4) of this section only, "related member" has the same meaning as in division (a)(6) of section 5733.042 of the Revised Code without regard to division (b) of that section, but shall be applied by substituting "forty per cent" for "twenty per cent" wherever "twenty per cent" appears in division (a) of that section.

(Q) "RETURN" OR "REPORT" MEANS THE NOTIFICATIONS AND REPORTS REQUIRED TO BE FILED PURSUANT TO sections 5747.42 to 5747.45 of the Revised Code FOR THE PURPOSE OF REPORTING THE tax imposed under section 5733.41 or 5747.41 of the Revised Code, AND INCLUDES DECLARATIONS OF ESTIMATED TAX WHEN SO REQUIRED.

(R) "Qualifying TAXABLE YEAR" MEANS THE CALENDAR YEAR OR THE qualifying entity's FISCAL YEAR ENDING DURING THE CALENDAR YEAR, OR FRACTIONAL PART THEREOF, FOR WHICH THE ADJUSTED qualifying amount IS CALCULATED PURSUANT TO sections 5733.40 and 5733.41 or sections 5747.40 to 5747.453 of the Revised Code.

UNDETERMINED

Sec. 5733.41. The purpose of the tax imposed by this section is to

complement and to reinforce the tax imposed under section 5733.06 of the Revised Code.

For THE same purposes for which the tax is levied under section 5733.06 of the Revised Code, THERE IS HEREBY LEVIED A TAX ON EVERY QUALIFYING PASS-THROUGH ENTITY HAVING AT LEAST ONE QUALIFYING INVESTOR that IS NOT AN INDIVIDUAL. THE TAX IMPOSED BY THIS SECTION is imposed on the SUM OF THE ADJUSTED qualifying amounts OF THE QUALIFYING PASS-THROUGH ENTITY'S QUALIFYING INVESTORS that ARE NOT INDIVIDUALS at THE rate SPECIFIED IN DIVISION (B) OF SECTION 5733.06 of the Revised Code that is IN EFFECT ON THE LAST DAY OF THE ENTITY'S TAXABLE YEAR.

THE TAX IMPOSED BY THIS SECTION APPLies ONLY IF THE qualifying ENTITY HAS NEXUS WITH THIS STATE UNDER THE CONSTITUTION OF THE UNITED STATES FOR ANY PORTION OF THE qualifying entity's qualifying TAXABLE YEAR, AND THE SUM OF THE qualifying ENTITY'S ADJUSTED qualifying amounts EXCEEDS ONE THOUSAND DOLLARS FOR the qualifying entity's qualifying TAXABLE YEAR. This section does not apply to a pass-through entity if all of the partners, shareholders, members, or investors of the pass-through entity are taxpayers for the purposes of section 5733.04 of the revised code without regard to section 5733.09 of the revised code for the entire qualifying taxable year of the pass-through entity.

If, prior to the due date of the return, a qualifying pass-through entity receives from an investor a written representation, under penalties of perjury, that the investor is described in division (I)(1), (2), (6), (7), (8), or (9) of section 5733.40 of the Revised Code for the QUALIFYING pass-through entity's entire QUALIFYING taxable year, the qualifying pass-through entity is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to 5747.453 of the Revised Code with respect to that INVESTOR FOR that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or ESTIMATED taxes with respect to that investor for that qualifying taxable year.

if, prior to the due date of the return, a qualifying trust receives from a beneficiary of that trust a written representation, under penalties of perjury, that the beneficiary is a resident taxpayer for the purposes of chapter 5747. of the Revised Code for the QUALIFYING trust's entire QUALIFYING taxable year, the qualifying trust is not required to withhold or pay the taxes or estimated taxes imposed under this section or sections 5747.41 to

5747.453 of the Revised Code with respect to that beneficiary FOR that qualifying taxable year, and is not subject to any interest or interest penalties for failure to withhold or pay those taxes or ESTIMATED taxes with respect to that beneficiary for that qualifying taxable year.

The tax commissioner may adopt rules for the purpose of the tax levied by this section or section 5747.41 of the Revised Code, including a rule defining "qualifying investor" or "qualifying beneficiary", and a rule requiring or permitting a qualifying entity to combine its income with related members and to pay the tax and estimated tax on a combined basis.

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the revised code apply to a qualifying entity subject to the tax imposed under this section.

The LEVY OF THE TAX under this section does not PREVENT A MUNICIPAL CORPORATION OR A JOINT ECONOMIC DEVELOPMENT DISTRICT CREATED UNDER SECTION 715.70 or 715.71 OR SECTIONS 715.72 TO 715.81 of the Revised Code FROM LEVYING A TAX ON INCOME.

Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order:

(1) The credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code;

(2) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code;

~~(2)~~(3) The subsidiary corporation credit under section 5733.067 of the Revised Code;

~~(3)~~(4) The savings and loan assessment credit under section 5733.063 of the Revised Code;

~~(4)~~(5) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;

~~(5)~~(6) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;

(7) The credit for employers that reimburse employee child day-care expenses under section 5733.38 of the Revised Code;

(8) The credit for manufacturing investments under section 5733.061 of the Revised Code;

~~(6)~~(9) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;

~~(7)~~(10) The second credit for purchases of new manufacturing

chinery and equipment under section 5733.33 of the Revised Code;

~~(8)~~(11) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(9)~~(12) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;

~~(10)~~(13) The credit for employers that establish on-site child day-care under section 5733.37 of the Revised Code;

(14) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;

~~(11)~~(15) The export sales credit under section 5733.069 of the Revised Code;

~~(11)~~(16) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;

~~(12)~~(17) The enterprise zone credits under section 5709.65 of the Revised Code;

~~(13)~~(18) The refundable jobs creation credit under section 5733.0610 of the Revised Code.

(B) For any credit except the refundable jobs creation credit, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5735.11. (A) If the tax or any portion of the tax imposed by this chapter, excluding the tax imposed by section 5735.31 of the Revised Code, whether determined by the tax commissioner or the motor fuel dealer, is not paid on or before the date prescribed in section 5735.06 of the Revised Code, interest shall be collected and paid in the same manner as the tax upon the unpaid amount, computed at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date prescribed for payment of the tax to the date of payment~~. Such interest~~or to the date an assessment is issued under section 5735.12 or 5735.121 of the Revised Code, whichever occurs first. Interest may be collected by assessment in the manner provided in section 5735.12 or 5735.121 of the Revised Code. All interest shall be paid ~~pursuant to this section shall be paid to the treasurer of state~~ in the same manner as the tax and shall be considered as revenue arising from the tax imposed by section 5735.05 of the Revised Code.

(B) Interest shall be allowed and paid upon any refund granted in respect to the payment of an illegal or erroneous assessment for any tax imposed under this chapter from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of

the Revised Code.

Sec. 5735.12. (A) Any motor fuel dealer or qualified interstate bus operator required by this chapter to file reports and pay the tax levied by this chapter who fails to file the report within the time prescribed, shall be liable for an additional charge equal to the greater of ten per cent of the motor fuel dealer's or qualified interstate bus operator's tax liability for that month or fifty dollars. The tax commissioner may remit all or a portion of the additional charge and may adopt rules relating to the remission of all or a portion of the charge.

If any person required by this chapter to file reports and pay the taxes, interest, or additional charge levied by this chapter fails to file the report, files an incomplete or incorrect report, or fails to remit the full amount of the tax, interest, or additional charge due for the period covered by the report, the commissioner may make an assessment against the person based upon any information in the commissioner's possession.

No assessment shall be made against any motor fuel dealer or interstate bus operator for taxes imposed by this chapter more than four years after the date on which the report on which the assessment was based was due or was filed, whichever is later. This section does not bar an assessment against any motor fuel dealer or qualified interstate bus operator who fails to file a report required by either section 5735.06 or 5735.32 of the Revised Code, or who files a fraudulent motor fuel tax report.

A penalty of fifteen per cent shall be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~Any tax or equalization payment assessed shall continue to accrue interest as prescribed in division (A) of section 5735.11 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by the authorized agent of the party assessed having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to the commissioner's assessment as the commissioner finds proper. The commissioner shall serve a copy of the commissioner's final determination on the petitioner by personal service or certified mail, and the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the business of the party assessed is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state motor fuel tax."

~~From the date of the filing of the entry in the clerk's office, the unpaid,~~" and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

The portion of the assessment not paid within thirty days after the day the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the tax imposed by this chapter.

(E) If the tax commissioner determines that the commissioner has

erroneously refunded motor fuel tax to any person, the commissioner may make an assessment against the person for recovery of the erroneously refunded tax. ~~Interest begins to accrue thirty days after the receipt of the assessment.~~

Sec. 5735.121. (A) If the tax commissioner finds that any person liable for tax under this chapter is about to depart from the state, remove property from the state, conceal ~~himself or herself~~ self, or conceal ~~his or her~~ the person's property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax, unless proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any person will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the person for the amount of the tax, plus a penalty of fifteen per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any ~~tax assessed or refund of tax assessed~~ assessment issued under this section shall bear interest in the manner prescribed in section ~~5735.11~~ 5735.12 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5735.12 of the Revised Code. Notice of the jeopardy assessment shall be served on the person assessed or the legal representative of the person assessed within five days of the filing of the entry. The person assessed may petition for reassessment within thirty days of receipt of the notice of jeopardy assessment in the same manner as provided in section 5735.12 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to section 2923.35, 2933.41, or 2933.43 of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an

amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the person that previously were seized. Upon satisfaction of the assessment, the commissioner shall order the security released and the judgment vacated.

Sec. 5735.143. If a person entitled to a refund under this chapter is indebted to the state for any tax or fee administered by the tax commissioner that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax or fee, the amount refundable may be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would be exempt from the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would be exempt from the tax imposed by section 5739.02 of the Revised Code or property that is or is to be

incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Industrial laundry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service is provided that originates or terminates in this state and is charged in the records of the telecommunications service vendor to the consumer's telephone number or account in this state, or that both originates and terminates in this state;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the

furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract. The transfer of copyrighted motion picture films for exhibition purposes is not a sale, except such films as are used solely for advertising purposes. Other than as provided in this section, "sale" and "selling" do not include professional, insurance, or personal service transactions which involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated into a subsurface drainage system appurtenant to land used or to be used directly in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided.

(C) "Vendor" means the person providing the service or by whom the

transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public

or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exception under division (E)(8) of this section for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(E) "Retail sale" and "sales at retail" include all sales except those in which the purpose of the consumer is:

(1) To resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person;

(2) To incorporate the thing transferred as a material or a part, into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining, or to use or consume the thing transferred directly in producing a product for sale by mining, including without limitation the extraction from the earth of all substances which are classed geologically as minerals, production of crude oil and natural gas, farming, agriculture, horticulture, or floriculture, and persons engaged in rendering farming, agricultural, horticultural, or floricultural services, and services in the exploration for, and production of, crude oil and natural gas, for others are deemed engaged directly in farming, agriculture, horticulture, and floriculture, or exploration for, and production of, crude oil and natural gas; directly in the rendition of a public utility service, except that the sales tax levied by section 5739.02 of the Revised Code shall be collected upon all meals, drinks, and food for human consumption sold upon Pullman and railroad coaches. This paragraph does not exempt or except from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(3) To hold the thing transferred as security for the performance of an obligation of the vendor;

(4) To use or consume the thing transferred in the process of reclamation as required by Chapters 1513. and 1514. of the Revised Code;

(5) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(6) To use or consume the thing directly in commercial fishing;

(7) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(8) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(9) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(10) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as defined in division (B)(7) of this section, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would be exempt on its purchase from the tax imposed by section 5739.02 of the Revised Code;

(11) To use the thing transferred as qualified research and development equipment;

(12) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. Division (E)(12) of this section does not apply to motor vehicles registered for operation on the public highways. As used in division (E)(12) of this section, "affiliated group" has the same meaning as in division (B)(3)(e) of this section and "direct marketing" has the same meaning as in division (B)(37) of section 5739.02 of the Revised Code.

(13) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of this section~~.~~

~~As used in division (E) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of this section~~;

(14) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(15) To use tangible personal property to perform a service listed in division (B)(3) of this section, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (E) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of this section.

Sales conducted through a coin-operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction, are not retail sales or sales at retail.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds self out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1) "Price," except as provided in divisions (H)(2) and (3) of this section, means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of a retail sale, without any deduction on account of the cost of the property sold, cost of materials used, labor or service cost, interest, discount paid or allowed after the sale is consummated, or any other expense. If the retail sale consists of the rental or lease of tangible personal property, "price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, in the complete performance of the rental or lease, without any deduction for tax, interest, labor or service charge, damage liability waiver, termination or damage charge, discount paid or allowed after the lease is consummated, or any other expense. The sales tax shall be calculated and collected by the lessor on each payment made by the lessee. Price does not include the consideration received as a deposit refundable to the consumer upon return of a beverage container, the consideration received as a deposit on a carton or case that is used for such returnable containers, or the consideration received as a refundable security deposit for the use of tangible personal property to the extent that it actually is refunded, if the consideration for such refundable deposit is separately stated from the consideration received or to be received for the tangible personal

property transferred in the retail sale. Such separation must appear in the sales agreement or on the initial invoice or initial billing rendered by the vendor to the consumer. Price is the amount received inclusive of the tax, provided the vendor establishes to the satisfaction of the tax commissioner that the tax was added to the price. When the price includes both a charge for tangible personal property and a charge for providing a service and the sale of the property and the charge for the service are separately taxable, or have a separately determinable tax status, the price shall be separately stated for each such charge so the tax can be correctly computed and charged.

The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized in section 5739.12 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of such tax.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in division (H)(3) of this section, "watercraft" includes an outdrive unit attached to the watercraft.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in

business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property which was obtained by the person making the sale, through purchase or otherwise, for the person's own use in this state and which was previously subject to the state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use which are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property which is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and which retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services

used primarily in providing highway transportation for hire are not used in providing a public utility service as defined in this division.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts, and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county which is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority which includes territory in more than one county must include all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county which is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county which is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data,

including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended,

including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA) "Telecommunications service" means the transmission of any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium such as wires, cables, microwaves, cellular radio, radio waves, light waves, or any combination of those or similar media. "Telecommunications service" includes message toll service even though the vendor provides the message toll service by means of wide area transmission type service or private communications service purchased from another telecommunications service provider, but does not include any of the following:

(1) Sales of incoming or outgoing wide area transmission service or wide area transmission type service, including eight hundred or eight-hundred-type service, to the person contracting for the receipt of that service;

(2) Sales of private communications service to the person contracting for the receipt of that service that entitles the purchaser to exclusive or priority use of a communications channel or group of channels between exchanges;

(3) Sales of telecommunications service by companies subject to the

excise tax imposed by Chapter 5727. of the Revised Code;

(4) Sales of telecommunications service to a provider of telecommunications service, including access services, for use in providing telecommunications service;

(5) Value added nonvoice services in which computer processing applications are used to act on the form, content, code, or protocol of the information to be transmitted;

(6) Transmission of interactive video programming by a cable television system as defined in section 505.90 of the Revised Code.

(BB) "Industrial laundry cleaning services" means removing soil or dirt from or supplying towels, linens, or articles of clothing that belong to others and are used in a trade or business.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a

political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that

each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, and includes but is not limited to cattle, sheep, goats, swine, and poultry. "Livestock" does not include invertebrates, fish, amphibians, reptiles, horses, domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section

927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, ~~and~~ for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A) The tax shall be collected pursuant to the schedules in section 5739.025 of the Revised Code.

The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

In the case of a sale, the price of which consists in whole or in part of rentals for the use of the thing transferred, the tax, as regards such rentals, shall be measured by the installments thereof.

In the case of a sale of a service defined under division (MM) or (NN) of section 5739.01 of the Revised Code, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers, and of magazine subscriptions shipped by second class mail, and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of electricity by an electric company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through wires, pipes, or conduits, and all sales of communications services by a telephone or telegraph company, all terms as defined in section 5727.01 of the Revised Code;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of

the Revised Code, watercraft documented with the United States coast guard, snowmobiles, all-purpose vehicles as defined in section 4519.01 of the Revised Code, and manufactured homes;

(9) Sales of services or tangible personal property, other than motor vehicles and manufactured homes, by churches or by nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization, except that sales made by separate student clubs and other groups of students of a primary or secondary school, and sales made by a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school, shall not be considered to be sales of such school, and sales by each such club, group, association, or organization shall be counted separately for purposes of the six-day limitation. This division does not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) The transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry,

printing, and purchasing services to hospitals or charitable institutions~~,~~; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code~~,~~; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station~~,~~; the operation of a nonprofit animal adoption service or a county humane society~~,~~; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum~~,~~; the operation of a parent teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school~~,~~; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein~~,~~; the production of performances in music, dramatics, and the arts~~,~~; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision thereof, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of such structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the

sed Code; and building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons engaged in any of the activities mentioned in division (E)(2) or (9) of section 5739.01 of the Revised Code, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, and "packaging" means placing therein.

(16) Sales of food to persons using food stamp coupons to purchase the food. As used in division (B)(16) of this section, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption directly in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption directly in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs dispensed by a registered pharmacist upon the order of a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of the professional practice; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by

diabetics for insulin injections; epoetin alfa when purchased for use in the treatment of persons with end-stage renal disease; hospital beds when purchased for use by persons with medical problems for medical purposes; and oxygen and oxygen-dispensing equipment when purchased for use by persons with medical problems for medical purposes;

(19) Sales of artificial limbs or portion thereof, breast prostheses, and other prosthetic devices for humans; braces or other devices for supporting weakened or nonfunctioning parts of the human body; wheelchairs; devices used to lift wheelchairs into motor vehicles and parts and accessories to such devices; crutches or other devices to aid human perambulation; and items of tangible personal property used to supplement impaired functions of the human body such as respiration, hearing, or elimination. No exemption under this division shall be allowed for nonprescription drugs, medicines, or remedies; items or devices used to supplement vision; items or devices whose function is solely or primarily cosmetic; or physical fitness equipment. This division does not apply to sales to a physician or medical facility for use in the treatment of a patient.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services for political subdivisions of the state;

(21) Sales of tangible personal property~~,~~ manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state upon the presentation of an affidavit executed in this state by the nonresident purchaser affirming that the purchaser is a nonresident of this state, that possession of the motor vehicle is taken in this state for the sole purpose of immediately removing it from this state, that the motor vehicle will be permanently titled and registered in another state, and that the motor vehicle will not be used in this state;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing,

preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and ~~of~~ machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales of solar, wind, or hydrothermal energy systems that meet the guidelines established under division (B) of section 1551.20 of the Revised Code, components of such systems that are identified under division (B) or (D) of that section, or charges for the installation of such systems or components, made during the period from August 14, 1979, through December 31, 1985;

(28) Sales to persons licensed to conduct a food service operation pursuant to section 3732.03 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(29) Sales of animals by nonprofit animal adoption services or county humane societies;

(30) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(31) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(32) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(33) The sale, lease, repair, and maintenance of; parts for; or items attached to or incorporated in motor vehicles that are primarily used for transporting tangible personal property by a person engaged in highway transportation for hire;

(34) Sales to the state headquarters of any veterans' organization in Ohio that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(35) Sales to a telecommunications service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage devices and media, and component parts for the tangible personal property. The exemption provided in division (B)(35) of this section shall be in lieu of all other exceptions under division (E)(2) of section 5739.01 of the Revised Code to which a telecommunications service vendor may otherwise be entitled based upon the use of the thing purchased in providing the telecommunications service.

(36) Sales of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal that has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, and palladium, and which is in such state or condition that its value depends upon its content and not upon its form. "Investment metal bullion" does not include fabricated precious metal that has been processed or manufactured for one or more specific and customary industrial, professional, or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium, or other metal under the laws of the United States or any foreign nation with a fair market value greater than any statutory or nominal value of such coins.

(37)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing

advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(37)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(37) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(38) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(39) The sale of a motor vehicle that is used exclusively for a vanpool ridesharing arrangement to persons participating in the vanpool ridesharing arrangement when the vendor is selling the vehicle pursuant to a contract between the vendor and the department of transportation;

(40) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(41) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state

are subject to the tax until the contrary is established.

As used in this section, except in division (B)(16) of this section, "food" includes cereals and cereal products, milk and milk products including ice cream, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruits, fruit products, and pure fruit juices, condiments, sugar and sugar products, coffee and coffee substitutes, tea, and cocoa and cocoa products. It does not include: spirituous or malt liquors; soft drinks; sodas and beverages that are ordinarily dispensed at bars and soda fountains or in connection therewith, other than coffee, tea, and cocoa; root beer and root beer extracts; malt and malt extracts; mineral oils, cod liver oils, and halibut liver oil; medicines, including tonics, vitamin preparations, and other products sold primarily for their medicinal properties; and water, including mineral, bottled, and carbonated waters, and ice.

(C) The levy of an excise tax on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to this section and division (B) of section 5739.01 of the Revised Code does not prevent any of the following:

(1) A municipal corporation or township from levying an excise tax for any lawful purpose not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests in addition to the tax levied by this section. If a municipal corporation or township repeals a tax imposed under division (C)(1) of this section and a county in which the municipal corporation or township has territory has a tax imposed under division (C) of section 5739.024 of the Revised Code in effect, the municipal corporation or township may not reimpose its tax as long as that county tax remains in effect. A municipal corporation or township in which a tax is levied under division (B)(2) of section 351.021 of the Revised Code may not increase the rate of its tax levied under division (C)(1) of this section to any rate that would cause the total taxes levied under both of those divisions to exceed three per cent on any lodging transaction within the municipal corporation or township.

(2) A municipal corporation or a township from levying an additional excise tax not to exceed three per cent on such transactions pursuant to division (B) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(1) of this section.

(3) A county from levying an excise tax ~~not to exceed three per cent of such transactions~~ pursuant to division (A) of section 5739.024 of the Revised Code.

(4) A county from levying an excise tax not to exceed three per cent of

such transactions pursuant to division (C) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3) of this section.

(5) A convention facilities authority, as defined in division (A) of section 351.01 of the Revised Code, from levying the excise taxes provided for in division (B) of section 351.021 of the Revised Code.

(6) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (D) of section 5739.024 of the Revised Code. Such tax is in addition to any tax imposed under division (C)(3) or (4) of this section.

(7) A county from levying an excise tax not to exceed one and one-half per cent of such transactions pursuant to division (E) of section 5739.024 of the Revised Code. Such a tax is in addition to any tax imposed under division (C)(3), (4), or (6) of this section.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

Sec. 5739.024. (A)(1) A board of county commissioners may by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. ~~The~~ Except as otherwise provided in division (A)(2) of this section, the regulations shall provide, after deducting the real and actual costs of administering the tax, for the return to each municipal corporation or township that does not levy an excise tax on such transactions, a uniform percentage of the tax collected in the municipal corporation or in the unincorporated portion of the township from each such transaction, not to exceed thirty-three and one-third per cent. The remainder of the revenue arising from the tax shall be deposited in a separate fund and shall be spent solely to make contributions to the convention and visitors' bureau operating within the county, including a pledge and contribution of any portion of such remainder pursuant to an agreement authorized by section 307.695 of the Revised Code. ~~On~~ Except as otherwise provided under division (A)(2) of this section, on and after ~~the effective date of this amendment~~ May 10, 1994, a board of county commissioners may not levy an excise tax pursuant to this division in any municipal corporation or township located wholly or partly within the county that has in effect an ordinance or resolution levying an excise tax pursuant to division (B) of this section. The board of a county that

has levied a tax under division (C) of this section may, by resolution adopted within ninety days after July 15, 1985, by a majority of the members of the board, amend the resolution levying a tax under this division to provide for a portion of that tax to be pledged and contributed in accordance with an agreement entered under section 307.695 of the Revised Code. A tax, any revenue from which is pledged pursuant to such an agreement, shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom has been so pledged.

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on the effective date of this amendment at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(B) The legislative authority of a municipal corporation or the board of trustees of a township that is not wholly or partly located in a county that has in effect a resolution levying an excise tax pursuant to division (A)(1) of this section may by ordinance or resolution levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The legislative authority of the municipal corporation or township shall deposit at least fifty per cent of the revenue from the tax levied pursuant to this division into a separate fund, which shall be spent solely to make contributions to convention and visitors' bureaus operating within the county in which the municipal corporation or township is wholly or partly located, and the balance of such revenue shall be deposited in the general fund. The municipal corporation or township shall establish all regulations necessary to provide for the administration and allocation of the tax. The levy of a tax under this division is in addition to any tax imposed on the same transaction by a municipal corporation or a

township as authorized by division (C)(1) of section 5739.02 of the Revised Code.

(C) For the purpose of making the payments authorized by section 307.695 of the Revised Code to construct and equip a convention center in the county and to cover the costs of administering the tax, a board of county commissioners of a county where a tax imposed under division (A)(1) of this section is in effect may, by resolution adopted within ninety days after ~~the effective date of this amendment~~ July 15, 1985, by a majority of the members of the board, levy an additional excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax authorized by this division shall be in addition to any tax that is levied pursuant to division (A) of this section, but it shall not apply to transactions subject to a tax levied by a municipal corporation or township pursuant to the authorization granted by division (C)(1) of section 5739.02 of the Revised Code. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. All revenues arising from the tax shall be expended in accordance with section 307.695 of the Revised Code. A tax imposed under this section shall remain in effect at the rate at which it is imposed for the duration of the period for which the revenue therefrom has been pledged pursuant to such section.

(D) For the purpose of providing contributions under division (B)(1) of section 307.671 of the Revised Code to enable the acquisition, construction, and equipping of a port authority educational and cultural facility in the county and, to the extent provided for in the cooperative agreement authorized by that section, for the purpose of paying debt service charges on bonds, or notes in anticipation thereof, described in division (B)(1)(b) of that section, a board of county commissioners, by resolution adopted within ninety days after ~~the effective date of this amendment~~ December 22, 1992, by a majority of the members of the board, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), and (C) of this section, to any excise tax levied pursuant to division (C) of section 5739.02 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The board of county commissioners shall establish all regulations necessary to provide for the administration and allocation of the tax that are not inconsistent with this section or section 307.671 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this

section may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. Such tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to such section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation thereof, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for such additional purposes as are determined by the county in the resolution levying the tax or amendments thereto, the legislative authority of a county, by resolution adopted within ninety days after ~~the effective date of this amendment~~ JUNE 30, 1993, by a majority of the members of the legislative authority, may levy an additional excise tax not to exceed one and one-half per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The excise tax authorized by this division shall be in addition to any tax that is levied pursuant to divisions (A), (B), (C), and (D) of this section, to any excise tax levied pursuant to division (C) of section 5739.02 of the Revised Code, and to any excise tax levied pursuant to section 351.021 of the Revised Code. The legislative authority of the county shall establish all regulations necessary to provide for the administration and allocation of the tax. All revenues arising from the tax shall be expended in accordance with section 307.672 of the Revised Code and division (E) of this section. The levy of a tax imposed under this division shall not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.672 of the Revised Code by all parties to that agreement. Such tax shall remain in effect at the rate at which it is imposed for the period of time determined by the legislative authority of the county, but not to exceed fifteen years.

Sec. 5739.033. The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code is the sum of the taxes imposed pursuant to those sections at the situs of the consummation of the sale as determined under this section.

(A) Except as otherwise provided in this section and division (C) of section 5739.031 of the Revised Code, all sales are conclusively determined

to be consummated at the vendor's place of business.

(1) If the consumer or ~~his~~ the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the sale is consummated at that place of business.

(2) If the consumer or ~~his~~ the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the sale is consummated at the vendor's place of business where the purchase contract or agreement was made or the purchase order was received.

(3) If the vendor provides a service specified in division (B)(3)(a), (b), (c), ~~or~~ (d), (n), or (o) of section 5739.01 of the Revised Code, the sale is consummated at the vendor's place of business where the service is performed or the contract or agreement for the service was made or the purchase order was received.

(B) If the vendor is a transient vendor as specified in division (B) of section 5739.17 of the Revised Code, the sale is conclusively determined to be consummated at the vendor's temporary place of business or, if the transient vendor is the lessor of titled motor vehicles, titled watercraft, or titled outboard motors, at the location where the lessee keeps the leased property.

(C) If the vendor is a limited vendor as specified in division (B) of section 5739.17 of the Revised Code, the sale is conclusively determined to be consummated at the temporary event at which the vendor is making sales.

(D) If the vendor makes sales of tangible personal property from a stock of goods carried in a motor vehicle, from which the purchaser makes selection and takes possession, or from which the vendor sells tangible personal property the quantity of which has not been determined prior to the time the purchaser takes possession, the sale is conclusively determined to be consummated at the location of the motor vehicle when the sale is made.

(E) If the vendor is a delivery vendor as specified in division (D) of section 5739.17 of the Revised Code, the sale is conclusively determined to be consummated at the place where the tangible personal property is delivered, where the leased property is used, or where the service is performed or received.

(F) If the vendor provides a service specified in division (B)(3)(e), (g), ~~or~~ (h), (j), (k), (l), or (m) of section 5739.01 of the Revised Code, the sale is conclusively determined to be consummated at the location of the consumer where the service is performed or received.

(G) If the vendor provides a service specified in division (B)(3)(f) or (i)

of section 5739.01 of the Revised Code, the sale is conclusively determined to be consummated at the location of the telephone number or account as reflected in the records of the vendor. If, in the case of a telecommunications service, the telephone number or account is located outside this state, the sale is conclusively determined to be consummated at the location in this state from which the service originated.

(H) If the vendor provides lodging to transient guests as specified in division (B)(2) of section 5739.01 of the Revised Code, the sale is conclusively determined to be consummated at the location where the lodging is located.

(I) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the sale is conclusively determined to be consummated at the location of the consumer. If the vendor is not a delivery vendor, the sale is conclusively determined to be consummated at the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the sale is conclusively determined to be consummated in the county of titling.

Sec. 5739.07. (A) The tax commissioner shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment ~~where~~ if the vendor has not been reimbursed ~~himself~~ from the consumer. When the illegal or erroneous payment or assessment was not paid to a vendor but was paid by the consumer directly to the treasurer of state~~,~~ or ~~his~~ an agent of the treasurer of state, ~~he~~ the tax commissioner shall refund to the consumer. When a refund is granted for payment of an illegal or erroneous assessment issued by the department, the refund shall include interest as provided by section 5739.132 of the Revised Code. ~~Applications~~

(B) The tax commissioner may make a refund to the consumer of taxes paid illegally or erroneously if the tax has not been refunded to the vendor and any of the following circumstances apply:

(1) The consumer is unable to receive a refund from the vendor because the vendor has ceased business;

(2) The vendor is unable to issue a refund because of bankruptcy or similar financial condition;

(3) The consumer receives a refund of the full price paid to the vendor from a manufacturer or other person, other than the vendor, as a settlement for a complaint by the consumer about the property or service purchased.

(C) Applications for refund shall be filed with the tax commissioner, on the form prescribed by ~~him~~ the tax commissioner, within four years from the date of the illegal or erroneous payment of the tax ~~except where~~, unless the vendor or consumer waives the time limitation under division (A)(3) of section 5739.16 of the Revised Code~~, in which case~~. If the time limitation is waived, the four-year refund limitation shall be extended for the same period of time as the waiver. On the filing of an application for refund, the commissioner shall determine the amount of refund due and certify that amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code.

Sec. 5739.072. In the event any person who is entitled to a refund ~~from the state, a county, or transit authority levying an additional sales tax pursuant to section 5739.021, 5739.023, or 5739.026 of the Revised Code~~under this chapter is indebted to the state for any ~~sales, use, or highway use~~ tax or ~~to such county or transit authority for any sales or use tax as certified to~~ fee administered by the tax commissioner ~~by the auditor of each county or fiscal officer of each transit authority~~ that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax or fee, the ~~balance allowable on the refund application shall~~ amount refundable may be applied in satisfaction of the ~~amount due the state, county, or transit authority~~ debt. If the amount refundable is less than the amount ~~due~~ of the ~~state, county, or transit authority~~ debt, it ~~shall~~ may be applied in partial satisfaction of the ~~amount due the state, county, or transit authority~~ debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

Sec. 5739.13. (A) If any vendor collects the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, and fails to remit the tax to the state as prescribed, or on the sale of a motor vehicle, watercraft, or outboard motor required to be titled, fails to remit payment to a clerk of a court of common pleas as provided in section 1548.06 or 4505.06 of the Revised Code, ~~he~~the vendor shall be personally liable for any tax collected ~~which he fails to remit~~ and not remitted. The tax commissioner may make an assessment against such vendor based upon any information in the commissioner's possession.

If any vendor fails to collect the tax or any consumer fails to pay the tax

imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code, on any transaction subject to the tax, the vendor or consumer shall be personally liable for the amount of the tax applicable to the transaction. If any vendor fails to pay the annual license renewal fee required by division (E) of section 5739.17 of the Revised Code, the vendor shall be personally liable for the unpaid fee. The commissioner may make an assessment against either the vendor or consumer, as the facts may require, based upon any information in the commissioner's possession.

An assessment against a vendor when the tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code has not been collected or paid, shall not discharge the purchaser's or consumer's liability to reimburse the vendor for the tax applicable to such transaction.

An assessment issued against either, pursuant to this section, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any person for the tax due on a particular transaction if the tax on that transaction actually has been paid by another.

The commissioner may make an assessment against any vendor who fails to file a return or remit the proper amount of tax required by this chapter, or against any consumer who fails to pay the proper amount of tax required by this chapter. When information in the possession of the commissioner indicates that the amount required to be collected or paid under this chapter is greater than the amount remitted by the vendor or paid by the consumer, the commissioner may audit a sample of the vendor's sales or the consumer's purchases for a representative period, to ascertain the per cent of exempt or taxable transactions or the effective tax rate and may issue an assessment based on the audit. The commissioner shall make a good faith effort to reach agreement with the vendor or consumer in selecting a representative sample period.

The tax commissioner may make an assessment, based on any information in his possession, against any person who fails to file a return or remit the proper amount of tax required by section 5739.102 of the Revised Code.

The tax commissioner may issue an assessment on any transaction for which any tax imposed under this chapter or Chapter 5741. of the Revised Code was due and unpaid on the date the vendor or consumer was informed by an agent of the tax commissioner of an investigation or audit. If the vendor or consumer remits any payment of the tax for the period covered by the assessment after the vendor or consumer was informed of the

vestigation or audit, the payment shall be credited against the amount of the assessment.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~All assessments, exclusive of penalties, not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ the party's authorized agent having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the commissioner's final determination on the petitioner by personal service or certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the place of business of the party assessed is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of such entry, shall enter a judgment for the state against the party assessed in the amount shown on the

entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state, county, and transit authority retail sales tax" or, if appropriate, "special judgments for resort area excise tax~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise provided in this chapter.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ the portion of the assessment not paid within thirty days after the date the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment except as provided in sections 5739.01 to 5739.31 of the Revised Code~~ from the day the tax commissioner issues the assessment until the assessment is paid. interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by or pursuant to sections 5739.01 to 5739.31 of the Revised Code.

Sec. 5739.132. (A) If a tax payment originally due under this chapter or chapter 5741. of the Revised Code on or after January 1, 1998, is not paid on or before the day the tax is required to be paid, interest shall accrue on the unpaid tax at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the tax was required to be paid until the tax is paid or until the day an assessment is issued under section 5739.13 or 5739.15 of the Revised Code, whichever occurs first. Interest shall be paid in the same manner as the tax, and may be collected by assessment.

~~If the tax imposed by this chapter or Chapter 5741. of the Revised Code or any portion of such tax, as determined by the tax commissioner, is not paid on or before the thirtieth day after service of the notice of assessment as provided by section 5739.13 of the Revised Code, such unpaid amount of tax shall bear interest as of the thirty-first day after service of the notice of assessment to the date of payment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code. Such interest may be collected by assessment in the manner provided in section 5739.13 of the Revised Code. All interest collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be~~

~~considered as revenue arising from the taxes imposed by this chapter or Chapter 5741. of the Revised Code.~~

(B) ~~Interest~~ For tax payments due prior to January 1, 1998, interest shall be allowed and paid upon any refund granted in respect to the payment of an illegal or erroneous assessment issued by the department for the tax imposed under this chapter or Chapter 5741. of the Revised Code from the date of the overpayment. For tax payments due on or after January 1, 1998, interest shall be allowed and paid on any refund granted pursuant to section 5739.07 or 5741.10 of the Revised Code from the date of the overpayment. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code.

Sec. 5739.133. (A) A penalty shall be added to every amount assessed under section 5739.13 or 5739.15 of the Revised Code as follows:

(1) In the case of an assessment against a person who fails to file a return required by this chapter, fifty per cent of the amount assessed;

(2) In the case of a person whom the tax commissioner believes has collected the tax but failed to remit it to the state as required by this chapter, fifty per cent of the amount assessed;

(3) In the case of all other assessments, fifteen per cent of the amount assessed.

No amount assessed under section 5739.13 or 5739.15 of the Revised Code shall be subject to a penalty under this division in excess of fifty per cent of the amount assessed.

(B) All assessments issued under section 5739.13 and 5739.15 of the Revised Code shall include preassessment interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code. Beginning January 1, 1988, preassessment interest shall begin to accrue on the first day of January of the year following the date on which the person assessed was required to report and pay the tax under ~~the provisions of~~ this chapter or Chapter 5741. of the Revised Code, and shall run until the date of the notice of assessment. If an assessment is issued within the first twelve months after the interest begins to accrue, no preassessment interest shall be assessed. With respect to taxes required to be paid under this chapter or chapter 5741. of the Revised Code on or after January 1, 1998, interest shall accrue as prescribed in division (A) of section 5739.132 of the Revised Code.

(C) The commissioner may adopt rules providing for the remission of any penalty provided for under this section.

Sec. 5739.15. (A) If the tax commissioner finds that a vendor, consumer, or officer, employee, or trustee of a corporation or business trust who is liable for any tax or charge levied by this chapter or Chapter 5741. of

the Revised Code is about to depart from the state, remove ~~his~~the person's property from the state, conceal ~~himself~~ the person's self or ~~his~~ property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any vendor, consumer, or officer, employee, or trustee of a corporation or business trust will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the person for the amount of the tax or charge plus a penalty as provided by section 5739.133 of the Revised Code. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any ~~tax or charges assessed or refund of tax or charges assessed~~ assessment issued under this section shall bear interest ~~in the manner~~ as prescribed by section ~~5739.132~~ 5739.13 of the Revised Code.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5739.13 of the Revised Code. Notice of the jeopardy assessment shall be served on the person assessed or ~~his~~ the person's legal representative within five days of the filing of the entry. The person assessed may petition for reassessment within thirty days of ~~his~~ receipt of the notice of jeopardy assessment in the same manner as provided in section 5739.13 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to section 2923.35, 2933.41, or 2933.43 of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the person subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner

hall return any funds or property of the person previously seized. Upon satisfaction of the assessment, the commissioner shall order the security released and the judgment vacated.

Sec. 5739.17. (A) No person shall engage in making retail sales subject to a tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code as a business without having a license therefor, except as otherwise provided in divisions (A)(1), (2), and (3) of this section.

(1) In the dissolution of a partnership by death, the surviving partner may operate under the license of the partnership for a period of sixty days.

(2) The heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy, appointed by any competent authority, may operate under the license of the person so succeeded in possession.

(3) Two or more persons who are not partners may operate a single place of business under one license. In such case neither the retirement of any such person from business at that place of business, nor the entrance of any person, under an existing arrangement, shall affect the license or require the issuance of a new license, unless the person retiring from the business is the individual named on the vendor's license.

Except as otherwise provided in this section, each applicant for a license shall make out and deliver to the county auditor of each county in which ~~he~~ the applicant desires to engage in business, upon a blank to be furnished by such auditor for that purpose, a statement showing the name of the applicant, each place of business in the county where the applicant will make retail sales, the nature of the business, and any other information the tax commissioner reasonably prescribes in the form of statement prescribed by ~~him~~ the commissioner.

At the time of making the application, the applicant shall pay into the county treasury a license fee in the sum of twenty-five dollars for each fixed place of business in the county where retail sales will be consummated. Upon receipt of the application and exhibition of the county treasurer's receipt, showing the payment of the license fee, the county auditor shall issue to the applicant a license for each fixed place of business designated in the application, authorizing the applicant to engage in business at ~~the~~ that location. If a vendor's identity or the location of ~~his~~ the vendor's place of business changes, the vendor shall apply for a new license. The form of the license shall be prescribed by the commissioner. The fees collected shall be credited to the general fund of the county.

Except as otherwise provided in this section, if a vendor has no fixed place of business and sells from a vehicle, each vehicle intended to be used

within a county constitutes a place of business for the purpose of this section.

(B) As used in this division, "transient vendor" means any person who leases titled motor vehicles, titled watercraft, or titled outboard motors or, in the usual course of ~~his~~ the person's business, transports inventory, stock of goods, or similar tangible personal property to a temporary place of business in a county in which ~~he~~ the person has no fixed place of business, for the purpose of making retail sales of such property. A "temporary place of business" means any public or quasi-public place including, but not limited to, a hotel, rooming house, storeroom, building, part of a building, tent, vacant lot, railroad car, or motor vehicle that is temporarily occupied for the purpose of making retail sales of goods to the public. A place of business is not temporary if the same person conducted business at the place continuously for more than six months~~,~~ or occupied the premises as ~~his~~ the person's permanent residence for more than six months, or if the person intends it to be a fixed place of business.

As used in this division, "limited vendor" means any person who, in order to participate in a temporary exhibition, show, fair, flea market, or similar event, transports inventory, stock of goods, or similar property to a temporary place of business located at a temporary exhibition, show, fair, flea market, or similar event held in a county in which ~~he~~ the person has no fixed place of business for which ~~he~~ the person holds a vendor's license for the purpose of making retail sales of such property.

Any transient vendor, in lieu of obtaining a vendor's license under division (A) of this section for counties in which ~~he~~ the transient vendor has no fixed place of business, may apply to the tax commissioner, on a form prescribed by ~~him~~ the commissioner, for a transient vendor's license. The transient vendor's license authorizes the transient vendor to make retail sales in any county in which ~~he~~ the transient vendor does not maintain a fixed place of business. Any holder of a transient vendor's license shall not be required to obtain a separate vendor's license from the county auditor in that county. Upon the tax commissioner's determination that an applicant is a transient vendor, the applicant shall pay a license fee in the amount of one hundred dollars, at which time the tax commissioner shall issue the license. The tax commissioner may require a vendor to be licensed as a transient vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax.

Any limited vendor, in lieu of obtaining a vendor's license under division (A) of this section for a county in which ~~he~~ the limited vendor has no fixed place of business for which ~~he~~ the limited vendor holds a vendor's

license may apply to the tax commissioner or the county auditor of that county, on a form prescribed by the commissioner, for a limited vendor's license. The limited vendor's license authorizes the limited vendor to make retail sales at a temporary exhibition, show, fair, flea market, or similar event held in that county for the duration of the event or twenty days, whichever period is shorter. Any holder of a limited vendor's license shall not be required to obtain a separate vendor's license pursuant to division (A) of this section from the county auditor in that county or transient vendor's license from the tax commissioner in order to participate in the event. The applicant shall pay a license fee in the amount of five dollars, at which time the tax commissioner or county auditor shall issue a license for making retail sales at the event designated in the application. Fees collected for licenses issued by a county auditor shall be credited to the general fund of the county. Fees collected for licenses issued by the tax commissioner shall be credited to the state general revenue fund.

A limited vendor who makes retail sales at an event and who is not the holder of a transient vendor's license or a vendor's license for the county in which the event is held, shall file a tax return for and remit the tax on any sales made at the event according and subject to the requirements of section 5739.12 of the Revised Code; except that the return and the remittance shall be made within fifteen days of the close of the event.

Any holder of a valid transient vendor's license may make retail sales as a limited vendor at a temporary exhibition, show, fair, flea market, or similar event, held anywhere in the state without obtaining a limited vendor's license and without complying with any provision of section 311.37 of the Revised Code. Any holder of a valid vendor's license may make retail sales as a limited vendor at a temporary exhibition, show, fair, flea market, or similar event held in any county in which ~~he~~ the vendor maintains a fixed place of business for which ~~he~~ the vendor holds a vendor's license without obtaining a limited vendor's license.

(C) As used in this division, "service vendor" means any person who, in the usual course of ~~his~~ the person's business, sells services described in division (B)(3)(e), (f), (g), (h), ~~or~~ (i), (j), (k), (l), or (m) of section 5739.01 of the Revised Code.

Every service vendor shall make application to the tax commissioner for a service vendor's license. Each applicant shall pay a license fee in the amount of twenty-five dollars. Upon the commissioner's determination that an applicant is a service vendor and payment of the fee, the commissioner shall issue the applicant a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h), ~~or~~ (i), (j), (k), (l),

or (m) of section 5739.01 of the Revised Code may be made under authority of a service vendor's license, and that license authorizes sales to be made at any place in this state. Any service vendor who makes sales of other services or tangible personal property subject to the sales tax also shall be licensed under division (A), (B), or (D) of this section.

(D) As used in this division, "delivery vendor" means any vendor who engages in one or more of the activities described in divisions (D)(1) to (4) of this section, and who maintains no store, showroom, or similar fixed place of business or other location where merchandise regularly is offered for sale or displayed or shown in catalogs for selection or pick-up by consumers, or where consumers bring goods for repair or other service.

(1) The vendor makes retail sales of tangible personal property;

(2) The vendor rents or leases, at retail, tangible personal property, except titled motor vehicles, titled watercraft, or titled outboard motors;

(3) The vendor provides a service, at retail, described in division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or service contracts, or similar agreements as described in division (B)(7) of section 5739.01 of the Revised Code.

A transient or limited vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

(E) On or before the first day of February of each year, each vendor, except limited vendors, shall renew each vendor's license in the manner prescribed by the commissioner. The vendor shall pay a renewal fee of ten dollars for each license other than a transient vendor's license, and forty dollars for a transient vendor's license. Failure to pay the renewal fee timely shall be cause for the commissioner to revoke the license pursuant to section 5739.19 of the Revised Code or to suspend the license pursuant to section

5739.30 of the Revised Code. All renewal fees shall be credited to the general revenue fund.

(F) Any transient vendor or limited vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient or limited vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient or limited vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

Sec. 5741.10. The tax commissioner shall refund to sellers the amount of tax levied pursuant to section 5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code paid on any illegal or erroneous payment or assessment, where the seller has reimbursed the consumer. When such payment or assessment was not paid to a seller, but was paid directly to the treasurer of state, or ~~his~~the treasurer of state's agent, by the consumer, the treasurer of state shall make refund to the consumer. When such a refund is granted ~~for payment of an illegal or erroneous assessment issued by the tax commissioner, such refund~~, it shall include interest thereon as provided by section 5739.132 of the Revised Code. Applications for refund shall be filed with the tax commissioner, on the form prescribed by ~~him~~ the commissioner, within four years from the date of the illegal or erroneous payment of the tax except where the vendor or consumer waives the time limitation under division (C) of section 5741.16 of the Revised Code, in which case the four-year refund limitation shall be extended for the same period of time as the waiver. On filing such application, the commissioner shall determine the amount of refund due and shall certify such amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code.

Sec. 5741.101. The amount of any refund to be certified to the treasurer and auditor of state pursuant to section 5741.10 of the Revised Code ~~shall~~may be reduced by the amount the person claiming the refund is indebted to the state for any tax or fee administered ~~and enforced~~ by the tax commissioner ~~under~~ that is paid to the state or to the clerk of courts pursuant to section 4505.06 of the Revised Code, ~~and the warrant of the auditor shall thereupon be drawn payable to the person claiming refund only for the amount in excess of such indebtedness~~ or any charge, penalty, or interest arising from such a tax or fee. If the amount refundable is less than the ~~indebtedness~~ amount of the debt, it ~~shall~~ may be applied in partial

ion ~~thereof~~ of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

Sec. 5741.14. ~~Sections~~The procedures prescribed by sections 5739.13 to 5739.15~~, inclusive,~~ of the Revised Code~~, relating to assessments or findings, appeals from assessments or findings, and the effect of assessments or findings, before or after hearing and before or after filing the same in the office of a clerk of the court of common pleas, and relating to the procedure, authority, duties, liabilities, powers, and privileges of the person assessed, the tax commissioner, the clerks of the courts of common pleas, and all other public officials shall be applicable~~, including those governing the imposition of penalties and interest, apply to assessments made pursuant to sections 5741.11 and 5741.13 of the Revised Code.

Sec. 5743.081. (A) If any wholesale dealer or retail dealer fails to pay the tax levied under sections 5743.02, 5743.023, 5743.024, or 5743.026 of the Revised Code as required by sections 5743.01 to 5743.20 of the Revised Code, and by the rules of the tax commissioner, or fails to collect the tax from the purchaser or consumer, the commissioner may make an assessment against the wholesale or retail dealer based upon any information in the commissioner's possession.

The commissioner may make an assessment against any wholesale or retail dealer who fails to file a return required by section 5743.03 or 5743.025 of the Revised Code.

No assessment shall be made against any wholesale or retail dealer for any taxes imposed under sections 5743.02, 5743.023, 5743.024, or 5743.026 of the Revised Code more than three years after the last day of the calendar month which immediately follows the semiannual period prescribed in section 5743.03 of the Revised Code in which the sale was made, or more than three years after the semiannual return for such period is filed, whichever is later. This section does not bar an assessment against any wholesale or retail dealer who fails to file a return as required by section 5743.03 or 5743.025 of the Revised Code, or who files a fraudulent return.

A penalty of thirty per cent shall be added to the amount of every assessment made under this section. The commissioner may adopt rules providing for the remission of penalties added to assessments made under this section.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. The notice shall specify

eparately any portion of the assessment that represents a county tax. ~~All assessments, exclusive of penalties, not paid within thirty days after service of the notice of assessment, shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ the party's authorized agent having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ an assessment as the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner by personal service or certified mail, and the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the wholesale or retail dealer's place of business is located or the county in which the party assessed resides. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the commissioner's entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state cigarette sales tax~~."~~," and shall have the same effect as other judgments. execution shall issue upon the

judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment except as otherwise PROVIDED in sections 5743.01 to 5743.20 of the Revised Code.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of the assessment not paid within thirty days after the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment except as provided in sections 5743.01 to 5743.20 of the Revised Code~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the taxes imposed by sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.082. (A) If the tax commissioner finds that a wholesale dealer or retail dealer, liable for tax under sections 5743.01 to 5743.20 of the Revised Code, is about to depart from the state, remove ~~his~~the wholesale or retail dealer's property from the state, conceal ~~himself~~ the wholesale or retail dealer's person or ~~his~~ property, or do any other act tending to prejudice, obstruct, or render wholly or partly ineffectual proceedings to collect the tax, unless the proceedings are commenced without delay, or if the commissioner believes that the collection of the amount due from any wholesale dealer or retail dealer will be jeopardized by delay, the commissioner may issue a jeopardy assessment against the wholesale or retail dealer for the amount of the tax, plus a penalty of thirty per cent. Upon issuance of a jeopardy assessment under this division, the total amount assessed shall immediately be due and payable unless security is provided pursuant to division (C) of this section. Any ~~tax assessed~~ assessment issued under this section shall bear interest ~~computed at the rate per annum prescribed by section 5703.47 of the Revised Code from the due date of the tax and any refund of tax assessed shall bear interest computed at the rate per annum~~ as prescribed by section ~~5703.47~~ 5743.081 of the Revised Code ~~from the date the tax assessed was paid~~.

(B) The commissioner immediately shall file an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5743.081 of the Revised Code. Notice of the jeopardy

assessment shall be served on the dealer assessed or ~~his~~ the dealer's legal representative within five days of the filing of the entry. The dealer assessed may petition for reassessment within thirty days of ~~his~~ receipt of the notice of jeopardy assessment in the same manner as provided in section 5743.081 of the Revised Code. Full or partial payment of the assessment shall not prejudice the commissioner's consideration of the merits of the assessment as contested by the petition for reassessment. Upon notification of the existence of the judgment filed pursuant to this division, any public official having control or custody of any funds or property of the person assessed immediately shall pay or deliver the funds or property to the commissioner as full or partial satisfaction of the jeopardy assessment. However, funds or property needed as evidence in criminal proceedings or that is expected to be forfeited pursuant to section 2923.35, 2933.41, or 2933.43 of the Revised Code, need not be relinquished by the public official. Upon disposition of criminal and forfeiture proceedings, funds and property not needed as evidence and not forfeited shall be delivered to the commissioner.

(C) If the dealer subject to a jeopardy assessment files a petition for reassessment and posts security satisfactory to the commissioner in an amount sufficient to satisfy the unpaid balance of the assessment, execution on the judgment shall be stayed pending disposition of the petition for reassessment and all appeals resulting from the petition. If the security is sufficient to satisfy the full amount of the assessment, the commissioner shall return any funds or property of the dealer that previously were seized. Upon satisfaction of the assessment the commissioner shall order the security released and the judgment vacated.

Sec. 5743.52. (A) Each distributor of tobacco products subject to the tax levied by section 5743.51 of the Revised Code, on or before the last day of each month, shall file with the treasurer of state a return for the preceding month showing any information the tax commissioner finds necessary for the proper administration of sections 5743.51 to 5743.66 of the Revised Code, together with remittance of the tax due. The treasurer of state shall stamp or otherwise mark on the return the date it was received and shall also show thereon by stamp or otherwise the amount of payment received with the return. Thereafter, the treasurer of state shall immediately transmit all returns filed under this section to the tax commissioner. The return and payment of the tax required by this section shall be filed in such a manner that it is received by the treasurer of state on or before the last day of the month following the reporting period. If the return is filed and the amount of tax shown on the return to be due is paid on or before the date the return is required to be filed, the distributor is entitled to a discount equal to two and

five-tenths per cent of the amount shown on the return to be due.

(B) Any person who fails to timely file the return and make payment of taxes as required under this section, section 5743.62, or section 5743.63 of the Revised Code shall pay an additional charge equal to the greater of fifty dollars or ten per cent of the tax due. Any additional charge imposed under this section may be collected by assessment as provided in section 5743.56 of the Revised Code.

(C) If any tax due is not paid timely in accordance with sections 5743.52, 5743.62, or 5743.63 of the Revised Code, the person liable for the tax shall pay interest, calculated at the rate per annum as prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment is issued under section 5743.56 of the Revised Code, whichever occurs first. The commissioner may collect such interest by assessment pursuant to section 5743.56 of the Revised Code.

(D) The commissioner may authorize the filing of returns and the payment of the tax required by this section, section 5743.62, or section 5743.63 of the Revised Code for periods longer than a calendar month.

(E) The commissioner may order any taxpayer to file with the commissioner security to the satisfaction of the commissioner conditioned upon filing the return and paying the taxes required under this section, section 5743.62, or section 5743.63 of the Revised Code if the commissioner believes that the collection of the tax may be in jeopardy.

Sec. 5743.56. (A) Any person required to pay the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code is personally liable for the tax. The tax commissioner may make an assessment, based upon any information in the commissioner's possession, against any person who fails to file a return or pay any tax, interest, or additional charge as required by this chapter. The commissioner shall give the person assessed written notice of such assessment by personal service or certified mail. ~~Any tax assessed shall continue to accrue interest as prescribed in division (C) of section 5743.52 of the Revised Code.~~

(B) When the information in the possession of the tax commissioner indicates that a person liable for the tax imposed by section 5743.51, 5743.62, or 5743.63 of the Revised Code has not paid the full amount of tax due, the commissioner may audit a representative sample of the person's business and may issue an assessment based on such audit.

(C) A penalty of fifteen per cent shall be added to all amounts assessed under this section. The commissioner may adopt rules providing for the remission of such penalties.

(D) Unless the person assessed files with the tax commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing by the person assessed or ~~his~~ the authorized agent of the person assessed having knowledge of the facts, the assessment becomes ~~conclusive~~ final and the amount of the assessment is due and payable from the person assessed to the treasurer of state. A petition shall indicate the objections to the assessment of the person assessed, but additional objections may be raised in writing prior to the date shown on the final determination of the tax commissioner. The commissioner shall grant the petitioner a hearing on the petition, unless waived by the petitioner.

The commissioner may make such correction to the assessment as ~~he~~ the commissioner finds proper and shall issue ~~his~~ a final determination thereon. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner either by personal service or by certified mail, and ~~his~~ the commissioner's decision in the matter is final, subject to appeal under section 5717.02 of the Revised Code.

(E) After an assessment becomes final, if any portion of the assessment, including accrued interest, remains unpaid, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the person assessed resides or in which ~~his~~ the person assessed conducts business ~~is conducted~~. If the person assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of the entry, shall enter a judgment for the state against the person assessed in the amount shown to be due. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state tobacco products tax~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of the assessment not paid within thirty days after the day the assessment is issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner and all laws applicable to sales on execution are applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until the assessment is paid. interest shall be paid in the same

manner as the tax and may be collected by issuing an assessment under this section.

(F) If the commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the person liable for the tax. Upon issuance of the jeopardy assessment, the commissioner immediately shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (E) of this section. Notice of the jeopardy assessment shall be served on the person assessed or ~~his~~ the legal representative of the person assessed within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the person assessed files a petition for reassessment in accordance with division (D) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(G) All money collected by the commissioner under this section shall be paid to the treasurer of state as revenue arising from the tax imposed by sections 5743.51, 5743.62, and 5743.63 of the Revised Code.

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 ~~follows~~ provided in divisions (A)(1) to (16) of 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.

(11) Deduct, in the case of a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code and to the extent not otherwise allowable as a deduction in computing federal adjusted gross income for the taxable year, the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse, and dependents. No deduction under division (A)(11) of this section shall be allowed to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer. No deduction under division (A)(11) of this section shall be allowed to the extent that the sum of such deduction and any related deduction allowable in computing federal adjusted gross income for the taxable year exceeds the taxpayer's earned income, within the meaning of section 401(c) of the Internal Revenue Code, derived by the taxpayer from the trade or business with respect to which the plan providing the medical coverage is established.

(12) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in a previous 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~~;~~.

(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~~;~~.

(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.

(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) "~~Partnership" means~~ Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code ~~any unincorporated business association and includes, but is not limited to, a syndicate, group, pool, or joint venture through or by means of which any business, financial operation, or venture is carried on, but does not include a trust, or estate within the meaning of this section~~.

(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

ne 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~~ 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) 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;

(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.

(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) 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.

Sec. 5747.02. (A) For the purpose of providing revenue for the support of schools and local government functions, to provide relief to property taxpayers, to provide revenue for the general revenue fund, and to meet the expenses of administering the tax levied by this chapter, there is hereby levied on every individual and every estate residing in or earning or receiving income in this state, ~~and~~ on every individual and estate earning or receiving lottery winnings, prizes, or awards pursuant to Chapter 3770. of the Revised Code, and on every individual and estate otherwise having nexus with or in this state under the Constitution of the United States, an annual tax measured in the case of individuals by adjusted gross income less an exemption for the taxpayer, the taxpayer's spouse, and each dependent as provided in section 5747.025 of the Revised Code, and measured in the case of estates by taxable income. The tax imposed by this section on the balance thus obtained is hereby levied as follows:

ADJUSTED GROSS INCOME LESS EXEMPTIONS (INDIVIDUALS) OR TAXABLE INCOME (ESTATES)	TAX
$5,000 or less	0.743%
More than $5,000 but not more than $10,000	$37.15 plus 1.486% of the amount in excess of $5,000
More than $10,000	$111.45 plus 2.972% of the amount in excess of $10,000

More than $15,000 but not more than $20,000	$260.05 plus 3.715% of the amount in excess of $15,000
More than $20,000 but not more than $40,000	$445.80 plus 4.457% of the amount in excess of $20,000
More than $40,000 but not more than $80,000	$1,337.20 plus 5.201% of the amount in excess of $40,000
More than $80,000 but not more than $100,000	$3,417.60 plus 5.943% of the amount in excess of $80,000
More than $100,000	$4,606.20 plus 6.9% of the amount in excess of $100,000

but not more than $200,000	$1,506.20 plus 7.5% of the amount in excess of $200,000
More than $200,000	

(B) If the director of budget and management makes a certification to the tax commissioner under division (B) of section 131.44 of the Revised Code, the amount of tax as determined under division (A) of this section shall be reduced by the percentage prescribed in that certification for taxable years beginning in the calendar year in which that certification is made.

(C) The levy of this tax on income does not prevent a municipal corporation, a joint economic development zone created under section 715.691, or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

Sec. 5747.025. (A) The personal exemption for the taxpayer and the taxpayer's spouse shall be seven hundred fifty dollars each for the taxable year beginning in 1996, eight hundred fifty dollars each for the taxable year beginning in 1997, nine hundred fifty dollars each for the taxable year beginning in 1998, and one thousand fifty dollars each for the taxable year beginning in 1999 and taxable years beginning after 1999. the personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner prescribed in division (C) of this section.

(B) The personal exemption for each dependent shall be eight hundred fifty dollars for the taxable year beginning in 1996, and one thousand fifty dollars for the taxable year beginning in 1997 and taxable years beginning after 1997. the personal exemption amount prescribed in this division for taxable years beginning after 1999 shall be adjusted each year in the manner prescribed in division (C) of this section.

(C) Each year beginning in 2000, the tax commissioner shall determine the percentage increase in the gross domestic product deflator determined by the bureau of economic analysis of the united states department of commerce from the first day of July of the preceding calendar year to the last day of June of the current year, and adjust the personal exemption amount for taxable years beginning in the current calendar year by multiplying that amount by the percentage increase in the gross domestic

product deflator for that period; adding the resulting product to the personal exemption amount for taxable years beginning in the preceding calendar year; and rounding the resulting sum upward to the nearest multiple of fifty dollars. The tax commissioner shall not make such an adjustment in any calendar year in which the amount resulting from the adjustment would be less than the amount resulting from the adjustment in the preceding calendar year.

Sec. 5747.03. (A) All money collected under this chapter arising from the ~~tax~~taxes imposed by section 5747.02 or 5747.41 of the Revised Code shall be credited to the general revenue fund, except that the treasurer of state shall:

(1) Credit an amount equal to four and two-tenths per cent of ~~the~~ those taxes collected under this chapter to the local government fund, which is hereby created in the state treasury, for distribution in accordance with section 5747.50 of the Revised Code;

(2) Credit an amount equal to five and seven-tenths per cent of ~~the~~ those taxes collected under this chapter to the library and local government support fund, which is hereby created in the state treasury, for distribution in accordance with section 5747.47 of the Revised Code;

(3) At the beginning of each calendar quarter, credit to the Ohio political party fund, pursuant to section 3517.16 of the Revised Code, an amount equal to the total dollar value realized from the taxpayer exercise of the income tax checkoff option on tax forms processed during the preceding calendar quarter;

(4) Credit an amount equal to six-tenths of one per cent of ~~the~~ those taxes collected under this chapter to the local government revenue assistance fund for distribution in accordance with section 5747.61 of the Revised Code.

(B)(1) Following the crediting of moneys pursuant to division (A) of this section, the remainder deposited in the general revenue fund shall be distributed pursuant to division (F) of section 321.24 and section 323.156 of the Revised Code; to make subsidy payments to institutions of higher education from appropriations to the Ohio board of regents; to support expenditures for programs and services for the mentally ill, mentally retarded, developmentally disabled, and elderly; for primary and secondary education; for medical assistance; and for any other purposes authorized by law, subject to the limitation that at least fifty per cent of the income tax collected by the state from the tax imposed by section 5747.02 of the Revised Code shall be returned pursuant to Section 9 of Article XII, Ohio Constitution.

(2) To ensure that such constitutional requirement is satisfied the tax commissioner shall, on or before the thirtieth day of June of each year, from the best information available to ~~him~~ the tax commissioner, determine and certify for each county to the director of budget and management the amount of taxes collected under this chapter from the tax imposed under section 5747.02 of the Revised Code during the preceding calendar year that are required to be returned to the county by Section 9 of Article XII, Ohio Constitution. The director shall provide for payment from the general revenue fund to the county in the amount, if any, that the sum of the amount so certified for that county exceeds the sum of the following:

(a) The sum of the payments from the general revenue fund for the preceding calendar year to the credit of the county's undivided income tax fund pursuant to division (F) of section 321.24 and section 323.156 of the Revised Code;

(b) The sum of the amounts from the general revenue fund distributed in the county during the preceding calendar year for subsidy payments to institutions of higher education from appropriations to the Ohio board of regents; for programs and services for mentally ill, mentally retarded, developmentally disabled, and elderly persons; for primary and secondary education; and for medical assistance.

(c) The amount distributed to the county during the preceding calendar year from the local government fund;

(d) The amount distributed to the county during the preceding calendar year from the library and local government support fund;

(e) The amount distributed to the county during the preceding calendar year from the local government revenue assistance fund.

Payments under this division shall be credited to the county's undivided income tax fund, except that, notwithstanding section 5705.14 of the Revised Code, such payments may be transferred by the board of county commissioners to the county general fund by resolution adopted with the affirmative vote of two-thirds of the members thereof.

(C) All payments received in each month from taxes imposed under Chapter 5748. of the Revised Code and any penalties or interest thereon shall be paid into the school district income tax fund, which is hereby created in the state treasury, except that an amount equal to the following portion of such payments shall be paid into the general school district income tax administrative fund, which is hereby created in the state treasury:

(1) One and three-quarters of one per cent of those received in fiscal year 1996;

(2) One and one-half per cent of those received in fiscal year 1997 and thereafter.

Money in the school district income tax administrative fund shall be used by the tax commissioner to defray costs incurred in administering the school district's income tax, including the cost of providing employers with information regarding the rate of tax imposed by any school district. Any moneys remaining in the fund after such use shall be deposited in the school district income tax fund.

(D)(1)(a) Within thirty days of the end of each calendar quarter ending on the last day of March, June, September, and December, the director of budget and management shall make a payment from the school district income tax fund to each school district for which school district income tax revenue was received during that quarter. The amount of the payment shall equal the balance in the school district's account at the end of that quarter.

(b) After a school district ceases to levy an income tax, the director of budget and management shall adjust the payments under division (D)(1)(a) of this section to retain sufficient money in the school district's account to pay refunds. For the calendar quarters ending on the last day of March and December of the calendar year following the last calendar year the tax is levied, the director shall make the payments in the amount required under division (D)(1)(a) of this section. For the calendar quarter ending on the last day of June of the calendar year following the last calendar year the tax is levied, the director shall make a payment equal to nine-tenths of the balance in the account at the end of that quarter. For the calendar quarter ending on the last day of September of the calendar year following the last calendar year the tax is levied, the director shall make no payment. For the second and succeeding calendar years following the last calendar year the tax is levied, the director shall make one payment each year, within thirty days of the last day of June, in an amount equal to the balance in the district's account on the last day of June.

(2) Moneys paid to a school district under this division shall be deposited in its school district income tax fund. All interest earned on moneys in the school district income tax fund shall be apportioned by the tax commissioner pro rata among the school districts in the proportions and at the times the districts are entitled to receive payments under this division.

Sec. 5747.054. As used in this section, "adjusted gross income" means adjusted gross income as defined in section 5747.01 of the Revised Code.

For taxable years ending on or after January 1, 1988, in addition to all other credits allowed by this chapter, a credit shall be allowed against the tax imposed by section 5747.02 of the Revised Code for taxpayers with

adjusted gross income of less than thirty thousand dollars; and, for taxable years beginning on or after January 1, 1993, for taxpayers with adjusted gross income of less than forty thousand dollars. The amount of the credit shall equal twenty-five per cent of the federal dependent care credit for which the taxpayer is eligible for the taxable year under section 21 of the Internal Revenue Code, 26 U.S.C.A. 21; except that, for taxable years beginning on or after January 1, ~~1993~~ 1997, the amount of the credit for a taxpayer with adjusted gross income of less than twenty thousand dollars shall ~~be increased to~~ equal ~~thirty-five per cent of~~ the federal credit for which the taxpayer is eligible, in any case without regard to any limitation imposed by section 26 of the Internal Revenue Code, 26 U.S.C.A. 26.

The credit allowed by this section shall be claimed in the order required under section 5747.98 of the Revised Code.

Sec. 5747.057. (A) As used in this section:

(1) "Average of the payroll factor and the property factor" means one-half multiplied by the sum of the payroll factor and the property factor.

(2) Subject to divisions (C) and (I) of this section, "export sales" means sales used in determining the denominator of the sales factor under division (C) of section 5747.21 of the Revised Code, as long as the sales meet the requirements of division (A)(2)(a) of this section and either or both of divisions (A)(2)(b) and (c) of this section.

(a) The gross receipts with respect to the sales qualify as foreign trading gross receipts as defined under section 924 of the Internal Revenue Code and regulations prescribed thereunder, except not including foreign trading gross receipts defined under section 924(a)(5) of the Internal Revenue Code and regulations prescribed thereunder. In addition, for the purposes of division (A)(2)(a) of this section, section 924 of the Internal Revenue Code is considered to apply to any taxpayer, not just an FSC as that term is defined under section 922 of the Internal Revenue Code.

(b) In the case of sales of tangible personal property, the taxpayer establishes by preponderance of the evidence that the property is not received by the purchaser within the United States. If the property is delivered by common carrier or by other means of transportation, the place at which the property is ultimately received after all transportation has been completed shall be considered as the place at which the property is received by the purchaser. Direct delivery in the United States, other than for purposes of transportation, to a person or firm designated by the purchaser constitutes delivery to the purchaser in the United States. Direct delivery outside the United States to a person or firm designated by the purchaser does not constitute delivery to the purchaser in the United States, regardless

of where title passes or other condition of sale.

In addition, the taxpayer also establishes by clear and convincing evidence one of the following:

(i) With respect to sales of tangible personal property to a related member, within the twelve-month period subsequent to the delivery to the related member, the related member in turn sells the property, or leases it for a period of at least five years, and delivers the property in the same form or as a component part of other property to a purchaser or lessee who is not a related member. In addition, during the twenty-four-month period subsequent to such sale or lease by the related member, the purchaser or lessee or a related member of the purchaser or lessee does not receive, use, or consume the property, either in the same form or as a component part of other property, within the United States, and does not directly or indirectly sell or lease the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(ii) With respect to all other sales of tangible personal property, during the twenty-four-month period subsequent to such sale, the purchaser or a related member of the purchaser does not receive, use, or consume the property, either in the same form or as a component part of other property, in the United States, and does not directly or indirectly sell the property, either in the same form or as a component part of other property, for use or consumption in the United States.

(c) In the case of sales of services, the taxpayer establishes by preponderance of the evidence that the purchaser uses or consumes the services or the object of the services in a location other than the United States. If a purchaser will receive and use or consume the services or the object of the services both within and outside the United States, the sale is considered to be a sale of services or of the object of the services used or consumed outside the United States by the purchaser only to the extent of such proportionate use or consumption outside the United States. The taxpayer shall establish by preponderance of the evidence that the services or the object of the services was ultimately received and used or consumed outside the United States. Direct or indirect sales of services or the object of services to a related member do not meet the requirements of division (A)(2)(c) of this section unless the taxpayer establishes by clear and convincing evidence that within the twelve-month period subsequent to the sale to the related member, the related member in turn sold and delivered or rendered the services or the object of the services to a person who is not a related member and such person ultimately received and used or consumed the services or the object of the services outside the United States. In no

event shall a sale of services qualify as an export sale if the taxpayer or the taxpayer's related member directly or indirectly acquired such services from a person who is not a United States person and if the taxpayer or the taxpayer's related member in turn directly or indirectly sold such services in substantially the same form. For purposes of this section, services are sold in substantially the same form where more than fifty per cent of the fair market value of such services sold is attributable to services directly or indirectly purchased by the taxpayer or by the taxpayer's related member from a person who is not a United States person.

(3) "Incremental increase in export sales" means one-half of the difference obtained by subtracting the amount of the taxpayer's export sales for the second preceding taxable year from the amount of the taxpayer's export sales for the taxable year.

If the taxpayer's taxable year is a period of greater than or less than three hundred sixty-five days, or three hundred sixty-six days for a taxable year that includes February twenty-nine, the amount of the export sales for that taxable year shall be adjusted and restated to an annualized amount.

(4) Subject to divisions (C), (F)(1), (I), and (J) of this section, "Ohio payroll increase factor" means twelve and one-half multiplied by the difference obtained by subtracting two one-hundredths from the largest of the following quotients:

(a) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the immediately preceding taxable year, divided by the numerator of the payroll factor for the immediately preceding taxable year;

(b) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the second preceding taxable year, divided by the numerator of the payroll factor for the second preceding taxable year;

(c) The numerator of the payroll factor for the taxable year minus the numerator of the payroll factor for the third preceding taxable year, divided by the numerator of the payroll factor for the third preceding taxable year.

If the numerator of the payroll factor for a taxable year represents payroll for a period of greater than or less than three hundred sixty-five days, or three hundred sixty-six days for a taxable year that includes a twenty-ninth day of February, for purposes of this section the numerator for that taxable year shall be adjusted and restated to an annualized amount. If neither the taxpayer nor its related members were subject to the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code for any of the three immediately preceding taxable years, the numerator of the payroll factor for

any such year shall be considered to be one dollar.

In no event shall the Ohio payroll increase factor be greater than one or less than zero.

(5) Subject to divisions (C), (F)(2), and (I) of this section, "Ohio property increase factor" means ten multiplied by the largest of the following quotients:

(a) The numerator of the property factor for the taxable year minus the numerator of the property factor for the immediately preceding taxable year, divided by the numerator of the property factor for the immediately preceding taxable year;

(b) The numerator of the property factor for the taxable year minus the numerator of the property factor for the second preceding taxable year, divided by the numerator of the property factor for the second preceding taxable year;

(c) The numerator of the property factor for the taxable year minus the numerator of the property factor for the third preceding taxable year, divided by the numerator of the property factor for the third preceding taxable year.

If neither the taxpayer nor its related members were subject to the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code for any of the three immediately preceding taxable years, the numerator of the property factor for any such year shall be considered to be one dollar.

In no event shall the Ohio property increase factor be greater than one or less than zero.

(6) ~~"Pass-through entity" means a taxpayer's sole proprietorship, a partnership, a trust, an estate, a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under such Code, and any other entity through which income flows as a distributive share to the taxpayer.~~

~~(7)~~ Subject to divisions (C), (I), and (J) of this section, "payroll factor" has the same meaning as in division (B) of section 5747.21 of the Revised Code with any adjustments, exclusions, or alterations made in accordance with division (D) of that section and without regard to the credit provided by division (A) of section 5747.05 of the Revised Code.

~~(8)~~(7) "Pre-tax profit from the incremental increase in export sales" means fifteen per cent of the incremental increase in export sales, except that the taxpayer may establish by preponderance of the evidence that the pre-tax profit margin from such sales is an amount exceeding fifteen per cent but not exceeding fifty per cent. For purposes of this section, the pre-tax profit margin shall be determined on a product line by product line basis, and equals the quotient of the taxpayer's adjusted gross income with

respect to the product line, divided by the taxpayer's sales for the product line less sales returns, allowances, and discounts.

Nothing in division (A)~~(8)~~(7) of this section shall be used or construed to support a request under division (D) of section 5747.21 of the Revised Code.

~~(9)~~(8) Subject to divisions (C) and (I) of this section, "property factor" has the same meaning as in division (A) of section 5747.21 of the Revised Code with any adjustments, exclusions, or alterations made in accordance with division (D) of that section and without regard to the credit provided by division (A) of section 5747.05 of the Revised Code.

~~(10)~~(9) "Related member" has the same meaning as under division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

~~(11)~~(10) "Tentative credit" means the credit under division (B) of this section without regard to the limitations set forth in division (D) of this section.

~~(12)~~(11) "United States" means the United States and its territories and possessions.

~~(13)~~(12) "United States person" has the same meaning as under section 7701(A)(30) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed under ~~this chapter~~ section 5747.02 of the Revised Code. The credit shall be claimed in the order required under section 5747.98 of the Revised Code. Subject to divisions (D) and (G) of this section, the credit equals the sum of the following:

(1) For taxable years beginning in 1992 through taxable years beginning in 1999, ten per cent of the product obtained by multiplying all of the following together:

(a) The pre-tax profit from the incremental increase in export sales for the taxable year;

(b) The average of the property factor and the payroll factor for the taxable year;

(c) The greater of the Ohio payroll increase factor or the Ohio property increase factor.

(2) For taxable years beginning in 1993 through taxable years beginning in 2004, the sum of any amounts carried forward from taxable years beginning in 1992 through taxable years beginning in 1999 in accordance with division (E) of this section.

(C) For purposes of this section, a taxpayer's export sales and the numerators and denominators of the taxpayer's payroll and property factors

shall include the taxpayer's proportionate shares of the export sales and numerators and denominators of the payroll and property factors, respectively, for all pass-through entities. For purposes of applying this division, the tax commissioner shall be guided by the concepts set forth in section 41(f)(2) of the Internal Revenue Code and regulations prescribed thereunder.

Nothing in this division shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

(D) In no circumstance shall the credit provided by this section be less than zero.

If a taxpayer's tentative credit for a taxable year is greater than two hundred fifty thousand dollars or the taxpayer's tax due after taking into account any other nonrefundable credits that precede the credit under this section in the order required under section 5747.98 of the Revised Code, then the credit allowed to the taxpayer for the taxable year shall not exceed the lesser of two hundred fifty thousand dollars or the taxpayer's tax due after taking into account any other nonrefundable credits that precede the credit under this section in that order.

(E)(1) Pursuant to division (B)(2) of this section, the greater of the amount described in division (E)(1)(a) or the amount described in division (E)(1)(b) of this section shall be allowed as a nonrefundable credit for the taxpayer in ensuing taxable years:

(a) The excess, if any, of the tentative credit for the taxable year over two hundred fifty thousand dollars;

(b) The excess, if any, of the tentative credit for the taxable year over the tax due for the taxable year after taking into account any other nonrefundable credits that precede the credit under this section in the order required under section 5747.98 of the Revised Code.

(2) Any such amount allowed as a credit in an ensuing taxable year shall be deducted from the balance carried forward to the next ensuing taxable year. Such credit shall be taken into account prior to the allowance of any credit for such taxable year under division (B)(1) of this section. In no event shall any amount or any portion of any amount described in division (E)(1)(a) or (b) of this section be allowed in any taxable year beginning after December 31, 2004.

(F)(1) With respect to the computation of the Ohio payroll increase factor, divisions (A)(4)(b) and (c) of this section shall not apply to taxable years beginning in 1992 or 1993, and division (A)(4)(c) of this section shall

not apply to taxable years beginning in 1994.

(2) With respect to the computation of the Ohio property increase factor, divisions (A)(5)(b) and (c) of this section shall not apply to taxable years beginning in 1992 and 1993, and division (A)(5)(c) of this section shall not apply to taxable years beginning in 1994.

(G) The aggregate credit allowed to a taxpayer for taxable years beginning in 1992 through taxable years beginning in 2004 shall not exceed three million two hundred fifty thousand dollars.

(H) For purposes of divisions (E) and (G) and the limitations set forth in division (D) of this section, married taxpayers filing a joint return for the taxable year in accordance with section 6013 of the Internal Revenue Code each shall be considered to be a taxpayer. Each such taxpayer shall have an annual limitation on the amount of the credit of the lesser of two hundred fifty thousand dollars or that taxpayer's portion of the tax due, after taking into account all other nonrefundable credits provided by this chapter. Each such taxpayer's portion of the tax due after taking into account all other nonrefundable credits provided by this chapter, shall be the product of the tax due after allowance for the sum of all other nonrefundable credits and all refundable credits other than amounts withheld and estimated tax payments multiplied by the quotient of the tax that would have been due from the taxpayer after allowance for the sum of all other nonrefundable credits and all refundable credits other than amounts withheld and estimated tax payments if the taxpayer were not filing a joint return for the taxable year divided by the tax that would have been due from both the taxpayer and the taxpayer's spouse after allowance for the sum of all other nonrefundable credits and refundable credits other than amounts withheld and estimated tax payments if the taxpayer and spouse were not filing a joint return for the taxable year.

(I)(1) If a taxpayer acquires the major portion of a trade or business of another person or the major portion of a separate unit of a trade or business of another person, then for purposes of applying this section to the taxable year in which the acquisition occurred and subsequent taxable years, the amount of the taxpayer's export sales, payroll, subject to division (J) of this section, and property for periods before the acquisition shall be increased by so much of such amounts paid or incurred by the previous owner of the acquired trade, business, or separate unit as is attributable to the portion of such trade, business, or separate unit acquired by the taxpayer.

(2) If a taxpayer disposes of a major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction to which division (I)(1) of this section applies, and if the taxpayer furnished the

acquiring person such information as is necessary for the application of division (I)(1) of this section, then for purposes of applying this section to the taxable year in which the disposition occurred and to subsequent taxable years, the amount of the taxpayer's export sales, payroll, subject to division (J) of this section, and property for periods before the disposition shall be decreased by so much of such amounts as is attributable to the portion of such trade, business, or separate unit disposed of by the taxpayer.

(3) For purposes of applying this division, the tax commissioner shall be guided by the concepts set forth in section 41(f)(3) of the Internal Revenue Code and regulations prescribed thereunder.

(J) For purposes of this section, payroll and compensation do not include amounts in excess of two hundred thousand dollars directly or indirectly paid or accrued during the taxable year to an employee. For purposes of applying this division, the aggregate payroll and compensation directly or indirectly paid or accrued by an employer and by the employer's related members, if any, to an employee and to the employee's children, grandchildren, parents, and spouse, other than a spouse who is legally separated from the employee, shall be considered to be paid to the employee.

If the aggregate payroll and compensation paid or accrued by an employer and by an employer's related members during the taxable year to the employee exceeds two hundred thousand dollars, the employer's portion of such excess amount shall be the product of the excess amount multiplied by the quotient of the payroll and compensation paid or accrued by the employer during the taxable year to the employee divided by the aggregate payroll and compensation paid or accrued by the employer and by the employer's related members during the taxable year to the employee.

(K) With respect to allowing the credit provided by this section, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." The taxpayer shall bear the burden of establishing by preponderance of the evidence that any transaction giving rise to a claimed credit did not have as a principal purpose the avoidance of any portion of the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code.

Nothing in this section shall be construed to limit solely to this section the application of the doctrines listed in this division.

UNDETERMINED

Sec. 5747.059. (A) THIS SECTION APPLIES ONLY TO REDUCE THE TAX IMPOSED BY SECTION 5747.02 OF THE REVISED CODE.

(B) THERE IS HEREBY ALLOWED A REFUNDABLE CREDIT

against the tax imposed under section 5747.02 of the Revised Code. THIS CREDIT SHALL BE EQUAL TO THE TAXPAYER'S PROPORTIONATE SHARE OF THE LESSER OF EITHER THE TAX DUE OR THE TAX PAID UNDER SECTION 5733.41 OR 5747.41 of the Revised Code BY ANY QUALIFYING ENTITY as defined in section 5733.40 OF THE REVISED CODE FOR THE qualifying TAXABLE YEAR OF THE QUALIFYING ENTITY WHICH ENDS IN THE TAXABLE YEAR OF THE TAXPAYER.

(C) THE TAXPAYER SHALL CLAIM THE CREDIT FOR THE TAXPAYER'S TAXABLE YEAR IN WHICH ENDS THE qualifying ENTITY'S qualifying TAXABLE YEAR. FOR PURPOSES OF MAKING TAX PAYMENTS UNDER THIS CHAPTER, TAXES EQUAL TO THE AMOUNT OF THE CREDIT SHALL BE CONSIDERED TO BE PAID BY THE TAXPAYER TO THIS STATE ON THE DAy THAT the qualifying ENTITY PAYS TO THE TREASURER of state THE AMOUNT due PURSUANT TO section 5733.41 and sections 5747.41 to 5747.453 OF THE REVISED CODE WITH RESPECT TO AND FOR THE TAXPAYER.

(D) IN CLAIMING THE CREDIT AND DETERMINING The taxpayer's PROPORTIONATE SHARE OF THE TAX DUE AND THE TAX PAID BY ANY qualifying eNTITY, THE TAXPAYER SHALL FOLLOW THE CONCEPTS set forth IN SUBCHAPTERS J and K OF THE INTERNAL REVENUE CODE.

(E) THE CREDIT SHALL BE CLAIMED IN THE ORDER REQUIRED UNDER SECTION 5747.98 OF THE REVISED CODE. if the amount of the credit under this section exceeds the amount of tax otherwise due under section 5747.02 of the Revised Code after deduction of all other credits in that order, the taxpayer is entitled to a refund of the excess.

Sec. 5747.062. (A) The state lottery commission shall:

(1) Deduct and withhold from each lottery prize award payment that exceeds five thousand dollars an amount equal to three and one-half per cent of the payment, prior to making any other reduction required by Chapter 3770. of the Revised Code;

(2) On or before the tenth banking day of each month, file a return and remit to the tax commissioner all amounts deducted and withheld pursuant to this section during the preceding month. ~~As used in this section, "banking day" has the same meaning as in division (A)(3) of section 1304.01 of the Revised Code.~~

(3) On or before the thirty-first day of January of each year, file with the commissioner an annual return, in the form prescribed by the tax

commissioner, indicating the total amount deducted and withheld pursuant to this section during the preceding calendar year. At the time of filing that return, the state lottery commission shall remit any amount deducted and withheld during the preceding calendar year that was not previously remitted.

(4) Issue to each recipient of a lottery prize award from which the commission has deducted and withheld tax pursuant to this section during the preceding calendar year, an information return in the form prescribed by rule of the commissioner.

(B) Amounts withheld pursuant to this section shall be treated as a credit against any tax imposed upon the recipient of the lottery prize award pursuant to ~~this chapter~~ section 5747.02 of the Revised Code and shall be treated as paid by the recipient on the date on which those amounts are deducted and withheld by the commission. The credit shall be a refundable credit, applicable after subtracting all other credits to which the recipient may be entitled pursuant to this chapter.

(C) Failure of the commission to deduct and withhold the required amounts from lottery prize awards or to remit amounts withheld as required by this section shall not relieve a recipient of a lottery prize award from liability for the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code.

Sec. 5747.07. (A) As used in this section:

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

~~(2) "Month" means a calendar month.~~

~~(3)~~ "Partial weekly withholding period" means a period during which an employer directly, indirectly, or constructively pays compensation to, or credits compensation to the benefit of, an employee, and that consists of a consecutive Saturday, Sunday, Monday, and Tuesday or a consecutive Wednesday, Thursday, and Friday. There are two partial weekly withholding periods each week, except that a partial weekly withholding period cannot extend from one calendar year into the next calendar year; if the first day of January falls on a day other than Saturday or Wednesday, the partial weekly withholding period ends on the thirty-first day of December and there are three partial weekly withholding periods during that week.

~~(4)~~(2) "Undeposited taxes" means the taxes an employer is required to deduct and withhold from an employee's compensation pursuant to section 5747.06 of the Revised Code that have not been remitted to the tax commissioner pursuant to this section or to the treasurer of state pursuant to section 5747.072 of the Revised Code.

~~(5)~~(3) A "week" begins on Saturday and concludes at the end of the following Friday.

(B) Except as provided in divisions (C) and (D) of this section and in division (A) of section 5747.072 of the Revised Code, every employer required to deduct and withhold any amount under section 5747.06 of the Revised Code shall file a return and shall pay the amount required by law as follows:

(1) An employer who accumulates or is required to accumulate undeposited taxes of one hundred thousand dollars or more during a partial weekly withholding period shall make the payment of the undeposited taxes by the close of the first banking day after the day on which the accumulation reaches one hundred thousand dollars. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(2)(a) Except as required by division (B)(1) of this section, an employer described in division (B)(2)(b) of this section shall make the payment of undeposited taxes within three banking days after the close of a partial weekly withholding period during which the employer was required to deduct and withhold any amount under this chapter. If required under division (I) of this section, the payment shall be made by electronic funds transfer under section 5747.072 of the Revised Code.

(b) For amounts required to be deducted and withheld during 1994, an employer described in division (B)(2)(b) of this section is one whose actual or required payments under this section exceeded one hundred eighty thousand dollars during the twelve-month period ending June 30, 1993. For amounts required to be deducted and withheld during 1995 and each year thereafter, an employer described in division (B)(2)(b) of this section is one whose actual or required payments under this section were at least eighty-four thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year.

(3) Except as required by divisions (B)(1) and (2) of this section, if an employer's actual or required payments were more than two thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year, the employer shall make the payment of undeposited taxes for each month during which they were required to be withheld no later than fifteen days following the last day of that month. The employer shall file the return prescribed by the tax commissioner with the payment.

(4) Except as required by divisions (B)(1), (2), and (3) of this section, an employer shall make the payment of undeposited taxes for each calendar

quarter during which they were required to be withheld no later than the last day of the month following the last day of March, June, September, and December each year. The employer shall file the return prescribed by the tax commissioner with the payment.

(C) The return and payment schedules prescribed by divisions (B)(1) and (2) of this section do not apply to the return and payment of undeposited school district income taxes arising from taxes levied pursuant to Chapter 5748. of the Revised Code. Undeposited school district income taxes shall be returned and paid pursuant to divisions (B)(3) and (4) of this section, as applicable.

(D)(1) The requirements of division (B) of this section are met if the amount paid is not less than ninety-five per cent of the actual tax withheld or required to be withheld for the prior quarterly, monthly, or partial weekly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid within thirty days of the date on which the withheld tax was due without regard to division (D)(1) of this section. An employer described in division (B)(1) or (2) of this section shall make the payment by electronic funds transfer under section 5747.072 of the Revised Code.

(2) If the tax commissioner believes that quarterly or monthly payments would result in a delay that might jeopardize the remittance of withholding payments, ~~he~~ the commissioner may order that the payments be made weekly, or more frequently if necessary, and the payments shall be made no later than three banking days following the close of the period for which the jeopardy order is made. An order requiring weekly or more frequent payments shall be delivered to the employer personally or by certified mail and remains in effect until the commissioner notifies the employer to the contrary.

(3) If compelling circumstances exist concerning the remittance of undeposited taxes, the commissioner may order the employer to make payments under any of the payment schedules under division (B) of this section. The order shall be delivered to the employer personally or by certified mail and shall remain in effect until the commissioner notifies the employer to the contrary. For purposes of division (D)(3) of this section, "compelling circumstances" exist if either or both of the following are true:

(a) Based upon annualization of payments made or required to be made during the preceding calendar year and during the current calendar year, the employer would be required for the next calendar year to make payments under division (B)(2) of this section.

(b) Based upon annualization of payments made or required to be made

during the current calendar year, the employer would be required for the next calendar year to make payments under division (B)(2) of this section.

(E)(1) An employer described in division (B)(1) or (2) of this section shall file, not later than the last day of the month following the end of each calendar quarter, a return covering, but not limited to, both the actual amount deducted and withheld and the amount required to be deducted and withheld for the tax imposed under ~~this chapter~~ section 5747.02 of the Revised Code during each partial weekly withholding period or portion of a partial weekly withholding period during that quarter. The employer shall file the quarterly return even if the aggregate amount required to be deducted and withheld for the quarter is zero dollars. At the time of filing the return, the employer shall pay any amounts of undeposited taxes for the quarter, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. If required under division (I) of this section, the payment shall be made by electronic funds transfer. The tax commissioner shall prescribe the form and other requirements of the quarterly return.

(2) In addition to other returns required to be filed and payments required to be made under this section, every employer required to deduct and withhold taxes shall file, not later than the thirty-first day of January of each year, an annual return covering, but not limited to, both the aggregate amount deducted and withheld and the aggregate amount required to be deducted and withheld during the entire preceding year for the tax imposed under ~~this chapter~~ section 5747.02 of the Revised Code and for each tax imposed under Chapter 5748. of the Revised Code. At the time of filing that return, the employer shall pay over any amounts of undeposited taxes for the preceding year, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. The employer shall make the annual report, to each employee and to the tax commissioner, of the compensation paid and each tax withheld, as the commissioner by rule may prescribe.

Each employer required to deduct and withhold any tax is liable for the payment of that amount required to be deducted and withheld, whether or not the tax has in fact been withheld, unless the failure to withhold was based upon the employer's good faith in reliance upon the statement of the employee as to liability, and the amount shall be deemed to be a special fund in trust for the general revenue fund.

(F) Each employer shall file with ~~his~~ the employer's annual return the following items of information on employees for whom withholding is required under section 5747.06 of the Revised Code:

(1) The full name of each employee, ~~his~~ the employee's address, ~~his~~ the employee's school district of residence, and in the case of a nonresident employee, ~~his~~ the employee's principal county of employment;

(2) The social security number of each employee;

(3) The total amount of compensation paid before any deductions to each employee for the period for which the annual return is made;

(4) The amount of the tax imposed by section 5747.02 of the Revised Code and the amount of each tax imposed under Chapter 5748. of the Revised Code~~,~~ withheld from the compensation of the employee for the period for which the annual return is made. The commissioner may extend upon good cause the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions of time. If the extension results in an extension of time for the payment of the amounts withheld with respect to which the return is filed, the employer shall pay, at the time the amount withheld is paid, an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount withheld, from the ~~time~~ day that amount was originally required to be paid to the ~~time~~ day of actual payment or to the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

(5) In addition to all other interest charges and penalties imposed, all amounts of taxes withheld or required to be withheld and remaining unpaid after the ~~time~~ day the amounts are required to be paid shall bear interest from the date prescribed for payment at the rate per annum prescribed by section 5703.47 of the Revised Code on the amount unpaid, in addition to the amount withheld, until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first.

(G) An employee of a corporation, limited liability company, or business trust having control or supervision of or charged with the responsibility of filing the report and making payment, or an officer, member, manager, or trustee of a corporation, limited liability company, or business trust who is responsible for the execution of the corporation's, limited liability company's, or business trust's fiscal responsibilities, shall be personally liable for failure to file the report or pay the tax due as required by this section. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay tax due.

(H) If an employer required to deduct and withhold income tax from compensation and to pay that tax to the state under sections 5747.06 and

5747.07 of the Revised Code sells ~~his~~ the employer's business or stock of merchandise or quits ~~his~~ the employer's business, the taxes required to be deducted and withheld and paid to the state pursuant to those sections prior to that time, together with any interest and penalties imposed on those taxes, become due and payable immediately, and that person shall make a final return within fifteen days after the date of selling or quitting business. ~~His~~ The employer's successor shall withhold a sufficient amount of the purchase money to cover the amount of the taxes, interest, and penalties due and unpaid, until the former owner produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid or a certificate indicating that no such taxes are due. If the purchaser of the business or stock of merchandise fails to withhold purchase money, ~~he~~ the purchaser shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the former owner. If the amount of taxes, interest, and penalties outstanding at the time of the purchase exceeds the total purchase money, the tax commissioner in ~~his~~ the commissioner's discretion may adjust the liability of the seller or the responsibility of the purchaser to pay that liability to maximize the collection of withholding tax revenue.

(I)(1) An employer described in division (I)(2) of this section shall make all payments required by this section for the year by electronic funds transfer under section 5747.072 of the Revised Code.

(2)(a) For 1994, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1993.

(b) For 1995, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded five hundred thousand dollars during the twelve-month period ending June 30, 1994.

(c) For 1996, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded three hundred thousand dollars during the twelve-month period ending June 30, 1995.

(d) For 1997 and thereafter, an employer described in division (I)(2) of this section is one whose actual or required payments under this section exceeded one hundred eighty thousand dollars during the twelve-month period ending on the thirtieth day of June of the preceding calendar year.

Sec. 5747.072. (A) Any employer required by section 5747.07 of the Revised Code to remit undeposited taxes by electronic funds transfer shall

do so in the manner prescribed by rules adopted by the treasurer of state under section 113.061 of the Revised Code and on or before the dates specified under that division. The tax commissioner shall notify each such employer of the employer's obligation to remit undeposited taxes by electronic funds transfer, shall maintain an updated list of those employers, and shall provide the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify an employer subject to this section to remit taxes by electronic funds transfer does not relieve the employer of its obligation to remit taxes by electronic funds transfer.

Except as otherwise provided in this paragraph, the payment of taxes by electronic funds transfer does not affect an employer's obligation to file the quarterly return as required under division (E)(1) of section 5747.07 of the Revised Code or the annual return as required under divisions (E)(2) and (F) of that section. If the employer remits estimated tax payments in a manner, designated by the treasurer of state, that permits the inclusion of all information necessary for the treasurer of state to process the tax payment, the employer need not file the return required under division (B) of section 5747.07 of the Revised Code. The treasurer of state, in consultation with the tax commissioner, may adopt rules governing the format for filing the returns under section 5747.07 of the Revised Code by employers who remit undeposited taxes by electronic funds transfer. The rules may permit the filing of returns at less frequent intervals than required by that division if the treasurer of state and the tax commissioner determine that remittance by electronic funds transfer warrants less frequent filing of returns.

An employer required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state to be excused from that requirement. The treasurer of state may excuse the employer from remittance by electronic funds transfer for good cause shown for the period of time requested by the employer or a portion of that period. The treasurer shall notify the tax commissioner and the employer of the treasurer's decision as soon as is practicable.

(B) If an employer required by this section to remit undeposited taxes by electronic funds transfer remits those taxes by some means other than electronic funds transfer as prescribed by the rules adopted by the treasurer of state, and the treasurer determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may collect an additional charge by

assessment in the manner prescribed by section 5747.13 of the Revised Code. The additional charge shall equal five per cent of the amount of the undeposited taxes, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed by this chapter, and shall be considered as revenue arising from the ~~tax~~ taxes imposed by this chapter. The tax commissioner may remit all or a portion of such a charge and may adopt rules governing such remission.

No additional charge shall be assessed under this division against an employer that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the employer remits by some means other than electronic funds transfer.

Sec. 5747.08. An annual return with respect to the tax imposed by section 5747.02 of the Revised Code and each tax imposed under Chapter 5748. of the Revised Code shall be made by every taxpayer for any taxable year for which the taxpayer is liable for the tax imposed by that section or under that chapter, unless the total credits allowed under divisions (E), (F), and (G) of section 5747.05 of the Revised Code for the year are equal to or exceed the tax imposed by section 5747.02 of the Revised Code, in which case no return shall be required unless the taxpayer is liable for a tax imposed pursuant to Chapter 5748. of the Revised Code.

(A) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(B) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(C) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(D) ~~The tax commissioner shall provide by rule that any partnership or limited liability company~~ (1) Any pass-through entity having two or more nonresident ~~partners or members~~ pass-through entity investors who derive no taxable income from this state, other than a distributive share of the ~~partnership or limited liability company~~ pass-through entity income, may file a single return on behalf of all or some of those ~~partners or members~~

pass-through entity investors who are individuals or estates. The single return shall set forth the name, address, and social security number of each ~~partner or member~~ pass-through entity investor of that nature and shall indicate the distributive share of each ~~partner's or member's~~ pass-through entity investor's income taxable in this state ~~together with the number of exemptions to which each partner or member is entitled. The tax shall be computed and a~~ IN ACCORDANCE WITH SECTIONS 5747.20 TO 5747.231 OF THE REVISED CODE. SUCH NONRESIDENT PASS-THROUGH ENTITY INVESTORS FOR WHOM THE PASS-THROUGH ENTITY ELECTS TO FILE A SINGLE RETURN are NOT ENTITLED TO THE EXEMPTION or credit PROVIDED FOR BY SECTIONS 5747.02 AND 5747.022 OF THE REVISED CODE; SHALL CALCULATE THE TAX BEFORE BUSINESS CREDITS AT THE HIGHEST RATE OF TAX SET FORTH IN SECTION 5747.02 OF THE REVISED CODE FOR THE TAXABLE YEAR FOR WHICH THE RETURN IS FILED; AND are ENTITLED TO only THEIR DISTRIBUTIVE SHARE OF THE BUSINESS CREDITS as defined in division (d)(2) of this section. A single check drawn by the ~~partnership or limited liability company~~ pass-through entity shall accompany the return in full payment of the tax due. ~~The commissioner may similarly provide for~~ Such a pass-through entity also shall make the filing and payment of estimated taxes on behalf of those nonresident ~~partners or members~~ pass-through ENTITY investors.

(2) FOR the PURPOSES OF THIS SECTION, "BUSINESS CREDITS" MEANS THE CREDITS LISTED IN SECTION 5747.98 OF THE REVISED CODE EXCLUDING THE FOLLOWING credits:

(a) THE RETIREMENT CREDIT UNDER DIVISION (B) OF SECTION 5747.055 OF THE REVISED CODE;

(b) THE SENIOR CITIZEN CREDIT UNDER DIVISION (C) OF SECTION 5747.05 OF THE REVISED CODE;

(c) THE LUMP SUM DISTRIBUTION CREDIT UNDER DIVISION (D) OF SECTION 5747.05 OF THE REVISED CODE;

(d) THE DEPENDENT CARE CREDIT UNDER SECTION 5747.054 OF THE REVISED CODE;

(e) THE LUMP SUM RETIREMENT INCOME CREDIT UNDER DIVISION (C) OF SECTION 5747.055 OF THE REVISED CODE;

(f) THE LUMP SUM RETIREMENT INCOME CREDIT UNDER DIVISION (D) OF SECTION 5747.055 OF THE REVISED CODE;

(g) THE LUMP SUM RETIREMENT INCOME CREDIT UNDER DIVISION (E) OF SECTION 5747.055 OF THE REVISED CODE;

(h) THE CREDIT FOR DISPLACED WORKERS WHO PAY FOR JOB TRAINING UNDER SECTION 5747.27 OF THE REVISED CODE;

(i) THE TWENTY-DOLLAR PERSONAL EXEMPTION CREDIT UNDER SECTION 5747.022 OF THE REVISED CODE;

(j) THE JOINT FILING CREDIT UNDER DIVISION (G) OF SECTION 5747.05 OF THE REVISED CODE;

(k) THE NONRESIDENT CREDIT UNDER DIVISION (A) OF SECTION 5747.05 OF THE REVISED CODE;

(l) THE CREDIT FOR A RESIDENT'S OUT-OF-STATE INCOME UNDER DIVISION (B) OF SECTION 5747.05 OF THE REVISED CODE.

(3) THE ELECTION PROVIDED FOR under DIVISION (d) of this section applies ONLY to THE TAXABLE YEAR FOR WHICH the election is MADE BY THE PASS-THROUGH ENTITY. UNLESS THE TAX COMMISSIONER PROVIDES OTHERWISE, THIS ELECTION, ONCE MADE, IS BINDING AND IRREVOCABLE FOR THE TAXABLE YEAR FOR WHICH the election is MADE. NOTHING IN THIS DIVISION SHALL BE CONSTRUED TO PROVIDE FOR ANY DEDUCTION OR CREDIT that WOULD NOT BE ALLOWABLE IF a NONRESIDENT PASS-THROUGH ENTITY INVESTOR WERE TO FILE AN ANNUAL RETURN.

(4) IF A PASS-THROUGH ENTITY MAKES THE ELECTION PROVIDED FOR under DIVISION (d) of this section, THE PASS-THROUGH ENTITY SHALL BE LIABLE FOR ANY ADDITIONAL TAXes, interest, INTEREST penalty, OR PENALTies IMPOSED BY THIS CHAPTER if THE TAX COMMISSIONER DETERMINEs THAT THE SINGLE RETURN DOES NOT REFLECT THE CORRECT TAX DUE BY NONRESIDENT PASS-THROUGH ENTITY INVESTORS COVERED BY THAT RETURN. NOTHING IN THIS DIVISION SHALL BE CONSTRUED TO LIMIT OR ALTER THE LIABILITY, IF ANY, IMPOSED ON PASS-THROUGH ENTITY INVESTORS FOR UNPAID OR UNDERPAID TAXES, interest, INTEREST penalty, OR PENALTies AS A RESULT OF THE PASS-THROUGH ENTITY'S MAKING THE ELECTION PROVIDED FOR under DIVISION (d) of this section. FOR the PURPOSES OF DIVISION (d) of this section, "CORRECT TAX DUE" MEANS THE TAX THAT WOULD HAVE BEEN PAID BY THE PASS-THROUGH ENTITY HAD THE SINGLE RETURN BEEN FILED IN A MANNER REFLECTING AND INCLUDING THE FINDINGS AND DETERMINATIONS MADE BY THE TAX COMMISSIONER. NOTHING IN DIVISION (d) of this section SHALL BE CONSTRUED TO

MAKE OR HOLD A PASS-THROUGH ENTITY LIABLE FOR TAX ATTRIBUTABLE TO A PASS-THROUGH ENTITY INVESTOR'S INCOME FROM A SOURCE OTHER THAN THE PASS-THROUGH ENTITY ELECTING TO FILE THE SINGLE RETURN.

(E) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several, but, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a return pursuant to this chapter, they may elect to file separate or joint returns, and, pursuant to that election, their liabilities are separate or joint and several. If a husband and wife file separate returns pursuant to this chapter, each must claim ~~his or her~~ the taxpayer's own exemption, but not both, as authorized under section 5747.02 of the Revised Code on ~~his or her~~ the taxpayer's own return.

(F) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The tax commissioner shall prescribe the form that the signature and declaration shall take.

(G) Each return or notice required to be filed under this section shall be made and filed as required by section 5747.04 of the Revised Code, on or before the fifteenth day of April of each year, on forms that the tax commissioner shall prescribe, together with remittance made payable to the treasurer of state in the combined amount of the state and all school district income taxes shown to be due on the form, unless the combined amount shown to be due is one dollar or less, in which case that amount need not be remitted. returns for taxable years for which a reduction in the tax due is made under division (b) of section 5747.02 of the Revised Code shall include the following statement: "the tax on this line reflects a .....% (here enter the percentage reduction described in division (b) of section 5747.02 of the Revised Code) reduction under legislation enacted by the general assembly requiring the return of excess state revenue to taxpayers." the statement shall appear in boldface type and shall be placed in a prominent location on the return in the vicinity of the location where the amount of tax due, before any credits or amounts withheld, is entered.

Upon good cause shown, the commissioner may extend the period for filing any notice or return required to be filed under this section and may

adopt rules relating to extensions. If the extension results in an extension of time for the payment of any state or school district income tax liability with respect to which the return is filed, the taxpayer shall pay at the time the tax liability is paid an amount of interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that liability from the time that payment is due without extension to the time of actual payment. In addition to all other interest charges and penalties, all taxes imposed by ~~this chapter~~ section 5747.02 of the Revised Code or under Chapter 5748. of the Revised Code and remaining unpaid after they become due, except combined amounts due of one dollar or less, bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code until paid or until the day an assessment is issued under section 5747.13 of the Revised Code, whichever occurs first. If the commissioner considers it necessary in order to ensure the payment of the tax imposed by section 5747.02 of the Revised Code or any tax imposed under Chapter 5748. of the Revised Code, the commissioner may require returns and payments to be made otherwise than as provided in this section.

(H) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the agency, officer, or office with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment.

If a payment is required to be made by electronic funds transfer pursuant to section 5747.072 of the Revised Code, the payment is considered to be made when the payment is received by the treasurer of state or credited to an account designated by the treasurer of state for the receipt of tax payments.

"The date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(I) The amounts withheld by the employer pursuant to section 5747.06 of the Revised Code shall be allowed to the recipient of the compensation as credits against payment of the appropriate taxes imposed on the recipient by section 5747.02 and under Chapter 5748. of the Revised Code.

Sec. 5747.11. (A) The tax commissioner shall refund to employers, qualifying entities, or taxpayers, with respect to any tax imposed under ~~this~~

~~chapter~~ section 5733.41, 5747.02, or 5747.41, or Chapter 5748. of the Revised Code:

~~(A)~~(1) Overpayments of more than one dollar;

~~(B)~~(2) Amounts in excess of one dollar paid illegally or erroneously;

~~(C)~~(3) Amounts in excess of one dollar paid on an illegal, erroneous, or excessive assessment.

~~Applications~~ (b) EXCEPT as otherwise provided under divisions (D) and (E) of this section, applications for refund shall be filed with the tax commissioner, on the form prescribed by ~~him~~ the commissioner, within four years from the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (B)(3)(b) ~~or~~ of section 5747.05, division (B) of section 5747.10, ~~or~~ division (A) of section 5747.13, or division (C) of section 5747.45 of the Revised Code.

On filing of the refund application, the commissioner shall determine the amount of refund due and certify such amount to the director of budget and management and treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code.

(C)(1) Interest shall be allowed and paid upon any illegal or erroneous assessment in excess of one dollar in respect of the tax imposed under ~~this chapter~~ section 5747.02 or ~~under~~ Chapter 5748. of the Revised Code at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of the payment of the illegal or erroneous assessment until the date the refund of such amount is paid. If such refund results from the filing of a return or report, or the payment accompanying such return or report, by an employer or taxpayer, rather than from an assessment by the commissioner, such interest shall run from a period ninety days after the final filing date of the annual return until the date the refund is paid.

(2) Interest shall be allowed and paid at the rate per annum prescribed by section 5703.47 of the Revised Code upon any overpayment in excess of one dollar in respect of the tax imposed ~~by this chapter~~ under section 5747.02 or ~~under~~ Chapter 5748. of the Revised Code from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the return is filed, whichever is later, no interest shall be allowed on such overpayment. If the overpayment results from the carryback of a net operating loss or net capital loss to a previous taxable year, the overpayment is deemed not to have been made prior to the filing date, including any extension thereof, for the taxable year in which the net operating loss or net capital loss arises. For purposes of the payment of interest on overpayments, no amount of tax, for any taxable year, shall be

ated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing such return.

(3) interest shall be allowed at the rate per annum prescribed by section 5703.47 of therevisedcode on amounts refunded with respect to the taxes imposed under sections 5733.41 and 5747.41 of therevisedcode. the interest shall run from whichever of the following days is the latest until the day the refund is paid: the day the illegal, erroneous, or excessive payment was made; the ninetieth day after the final day the annual report was required to be filed under section 5747.42 of therevisedcode; or the ninetieth day after the day that report was filed.

(D) "NINETY DAYS" SHALL BE SUBSTITUTED FOR "FOUR YEARS" IN DIVISION (B) OF THIS SECTION IF the taxpayer satisfies BOTH OF THE FOLLOWING CONDITIONS:

(1) THE TAXPAYER HAS APPLIED FOR A REFUND BASED IN WHOLE OR IN PART UPON SECTION 5747.059 OF THE REVISED CODE;

(2) THE TAXPAYER ASSERTS THAT EITHER THE IMPOSITION OR COLLECTION OF THE TAX IMPOSED OR CHARGED BY THIS CHAPTER OR ANY PORTION OF SUCH TAX VIOLATES THE CONSTITUTION OF THE UNITED STATES OR THE CONSTITUTION OF OHIO.

(E)(1) DIVISION (E)(2) OF THIS SECTION APPLies ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE satisfied:

(a) A QUALIFYING ENTITY PAYS AN AMOUNT OF THE TAX IMPOSED BY section 5733.41 or 5747.41 OF THE REVISED CODE;

(b) THE TAXPAYER IS A QUALIFYING INVESTOR AS TO THAT QUALIFYING ENTITY;

(c) THE TAXPAYER DID NOT CLAIM THE CREDIT PROVIDED FOR IN SECTION 5747.059 OF THE REVISED CODE AS TO THE TAX DESCRIBED IN DIVISION (E)(1)(a) OF THIS SECTION;

(d) THE FOUR-YEAR PERIOD DESCRIBED IN DIVISION (B) OF THIS SECTION HAS ended AS TO THE TAXABLE YEAR FOR WHICH THE TAXPAYER OTHERWISE WOULD HAVE CLAIMED that CREDIT.

(2) A TAXPAYER SHALL FILE AN APPLICATION FOR REFUND PURSUANT TO DIVISION (E) of this section WITHIN ONE YEAR AFTER THE DATE THE PAYMENT DESCRIBED IN DIVISION (E)(1)(a) OF THIS SECTION IS MADE. AN APPLICATION FILED UNDER DIVISION (E)(2) OF THIS SECTION SHALL CLAIM REFUND only OF OVERPAYMENTS RESULTING FROM THE TAXPAYER'S

ILURE TO CLAIM THE CREDIT DESCRIBED IN DIVISION (E)(1)(c) OF THIS SECTION. NOTHING IN DIVISION (E) of this section SHALL BE CONSTRUED TO RELIEVE A TAXPAYER FROM COMPLYING WITH DIVISION (A)(16) OF SECTION 5747.01 OF THE REVISED CODE.

Sec. 5747.12. ~~Any refund, including interest thereon, that~~if a person ~~is~~ entitled to a refund under section 5747.11 or 5747.13 of the Revised Code ~~shall be reduced by the amount of~~ is indebted to this state for any tax ~~indebtedness due the~~ or fee administered by the tax commissioner that is paid to the state ~~from~~ or to the clerk of courts pursuant to section 4505.06 of the Revised Code, or any charge, penalty, or interest arising from such a tax or fee, the ~~person. The~~ amount ~~of such reduction shall~~ refundable may be applied in satisfaction of ~~such indebtedness~~ the debt. If the amount refundable is less than the amount of ~~such indebtedness~~ the debt, it ~~shall~~ may be applied in partial satisfaction of ~~such indebtedness~~ the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded. If the person has more than one such debt, any debt subject to section 5739.33 or division (G) of section 5747.07 of the Revised Code shall be satisfied first. This section applies only to debts that have become final.

The tax commissioner may, with the consent of the taxpayer, provide for the crediting, against tax imposed under this chapter or Chapter 5748. of the Revised Code and due for any taxable year, of the amount of any refund due the taxpayer under this chapter or Chapter 5748. of the Revised Code, as appropriate, for a preceding taxable year.

~~As used in this section, "tax indebtedness due the state" or "such indebtedness" means the unpaid portion of an assessment for any tax, penalty, or interest payable to the general revenue fund or imposed under this chapter, to the extent such assessment has become conclusive and has been or otherwise would be brought to judgment, together with any additional penalties or interest accrued.~~

Sec. 5747.13. (A) If any employer collects the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code and fails to remit the tax as required by law, or fails to collect the tax, ~~he~~the employer is personally liable for any amount collected which ~~he~~ the employer fails to remit, or any amount which ~~he~~ the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by section 5747.02 or under Chapter 5748. of the Revised Code, ~~he~~ the taxpayer is personally liable for the amount of the tax.

If any employer ~~or,~~ taxpayer, or qualifying entity required to file a

return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credit allowed under division (B) of section 5747.05 of the Revised Code together with interest on the additional tax within the time prescribed by that division, the tax commissioner may make an assessment against any person liable for any deficiency for the period for which the return is or taxes are due, based upon any information in the commissioner's possession.

An assessment issued against either the employer or the taxpayer pursuant to this section shall not be considered an election of remedies or a bar to an assessment against the other for failure to report or pay the same tax. No assessment shall be issued against any person if the tax actually has been paid by another.

No assessment shall be made or issued against an employer ~~or,~~ taxpayer, or qualifying entity more than four years after the final date the return subject to assessment was required to be filed or the date the return was filed, whichever is later. However, the commissioner may assess any balance due as the result of a reduction in the credit allowed under division (B) of section 5747.05 of the Revised Code, including applicable penalty and interest, within four years of the date on which the taxpayer reports a change in either the portion of the taxpayer's adjusted gross income subjected to an income tax or tax measured by income in another state or the District of Columbia or the amount of liability for an income tax or tax measured by income to another state or the District of Columbia, as required by division (B)(3) of section 5747.05 of the Revised Code. Such time limits may be extended if both the employer ~~or,~~ taxpayer, or qualifying entity and the commissioner consent in writing to the extension. Any such extension shall extend the four-year time limit in division (B) of section 5747.11 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against an employer for taxes withheld from employees and not remitted to the state, against an employer ~~or,~~ taxpayer ~~who~~, or qualifying entity that fails to file a return subject to assessment as required by this chapter, or against an employer ~~or,~~ taxpayer ~~who~~, or qualifying entity that files a fraudulent return.

The commissioner shall give the party assessed written notice of the assessment by personal service or certified mail. ~~Any portion of the assessment not paid within thirty days after service of the notice of assessment shall, in lieu of bearing subsequent interest as provided in division (G) of section 5747.08 of the Revised Code, bear interest at the rate~~

~~per annum prescribed by section 5703.47 of the Revised Code from the thirty-first day after service of the notice of assessment until the date the portion is paid.~~

(B) Unless the party to whom the notice of assessment is directed files with the commissioner within thirty days after service of the notice of assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ the party's authorized agent having knowledge of the facts and makes payment of the portion of the assessment required by division (E) of this section, the assessment shall become ~~conclusive~~ final, and the amount of the assessment shall be due and payable from the party assessed to the commissioner with remittance made payable to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ an assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ A final determination on the petitioner by personal service or certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the employer's ~~or,~~ taxpayer's, or qualifying entity's place of business is located or the county in which the party assessed resides. If the party assessed is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the party assessed in the amount shown on the entry. The judgment shall be filed by the clerk in ~~a~~ one of two loose-leaf ~~book~~ books, one entitled "special judgments for state and school district income taxes," and the other entitled "special judgments for qualifying entity taxes." The

judgment shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of the assessment not paid within thirty days after the assessment was issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall be issued upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected under this section shall be considered as revenue arising from the taxes imposed by this chapter or ~~under~~ Chapter 5733. or 5748. of the Revised Code, as appropriate.

(E) The portion of an assessment which must be paid upon the filing of a petition for reassessment shall be as follows:

(1) If the sole item objected to is the assessed penalty or interest, full payment of the assessment including penalty and interest is required;

(2) If the taxpayer or qualifying entity that is assessed failed to file, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, any amended return or amended report required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, or any report required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the credit provided under that division, full payment of the assessment including penalty and interest is required, except as otherwise provided under division (E)(6) or (7) of this section;

(3) If the employer assessed had not filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, full payment of the assessment including penalty and interest is required;

(4) If the taxpayer or qualifying entity that is assessed filed, prior to the date of issuance of the assessment, the annual return or report required by section 5747.08 or 5747.42 of the Revised Code, all amended returns or reports required by section 5747.10 or 5747.45 of the Revised Code for the taxable year at issue, and all reports required by division (B) of section 5747.05 of the Revised Code to indicate a reduction in the amount of the

credit provided under that division, and a balance of the taxes shown due on the returns or reports as computed on the returns or reports remains unpaid, payment of only that portion of the assessment representing the unpaid balance is required;

(5) If the employer assessed filed, prior to the date of issuance of the assessment, the annual return required by division (E)(2) of section 5747.07 of the Revised Code covering the period at issue, and a balance of the taxes shown due on the return as computed on the return remains unpaid, payment of only that portion of the assessment representing the unpaid balance is required;

(6) in the case of a party assessed as a qualifying entity subject to the tax levied under section 5733.41 or 5747.41 of therevisedcode, if the party does not dispute that it is a qualifying entity subject to that tax but claims the protections of section 101 ofpubliclaw 86-272, 73stat. 555, 15 U.S.C.A. 381, as amended, no payment is required;

(7) in the case of a party assessed as a qualifying entity subject to the tax levied under section 5733.41 or 5747.41 of therevisedcode, if the party does dispute that it is a qualifying entity subject to that tax, no payment is required;

(8) If none of the conditions specified in divisions (E)(1) to ~~(5)~~(7) of this section apply, no payment is required.

(F) Notwithstanding the fact that a petition for reassessment is pending, the petitioner may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the portion paid, there shall be issued to the petitioner~~, his~~ or to the petitioner's assigns~~,~~ or legal representative a refund in the amount of the overpayment as provided by section 5747.11 of the Revised Code, with interest on that amount as provided by such section, subject to section 5747.12 of the Revised Code.

Sec. 5747.131. in making any assessment of additional tax, penalty, or interest under this chapter, the tax commissioner may apply the doctrines of "economic reality," "sham transaction," "step doctrine," or "substance over form." to the extent the tax commissioner applies such doctrines in MAKING an assessment of additional tax, penalty, or interest under this CHAPTER, the tax commissioner bears the burden of establishing by a

preponderance of the evidence that those doctrines should apply.

Sec. 5747.14. If the tax commissioner finds that an employer, qualifying entity, or taxpayer liable for any tax imposed under section 5733.41, this chapter, or Chapter 5748. of the Revised Code is about to depart from the state, to remove ~~his~~ the employer's, qualifying entity's, or taxpayer's property therefrom, to conceal ~~himself~~ the employer's, qualifying entity's, or taxpayer's self or ~~his~~ the employer's, qualifying entity's, or taxpayer's property, or to do any other act tending to prejudice or render wholly or ~~party~~ PARTLY ineffectual proceedings to collect such tax, unless such proceedings are brought without delay, or if the commissioner believes that the collection of the amount due from any employer, qualifying entity, or taxpayer will be jeopardized by delay, ~~he~~ the commissioner shall give notice of such findings to such employer, qualifying entity, or taxpayer together with the demand for an immediate return and immediate payment of such tax, with an assessment and penalty, if applicable as provided in section 5747.13 of the Revised Code, whereupon such tax shall become immediately due and payable. In such cases the commissioner may immediately file ~~his~~ the commissioner's entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5747.13 of the Revised Code, provided that if such employer, qualifying entity, or taxpayer, within five days from notice of the assessment, furnishes evidence satisfactory to the commissioner, under the rules prescribed by the commissioner, that ~~he~~ the employer, qualifying entity, or taxpayer is not in default in making returns or paying or collecting any tax prescribed by this chapter or that ~~he~~ the employer, qualifying entity, or taxpayer will duly return and pay, or post bond satisfactory to the commissioner conditioned upon payment of the tax finally determined to be due, such tax shall not be payable prior to the time and manner otherwise fixed for payment under section 5747.13 of the Revised Code, and the person assessed shall be restored to the rights granted ~~him~~ the person under such section. Upon satisfaction of the assessment the commissioner shall order the bond canceled, securities released, and judgment vacated.

Sec. 5747.15. (A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply:

(1) If a taxpayer, qualifying entity, or employer required to file any report or return, including an informational notice, report, or return, under this chapter fails to make and file the report or return within the time prescribed, including any extensions of time granted by the tax commissioner, a penalty shall be imposed equal to the greater of fifty dollars

per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the sum of the taxes required to be shown on the report or return, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which filed.

(2) If a taxpayer fails to pay any amount of tax required to be paid under ~~this chapter~~ section 5733.41 or 5747.41 or Chapter 5748. of the Revised Code, except estimated tax under section 5747.09 or 5747.43 of the Revised Code, by the dates prescribed for payment, a penalty shall be imposed equal to twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(3)(a) If an employer fails to pay any amount of tax imposed by section 5747.02 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty shall be imposed equal to the sum of ten per cent of the delinquent payment plus twice the interest charged under division (F)(5) of section 5747.07 of the Revised Code for the delinquent payment.

(b) If a qualifying entity fails to pay any amount of tax imposed by section 5733.41 or 5747.41 of the Revised Code and required to be paid under this chapter by the dates prescribed for payment, a penalty shall be imposed equal to the sum of ten per cent of the delinquent payment plus twice the applicable interest charged under division (G) of section 5747.08 of the Revised Code for the delinquent payment.

(4)(a) If an employer withholds ~~taxes~~ from employees the tax imposed by section 5747.02 of the Revised Code and fails to remit the tax withheld to the state as required by this chapter on or before the dates prescribed for payment, a penalty shall be imposed equal to fifty per cent of the delinquent payment.

(b) If a qualifying entity withholds any amount of tax imposed under section 5747.41 of the Revised Code from an individual's qualifying amount and fails to remit that amount to the state as required by sections 5747.42 to 5747.453 of the Revised Code on or before the dates prescribed for payment, a penalty shall be imposed equal to fifty per cent of the delinquent payment.

(5) If a taxpayer, qualifying entity, or employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede

the administration of the tax levied by ~~this chapter~~ section 5733.41, 5747.02, or 5747.41, or Chapter 5748. of the Revised Code, a penalty of five hundred dollars shall be imposed.

(6) If a taxpayer or qualifying entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, a penalty shall be imposed equal to the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.

(7) If any person makes a false or fraudulent claim for a refund under this chapter, a penalty shall be imposed equal to the greater of one thousand dollars or one hundred per cent of the claim. The penalty imposed under division (A)(7) of this section, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 5747.13 of the Revised Code as tax, penalty, or interest imposed under ~~this chapter~~ section 5733.41, 5747.02, or 5747.41 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the provisions of this chapter or Chapter 5733. of the Revised Code, and without regard to any time limitation for the assessment imposed by division (A) of section 5747.13 of the Revised Code.

(B) For purposes of this section, the taxes required to be shown on the return shall be reduced by the amount of any part of the taxes paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Any penalty imposed under this section shall be in addition to all other penalties imposed under this section. All or part of any penalty imposed under this section may be abated by the commissioner. All or part of any penalty imposed under this section may be abated by the commissioner if the taxpayer, qualifying entity, or employer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.

Sec. 5747.18. The tax commissioner shall enforce and administer this chapter. In addition to any other powers conferred upon the commissioner by law, the commissioner may:

(A) Prescribe all forms required to be filed pursuant to this chapter;

(B) Adopt such rules as the commissioner finds necessary to carry out this chapter;

(C) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the commissioner by this chapter.

Any information gained as the result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no

person shall disclose such information, except for official purposes, or as provided by section 4507.023 or 5101.182, division (G)(2) of section 5101.31 or division (B) of section 5703.21 of the Revised Code, or in accordance with a proper judicial order. The tax commissioner may furnish the internal revenue service with copies of returns or reports filed and may furnish the officer of a municipal corporation charged with the duty of enforcing a tax subject to Chapter 718. of the Revised Code with the names, addresses, and identification numbers of taxpayers who may be subject to such tax. A municipal corporation shall use this information for tax collection purposes only. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to individual taxpayers.

Sec. 5747.20. ~~All~~this section applies solely for the purposes of computing the credit allowed under division (a) of section 5747.05 of the Revised Code and computing income taxable in this state under DIVISION (d) of section 5747.08 of the Revised Code.

All items of nonbusiness income or deduction shall be allocated in this state as follows:

(A) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a resident shall be allocated to this state.

(B) All items of nonbusiness income or deduction taken into account in the computation of adjusted gross income for the taxable year by a nonresident shall be allocated to this state as follows:

(1) All items of compensation paid to an individual for personal services performed in this state who was a nonresident at the time of payment and all items of deduction directly allocated thereto shall be allocated to this state;

(2) All gains or losses from the sale of real property, tangible personal property, or intangible property shall be allocated as follows:

(a) Capital gains or losses from the sale or other transfer of real property are allocable to this state if the property is located physically in this state.

(b) Capital gains or losses from the sale or other transfer of tangible personal property are allocable to this state if, at the time of such sale or other transfer, the property had its physical location in this state.

(c) Capital gains or losses from the sale or other transfer of intangible personal property are allocable to this state if the ~~taxpayer had his~~ taxpayer's domicile was in this state at the time of such sale or other transfer.

(3) All rents and royalties of real or tangible personal property shall be allocated to this state as follows:

(a) Rents and royalties derived from real property are allocable to this

state if the property is physically located in this state.

(b) Rents and royalties derived from tangible personal property are allocable to this state to the extent that such property is utilized in this state.

The extent of utilization of tangible personal property in a state is determined by multiplying the rents or royalties derived from such property by a fraction, the numerator of which is the number of days of physical location of the property in this state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the nonresident, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(4) All patent and copyright royalties shall be allocated to this state to the extent the patent or copyright was utilized by the payor in this state.

A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state, or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the ~~taxpayer has his~~ taxpayer's domicile was in this state at the time such royalties were paid or accrued.

A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the ~~taxpayer has his~~ taxpayer's domicile was in this state at the time such royalties were paid or accrued.

(5) All lottery prize awards paid by the state lottery commission pursuant to Chapter 3770. of the Revised Code shall be allocated to this state.

(6) Any item of income or deduction which has been taken into account in the computation of adjusted gross income for the taxable year by a nonresident and which is not otherwise specifically allocated or apportioned pursuant to sections 5747.20 to 5747.23 of the Revised Code, including without limitation, interest, dividends and distributions, items of income taken into account under the provisions of sections 401 to 425 of the Internal Revenue Code, and benefit payments received by a beneficiary of a supplemental unemployment trust which is referred to in section 501(C)(17) of the Internal Revenue Code, shall not be allocated to this state unless the

~~taxpayer had his~~ taxpayer's domicile was in this state at the time such income was paid or accrued.

(C) If an individual is a resident for part of the taxable year and a nonresident for the remainder of the taxable year, all items of nonbusiness income or deduction shall be allocated under division (A) of this section for the part of the taxable year that the individual is a resident and under division (B) of this section for the part of the taxable year that the individual is a nonresident.

Sec. 5747.21. ~~All~~This section applies solely for the purposes of computing the credit allowed under division (a) of section 5747.05 of the Revised Code, computing income taxable in this state under DIVISION (d) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code. Except as otherwise provided under section 5747.211 of the Revised Code, all items of business income and business deduction shall be ~~allocated~~ apportioned to this state by multiplying the adjusted gross income by ~~a~~ the fraction calculated under division (B)(2) of section 5733.05 and section 5733.057 of the Revised Code as if the taxpayer's business were a corporation subject to the tax imposed by section 5733.06 of the Revised Code. ~~, the numerator of which is the sum of the property factor, the payroll factor, and the sales factor and the denominator of which is three, provided that the denominator of three shall be reduced by the number of fractions which has a denominator of zero.~~

~~(A) The property factor is a fraction, the numerator of which is the average value of the business entity's real and tangible personal property owned or rented and used in the trade or business in this state during the taxable year and the denominator of which is the average value of all the business entity's real and tangible personal property owned or rented and used in the trade or business during the taxable year. Property owned by the business entity is valued at its original cost. Property rented by the business entity is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the business entity, less any annual rate received by the business entity from sub-rentals.~~

~~The average value of property shall be determined by averaging the values at the beginning and ending of the taxable year, but the commissioner may require the averaging of monthly values during the taxable year if reasonably required to reflect properly the average value of the business entity's property.~~

~~(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the business entity in this state during the taxable year for~~

~~compensation, and the denominator of which is the total compensation paid everywhere during the taxable year.~~

~~Compensation is paid in this state if either:~~

~~(1) The individual's service is performed entirely within this state;~~

~~(2) The individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service performed within this state;~~

~~(3) Some of the service is performed within this state and either the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.~~

~~(C) The sales factor is a fraction, the numerator of which is the total sales of the business entity in this state during the taxable year, and the denominator of which is the total sales of the business entity everywhere during the taxable year.~~

~~(1) Sales of tangible personal property are in this state where such property is received in this state by the purchaser. In the case of delivery of tangible personal property by common carrier or other means of transportation, the place at which such property is ultimately received after all transportation has been completed shall be considered as the place at which such property is received by the purchaser. Direct delivery in this state, other than for purposes of transportation, to a person or firm designated by a purchaser constitutes delivery to the purchaser in this state and direct delivery outside this state to a person or firm designated by a purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.~~

~~(2) Business entities whose business does not consist of the making of sales of tangible personal property and to which the sales numerator and denominator cannot apply, but which business consists of such activities as receiving commissions, rents, interest, dividends or distributions, and fees, the fraction shall be determined by allocating such business activities in and out of this state according to their situs.~~

~~(D)~~ If the allocation and apportionment provisions of sections 5747.20 to 5747.23 of the Revised Code or of any rule adopted by the tax commissioner, do not fairly represent the extent of business activity in this state of a taxpayer~~, partnership, or trust~~ or pass-through entity, the taxpayer or pass-through entity may request, which request must be in writing accompanying the return ~~at the time of filing~~ or amended return, or the tax

commissioner may require, in respect of all or any part of the business activity, if reasonable, any one or more of the following:

(1) Separate accounting;

(2) The exclusion of one or more factors;

(3) The inclusion of one or more additional factors which will fairly represent the business activity in this state;

(4) The employment of any other method to effectuate an equitable allocation of such business in this state. An alternative method will be effective only with approval of the tax commissioner.

THE TAX COMMISSIONER may ADOPT rules IN THE MANNER PROVIDED BY SECTIONS 5703.14 AND 5747.18 OF THE REVISED CODE PROVIDing FOR ALTERNATIVE METHODS OF CALCULATING BUSINESS INCOME AND NONBUSINESS INCOME APPLICABLE TO ALL TAXPAYERS AND PASS-THROUGH ENTITIES, TO CLASSES OF TAXPAYERS AND PASS-THROUGH ENTITIES, OR ONLY TO TAXPAYERS AND PASS-THROUGH ENTITIES WITHIN A CERTAIN INDUSTRY.

Sec. 5747.211. this section applies solely for the purpose of computing the credit allowed under division (a) of section 5747.05 of the Revised Code, computing income taxable in this state under division (d) of section 5747.08 of the Revised Code, and computing the credit allowed under section 5747.057 of the Revised Code. in lieu of sections 5747.20 and 5747.21 of the Revised Code, all items of business income or BUSINESS deductions earned by a financial institution as defined in section 5725.01 of the Revised Code shall be apportioned to this state as required under section 5733.056 of the Revised Code.

Sec. 5747.22. (A) ~~With~~this section applies solely for the purposes of computing the credit allowed under division (a) of section 5747.05 of the Revised Code and computing income taxable in this state under DIVISION (d) of section 5747.08 of the Revised Code.

(B) with respect to a ~~partnership or limited liability company~~ pass-through entity, one or more of the ~~partners or members~~ pass-through entity investors of which are liable for the tax imposed by section 5747.02 of the Revised Code, the business income and deductions included in the adjusted gross income of the ~~partnership or limited liability company~~ pass-through entity shall be ~~allocated~~ apportioned to this state in the hands of the ~~partnership or limited liability company~~ pass-through entity investors pursuant to section 5747.21 of the Revised Code. The business income and deductions as thus ~~allocated~~ apportioned to this state then shall be allocated to the ~~partners or members~~ pass-through entity investors in proportion to

their right to share in that business income.

~~(B)~~(C) With respect to a ~~partnership or limited liability company~~ pass-through entity described in division ~~(A)~~(B) of this section, the nonbusiness income and deductions included in the adjusted gross income of the ~~partnership or limited liability company~~ pass-through entity shall be allocated to the ~~partners or members~~ pass-through entity investors in proportion to their right to share in the nonbusiness income, and then the ~~partnership or limited liability company~~ pass-through entity shares shall be allocated to this state in the hands of ~~the individual partners or members~~ each pass-through entity investor pursuant to section 5747.20 of the Revised Code.

UNDETERMINED

Sec. 5747.231. IN MAKING THE CALCULATIONS REQUIRED BY SECTIONs 5747.20, 5747.21, 5747.22, and 5747.23 OF THE REVISED CODE, A TAXPAYER SHALL INCLUDE IN the taxpayer's ITEMS OF BUSINESS INCOME, NONBUSINESS INCOME, PROPERTY, COMPENSATION, AND SALES THE taxpayer's ENTIRE DISTRIBUTIVE SHARE OF THE ITEMS OF BUSINESS INCOME, NONBUSINESS INCOME, PROPERTY, COMPENSATION, AND SALES OF ANY PASS-THROUGH ENTITY. A PASS-THROUGH ENTITY'S DIRECT OR INDIRECT DISTRIBUTIVE SHARE OF ANY OTHER PASS-THROUGH ENTITY'S ITEMS OF BUSINESS INCOME, NONBUSINESS INCOME, PROPERTY, COMPENSATION, AND SALES SHALL BE INCLUDED FOR PURPOSES OF COMPUTING THE TAXPAYER'S DISTRIBUTIVE SHARE OF THE PASS-THROUGH ENTITY'S ITEMS OF BUSINESS INCOME, NONBUSINESS INCOME, PROPERTY, COMPENSATION, AND SALES UNDER THOSE SECTIONS.

Sec. 5747.26. (A) As used in this section:

(1) "Cost" has the same meaning as in section 179(d)(3) of the Internal Revenue Code.

(2) "Eighteen-month period" means the eighteen-month period that begins January 1, 1995, and ends June 30, 1996.

(3) "Manufacturer" has the same meaning as in section 5711.16 of the Revised Code.

(4) "Manufacturing machinery or equipment" has the same meaning as "engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing" in section 5711.16 of the Revised Code.

(5) "New manufacturing machinery or equipment" means

manufacturing machinery or equipment, the original use of which commences with the taxpayer or with a partnership or S corporation of which the taxpayer is a partner or shareholder.

(6) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery or equipment that the taxpayer locates in this state and uses as a manufacturer. The credit also is allowed for a taxpayer that is a direct or indirect partner in a partnership or a shareholder in an S corporation that purchases new manufacturing machinery or equipment that the partnership or S corporation locates in this state and uses as a manufacturer. In either event, the credit is available only if both of the following conditions are met:

(1) The purchases are made during the eighteen-month period;

(2) In the case of such new manufacturing machinery or equipment purchased by the taxpayer, the cumulative cost of the new machinery or equipment, when added to the cumulative cost of any other such manufacturing machinery or equipment purchased by the taxpayer's spouse, equals or exceeds twenty per cent of the aggregate cost of all tangible personal property located in the United States, used in a trade or business or held for the production of income, and owned by the taxpayer or the taxpayer's spouse, at the close of the taxpayer's most recent taxable year ending before the eighteen-month period. In the case of such new manufacturing machinery or equipment purchased by a partnership or S corporation of which the taxpayer is a direct or indirect partner or a shareholder, the cumulative cost of such property equals or exceeds both twenty per cent of the aggregate cost of all tangible personal property located in the United States and owned by the partnership or S corporation at the close of its most recent federal taxable year ending before the eighteen-month period, and the taxpayer's distributive share of such cumulative cost, when added to the cumulative cost of any other such new manufacturing machinery or equipment purchased by the taxpayer or the taxpayer's spouse, equals or exceeds twenty per cent of the aggregate cost of all tangible personal property located in the United States, used in a trade or business or held for the production of income, and owned by the taxpayer or the taxpayer's spouse, at the close of the taxpayer's most recent taxable year ending before the eighteen-month period.

(C) The amount of the credit equals twenty per cent of the cost of the new manufacturing machinery and equipment located and used in this state

by the manufacturer. However, the aggregate credit allowed to any taxpayer and the taxpayer's spouse shall not exceed five hundred thousand dollars. If manufacturing machinery and equipment is purchased by a partnership or S corporation, the five-hundred-thousand-dollar limit applies both to the partnership or S corporation and to the taxpayer and the taxpayer's spouse. The taxpayer shall be allowed the taxpayer's distributive share of any credit available through the partnership or S corporation, and such share shall be aggregated with any other credit available to the taxpayer and the taxpayer's spouse under this section before applying the five-hundred-thousand-dollar limit to the taxpayer and the taxpayer's spouse. The taxpayer may allocate the amount of credit, as so limited, among any of the taxpayer's taxable years that end after the purchase is made and include any portion of the eighteen-month period. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code. Any credit amount in excess of the tax due under this chapter after allowing for any other nonrefundable credits that precede the credit under this section in that order may be carried forward for three taxable years after the last taxable year that includes any portion of the eighteen-month period, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a partnership's or S corporation's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

Sec. 5747.261. (A) As used in this section:

(1) "Cost" has the same meaning as in section 179(d)(3) of the Internal Revenue Code.

(2) "Seven-month period" means the seven-month period that begins December 1, 1995, and ends June 30, 1996.

(3) "Manufacturer" has the same meaning as in section 5711.16 of the Revised Code.

(4) "Manufacturing machinery or equipment" has the same meaning as "engines and machinery, and tools and implements, of every kind used, or designed to be used, in refining and manufacturing" in section 5711.16 of the Revised Code.

(5) "New manufacturing machinery or equipment" means manufacturing machinery or equipment, the original use of which commences with the taxpayer or with a partnership or S corporation of which the taxpayer is a partner or shareholder.

(6) "Purchase" has the same meaning as in section 179(d)(2) of the Internal Revenue Code.

(B) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery or equipment that the taxpayer locates in this state and uses as a manufacturer. The credit also is allowed for a taxpayer that is a direct or indirect partner in a partnership or a shareholder in an S corporation that purchases new manufacturing machinery or equipment that the partnership or S corporation locates in this state and uses as a manufacturer. In either event, the credit is available only if the following conditions are met:

(1) The purchases are made during the seven-month period;

(2) In the case of such new manufacturing machinery or equipment purchased by the taxpayer, the cumulative cost of the new machinery or equipment, when added to the cumulative cost of any other such manufacturing machinery or equipment purchased by the taxpayer's spouse, equals or exceeds twenty per cent of the aggregate cost of all manufacturing machinery or equipment located in the United States, used in a trade or business or held for the production of income, and owned by the taxpayer or the taxpayer's spouse, at the close of the taxpayer's most recent taxable year ending before January 1, 1995. In the case of such new manufacturing machinery or equipment purchased by a partnership or S corporation of which the taxpayer is a direct or indirect partner or a shareholder, the cumulative cost of such property equals or exceeds both twenty per cent of the aggregate of the cost of all manufacturing machinery or equipment located in the United States and owned by the partnership or S corporation at the close of its most recent federal taxable year ending before January 1, 1995, and the taxpayer's distributive share of such cumulative cost, when added to the cumulative cost of any other such new manufacturing machinery or equipment purchased by the taxpayer or the taxpayer's spouse, equals or exceeds twenty per cent of the aggregate of the cost of all manufacturing machinery or equipment located in the United States, used in a trade or business or held for the production of income, and owned by the taxpayer or the taxpayer's spouse, at the close of the taxpayer's most recent taxable year ending before January 1, 1995.

(3) The taxpayer does not claim a credit under section 5747.26 of the Revised Code for purchases of new manufacturing machinery and equipment.

(C) In the case of new manufacturing machinery and equipment purchased by a manufacturer, the amount of the credit equals twenty per

cent of the cost of the new manufacturing machinery and equipment located and used in this state by the manufacturer. However, the aggregate credit allowed to any taxpayer and the taxpayer's spouse shall not exceed five hundred thousand dollars. If manufacturing machinery and equipment is purchased by a partnership or S corporation, the five-hundred-thousand-dollar limit applies both to the partnership or S corporation and to the taxpayer and the taxpayer's spouse. The taxpayer shall be allowed the taxpayer's distributive share of any credit available through the partnership or S corporation, and such share shall be aggregated with any other credit available to the taxpayer and the taxpayer's spouse under this section before applying the five-hundred-thousand-dollar limit to the taxpayer and the taxpayer's spouse. The taxpayer may allocate the amount of credit, as so limited, among any of the taxpayer's taxable years that end after the purchase is made and that include any portion of the seven-month period. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code. Any credit amount in excess of the tax due under this chapter after allowing for any other nonrefundable credits that precede the credit under this section in that order may be carried forward for three taxable years after the last taxable year that includes any portion of the seven-month period, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year.

(D) Nothing in this section shall be construed to limit or disallow pass-through treatment of a partnership's or S corporation's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

Sec. 5747.30. (A) As used in this section:

(1) "Commercial printer," "commercial printing," "contract for printing," "intangible property located at the premises of a commercial printer," and "printed material" have the same meanings as in division (D) of section 5733.09 of the Revised Code.

(2) ~~"Pass-through entity" has the same meaning as in division (A)(6) of section 5747.057 of the Revised Code.~~

~~(3)~~ "Related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code without regard to division (B) of that section.

(B) Except as provided in divisions (C) and (D) of this section, a nonresident not otherwise subject to the tax imposed by section 5747.02 of the Revised Code for a taxable year does not become subject to that tax for

the taxable year solely by reason of any one or more of the following occurring in this state during all or any portion of the taxable year:

(1) Ownership by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of tangible personal property or intangible property located during all or any portion of the taxable year at the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property;

(2) Sales by the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, of property produced at and shipped or distributed from the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing with respect to such property;

(3) Activities of employees, officers, agents, or contractors of the nonresident, a pass-through entity in which the nonresident has directly or indirectly invested, or a related member of the nonresident, on the premises of a commercial printer with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing or the premises of a commercial printer's related member with which the nonresident, pass-through entity, or nonresident's related member has a contract for printing, where such activities are directly and solely related to quality control, distribution, or printing services, or any combination thereof, performed by or at the direction of the commercial printer or the commercial printer's related member.

(C) The exemption under this section does not apply to a taxable year during any portion of which the individual or estate directly or indirectly owned or invested in a pass-through entity which during any portion of the taxable year of the individual or estate owned or used all or a portion of its property or capital in this state or earned or received income in this state or was doing business in this state. The exemption under this section also does not apply to any individual or estate for a taxable year during any portion of which the individual or estate directly or indirectly owned or invested in a pass-through entity which during any portion of such taxable year was a related member to any entity which during any portion of such taxable year

owned or used all or a portion of its property or capital in this state or earned or received income in this state or was doing business in this state.

(D) With respect to allowing the exemption under this section, the tax commissioner shall be guided by the doctrines of "economic reality," "sham transaction," "step transaction," and "substance over form." A nonresident shall bear the burden of establishing by a preponderance of the evidence that any transaction giving rise to an exemption claimed under this section did not have as a principal purpose the avoidance of any portion of the tax imposed by section 5747.02 of the Revised Code.

Application of the doctrines listed in this division is not limited to this section.

Sec. 5747.31. (A) ~~As used in this section, "pass-through entity" has the same meaning as in section 5747.057 of the Revised Code.~~

~~(B)~~ This section ~~shall apply~~ applies to an individual or estate that ~~invests in or~~ is ~~an owner of an interest in~~ a proprietor or a pass-through entity investor.

~~(C)~~(B)(1) A taxpayer described in division ~~(B)~~(A) of this section is allowed a credit ~~which~~ that shall be computed and claimed in the same manner as the credit allowed to corporations in section 5733.33 of the Revised Code, with the following adjustments:

(a) The taxpayer shall claim one-seventh of the credit amount for the calendar year in which the new manufacturing machinery and equipment is purchased for use in the county by the taxpayer or partnership. One-seventh of the taxpayer credit amount is allowed for each of the six ensuing taxable years.

(b) Substitute "taxable year" for the phrase "calendar year prior to the first day of a tax year" wherever the phrase appears in division (H)(1) of section 5733.33 of the Revised Code.

(2) The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

~~(D)~~(C) Nothing in this section shall be construed to limit or disallow pass-through treatment of a pass-through entity's income, deductions, credits, or other amounts necessary to compute the tax imposed by section 5747.02 of the Revised Code and the credits allowed by this chapter.

~~(E)~~(D) The taxpayer shall file with the department of development a notice of intent to claim the credit in accordance with division (E) of section 5733.33 of the Revised Code.

Sec. 5747.32. (A) As used in this section:

(1) "Partner" includes a member of a limited liability company if the limited liability company is not treated as a corporation for purposes of

Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.

(2) ~~"Partnership" includes a limited liability company if the limited liability company is not treated as a corporation for purposes of Chapter 5733. of the Revised Code and is not classified as an association taxable as a corporation for federal income tax purposes.~~

~~(3)~~ "S corporation" means a corporation that has made an election under subchapter S of chapter one of subtitle A of the Internal Revenue Code for its taxable year under the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by ~~this chapter~~ section 5747.02 of the Revised Code for a taxpayer that has entered into an agreement with the director of development under section ~~122.19~~ 122.16 of the Revised Code, or for a taxpayer that is a partner in a partnership or a shareholder in an S corporation that has entered into such an agreement. If a taxpayer is a partner in such a partnership or a shareholder in such an S corporation, the taxpayer shall be allowed the taxpayer's distributive share of the credit available through the partnership or S corporation.

(2) If a taxpayer, or a partnership or S corporation in which the taxpayer is a partner or shareholder, enters into more than one agreement under section ~~122.19~~ 122.16 of the Revised Code, the taxpayer may aggregate the amount of those credits each taxable year.

(3) A taxpayer entitled to the credit allowed under this section shall claim one-fifth of the credit amount for the taxable year in which the agreement is entered into, and one-fifth of the credit amount for each of the four succeeding taxable years.

(4) A taxpayer shall claim the credit in the order provided under section 5747.98 of the Revised Code. The amount of the credit that a taxpayer may claim each year shall be the amount indicated on the certificate issued by the director of development under section ~~122.19~~ 122.16 of the Revised Code, or the taxpayer's distributive share of that amount if the taxpayer is entitled to the credit through a partnership or S corporation. The taxpayer shall submit the certificate with the taxpayer's annual return filed under section 5747.08 of the Revised Code. Each year, any credit amount in excess of the tax due for that year under this chapter, after allowing for all other credits preceding the credit in that order, may be carried forward for no more than three taxable years.

(5) A taxpayer shall not claim any credit amount remaining, including any amounts carried forward from prior taxable years, for any taxable year in which any of the following events occur, or for any subsequent taxable

year except as otherwise provided under division (B)(6) of this section:

(a) The taxpayer, or a partnership or S corporation through which the taxpayer is entitled to the credit, enters into a compliance schedule agreement pursuant to division (B)(3) of section 3746.12 of the Revised Code;

(b) The taxpayer, or a partnership or S corporation through which the taxpayer is entitled to the credit, has its covenant not to sue revoked pursuant to Chapter 3746. of the Revised Code and rules adopted under that chapter;

(c) The covenant not to sue issued to the taxpayer, or a partnership or S corporation through which the taxpayer is entitled to the credit, is void pursuant to Chapter 3746. of the Revised Code;

(d) The director of development has determined that the taxpayer, or a partnership or S corporation through which the taxpayer is entitled to the credit, has permitted the eligible site to be used in such a manner as to cause the relocation of employment positions from elsewhere in this state in violation of the commitment required under division (D) of section ~~122.19~~ 122.16 of the Revised Code.

If a taxpayer claims credits through more than one partnership or S corporation, division (B)(5) of this section prohibits that taxpayer from claiming a credit through any of those partnerships or S corporations that has entered into a compliance schedule agreement, has had its covenant not to sue revoked or voided, or has violated the commitment required in division (D) of section ~~122.19~~ 122.16 of the Revised Code. Division (B)(5) of this section does not prohibit such a taxpayer from claiming a credit through a partnership or S corporation that has not entered into a compliance schedule agreement, has not had its covenant not to sue revoked or voided, or has not violated the commitment required in division (D) of section ~~122.19~~ 122.16 of the Revised Code.

(6) If a taxpayer has been prohibited from claiming the credit or a portion of the credit by reason of division (B)(5)(a) of this section, and the taxpayer, or a partnership or S corporation in which the taxpayer is a partner or shareholder, subsequently has returned the property to compliance with applicable standards pursuant to the compliance schedule agreement, the taxpayer may claim the credit for the taxable year in which the director of environmental protection has determined that the taxpayer, partnership, or S corporation has returned the property to compliance with applicable standards and for each subsequent taxable year for which the taxpayer is otherwise allowed to claim the credit under division (B)(3) of this section.

Sec. 5747.34. This section applies only for taxable years beginning after

December 31, 1996, but beginning prior to January 1, 2003.

(A) As used in this section, "pass-through entity" has the same meaning as in division (O) of section 5733.04 of the Revised Code and includes a sole proprietorship.

(B) A nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for a pass-through entity that enters into an agreement with a child day-care center pursuant to this section. Under the terms of the agreement, the entity must make one or more support payments to the day-care center on a periodic basis, and the center must agree to serve a child of an employee of the entity for the period covered by each support payment. The center must be licensed under section 5104.03 of the Revised Code. The amount of the support payment must be set forth in the agreement, and cannot exceed a reasonable charge for a child to attend a day-care center in the vicinity of the entity's worksite. The agreement must specify that an employee has the option of refusing to place the employee's child in a day-care center that receives support payments from the entity.

The amount of the credit equals fifty per cent of the total amount of support payments made by the pass-through entity during the taxable year. The amount of a taxpayer's credit is the taxpayer's proportionate share of the credit distributed by the pass-through entity. The pass-through entity shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal Revenue Code or under section 5747.36 of the Revised Code. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

Sec. 5747.35. (A) As used in this section, "pass-through entity" has the same meaning as in division (O) of section 5733.04 of the Revised Code and includes a sole proprietorship.

(B) A nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to the lesser of one hundred thousand dollars, or fifty per cent of the amount incurred by a pass-through entity for equipment, supplies, labor, and real property, including renovation of real property, used exclusively to establish a child day-care center. The credit is allowed only for the taxable year in which the child day-care center begins operations. The credit may be claimed only for a taxable year beginning after December 31, 1996, but beginning prior to January 1, 2003. However, the credit may be carried forward pursuant to division (C) of this section.

The center must be licensed under section 5104.03 of the Revised Code, used exclusively by employees of the pass-through entity, and located at the

employees' worksite. Amounts incurred for supplies that are to be used after the center begins operations may be included only with regard to supplies that are expected to last more than one year under normal usage. To be eligible for the credit, the entity must specify that an employee has the option of refusing to place the employee's child in the day-care center established by the entity.

(C) The amount of a taxpayer's credit is the taxpayer's proportionate share of the credit distributed by the pass-through entity. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code. The taxpayer may carry forward any credit amount in excess of its tax due under section 5747.02 of the Revised Code in the taxable year in which the day-care center begins operations, after allowing for any other credits that precede the credit under this section in the order required under section 5747.98 of the Revised Code, and shall deduct the amount of the excess credit allowed in any such year from the balance carried forward to the next taxable year. The credit may be carried forward for five taxable years following the taxable year for which the credit is claimed under division (B) of this section. However, if the pass-through entity disposes of the day-care center or ceases to operate it at any time during the five-year period, the taxpayer shall not claim or carry forward any credit in connection with that property in the taxable year of disposal or cessation of operation or in any ensuing taxable year.

Sec. 5747.36. This section applies only for taxable years beginning after December 31, 1996, but beginning prior to January 1, 2003.

(A) As used in this section, "pass-through entity" has the same meaning as in division (O) of section 5733.04 of the Revised Code and includes a sole proprietorship.

(B) A nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to fifty per cent of the amount incurred by a pass-through entity during a taxable year to reimburse employees of the pass-through entity for child day-care expenses. The amount of the credit for a taxable year shall not exceed seven hundred fifty dollars per child.

The pass-through entity shall count toward the credit only reimbursements it pays to or for the benefit of employees for amounts paid by those employees for child day-care provided to dependents of the employees at day-care centers licensed under section 5104.03 of the Revised Code. The pass-through entity shall not count toward the credit any amount it paid directly or indirectly in connection with a plan or program described in section 125 of the Internal Revenue Code or under section 5747.34 of the

Revised Code.

The amount of a taxpayer's credit is the taxpayer's proportionate share of the credit distributed by the pass-through entity. The taxpayer shall claim the credit in the order required under section 5747.98 of the Revised Code.

Sec. 5747.40. Any term used in sections 5747.40 to 5747.43 of the Revised Code has the same meaning as defined in section 5733.40 of the Revised Code.

The purpose of sections 5747.40 to 5747.43 of the Revised Code is to complement and to reinforce the tax levied under section 5747.02 of the Revised Code. Those sections do not apply to a pass-through entity if all of the investors of the pass-through entity are resident taxpayers for the purposes of this chapter for the entire qualifying taxable year of the pass-through entity, or to a trust if all of the beneficiaries of the trust are resident taxpayers for the purposes of this chapter for the entire qualifying taxable year of the trust.

Sec. 5747.41. FOR THE same purposes for which the tax is levied under section 5747.02 of the Revised Code, THERE IS HEREBY LEVIED A WITHHOLDING TAX ON EVERY QUALIFYING PASS-THROUGH ENTITY HAVING AT LEAST ONE QUALIFYING INVESTOR WHO IS AN INDIVIDUAL and on every qualifying trust having at least one qualifying beneficiary who is an individual. THE WITHHOLDING TAX IMPOSED BY THIS SECTION is imposed on the SUM OF THE ADJUSTED qualifying amounts of a QUALIFYING PASS-THROUGH ENTITY'S QUALIFYING INVESTORS WHo ARE INDIVIDUALS and on the sum of the adjusted qualifying amounts of a qualifying trust's qualifying beneficiaries, at the rate of five per cent of that sum.

THE TAX IMPOSED BY THIS SECTION APPLies ONLY IF THE qualifying ENTITY HAS NEXUS WITH THIS STATE UNDER THE CONSTITUTION OF THE UNITED STATES FOR ANY PORTION OF THE qualifying entity's qualifying TAXABLE YEAR, AND THE SUM OF THE qualifying ENTITY'S ADJUSTED qualifying amounts exCEEDS ONE THOUSAND DOLLARS FOR the qualifying entity's qualifying TAXABLE YEAR.

THE LEVY OF THE TAX under this section does not PREVENT A MUNICIPAL CORPORATION OR A JOINT ECONOMIC DEVELOPMENT DISTRICT CREATED UNDER SECTION 715.70 or 715.71 OR SECTIONS 715.72 TO 715.81 of the Revised Code FROM LEVYING A TAX ON INCOME.

UNDETERMINED

Sec. 5747.42. (A) IN ADDITION TO THE OTHER RETURNS

REQUIRED TO BE FILED AND OTHER REMITTANCES REQUIRED TO BE MADE PURSUANT TO THIS CHAPTER, EVERY QUALIFYING ENTITY that IS SUBJECT TO the TAX IMPOSED BY section 5733.41 or 5747.41 of the Revised Code SHALL FILE AN ANNUAL RETURN ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE END OF THE QUALIFYING ENTITY'S qualifying TAXABLE YEAR, AND REMIT TO THE TAX COMMISSIONER, WITH THE REMITTANCE MADE PAYABLE TO THE TREASURER OF STATE, THE AMOUNT OF THE TAXES SHOWN TO BE DUE ON the RETURN, LESS THE AMOUNT PAID FOR THE TAXABLE YEAR ON A DECLARATION OF ESTIMATED TAX REPORT FILED BY THE TAXPAYER AS PROVIDED BY SECTION 5747.43 OF THE REVISED CODE. REMITTANCE SHALL BE MADE IN THE FORM PRESCRIBED BY THE TAX COMMISSIONER, INCLUDING ELECTRONIC FUNDS TRANSFER IF REQUIRED BY SECTION 5747.44 of the Revised Code.

A DOMESTIC QUALIFYING ENTITY SHALL NOT DISSOLVE, AND A FOREIGN QUALIFYING ENTITY SHALL NOT WITHDRAW OR RETIRE FROM BUSINESS IN this state, WITHOUT FILING THE TAX RETURNS AND PAYING THE TAXes CHARGED FOR THE YEAR IN WHICH SUCH DISSOLUTION OR WITHDRAWAL OCCURS.

(B) THE tax COMMISSIONER SHALL FURNISH QUALIFYING ENTITIES, upon request, COPIES OF THE FORMS PRESCRIBED BY the commissioner FOR THE PURPOSE OF MAKING THE RETURNS REQUIRED BY sections 5747.42 to 5747.453 of the Revised Code.

(C) THE ANNUAL RETURN REQUIRED BY THIS SECTION SHALL BE SIGNED BY THE qualifying entity's trustee or other fiduciary, or PRESIDENT, VICE-PRESIDENT, SECRETARY, TREASURER, GENERAL MANAGER, GENERAL PARTNER, SUPERINTENDENT, OR MANAGING AGENT IN THIS STATE. THE ANNUAL RETURN SHALL CONTAIN THE FACTS, FIGURES, COMPUTATIONS, AND ATTACHMENTS THAT RESULT IN THE TAX CHARGED BY section 5733.41 or 5747.41 of the Revised Code. EACH QUALIFYING ENTITY also SHALL FILE WITH ITS ANNUAL RETURN all of THE FOLLOWING:

(1) THE FULL NAME AND ADDRESS OF EACH QUALIFYING INVESTOR or QUALIFYING beneficiary UNLESS THE qualifying entity SUBMITS such INFORMATION IN ACCORDANCE WITH DIVISION (D) OF THIS SECTION;

(2) THE SOCIAL SECURITY NUMBER, FEDERAL EMPLOYER

IDENTIFICATION NUMBER, OR OTHER IDENTIFYING NUMBER OF EACH QUALIFYING INVESTOR or qualifying beneficiary, UNLESS THE TAXPAYER SUBMITS THat INFORMATION IN ACCORDANCE WITH DIVISION (D) OF THIS SECTION;

(3) THE AMOUNT OF TAX IMPOSED BY sections 5733.41 and 5747.41 of the Revised Code, AND THE AMOUNT OF THE TAX PAID BY THE QUALIFYING ENTITY, FOR THE qualifying TAXABLE YEAR COVERED BY THE ANNUAL RETURN;

(4) THE AMOUNT OF TAX imposed by sections 5733.41 and 5747.41 of the Revised Code that is ATTRIBUTABLE TO EACH QUALIFYING INVESTOR or qualifying beneficiary, unLESS THE qualifying entity SUBMITS THIS INFORMATION IN ACCORDANCE WITH DIVISION (D) OF THIS SECTION.

(D) ON THE DATE THE ANNUAL RETURN IS DUE, INCLUDING EXTENSIONS OF TIME, IF ANY, THE qualifying entity MAY BE REQUIRED BY RULE TO TRANSMIT ELECTRONICALLY OR BY MAGNETIC MEDIA THE INFORMATION SET FORTH IN DIVISION (C) OF THIS SECTION. THE TAX COMMISSIONER MAY ADOPT RULES GOVERNING THE FORMAT FOR THE TRANSMISSION OF SUCH INFORMATION. THE TAX COMMISSIONER MAY EXEMPT A qualifying entity OR A CLASS OF qualifying entities FROM THE REQUIREMENTS IMPOSED BY THIS DIVISION.

(E) UPON GOOD CAUSE shown, THE tax COMMISSIONER MAY EXTEND THE PERIOD FOR FILING ANY RETURN REQUIRED TO BE FILED UNDER THIS section or section 5747.43 or 5747.44 of the Revised Code AND FOR TRANSMITTING ANY INFORMATION REQUIRED TO BE TRANSMITTED UNDER THose sections. THE TAX COMMISSIONER MAY ADOPT RULES RELATING TO EXTENSIONS OF TIME TO FILE AND TO TRANSMIT. AT THE TIME a QUALIFYING ENTITY PAYS ANY tax imposed under section 5733.41 or 5747.41 of the Revised Code OR ESTIMATED TAX as required under section 5747.43 of the Revised Code, THE QUALIFYING ENTITY also SHALL PAY INTEREST COMPUTED AT THE RATE PER ANNUM PRESCRIBED BY SECTION 5703.47 of the Revised Code ON THAT TAX OR ESTIMATED TAX, FROM THE TIME THe tAX OR ESTIMATED TAX ORIGINALLY was REQUIRED TO BE PAID, WITHOUT CONSIDERATION OF ANY FILING EXTENSIONS, TO THE TIME OF ACTUAL PAYMENT. NOTHING in this division SHALL BE CONSTRUED TO ABATE, MODIFY, OR LIMIT THE IMPOSITION OF ANY PENALTIES imposed for the failure to timely pay taxes under

THIS CHAPTER or Chapter 5733. of the Revised Code WITHOUT CONSIDERATION OF ANY FILING EXTENSIONS.

UNDETERMINED

Sec. 5747.43. (A) AS USED IN THIS SECTION:

(1) "ESTIMATED TAXES" MEANS THE AMOUNT THAT a QUALIFYING ENTITY ESTIMATES TO BE THE SUM OF ITS LIABILITY UNDER sections 5733.41 and 5747.41 of the Revised Code FOR its CURRENT qualifying TAXABLE YEAR.

(2) "TAX LIABILITY" MEANS THE TOTAL of the TAXES AND WITHHOLDING TAXES DUE under sections 5733.41 and 5747.41 of the Revised Code FOR THE qualifying TAXABLE YEAR PRIOR TO APPLYING ANY ESTIMATED TAX PAYMENT OR REFUND FROM ANOTHER YEAR.

(3) "TAXES PAID" INCLUDEs PAYMENTS OF ESTIMATED TAXES MADE UNDER DIVISION (C) OF THIS SECTION AND TAX REFUNDS APPLIED BY THE QUALIFYING ENTITY IN PAYMENT OF ESTIMATED TAXES.

(B) IN ADDITION TO THE RETURN REQUIRED TO BE FILED PURSUANT TO SECTION 5747.42 of the Revised Code, EACH QUALIFYING ENTITY SUBJECT TO THE TAX imposed under section 5733.41 and to the WITHHOLDING TAX IMPOSED BY section 5747.41 of the Revised Code SHALL FILE AN ESTIMATED TAX RETURN AND PAY A PORTION OF THE QUALIFYING ENTITY'S TAX LIABILITY FOR its qualifying TAXABLE YEAR. THE PORTION of those TAXES required to be paid, and the last day prescribed for payment thereof, SHALL BE AS prescribed by divisions (B)(1), (2), (3), and (4) of this section:

(1) ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE LAST DAY OF THE FIRST QUARTER OF THE QUALIFYING ENTITY'S qualifying TAXABLE YEAR, TWENTY-TWO AND ONE-HALF PER CENT OF THE QUALIFYING ENTITY'S ESTIMATED TAX LIABILITY FOR that TAXABLE year;

(2) ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE LAST DAY OF THE SECOND QUARTER OF THE QUALIFYING ENTITY'S qualifying TAXABLE YEAR, FORTY-FIVE PER CENT OF THE QUALIFYING ENTITY'S ESTIMATED TAX LIABILITY FOR THat TAXABLE YEAR;

(3) ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE LAST DAY OF THE THIRD QUARTER OF THE QUALIFYING ENTITY'S qualifying TAXABLE YEAR, SIXTY-SEVEN AND ONE-HALF PER CENT OF THE QUALIFYING ENTITY'S

ESTIMATED TAX LIABILITY FOR THat TAXABLE YEAR;

(4) ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE LAST DAY OF THE FOURTH QUARTER OF THE QUALIFYING ENTITY'S qualifying TAXABLE YEAR, NINETY PER CENT OF THE QUALIFYING ENTITY'S ESTIMATED TAX LIABILITY FOR that TAXABLE YEAR.

Payments of estimated taxes shall be made PAYABLE TO THE TREASURER OF STATE.

(C) iF a payment of ESTIMATED TAXES is not paid in the full amount required under division (B) of this section, A PENALTY SHALL BE ADDED TO THE TAXES charged FOR THE qualifying TAXABLE YEAR UNLESS THE UNDERPAYMENT IS DUE TO REASONABLE CAUSE AS DESCRIBED IN DIVISION (D) OF THIS SECTION. the penalty shall accrue AT THE RATE PER ANNUM PRESCRIBED BY SECTION 5703.47 of the Revised Code UPON THE AMOUNT OF UNDERPAYMENT FROM THE DAY THE ESTIMATED PAYMENT WAS REQUIRED TO BE MADE TO THE DAy THE pAYMENT IS MADE.

THE AMOUNT OF THE UNDERPAYMENT upon which the penalty shall accrue SHALL BE DETERMINED AS FOLLOWS:

(1) FOR THE FIRST PAYMENT OF ESTIMATED TAXES EACH YEAR, TWENTY-TWO AND ONE-HALF PER CENT OF THE TAX LIABILITY LESS THE AMOUNT OF TAXES PAID BY THE DATE prescribed for that payment;

(2) FOR THE SECOND PAYMENT OF ESTIMATED TAXES EACH YEAR, FORTY-FIVE PER CENT OF THE TAX LIABILITY LESS THE AMOUNT OF TAXES PAID BY THE DATE PRESCRIBED FOR THAT PAYMENT;

(3) FOR THE THIRD PAYMENT OF ESTIMATED TAXES EACH YEAR, SIXTY-SEVEN AND ONE-HALF PER CENT OF THE TAX LIABILITY LESS THE AMOUNT OF TAXES PAID BY THE DATE PRESCRIBED FOR THAT PAYMENT;

(4) FOR THE FOURTH PAYMENT OF ESTIMATED TAXES EACH YEAR, NINETY PER CENT OF THE TAX LIABILITY LESS THE AMOUNT OF TAXES PAID BY THE DATE PRESCRIBED FOR THAT PAYMENT.

FOR the PURPOSES OF THIS SECTION, A PAYMENT OF ESTIMATED TAXES ON OR BEFORE ANY PAYMENT DATE SHALL BE CONSIDERED A PAYMENT OF A PREVIOUS UNDERPAYMENT ONLY TO THE EXTENT THE PAYMENT OF ESTIMATED TAXES

EXCEEDS THE AMOUNT OF THE PAYMENT PRESENTLY REQUIRED TO BE PAID TO AVOID ANY PENALTY.

THE PENALTY IMPOSED UNDER DIVISION (C) OF THIS SECTION is IN LIEU OF ANY OTHER INTEREST CHARGE OR PENALTY IMPOSED FOR FAILURE TO FILE A declaration of ESTIMATED tax report AND MAKE ESTIMATED PAYMENTS AS REQUIRED BY THIS SECTION.

(D) AN UNDERPAYMENT OF ESTIMATED TAXES DETERMINED UNDER DIVISION (C) OF THIS SECTION is DUE TO REASONABLE CAUSE IF ANY OF THE FOLLOWING APPLY:

(1) THE AMOUNT OF TAX THAT WAS PAID EQUALS AT LEAST NINETY PER CENT OF THE TAX LIABILITY FOR THE CURRENT qualifying TAXABLE YEAR, DETERMINED BY ANNUALIZING THE INCOME RECEIVED DURING THat YEAR UP TO THE END OF THE MONTH IMMEDIATELY PRECEDING THE MONTH IN WHICH THE PAYMENT IS DUE;

(2) THE AMOUNT OF TAX LIABILITY THAT WAS PAID EQUALS AT LEAST NINETY PER CENT OF THE TAX LIABILITY FOR THE CURRENT qualifying TAXABLE YEAR;

(3) THE AMOUNT OF TAX LIABILITY THAT WAS PAID EQUALS AT LEAST ONE HUNDRED PER CENT OF THE TAX LIABILITY SHOWN ON THE RETURN OF THE qualifying entity FOR THE PRECEDING qualifying TAXABLE YEAR, PROVIDED THAT THE IMMEDIATELY PRECEDING qualifying TAXABle YEAR REFLECTED A PERIOD OF TWELVE MONTHS AND THE qualifying entity FILED A RETURN UNDER SECTION 5747.42 of the Revised Code FOR THAT YEAR.

THE TAX COMMISSIONER MAY WAIVE THE REQUIREMENT FOR FILING A DECLARATION OF ESTIMATED TAXES FOR ANY CLASS OF qualifying entities if tHE commissioner FINDS THE WAIVER IS REASONABLE AND PROPER IN VIEW OF ADMINISTRATIVE COSTS AND OTHER FACTORS.

UNDETERMINED

Sec. 5747.44. (A) If a qualifying entity's total liability for taxes imposed under sections 5733.41 and 5747.41 of the Revised Code exceeds one hundred eighty thousand dollars for the second preceding qualifying taxable year, the qualifying entity shall make all payments required under sections 5747.42 and 5747.43 of the Revised Code by electronic funds transfer as prescribed by this section and rules adopted by the treasurer of state under section 113.061 of the Revised Code.

The tax commissioner shall notify each qualifying entity required to remit taxes by electronic funds transfer of the entity's obligation to do so, shall maintain an updated list of those entities, and shall provide the list and any additions thereto or deletions therefrom to the treasurer of state. Failure by the tax commissioner to notify a qualifying entity subject to this section to remit taxes by electronic funds transfer does not relieve the qualifying entity of its obligation to remit taxes by electronic funds transfer.

(B) Except as otherwise provided in this division, the payment of taxes by electronic funds transfer does not affect a qualifying entity's obligation to file the returns required under sections 5747.42 and 5747.43 of the Revised Code. the treasurer of state, in consultation WITH the tax commissioner, may adopt rules in addition to the rules adopted under section 113.061 of the Revised Code governing the format for filing returns by qualifying entities that remit taxes by electronic funds transfer. the RULES may provide for the filing of returns at less frequent intervals than otherwise required if the treasurer of state and the taX COMMISSIONER DETERMINE THAT REMITTANCE BY ELECTRONIC FUNDS TRANSFER WARRANTS LESS FREQUENT FILING OF RETURNS.

(C) A qualifying entity required by this section to remit taxes by electronic funds transfer may apply to the treasurer of state in the manner prescribed by the treasurer of state to be excused from that requirement. The treasurer of state may excuse the qualifying entity from remittance by electronic funds transfer for good cause shown for the period of time requested by the qualifying entity or for a portion of that period. The treasurer of state shall notify the tax commissioner and the qualifying entity of the treasurer of state's decision as soon as is practicable.

(D) If a qualifying entity required by this section to remit taxes by electronic funds transfer remits those taxes by some means other than by electronic funds transfer as prescribed by this section and the rules adopted by the treasurer of state, and the treasurer of state determines that such failure was not due to reasonable cause or was due to willful neglect, the treasurer of state shall notify the tax commissioner of the failure to remit by electronic funds transfer and shall provide the commissioner with any information used in making that determination. The tax commissioner may collect an additional charge by assessment in the manner prescribed by section 5747.13 of the Revised Code. The additional charge shall equal five per cent of the amount of the taxes required to be paid by electronic funds transfer, but shall not exceed five thousand dollars. Any additional charge assessed under this section is in addition to any other penalty or charge imposed under this chapter or Chapter 5733. of the Revised Code, and shall

be considered as revenue arising from the taxes imposed under sections 5733.41 and 5747.41 of the Revised Code. The tax commissioner may remit all or a portion of such a charge and may adopt rules governing such remission.

No additional charge shall be assessed under this division against a qualifying entity that has been notified of its obligation to remit taxes under this section and that remits its first two tax payments after such notification by some means other than electronic funds transfer. The additional charge may be assessed upon the remittance of any subsequent tax payment that the qualifying entity remits by some means other than electronic funds transfer.

UNDETERMINED

Sec. 5747.45. (A) A qualifying entity's qualifying taxable year is the same as its taxable year for federal income tax purposes. If a qualifying entity's taxable year is changed for federal income tax purposes, the qualifying taxable year for purposes of this chapter and sections 5733.40 and 5733.41 of the Revised Code is changed accordingly.

(B) A qualifying entity's method of accounting shall be the same as its method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, income shall be computed under such method as in the opinion of the tax commissioner clearly reflects income.

If a qualifying entity's method of accounting is changed for federal income tax purposes, its method of accounting for purposes of this chapter shall be changed accordingly.

(C) If any of the facts, figures, computations, or attachments required in a qualifying entity's annual report to determine the taxes imposed by section 5733.41 or 5747.41 of the Revised Code must be altered as the result of an adjustment to the qualifying entity's federal income tax return, whether the adjustment is initiated by the qualifying entity or the internal revenue service, and such alteration affects the qualifying entity's tax liability under one or both of those sections, the qualifying entity shall file an amended report with the tax commissioner in such form as the commissioner requires. The amended report shall be filed not later than one year after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(1) In the case of an underpayment, the amended report shall be accompanied by payment of an additional tax and interest due and is a report subject to assessment under section 5747.13 of the Revised Code for the purpose of assessing any additional tax due under this division, together

with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed report no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the qualifying entity's federal income tax return.

(2) In the case of an overpayment, an application for refund may be filed under this division within the one-year period prescribed for filing the amended report even if it is filed beyond the period prescribed in division (B) of section 5747.11 of the Revised Code if it otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the qualifying entity's annual report that are affected, either directly or indirectly, by the adjustment to the qualifying entity's federal income tax return unless it is also filed within the time prescribed in division (B) of section 5747.11 of the Revised Code. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the qualifying entity's federal income tax return.

UNDETERMINED

Sec. 5747.451. (A) The mere retirement from business or voluntary dissolution of a domestic or foreign qualifying entity does not exempt it from the requirements to make reports as required under sections 5747.42 to 5747.44 or to pay the taxes imposed under section 5733.41 or 5747.41 of the Revised Code. If any qualifying entity subject to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code sells its business or stock of merchandise or quits its business, the taxes required to be paid prior to that time, together with any interest or penalty thereon, become due and payable immediately, and the qualifying entity shall make a final return within fifteen days after the date of selling or quitting business. The successor of the qualifying entity shall withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until the qualifying entity produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid, or a certificate indicating that no taxes are due. If the purchaser of the business or stock of goods fails to withhold purchase money, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the qualifying entity. if the amount of those taxes, interest, and penalty unpaid At the time of the purchase exceeds the total purchase MONEY, the tax commissioner may ADJUST the qualifying entity's liability for those taxes, interest, and

penalty, or ADJUST the responsibility of the purchaser to pay that liability, in a manner calculated to maximize the collection of those liabilities.

(B) Annually, on the last day of each qualifying taxable year of a qualifying entity, the taxes imposed under section 5733.41 or 5747.41 of the Revised Code, together with any penalties subsequently accruing thereon, become a lien on all property in this state of the qualifying entity, whether such property is employed by the qualifying entity in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of the qualifying entity's creditors and investors. The lien shall continue until those taxes, together with any penalties subsequently accruing, are paid.

Upon failure of such a qualifying entity to pay those taxes on the day fixed for payment, the treasurer of state shall thereupon notify the tax commissioner, and the commissioner may file in the office of the county recorder in each county in this state in which the qualifying entity owns or has a beneficial interest in real estate, notice of the lien containing a brief description of such real estate. No fee shall be charged for such a filing. The lien is not valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is so filed in the county in which the real estate which is the subject of such mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder, called the qualifying entity tax lien record, and indexed under the name of the qualifying entity charged with the tax. When the tax, together with any penalties subsequently accruing thereon, have been paid, the tax commissioner shall furnish to the qualifying entity an acknowledgment of such payment that the qualifying entity may record with the recorder of each county in which notice of such lien has been filed, for which recording the recorder shall charge and receive a fee of two dollars.

(C) In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, interest, or penalties due from any qualifying entity under section 5733.41 of the Revised Code or this chapter have remained unpaid for a period of ninety days, or whenever any qualifying entity has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such qualifying entity has its principal place of business for a judgment for the amount of the taxes, interest, or penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such qualifying entity and its officers, directors, and

managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, interest, and penalties, and the costs of the proceeding fixed by the court, or the making and filing of such report or return.

The petition shall be in the name of the state. Any of the qualifying entities having its principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permitting process to be served by registered mail and by publication in a newspaper of general circulation published in the county, which publication need not be made more than once, setting forth the name of each delinquent qualifying entity, the matter in which the qualifying entity is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by the qualifying entity.

All or any of the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of any qualifying entity may be joined as defendants with the qualifying entity.

If it appears to the court upon hearing that any qualifying entity that is a party to the proceeding is indebted to the state for taxes imposed under section 5733.41 or 5747.41 of the Revised Code, or interest or penalties thereon, judgment shall be entered therefor with interest; and if it appears that any qualifying entity has failed to make or file any report or return, a mandatory injunction may be issued against the qualifying entity, its trustees or other fiduciaries, officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, interest, and penalties.

If the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of a qualifying entity are not made parties in the first instance, and a judgment or an injunction is rendered or issued against the qualifying entity, those officers, directors, investors, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this division, a statement of the tax commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, interest, or penalties due from any qualifying entity, or of the failure of any qualifying entity to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon the attorney general by this division, the attorney general may direct any prosecuting attorney to bring an action, as authorized by this division, in the name of the state with respect to any delinquent qualifying entities within the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

(D) If any qualifying entity fails to make and file the reports or returns required under this chapter, or to pay the penalties provided by law for failure to make and file such reports or returns for a period of ninety days after the time prescribed by this chapter, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which that qualifying entity has its principal place of business to forfeit and annul its privileges and franchises. If the court is satisfied that any such qualifying entity is in default, it shall render judgment ousting such qualifying entity from the exercise of its privileges and franchises within this state, and shall otherwise proceed as provided in sections 2733.02 to 2733.39 of the Revised Code.

(E) With the advice and consent of the tax commissioner, the attorney general may, before or after any action for the recovery of taxes imposed under section 5733.41 or 5747.41 of the Revised Code, or interest or penalties thereon and certified to the attorney general as delinquent, compromise or settle any claim for delinquent taxes, interest, or penalties so certified.

UNDETERMINED

Sec. 5747.452. Every qualifying entity required by law to make returns, statements, or reports to the tax commissioner shall file with such returns,

statements, and reports an affidavit subscribed and sworn to by a person, trustee or other fiduciary, or officer having knowledge of the facts setting forth that the qualifying entity has not, during the preceding year, except as permitted by sections 3517.082, 3599.03, and 3599.031 of the Revised Code, directly or indirectly paid, used or offered, consented, or agreed to pay or use any of its money or property for or in aid of or opposition to a political party, a candidate for election or nomination to public office, or a political action committee, legislative campaign fund, or organization that supports or opposes any such candidate or in any manner used any of its money or property for any partisan political purpose whatever, or for the reimbursement or indemnification of any person for money or property so used. Such forms of affidavit as the commissioner prescribes shall be attached to or made a part of the return, statement, or report required to be made by the qualifying entity.

The tax commissioner shall prescribe the form of the affidavit.

UNDETERMINED

Sec. 5747.453. An employee or beneficiary of, or investor in, a qualifying entity having control or supervision of, or charged with the responsibility for, filing returns and making payments, or any trustee or other fiduciary, officer, member, or manager of the qualifying entity who is responsible for the execution of the qualifying entity's fiscal responsibilities, is personally liable for the failure to file any report or to pay any tax due as required by sections 5747.40 to 5747.453 of the Revised Code. The dissolution, termination, or bankruptcy of a qualifying entity does not discharge a responsible trustee's, fiduciary's, officer's, member's, manager's, employee's, investor's, or beneficiary's liability for failure of the qualifying entity to file any report or pay any tax due as required by those sections. The sum due for the liability may be collected by assessment in the manner provided in section 5747.13 of the Revised Code.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;

(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;

(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;

(4) The dependent care credit under section 5747.054 of the Revised

Code;

(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;

(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(9) The campaign contribution credit under section 5747.29 of the Revised Code;

(10) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(11) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(12) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(13) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(14) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(15) The credit for employers that reimburse employee child day-care expenses under section 5747.36 of the Revised Code;

(16) The credit for manufacturing investments under section 5747.051 of the Revised Code;

~~(15)~~(17) The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;

~~(16)~~(18) The second credit for purchases of new manufacturing machinery and equipment under section 5747.31 of the Revised Code;

~~(17)~~(19) The enterprise zone credit under section 5709.66 of the Revised Code;

~~(18)~~(20) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

~~(19)~~(21) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(22) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

~~(20)~~(23) The export sales credit under section 5747.057 of the Revised Code;

(24) The credit for research and development and technology transfer

investors under section 5747.33 of the Revised Code;

~~(21)~~(25) The enterprise zone credits under section 5709.65 of the Revised Code;

~~(22)~~(26) The refundable jobs creation credit under section 5747.058 of the Revised Code;

(27) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code.

(B) For any credit except the refundable jobs creation credit and the refundable credit for taxes paid by a qualifying entity, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit.

Sec. 5749.06. Each severer liable for the tax imposed by section 5749.02 of the Revised Code shall make and file returns in the prescribed form and as of the prescribed times, computing and reflecting therein the tax as required by this chapter.

The returns shall be filed for every quarterly period, which periods shall end on the thirty-first of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December of each year, as required by this section, unless a different return period is prescribed for a taxpayer by the tax commissioner.

A separate return shall be filed for each calendar quarterly period, or other period, or any part thereof, during which the severer holds a license as provided by section 5749.04 of the Revised Code, or is required to hold such license, and such return shall be filed within forty-five days after the last day of each such calendar month, or other period, or any part thereof, for which such return is required and shall include remittance payable to the treasurer of state of the amount of tax due. All such returns shall contain such information as the commissioner may require to fairly administer the tax.

All returns shall be signed by the severer, shall contain the full and complete information requested, and shall be made under penalty of perjury.

If the commissioner believes that quarterly payments of tax would result in a delay which might jeopardize the collection of such tax payments, ~~he~~ the commissioner may order that such payments be made weekly, or more frequently if necessary, such payments to be made not later than seven days following the close of the period for which the jeopardy payment is required. Such an order shall be delivered to the taxpayer personally or by certified mail and shall remain in effect until the commissioner notifies the taxpayer to the contrary.

Upon good cause the commissioner may extend the period for filing any notice or return required to be filed under this section, and may ~~adopt rules therefor. If the extension results in extension of time for the payment of the amount of tax with respect to which the return is filed, the taxpayer shall pay at the date that the tax is paid, an amount of~~ remit all or a part OF PENALTIES that may become due under this chapter.

any tax not paid by the day the tax is due shall bear interest computed at the rate per annum prescribed by section 5703.47 of the Revised Code on that amount of tax due from the ~~time~~ day that such amount was originally required to be paid to the ~~time~~ day of actual payment~~.~~

~~All amounts of taxes remaining unpaid after the time such amounts are required to be paid shall bear interest on the amount unpaid. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code~~ or to the day an assessment was issued under section 5749.07 or 5749.10 of the Revised Code, whichever occurs first.

Sec. 5749.07. (A) If any severer required by this chapter to make and file returns and pay the tax levied by section 5749.02 of the Revised Code, fails to make such return or pay such tax, the tax commissioner may make an assessment against the severer based upon any information in the commissioner's possession.

No assessment shall be made or issued against any severer for any tax imposed by section 5749.02 of the Revised Code more than four years after the return was due or was filed, whichever is later. This section does not bar an assessment against a severer who fails to file a return as required by this chapter, or who files a fraudulent return.

The commissioner shall give the party assessed written notice of such assessment by personal service or certified mail. ~~Any tax assessed shall continue to accrue interest as prescribed in section 5749.06 of the Revised Code.~~

(B) Unless the party to whom such notice of assessment is directed files with the commissioner within thirty days after service of the notice assessment, either personally or by certified mail, a petition for reassessment in writing, signed by the party assessed, or by ~~his~~ an authorized agent of the party assessed having knowledge of the facts, the assessment shall become ~~conclusive~~ final and the amount of the assessment shall be due and payable from the party assessed to the treasurer of state. The petition shall indicate the objections of the party assessed, but additional objections may be raised in writing if received prior to the date shown on the final determination by the commissioner.

Unless the petitioner waives a hearing, the commissioner shall assign a

time and place for the hearing on the petition and notify the petitioner of the time and place of the hearing by personal service or certified mail, but the commissioner may continue the hearing from time to time if necessary.

The commissioner may make such correction to ~~his~~ the assessment as ~~he~~ the commissioner finds proper. The commissioner shall serve a copy of ~~his~~ the final determination on the petitioner by personal service or by certified mail, and ~~his~~ the commissioner's decision in the matter shall be final, subject to appeal as provided in section 5717.02 of the Revised Code. Only objections decided on the merits by the board of tax appeals or a court shall be given collateral estoppel or res judicata effect in considering an application for refund of amounts paid pursuant to the assessment.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the party assessed resides or in which the party's business is conducted. If the party assessed maintains no place of business in this state and is not a resident of this state, the certified copy of the entry may be filed in the office of the clerk of the court of common pleas of Franklin county.

The clerk, immediately upon the filing of such entry, shall enter a judgment for the state against the party assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for state severance tax~~."~~," and shall have the same effect as other judgments. execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

~~From the date of the filing of the entry in the clerk's office, the unpaid~~ The portion of the assessment not paid within thirty days after the day the assessment is issued shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code ~~and shall have the same effect as other judgments. Execution shall issue upon the judgment upon request of the commissioner, and all laws applicable to sales on execution shall be applicable to sales made under the judgment~~ from the day the tax commissioner issues the assessment until it is paid. Interest shall be paid in the same manner as the tax and may be collected by the issuance of an assessment under this section.

(D) All money collected by the commissioner under this section shall be paid to the treasurer of state, and when paid shall be considered as revenue arising from the tax imposed by section 5749.02 of the Revised Code.

Sec. 5749.10. If the tax commissioner finds that a taxpayer, liable for

tax under this chapter is about to depart from the state, or remove ~~his~~the taxpayer's property therefrom, or conceal ~~himself~~ the taxpayer's person or ~~his~~ property, or do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings are brought without delay, or if the commissioner believes that the collection of the amount due from any taxpayer will be jeopardized by delay, ~~he~~ the commissioner shall give notice of such findings to such taxpayer together with the demand for an immediate return and immediate payment of such tax, with penalty as provided in section 5749.15 of the Revised Code, whereupon such tax shall become immediately due and payable. In such cases the commissioner may immediately file ~~his~~ an entry with the clerk of the court of common pleas in the same manner and with the same effect as provided in section 5749.07 of the Revised Code, provided, that if such taxpayer, within five days from notice of the assessment, furnishes evidence satisfactory to the commissioner, under the regulations prescribed by the commissioner, that ~~he~~ the taxpayer is not in default in making returns or paying any tax prescribed by this chapter, or that ~~he~~ the taxpayer will duly return and pay, or post bond satisfactory to the commissioner conditioned upon payment of the tax finally determined to be due, then such tax shall not be payable prior to the time and manner otherwise fixed for payment under section 5749.07 of the Revised Code, and the person assessed shall be restored the rights granted ~~him~~ under such section. Upon satisfaction of the assessment the commissioner shall order the bond cancelled, securities released, and judgment vacated.

Any assessment issued under this section shall bear interest as prescribed under section 5749.07 of the Revised Code.

Sec. 5902.01. There is hereby established within the office of the governor the governor's office of veterans affairs. The governor shall appoint, with the advice and consent of the senate, a chief executive assistant, who shall be an honorably discharged or honorably separated veteran of the United States armed forces, to be known as director of the governor's office of veterans affairs. The governor's office of veterans affairs shall employ such other administrative and technical personnel as are necessary to perform the general and specific duties of the office. The administrative assistants and technical personnel shall be honorably discharged or honorably separated veterans of the United States armed forces, and shall be employed in the classified service and not be considered employees of the governor's office for purposes of division (A)(16) of section 124.11 or division (B)(2) of section 124.14 of the Revised Code. Each individual employed in the clerical staff shall be an honorably

discharged or honorably separated veteran or, if a qualified veteran is not available, the spouse, surviving spouse, child, or parent of an honorably discharged or honorably separated veteran, and shall be employed in the classified service and not be considered an employee of the governor's office for purposes of division (A)(16) of section 124.11 of the Revised Code.

Sec. 5910.04. Scholarships granted under sections 5910.01 to 5910.06 of the Revised Code shall consist of either of the following:

(A) An exemption from the payment of one hundred per cent of the general and instructional fees at colleges and universities which receive support from the state of Ohio and are approved by the chancellor of the board of regents, except that the percentage may be reduced by the war orphans scholarship board in any year that insufficient funds are appropriated to fully fund scholarships for all eligible students;

(B) A grant to an eligible child who is enrolled in an institution that has received a certificate of authorization from the board of regents under Chapter 1713. of the Revised Code or is enrolled in an institution that has received a certificate of registration from the state board of school and college registration. Students who attend an institution that holds a certificate of registration shall be enrolled in either a program leading to an associate degree or a program leading to a bachelor's degree for which associate or bachelor's degree program the institution has received program authorization issued under section 3332.05 of the Revised Code to offer such degree program. The grant shall be paid to the child through the institution in which ~~he~~ the child is enrolled, and shall equal one hundred per cent of the average value of all scholarships granted under division (A) of this section during the preceding year, except that the percentage may be reduced by the war orphans scholarship board in any year that insufficient funds are appropriated to fully fund scholarships for all eligible students. In no case shall the grant exceed the total general and instructional charges of the institution.

The board shall not reduce the percentage to be paid for scholarships awarded pursuant to section 5910.032 of the Revised Code below one hundred per cent.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~1998~~ 2000, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

(1) Issue the license renewal for the public water system;

(2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;

(3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before the effective date of this amendment, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6121.02. There is hereby created the Ohio water development authority. Such authority is a body both corporate and politic in this state, and the carrying out of its purposes and the exercise by it of the powers conferred by Chapter 6121. of the Revised Code shall be held to be, and are hereby determined to be, essential governmental functions and public purposes of the state, but the authority is not immune from liability by reason thereof. The authority is subject to all provisions of law generally applicable to state agencies which do not conflict with this chapter.

The authority shall consist of eight members as follows: five members appointed by the governor, with the advice and consent of the senate, no more than three of whom shall be members of the same political party, and the directors of natural resources, environmental protection, and development, who shall be members ex officio without compensation. The appointive members shall be residents of the state, and shall have been qualified electors therein for a period of at least five years next preceding their appointment. Appointed members' terms of office shall be for eight years, commencing on the second day of July and ending on the first day of July. Each member shall hold office from the date of ~~his~~ appointment until the end of the term for which ~~he~~ the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for

which ~~his~~ the member's predecessor was appointed shall hold office for the remainder of such term. Any appointed member shall continue in office subsequent to the expiration date of ~~his~~ the member's term until ~~his~~ the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A member of the authority is eligible for reappointment. Each appointed member of the authority, before entering upon ~~his~~ the performance of the duties of the office, shall take an oath as provided by Section 7 of Article XV, Ohio Constitution. The governor may at any time remove any member of the authority for misfeasance, nonfeasance, or malfeasance in office.

The authority shall elect one of its appointed members as ~~chairman~~ chairperson and another as ~~vice-chairman~~ vice-chairperson, and shall appoint a secretary-treasurer who need not be a member of the authority. Four members of the authority shall constitute a quorum, and the affirmative vote of four members shall be necessary for any action taken by vote of the authority. No vacancy in the membership of the authority shall impair the rights of a quorum by such vote to exercise all the rights and perform all the duties of the authority.

Before the issuance of any water development revenue bonds under Chapter 6121. of the Revised Code, each appointed member of the authority shall give a surety bond to the state in the penal sum of twenty-five thousand dollars and the secretary-treasurer shall give such a bond in the penal sum of fifty thousand dollars, each such surety bond to be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in this state, and to be approved by the governor and filed in the office of the secretary of state. Each appointed member of the authority shall receive an annual salary of five thousand dollars, payable in monthly installments, and is entitled to health care benefits comparable to those generally available to state officers and employees under section 124.82 of the Revised Code. If Section 20 of Article II, Ohio Constitution, prohibits the Ohio water development authority from paying all or a part of the cost of health care benefits on behalf of a member of the authority for the remainder of an existing term, the member may receive these benefits by paying their total cost from the member's own financial resources, including paying by means of deductions from the member's salary. Each member shall be reimbursed for ~~his~~ actual expenses necessarily incurred in the performance of ~~his~~ official duties. All expenses incurred in carrying out such sections shall be payable solely from funds provided under Chapter 6121. of the Revised Code, or appropriated for such purpose by the general assembly and no liability or obligation shall

be incurred by the authority beyond the extent to which moneys have been provided under such sections or such appropriations.

SECTION 2. That existing sections 3.17, 3.24, 9.06, 101.23, 101.27, 101.35, 102.02, 103.143, 103.21, 105.41, 107.30, 107.40, 111.15, 111.16, 111.18, 117.44, 119.01, 120.04, 120.33, 121.04, 121.08, 121.37, 121.38, 121.40, 121.52, 122.15, 122.151, 122.152, 122.153, 122.154, 122.17, 122.18, 122.29, 122.89, 124.136, 124.15, 124.152, 124.18, 124.181, 124.34, 124.382, 124.383, 124.385, 124.391, 125.04, 125.05, 125.13, 125.15, 125.22, 125.28, 125.42, 125.83, 125.831, 125.87, 126.07, 126.12, 126.21, 126.26, 127.16, 131.35, 131.44, 135.142, 145.73, 149.303, 164.08, 164.09, 169.02, 169.03, 169.05, 169.08, 171.05, 173.02, 175.21, 181.52, 307.86, 321.46, 329.04, 341.25, 715.691, 718.01, 924.10, 991.03, 1309.32, 1309.39, 1309.40, 1309.41, 1309.42, 1309.43, 1310.37, 1503.05, 1503.141, 1506.21, 1506.22, 1506.23, 1513.29, 1513.30, 1515.09, 1517.11, 1557.06, 1703.03, 1703.05, 1703.07, 1703.12, 1703.22, 1703.26, 1703.27, 1707.041, 1707.44, 1731.07, 1785.01, 1901.06, 1907.13, 2151.23, 2151.355, 2151.421, 2744.01, 2744.02, 2744.03, 2744.05, 2941.51, 3113.33, 3301.075, 3301.0711, 3301.0714, 3301.0719, 3301.80, 3307.01, 3309.01, 3311.053, 3311.056, 3313.172, 3313.372, 3313.843, 3313.871, 3313.975, 3316.03, 3316.04, 3317.01, 3317.02, 3317.022, 3317.023, 3317.0212, 3317.0213, 3317.03, 3317.08, 3317.10, 3317.11, 3318.02, 3318.03, 3318.041, 3319.17, 3332.07, 3333.04, 3333.12, 3333.20, 3333.27, 3334.01, 3334.03, 3334.08, 3334.09, 3334.10, 3334.11, 3334.17, 3343.08, 3345.11, 3345.12, 3345.50, 3345.51, 3365.01, 3365.02, 3365.021, 3365.03, 3365.06, 3383.01, 3383.08, 3501.10, 3501.11, 3501.17, 3501.28, 3701.14, 3701.261, 3701.502, 3701.74, 3702.30, 3702.511, 3702.68, 3705.24, 3719.02, 3719.021, 3729.40, 3734.18, 3734.57, 3734.82, 3734.904, 3734.907, 3737.02, 3743.01, 3743.02, 3743.03, 3743.04, 3743.05, 3743.06, 3743.07, 3743.08, 3743.15, 3743.16, 3743.17, 3743.18, 3743.19, 3743.20, 3743.21, 3743.40, 3743.44, 3743.45, 3743.50, 3743.51, 3743.52, 3743.53, 3743.54, 3743.58, 3743.59, 3743.60, 3743.61, 3743.64, 3743.65, 3743.66, 3743.68, 3743.80, 3743.99, 3745.11, 3745.21, 3745.25, 3746.121, 3748.05, 3748.07, 3748.12, 3748.13, 3769.088, 3769.10, 3770.01, 3770.02, 3770.06, 3773.43, 3773.56, 3781.061, 3781.182, 3781.21, 3793.10, 3901.17, 3905.30, 3905.34, 3905.35, 3905.36, 3905.37, 3917.01, 3918.01, 3918.02, 3921.30, 3960.03, 4111.01, 4117.01, 4117.02, 4117.06, 4121.39, 4123.31, 4123.418, 4301.10, 4301.12, 4301.17, 4301.19, 4301.24, 4301.30, 4301.43, 4305.13, 4305.131, 4509.101, 4511.102, 4511.191, 4511.83, 4513.263, 4701.20, 4703.16, 4703.50, 4709.05, 4709.06, 4709.12, 4713.19, 4715.06, 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, 4715.27, 4715.35,

4717.06, 4717.07, 4717.09, 4717.18, 4723.08, 4723.24, 4723.28, 4723.31, 4723.46, 4723.56, 4723.59, 4725.06, 4725.45, 4729.15, 4729.29, 4729.51, 4729.52, 4729.54, 4729.55, 4729.65, 4731.09, 4731.10, 4731.14, 4731.15, 4731.17, 4731.22, 4731.24, 4731.26, 4731.281, 4731.291, 4731.38, 4731.40, 4731.53, 4731.56, 4732.04, 4732.141, 4733.08, 4734.07, 4734.16, 4735.01, 4735.05, 4736.06, 4740.03, 4741.03, 4741.17, 4741.25, 4743.05, 4747.03, 4749.02, 4751.06, 4751.07, 4753.04, 4755.10, 4755.12, 4755.40, 4755.41, 4755.43, 4755.47, 4755.48, 4755.49, 4755.60, 4755.61, 4755.62, 4755.64, 4755,65, 4755.99, 4757.22, 4757.23, 4757.31, 4759.08, 4763.01, 4767.01, 4901.10, 4901.19, 4903.10, 4903.11, 4903.23, 4905.10, 4905.21, 4905.26, 4905.66, 4905.69, 4905.80, 4905.81, 4911.18, 4923.12, 4937.02, 4937.05, 4981.033, 4981.09, 5101.02, 5101.06, 5101.07, 5101.14, 5101.141, 5101.58, 5104.02, 5111.01, 5111.011, 5111.11, 5111.111, 5111.17, 5111.18, 5112.04, 5112.18, 5112.21, 5115.01, 5119.02, 5119.03, 5119.47, 5119.53, 5120.03, 5120.09, 5120.16, 5120.38, 5121.04, 5122.43, 5123.05, 5123.122, 5123.18, 5123.19, 5123.34, 5126.022, 5126.08, 5126.356, 5139.01, 5139.03, 5139.04, 5139.07, 5139.34, 5139.36, 5139.42, 5139.43, 5139.86, 5153.16, 5153.161, 5153.162, 5531.10, 5701.01, 5701.05, 5703.21, 5705.412, 5709.62, 5709.63, 5709.632, 5709.66, 5711.22, 5711.32, 5725.01, 5725.18, 5727.111, 5727.12, 5728.09, 5728.10, 5729.03, 5733.01, 5733.02, 5733.022, 5733.03, 5733.031, 5733.04, 5733.042, 5733.05, 5733.051, 5733.052, 5733.053, 5733.055, 5733.06, 5733.061, 5733.065, 5733.066, 5733.067, 5733.068, 5733.069, 5733.09, 5733.11, 5733.12, 5733.121, 5733.26, 5733.31, 5733.311, 5733.32, 5733.33, 5733.34, 5733.98, 5735.11, 5735.12, 5735.121, 5739.01, 5739.02, 5739.024, 5739.033, 5739.07, 5739.072, 5739.13, 5739.132, 5739.133, 5739.15, 5739.17, 5741.10, 5741.101, 5741.14, 5743.081, 5743.082, 5743.52, 5743.56, 5747.01, 5747.02, 5747.025, 5747.03, 5747.054, 5747.057, 5747.062, 5747.07, 5747.072, 5747.08, 5747.11, 5747.12, 5747.13, 5747.14, 5747.15, 5747.18, 5747.20, 5747.21, 5747.22, 5747.26, 5747.261, 5747.30, 5747.31, 5747.32, 5747.98, 5749.06, 5749.07, 5749.10, 5902.01, 5910.04, 6109.21, and 6121.02 be amended; section 122.19 (122.16) as it results from Sub. H.B. 441 of the 121st General Assembly be amended and renumbered; and sections 125.94, 164.13, 173.07, 901.41, 901.42, 1703.08, 1703.09, 1703.10, 1703.11, 1703.14, 2503.14, 2503.15, 2503.16, 2503.18, 3318.33, 3905.33, 3921.32, 4743.04, 5111.171, 5111.85, 5119.25, 5119.28, 5123.06, 5123.32, and 5153.164 of the Revised Code are hereby repealed.

SECTION 3. Section 1751.68 of the Revised Code is hereby repealed, effective July 1, 1999.

SECTION 4. Section 3319.223 of the Revised Code is hereby repealed, effective January 1, 2002.

SECTION 5. Section 5725.181 of the Revised Code is hereby repealed effective January 1, 2003.

SECTION 6. (A) That sections 5753.01, 5753.02, 5753.03, 5753.04, 5753.05, 5753.06, 5753.07, 5753.08, 5753.09, 5753.10, 5753.11, 5753.12, 5753.13, 5753.14, 5753.15, 5753.16, and 5753.99 of the Revised Code are hereby repealed, effective January 1, 1999.

(B) The repeal in division (A) of this section is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the repeal takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 7. That section 2151.355 of the Revised Code, as amended by Am. Sub. H.B. 124 of the 121st General Assembly, be amended to read as follows:

Sec. 2151.355. (A) If a child is adjudicated a delinquent child, the court may make any of the following orders of disposition:

(1) Any order that is authorized by section 2151.353 of the Revised Code;

(2) Place the child on probation under any conditions that the court prescribes. If the child is adjudicated a delinquent child for violating section 2909.05, 2909.06, or 2909.07 of the Revised Code and if restitution is appropriate under the circumstances of the case, the court shall require the child to make restitution for the property damage caused by the child's violation as a condition of the child's probation. If the child is adjudicated a delinquent child because the child violated any other section of the Revised Code, the court may require the child as a condition of the child's probation to make restitution for the property damage caused by the child's violation and for the value of the property that was the subject of the violation the child committed if it would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. The restitution may be in the form of a cash reimbursement paid in a lump sum

or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim approximately equal to the value of the property damage caused by the child's violation or to the value of the property that is the subject of the violation if it would be a theft offense if committed by an adult, the performance of community service or community work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

If the child is adjudicated a delinquent child for violating a law of this state or the United States, or an ordinance or regulation of a political subdivision of this state, that would be a crime if committed by an adult or for violating division (A) of section 2923.211 of the Revised Code, the court, in addition to all other required or permissive conditions of probation that the court imposes upon the delinquent child pursuant to division (A)(2) of this section, shall require the child as a condition of the child's probation to abide by the law during the period of probation, including, but not limited to, complying with the provisions of Chapter 2923. of the Revised Code relating to the possession, sale, furnishing, transfer, disposition, purchase, acquisition, carrying, conveying, or use of, or other conduct involving a firearm or dangerous ordnance, as defined in section 2923.11 of the Revised Code.

(3) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district organized under section 2151.34 or 2151.65 of the Revised Code, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required;

(4) If the child is adjudicated a delinquent child for committing an act that would be a felony of the third, fourth, or fifth degree if committed by an adult or for violating division (A) of section 2923.211 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization for an indefinite term consisting of a minimum period of six months and a maximum period not to exceed the child's attainment of twenty-one years of age;

(5)(a) If the child is adjudicated a delinquent child for violating section 2903.03, 2905.01, 2909.02, or 2911.01 or division (A) of section 2903.04 of the Revised Code or for violating any provision of section 2907.02 of the Revised Code other than division (A)(1)(b) of that section when the sexual conduct or insertion involved was consensual and when the victim of the violation of division (A)(1)(b) of that section was older than the delinquent

child, was the same age as the delinquent child, or was less than three years younger than the delinquent child, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for an indefinite term consisting of a minimum period of one to three years, as prescribed by the court, and a maximum period not to exceed the child's attainment of twenty-one years of age;

(b) If the child is adjudicated a delinquent child for violating section 2923.02 of the Revised Code and if the violation involves an attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for an indefinite term consisting of a minimum period of six to seven years, as prescribed by the court, and a maximum period not to exceed the child's attainment of twenty-one years of age;

(c) If the child is adjudicated a delinquent child for committing an act that is not described in division (A)(5)(a) or (b) of this section and that would be a felony of the first or second degree if committed by an adult, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for an indefinite term consisting of a minimum period of one year and a maximum period not to exceed the child's attainment of twenty-one years of age;

(6) If the child is adjudicated a delinquent child for committing a violation of section 2903.01 or 2903.02 of the Revised Code, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility until the child's attainment of twenty-one years of age;

(7)(a) If the child is adjudicated a delinquent child for committing an act, other than a violation of section 2923.12 of the Revised Code, that would be a felony if committed by an adult and is committed to the legal custody of the department of youth services pursuant to division (A)(4), (5), or (6) of this section and if the court determines that the child, if the child was an adult, would be guilty of a specification of the type set forth in section 2941.141, 2941.144, 2941.145, or 2941.146 of the Revised Code in relation to the act for which the child was adjudicated a delinquent child, commit the child to the legal custody of the department of youth services for institutionalization in a secure facility for the following period of time, subject to division (A)(7)(b) of this section:

(i) If the child would be guilty of a specification of the type set forth in section 2941.141 of the Revised Code, a period of one year;

(ii) If the child would be guilty of a specification of the type set forth in

section 2941.144, 2941.145, or 2941.146 of the Revised Code, a period of three years.

(b) The court shall not commit a child to the legal custody of the department of youth services pursuant to division (A)(7)(a) of this section for a period of time that exceeds three years. The period of commitment imposed pursuant to division (A)(7)(a) of this section shall be in addition to, and shall be served consecutively with and prior to, a period of commitment ordered pursuant to division (A)(4), (5), or (6) of this section, provided that the total of all the periods of commitment shall not exceed the child's attainment of twenty-one years of age.

(8)(a) Impose a fine and costs in accordance with the schedule set forth in section 2151.3512 of the Revised Code;

(b) Require the child to make restitution for all or part of the property damage caused by the child's delinquent act and for all or part of the value of the property that was the subject of any delinquent act the child committed that would be a theft offense, as defined in division (K) of section 2913.01 of the Revised Code, if committed by an adult. If the court determines that the victim of the child's delinquent act was sixty-five years of age or older or permanently and totally disabled at the time of the commission of the act, the court, regardless of whether or not the child knew the age of the victim, shall consider that fact in favor of imposing restitution, but that fact shall not control the decision of the court. The restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim, the performance of community service or community work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

(9) Subject to division (D) of this section, suspend or revoke the driver's license or temporary instruction permit issued to the child or suspend or revoke the registration of all motor vehicles registered in the name of the child;

(10) If the child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a criminal offense that would qualify the adult as an eligible offender pursuant to division (A)(3) of section 2929.23 of the Revised Code, impose a period of electronically monitored house detention in accordance with division (I) of this section that does not exceed the maximum sentence of imprisonment that could be imposed upon an adult who commits the same act;

(11) Commit the child to the temporary or permanent custody of the

rt;

(12) Make any further disposition that the court finds proper, except that the child shall not be placed in any of the following:

(a) A state correctional institution, a county, multicounty, or municipal jail or workhouse, or ~~any other~~ another place in which an adult convicted of a crime, under arrest, or charged with a crime is held;

(b) a community corrections facility, if the child would be covered by the definition of public safety beds for purposes of sections 5139.41 to 5139.45 of the Revised Code if the court exercised its authority to commit the child to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to division (A)(4), (5), or (6) of this section. as used in division (A)(12)(b) of this section, "community corrections facility" and "public safety beds" have the same meanings as in section 5139.01 of the Revised Code.

(B)(1) If a child is adjudicated a delinquent child for violating section 2923.32 of the Revised Code, the court, in addition to any order of disposition it makes for the child under division (A) of this section, shall enter an order of criminal forfeiture against the child, in accordance with divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 2923.32 of the Revised Code.

(2) If a child is adjudicated a delinquent child for committing two or more acts that would be felonies if committed by an adult and if the court entering the delinquent child adjudication orders the commitment of the child, for two or more of those acts, to the legal custody of the department of youth services for institutionalization or institutionalization in a secure facility pursuant to division (A)(4), (5), or (6) of this section, the court may order that all of the periods of commitment imposed under those divisions for those acts be served consecutively in the legal custody of the department of youth services and, if applicable, be in addition to and commence immediately following the expiration of a period of commitment that the court imposes pursuant to division (A)(7) of this section. A court shall not commit a delinquent child to the legal custody of the department of youth services under division (B)(2) of this section for a period that exceeds the child's attainment of twenty-one years of age.

(C) If a child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a drug abuse offense, as defined in section 2925.01 of the Revised Code, or for violating division (B) of section 2917.11 of the Revised Code, in addition to imposing in its discretion any other order of disposition authorized by this section, the court shall do both of the following:

(1) Require the child to participate in a drug abuse or alcohol abuse counseling program;

(2) Suspend or revoke the temporary instruction permit or probationary operator's license issued to the child until the child attains eighteen years of age or attends, at the discretion of the court, and satisfactorily completes, a drug abuse or alcohol abuse education, intervention, or treatment program specified by the court. During the time the child is attending the program, the court shall retain any temporary instruction permit or probationary license issued to the child, and the court shall return the permit or license when the child satisfactorily completes the program.

(D) If a child is adjudicated a delinquent child for violating section 2923.122 of the Revised Code, the court, in addition to any order of disposition it makes for the child under division (A), (B), or (C) of this section, shall revoke the temporary instruction permit and deny the child the issuance of another temporary instruction permit in accordance with division (E)(1)(b) of section 2923.122 of the Revised Code or shall suspend the probationary driver's license, restricted license, or nonresident operating privilege of the child or deny the child the issuance of a probationary driver's license, restricted license, or temporary instruction permit in accordance with division (E)(1)(a), (c), (d), or (e) of section 2923.122 of the Revised Code.

(E)(1) At the dispositional hearing and prior to making any disposition pursuant to division (A) of this section, the court shall determine whether a victim of the delinquent act committed by the child was five years of age or younger at the time the delinquent act was committed, whether a victim of the delinquent act sustained physical harm to the victim's person during the commission of or otherwise as a result of the delinquent act, whether a victim of the delinquent act was sixty-five years of age or older or permanently and totally disabled at the time the delinquent act was committed, and whether the delinquent act would have been an offense of violence if committed by an adult. If the victim was five years of age or younger at the time the delinquent act was committed, sustained physical harm to the victim's person during the commission of or otherwise as a result of the delinquent act, or was sixty-five years of age or older or permanently and totally disabled at the time the act was committed, regardless of whether the child knew the age of the victim, and if the act would have been an offense of violence if committed by an adult, the court shall consider those facts in favor of imposing commitment under division (A)(3), (4), (5), or (6) of this section, but those facts shall not control the court's decision.

(2) At the dispositional hearing and prior to making any disposition pursuant to division (A)(4), (5), or (6) of this section, the court shall determine whether the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance. If the delinquent child previously has been adjudicated a delinquent child for a violation of a law or ordinance, the court, for purposes of entering an order of disposition for the delinquent child under this section, shall consider the previous delinquent child adjudication as a conviction of a violation of the law or ordinance in determining the degree of offense the current delinquent act would be had it been committed by an adult.

(F)(1) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this section, the court shall not designate the specific institution in which the department is to place the child but instead shall specify that the child is to be institutionalized or that the institutionalization is to be in a secure facility if that is required by division (A) of this section.

(2) When a juvenile court commits a delinquent child to the custody of the department of youth services, the court shall provide the department with the child's social history, the child's medical records, a copy of the report of any mental examination of the child ordered by the court, the section or sections of the Revised Code violated by the child and the degree of the violation, the warrant to convey the child to the department, and a copy of the court's journal entry ordering the commitment of the child to the legal custody of the department. The department may refuse to accept physical custody of a delinquent child who is committed to the legal custody of the department until the court provides to the department the documents specified in division (F)(2) of this section. No officer or employee of the department who refuses to accept physical custody of a delinquent child who is committed to the legal custody of the department shall be subject to prosecution or contempt of court for the refusal if the court fails to provide the documents specified in division (F)(2) of this section at the time the court transfers the physical custody of the child to the department.

(3) Within five working days after the juvenile court commits a delinquent child to the custody of the department of youth services, the court shall provide the department with a copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child, a copy of any victim impact statement pertaining to that act, and any other information concerning the child that the department reasonably requests. Within twenty working days after the department of youth services receives physical custody of a delinquent child from a juvenile court, the court shall provide

the department with a certified copy of the child's birth certificate or the child's social security number, or, if the court made all reasonable efforts to obtain the information but was unsuccessful, the court shall provide the department with documentation of the efforts it made to obtain the information.

(4) When a juvenile court commits a delinquent child to the custody of the department of youth services, the court shall give notice to the school attended by the child of the child's commitment by sending to that school a copy of the court's journal entry ordering the commitment. As soon as possible after receipt of the notice described in this division, the school shall provide the department with the child's school transcript. However, the department shall not refuse to accept a child committed to it, and a child committed to it shall not be held in a county or district detention home, because of a school's failure to provide the school transcript that it is required to provide under division (F)(4) of this section.

(5) The department of youth services shall provide the court and the school with an updated copy of the child's school transcript and shall provide the court with a summary of the institutional record of the child when it releases the child from institutional care. The department also shall provide the court with a copy of any portion of the child's institutional record that the court specifically requests within five working days of the request.

(6) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to division (A)(4) or (5) of this section, the court shall state in the order of commitment the total number of days that the child has been held, as of the date of the issuance of the order, in detention in connection with the delinquent child complaint upon which the order of commitment is based. The department shall reduce the minimum period of institutionalization or minimum period of institutionalization in a secure facility specified in division (A)(4) or (5) of this section by both the total number of days that the child has been so held in detention as stated by the court in the order of commitment and the total number of any additional days that the child has been held in detention subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department.

(G)(1) At any hearing at which a child is adjudicated a delinquent child or as soon as possible after the hearing, the court shall notify all victims of the delinquent act, who may be entitled to a recovery under any of the following sections, of the right of the victims to recover, pursuant to section 3109.09 of the Revised Code, compensatory damages from the child's

parents; of the right of the victims to recover, pursuant to section 3109.10 of the Revised Code, compensatory damages from the child's parents for willful and malicious assaults committed by the child; and of the right of the victims to recover an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

(2) If a child is adjudicated a delinquent child for committing an act that, if committed by an adult, would be aggravated murder, murder, rape, felonious sexual penetration in violation of former section 2907.12 of the Revised Code, involuntary manslaughter, a felony of the first or second degree resulting in the death of or physical harm to a person, complicity in or an attempt to commit any of those offenses, or an offense under an existing or former law of this state that is or was substantially equivalent to any of those offenses and if the court in its order of disposition for that act commits the child to the custody of the department of youth services, the court may make a specific finding that the adjudication should be considered a conviction for purposes of a determination in the future, pursuant to Chapter 2929. of the Revised Code, as to whether the child is a repeat violent offender as defined in section 2929.01 of the Revised Code. If the court makes a specific finding as described in this division, it shall include the specific finding in its order of disposition and in the record in the case.

(H)(1) If a child is adjudicated a delinquent child for committing an act that would be a felony if committed by an adult and if the child caused, attempted to cause, threatened to cause, or created the risk of physical harm to the victim of the act, the court, prior to issuing an order of disposition under this section, shall order the preparation of a victim impact statement by the probation department of the county in which the victim of the act resides, by the court's own probation department, or by a victim assistance program that is operated by the state, a county, a municipal corporation, or another governmental entity. The court shall consider the victim impact statement in determining the order of disposition to issue for the child.

(2) Each victim impact statement shall identify the victim of the act for which the child was adjudicated a delinquent child, itemize any economic loss suffered by the victim as a result of the act, identify any physical injury suffered by the victim as a result of the act and the seriousness and permanence of the injury, identify any change in the victim's personal welfare or familial relationships as a result of the act and any psychological impact experienced by the victim or the victim's family as a result of the act, and contain any other information related to the impact of the act upon the victim that the court requires.

(3) A victim impact statement shall be kept confidential and is not a

public record, as defined in section 149.43 of the Revised Code. However, the court may furnish copies of the statement to the department of youth services pursuant to division (F)(3) of this section or to both the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney. The copy of a victim impact statement furnished by the court to the department pursuant to division (F)(3) of this section shall be kept confidential and is not a public record, as defined in section 149.43 of the Revised Code. The copies of a victim impact statement that are made available to the adjudicated delinquent child or the adjudicated delinquent child's counsel and the prosecuting attorney pursuant to division (H)(3) of this section shall be returned to the court by the person to whom they were made available immediately following the imposition of an order of disposition for the child under this section.

(I)(1) As used in this division, "felony drug abuse offense" has the same meaning as in section 2925.01 of the Revised Code.

(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2925.41 and further described in section 2925.42 or 2925.43 of the Revised Code.

(J)(1) As used in this section:

(a) "Electronic monitoring device," "certified electronic monitoring device," "electronic monitoring system," and "certified electronic monitoring system" have the same meanings as in section 2929.23 of the Revised Code.

(b) "Electronically monitored house detention" means a period of confinement of a child in the child's home or in other premises specified by the court, during which period of confinement all of the following apply:

(i) The child wears, otherwise has attached to the child's person, or otherwise is subject to monitoring by a certified electronic monitoring device or is subject to monitoring by a certified electronic monitoring system.

(ii) The child is required to remain in the child's home or other premises specified by the court for the specified period of confinement, except for periods of time during which the child is at school or at other premises as authorized by the court.

(iii) The child is subject to monitoring by a central system that monitors the certified electronic monitoring device that is attached to the child's person or that otherwise is being used to monitor the child and that can monitor and determine the child's location at any time or at a designated point in time, or the child is required to participate in monitoring by a certified electronic monitoring system.

(iv) The child is required by the court to report periodically to a person designated by the court.

(v) The child is subject to any other restrictions and requirements that may be imposed by the court.

(2) A juvenile court, pursuant to division (A)(10) of this section, may impose a period of electronically monitored house detention upon a child who is adjudicated a delinquent child for committing an act that, if committed by an adult, would be a criminal offense that would qualify the adult as an eligible offender pursuant to division (A)(3) of section 2929.23 of the Revised Code. The court may impose a period of electronically monitored house detention in addition to or in lieu of any other dispositional order imposed upon the child, except that any period of electronically monitored house detention shall not extend beyond the child's eighteenth birthday. If a court imposes a period of electronically monitored house detention upon a child, it shall require the child to wear, otherwise have attached to the child's person, or otherwise be subject to monitoring by a certified electronic monitoring device or to participate in the operation of and monitoring by a certified electronic monitoring system; to remain in the child's home or other specified premises for the entire period of electronically monitored house detention except when the court permits the child to leave those premises to go to school or to other specified premises; to be monitored by a central system that monitors the certified electronic monitoring device that is attached to the child's person or that otherwise is being used to monitor the child and that can monitor and determine the child's location at any time or at a designated point in time or to be monitored by the certified electronic monitoring system; to report periodically to a person designated by the court; and, in return for receiving a dispositional order of electronically monitored house detention, to enter into a written contract with the court agreeing to comply with all restrictions and requirements imposed by the court, agreeing to pay any fee imposed by the court for the costs of the electronically monitored house detention imposed by the court pursuant to division (E) of section 2929.23 of the Revised Code, and agreeing to waive the right to receive credit for any time served on electronically monitored house detention toward the period of any

other dispositional order imposed upon the child for the act for which the dispositional order of electronically monitored house detention was imposed if the child violates any of the restrictions or requirements of the dispositional order of electronically monitored house detention. The court also may impose other reasonable restrictions and requirements upon the child.

(3) If a child violates any of the restrictions or requirements imposed upon the child as part of the child's dispositional order of electronically monitored house detention, the child shall not receive credit for any time served on electronically monitored house detention toward any other dispositional order imposed upon the child for the act for which the dispositional order of electronically monitored house detention was imposed.

(K) Within ten days after completion of the adjudication, the court shall give written notice of an adjudication that a child is a delinquent child to the superintendent of a city, local, exempted village, or joint vocational school district if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult and that was committed by the delinquent child when the child was sixteen years of age or older and if the act is any of the following:

(1) A violation of section 2923.122 of the Revised Code that relates to property owned or controlled by, or to an activity held under the auspices of, the board of education of that school district;

(2) A violation of section 2923.12 of the Revised Code or of a substantially similar municipal ordinance that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(3) A violation of division (A) of section 2925.03 or 2925.11 of the Revised Code that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district and that is not a minor drug possession offense as defined in section 2925.01 of the Revised Code;

(4) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised Code, or a violation of former section 2907.12 of the Revised Code, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, if the victim at the time of the commission of the act was an employee of the board of education of that school district;

(5) Complicity in any violation described in division (K)(1), (2), (3), or

(4) of this section that was alleged to have been committed in the manner described in division (K)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(L) During the period of a delinquent child's probation granted under division (A)(2) of this section, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the delinquent child, the place of residence of the delinquent child, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the delinquent child has a right, title, or interest or for which the delinquent child has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's probation. The court that places a delinquent child on probation under division (A)(2) of this section shall provide the delinquent child with a written notice that informs the delinquent child that authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of probation if they have reasonable grounds to believe that the delinquent child is not abiding by the law or otherwise is not complying with the conditions of the delinquent child's probation. The court also shall provide the written notice described in division (C)(2)(b) of section 2151.411 of the Revised Code to each parent, guardian, or custodian of the delinquent child who is described in division (C)(2)(a) of that section.

SECTION 8. That all existing versions of section 2151.355 of the Revised Code are hereby repealed.

SECTION 9. Sections 7 and 8 of this act shall take effect September 30, 1997.

SECTION 10. That section 4301.17 of the Revised Code, as amended by Am. Sub. H.B. 60 of the 121st General Assembly, be amended to read as follows:

Sec. 4301.17. (A) Subject to local option as provided in sections

4301.32 to 4301.40 of the Revised Code, five state liquor stores or agencies may be established in each county. One additional store may be established in any county for each thirty thousand of population of such county or major fraction thereof in excess of the first forty thousand, according to the last preceding federal census. A person engaged in a mercantile business may act as the agent for the division of liquor control for the sale of spirituous liquor in a municipal corporation, in the unincorporated area of a township of not less than two thousand population, or in an area designated and approved as a resort area under section 4303.262 of the Revised Code, provided that not more than one agency contract shall be awarded in the unincorporated area of a county for each fifty thousand population of the county. The division shall fix compensation for such agent in such manner as it deems best, but such compensation shall not exceed seven per cent of the gross sales made by such agent in any one year.

Except as otherwise provided in this section, no mercantile business that sells beer or intoxicating liquor for consumption on the premises under a permit issued by the division shall operate an agency store at such premises or at any adjacent premises. An agency to which a D-1 permit has been issued may offer for sale tasting samples of beer ~~and~~, an agency to which a D-2 permit has been issued may offer for sale tasting samples of wine and mixed beverages, and an agency to which a D-5 permit has been issued may offer for sale tasting samples of beer, wine, and mixed beverages, but not spirituous liquor. A tasting sample shall not be sold for the purpose of general consumption. As used in this section, "tasting sample" means a small amount of beer, wine, or mixed beverages that is provided in not more than four servings of not more than two ounces each to an authorized purchaser and that allows the purchaser to determine, by tasting only, the quality and character of the beverage.

(B) When an agency contract is proposed or when an existing agency is assigned, before entering into any such contract or consenting to any assignment, the division shall notify the legislative authority of the municipal corporation, or the board of county commissioners and the board of township trustees of the county and the township in which the agency store is to be located if the agency store is to be located outside the corporate limits of a municipal corporation, of the proposed contract, and an opportunity shall be provided officials or employees of the municipal corporation or county and township for a complete hearing upon the advisability of entering into the agency contract. When the division sends notice to the legislative authority of the political subdivision, the department shall notify, by certified mail or by personal service, the chief peace officer

of the political subdivision, who may appear and testify, either in person or through a representative, at any hearing held on the advisability of entering into the agency contract.

On or after July 21, 1986, if the proposed agency store would be located within five hundred feet of a school, church, library, public playground, or township park, the division shall not enter into an agency contract until it has provided notice of the proposed contract to the authorities in control of the school, church, library, public playground, or township park and has provided such officials with an opportunity for a complete hearing upon the advisability of entering into the contract. If an agency store so located is operating under an agency contract, the division may consent to the assignment of that contract to operate an agency store at the same location, provided that the division shall not consent to an assignment until it has notified the authorities in control of the school, church, library, public playground, or township park and has provided such officials with an opportunity for a complete hearing upon the advisability of consenting to the assignment.

Any hearing provided for in this division shall be held in the central office of the division, except that upon written request of the legislative authority of the municipal corporation, the board of county commissioners, or board of township trustees, the hearing shall be held in the county seat of the county where the proposed agency store is to be located.

(C) All agency contracts entered into by the division pursuant to this section shall be in writing and shall contain a clause providing for the termination of the contract at will by the division upon its giving ninety days' notice in writing to such agent of its intention to do so. Any agency contract may include a clause requiring the agent to report to the appropriate law enforcement agency the name and address of any individual under twenty-one years of age who attempts to make an illegal purchase.

An agent may engage in the selling of beer, mixed beverages, and wine pursuant to permits issued to the agent under Chapter 4303. of the Revised Code.

The division shall issue a C-1 and C-2 permit to each agent who prior to November 1, 1994, had not been issued both of these permits, notwithstanding the population quota restrictions contained in section 4303.29 of the Revised Code or in any rule of the liquor control commission and notwithstanding the requirements of section 4303.31 of the Revised Code. The location of a C-1 or C-2 permit issued to such an agent shall not be transferred. The division shall revoke any C-1 or C-2 issued to an agent under this paragraph if the agent no longer operates an agency store.

No person shall operate, or have any interest, directly or indirectly, in more than four state agencies in any one county or more than eight state agencies in the state for the sale of spirituous liquor. For purposes of this section, a person has an interest in a state agency if the person is a partner, member, officer, or director of, or a shareholder owning ten per cent or more of the capital stock of, any legal entity with which the department has entered into an agency contract.

The division may enter into agreements with the department of development to implement a minority loan program to provide low-interest loans to minority business enterprises, as defined in section 122.71 of the Revised Code, that are awarded liquor agency contracts or assignments.

(D) If the division closes a state liquor store and replaces that store with an agency store, any employees of the division employed at that state liquor store who lose their jobs at that store as a result shall be given preference by the agent who operates the agency store in filling any vacancies that occur among the agent's employees, if such preference does not conflict with the agent's obligations pursuant to a collective bargaining agreement.

If the division closes a state liquor store and replaces the store with an agency store, any employees of the division employed at the state liquor store who lose their jobs at that store as a result may displace other employees as provided in sections 124.321 to 124.328 of the Revised Code. If an employee cannot displace other employees and is laid off, the employee shall be reinstated in another job as provided in sections 124.321 to 124.328 of the Revised Code, except that the employee's rights of reinstatement in a job at a state liquor store shall continue for a period of two years after the date of the employee's layoff and shall apply to jobs at state liquor stores located in the employee's layoff jurisdiction and any layoff jurisdiction adjacent to the employee's layoff jurisdiction.

(E) The division shall require every such agent to give bond with surety to the satisfaction of the division, in such amount as the division fixes, conditioned for the faithful performance of the agent's duties as prescribed by the division.

SECTION 11. That all existing versions of section 4301.17 of the Revised Code are hereby repealed.

SECTION 12. That Sections 10 and 11 of this act shall take effect March 4, 1998.

SECTION 13. That section 5729.031 of the Revised Code be amended to read as follows:

Sec. 5729.031. As used in this section, "insurance company" includes any health insuring corporation as defined in section 1751.01 of the Revised Code; "insurance company group" means two or more insurance companies that are owned by a common owner or two or more insurance companies among which one company owns the other company or companies; and with respect to health insuring corporations, "premiums sold" means premium rate payments received. A foreign or domestic insurance company or insurance company group may claim a credit against the tax imposed under section 5725.18 or 5729.03 of the Revised Code. An insurance company group shall compute one credit for the group as a whole, and one or more companies in the group may claim all or a portion of that credit until it is exhausted. The superintendent of insurance may adopt rules for the apportionment of the credit among the members of an insurance company group. The amount of the credit shall equal the amount computed as follows:

(A) Subtract the total dollar amount of all premiums sold in all states by the company, in the case of an individual company, or by the group, in the case of an insurance company group, from ~~fifty~~ seventy-five million dollars;

(B) Divide the result obtained in division (A) of this section by ~~fifty~~ seventy-five million;

(C) Multiply the quotient obtained in division (B) of this section by two hundred thousand.

(D) The product obtained in division (C) of this section shall equal the credit to which an insurance company or an insurance company group is entitled, but the credit shall not reduce the tax liability of any individual company or of any company within an insurance company group below the minimum tax required by division (C) of section 5725.18 or division (C) of section 5729.03 of the Revised Code. If the difference obtained in division (A) of this section is less than or equal to zero, the credit allowed under this section equals zero.

(E) A reduction in the taxes of a foreign insurance company to the extent obtained through a claim for credit under this section does not increase the retaliatory tax liability otherwise charged against that company.

SECTION 14. That existing section 5729.031 of the Revised Code is hereby repealed.

SECTION 15. Sections 13 and 14 shall take effect July 1, 1999.

SECTION 16. Except as otherwise provided, all appropriation line items (ALI) in this act are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund, which are not otherwise appropriated. For all appropriations made in this act, those amounts in the first column are for fiscal year 1998 and those amounts in the second column are for fiscal year 1999.

SECTION 17. ACC ACCOUNTANCY BOARD OF OHIO

FND	ALI	ALI TITLE	FY 1998	FY 1999
General Services Fund Group				
4J8	889-601	CPA Education Assistance	$ 340,000	$ 200,000
4K9	889-609	Operating	$ 723,188	$ 739,378
TOTAL GSF General Services Fund Group			$ 1,063,188	$ 939,378
TOTAL ALL BUDGET FUND GROUPS			$ 1,063,188	$ 939,378

SECTION 18. PAY ACCRUED LEAVE LIABILITY

Agency Fund Group				
808	995-668	State Employee Health Benefit Fund	$ 112,329,200	$ 117,980,047
809	995-669	Dependent Care Spending Account	$ 2,257,000	$ 2,413,000
810	995-670	Life Insurance Investment Fund	$ 2,253,978	$ 2,366,677
811	995-671	Parental Leave Benefit Fund	$ 1,763,459	$ 1,851,632
TOTAL AGY Agency Fund Group			$ 118,603,637	$ 124,611,356
Accrued Leave Liability Fund Group				
806	995-666	Accrued Leave Fund	$ 43,980,178	$ 46,179,187
807	995-667	Disability Fund	$ 32,386,903	$ 33,961,248
TOTAL ALF Accrued Leave Liability Fund Group			$ 76,367,081	$ 80,140,435
TOTAL ALL BUDGET FUND GROUPS			$ 194,970,718	$ 204,751,791

Accrued Leave Liability Fund

The foregoing appropriation item 995-666, Accrued Leave Fund, shall be used to make payments from the Accrued Leave Liability Fund (Fund 806), pursuant to section 125.211 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

State Employee Disability Leave Benefit Fund

The foregoing appropriation item 995-667, Disability Fund, shall be used to make payments from the State Employee Disability Leave Benefit Fund (Fund 807), pursuant to section 124.83 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

State Employee Health Benefit Fund

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

Dependent Care Spending Account

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

Life Insurance Investment Fund

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

Parental Leave Benefit Fund

The foregoing appropriation item 995-671, Parental Leave Benefit Fund, shall be used to make payments from the Parental Leave Benefit Fund (Fund 811) to employees eligible for parental leave benefits pursuant to section 124.137 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are hereby appropriated.

SECTION 19. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF 745-401	Ohio Military Reserve	$ 16,234	$ 16,640
GRF 745-404	Air National Guard	$ 1,831,777	$ 1,881,571
GRF 745-406	Tuition Grant Program	$ 4,152,254	$ 4,192,237
GRF 745-409	Central Administration	$ 4,446,287	$ 4,612,615
GRF 745-499	Army National Guard	$ 3,809,796	$ 3,810,231
GRF 745-502	ONG Unit Fund	$ 114,868	$ 118,086
TOTAL GRF General Revenue Fund		$ 14,371,216	$ 14,631,380

General Services Fund Group						
534	745-612	Armory Improvements	$	500,000	$	500,000
536	745-620	Camp Perry Clubhouse and Rental Activities	$	921,399	$	945,876
537	745-604	ONG Maintenance	$	90,049	$	92,571
TOTAL GSF General Services Fund Group			$	1,511,448	$	1,538,447
Federal Special Revenue Fund Group						
340	745-614	Marksmanship Program	$	56,000	$	56,000
341	745-615	Air National Guard Base Security	$	1,877,500	$	1,877,500
342	745-616	Army National Guard Service Agreement	$	6,495,010	$	6,281,698
343	745-619	Army National Guard Training Site Agreement	$	2,092,400	$	2,092,400
3E8	745-628	Air National Guard Operations and Maintenance Agreement	$	10,136,315	$	10,359,478
TOTAL FED Federal Special Revenue Fund Group			$	20,657,225	$	20,667,076
TOTAL ALL BUDGET FUND GROUPS			$	36,539,889	$	36,836,903

Ohio National Guard Maintenance

Of the foregoing appropriation item 745-409, Central Administration, $330,000 in each fiscal year is to provide for the employment or contracting of maintenance personnel to assist in substantially reducing the backlog of maintenance projects at Ohio's Air and Army National Guard facilities.

SECTION 20. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

General Revenue Fund						
GRF	100-402	Unemployment Compensation	$	142,825	$	137,747
GRF	100-405	Agency Audit Expenses	$	819,538	$	434,408
GRF	100-406	County Personnel Services	$	1,226,010	$	1,308,378
GRF	100-408	Buy Ohio Promotions	$	23,765	$	24,359
GRF	100-409	Departmental Information Services	$	1,291,573	$	1,321,103
GRF	100-412	Information Center	$	1,067,449	$	1,095,203
GRF	100-414	Ohio Geographically Referenced Information Program	$	616,902	$	631,383
GRF	100-416	Strategic Technology	$	4,864,784	$	4,931,830
GRF	100-417	MARCS	$	3,374,984	$	4,125,310
GRF	100-419	SOMACS	$	4,807,130	$	4,927,123
GRF	100-420	Suggestion Awards	$	168,634	$	170,975
GRF	100-429	Agency Business Support Services	$	1,388,806	$	1,385,439
GRF	100-430	Year 2000 Assistance	$	8,013,493	$	5,261,984
GRF	100-431	Set Aside Review Board	$	87,181	$	79,620
GRF	100-433	State of Ohio Computer	$	4,937,702	$	5,087,138

		Center		
GRF	100-435	State Government Energy Program	$ 429,256	$ 437,832
GRF	100-447	OBA - Building Rent Payments	$ 71,764,000	$ 80,914,000
GRF	100-448	OBA - Building Operating Payments	$ 25,498,000	$ 25,498,000
GRF	100-449	DAS - Building Operating Payments	$ 4,035,679	$ 4,054,301
GRF	100-451	Minority Affairs	$ 124,827	$ 125,953
GRF	100-734	Major Maintenance	$ 100,000	$ 100,000
GRF	102-321	EOC Compliance	$ 1,494,373	$ 1,355,596
GRF	130-321	Bureau of Real Estate	$ 2,254,317	$ 2,315,294
TOTAL GRF General Revenue Fund			$ 138,531,228	$ 145,722,976
General Services Fund Group				
112	100-616	Director's Office	$ 4,572,437	$ 4,687,063
115	100-632	Central Service Agency	$ 409,735	$ 412,518
117	100-644	General Services Administration	$ 5,551,419	$ 5,937,495
122	100-637	Fleet Management	$ 1,394,647	$ 1,432,988
125	100-622	Personnel Services	$ 16,222,008	$ 16,723,131
127	100-627	Vehicle Liability Insurance	$ 3,924,959	$ 4,034,239
128	100-620	Collective Bargaining	$ 3,652,897	$ 3,675,550
130	100-606	State Insurance Pool	$ 99,983	$ 102,658
131	100-639	State Architect's Office	$ 5,989,051	$ 6,058,112
132	100-631	Facilities Management	$ 7,761,319	$ 7,932,202
188	100-649	State EOC	$ 2,219,080	$ 2,051,620
201	100-653	General Services Resale Merchandise	$ 1,891,357	$ 1,944,315
210	100-612	State Printing	$ 5,688,995	$ 5,831,735
4H2	100-604	Governor's Residence Gift	$ 20,560	$ 21,136
427	100-602	Investment Recovery	$ 3,110,486	$ 3,197,752
4P3	100-603	Departmental MIS Services	$ 5,633,414	$ 6,118,350
5C2	100-605	MARCS Administration	$ 0	$ 2,988,056
5C3	100-608	Skilled Trades	$ 2,112,280	$ 2,164,039
5D7	100-621	Workforce Development	$ 4,000,000	$ 8,000,000
TOTAL GSF General Services Fund Group			$ 74,254,627	$ 83,312,959
Intragovernmental Service Fund Group				
123	100-613	Telecommunications	$ 35,623,686	$ 36,609,209
133	100-607	Computer Services	$ 44,107,222	$ 45,958,060
4N6	100-617	Equipment Purchases	$ 5,988,546	$ 18,588,924
TOTAL ISF Intragovernmental Service Fund Group			$ 85,719,454	$ 101,156,193
Agency Fund Group				
113	100-628	Unemployment Compensation	$ 4,525,227	$ 4,651,933
124	100-629	Payroll Withholding	$ 1,650,000,000	$ 1,700,000,000
TOTAL AGY Agency Fund Group			$ 1,654,525,227	$ 1,704,651,933
Holding Account Redistribution Fund Group				
R08	100-646	General Services Refunds	$ 16,000	$ 17,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 16,000	$ 17,000
TOTAL ALL BUDGET FUND GROUPS			$ 1,953,046,536	$ 2,034,861,061

SECTION 20.01. Agency Audit Expenses

Of the foregoing appropriation line item 100-405, Agency Audit Expenses, up to $15,000 appropriated for fiscal year 1998 may be used to pay the outstanding obligations of the Certificate of Need Review Board, which include, but are not limited to, unemployment and miscellaneous expenses. The Director of the Department of Administrative Services shall act as the appointing authority in matters related to closing the Certificate of Need Review Board.

Of the foregoing appropriation line item 100-405, Agency Audit Expenses, up to $400,000 appropriated for fiscal year 1998 may be used to pay the outstanding obligations of the Veterans' Children's Home, which include, but are not limited to, unemployment and miscellaneous expenses.

Of the foregoing appropriation item 100-405, Agency Audit Expenses, $5,000 appropriated for each fiscal year shall be used for the Ohio Veterans' Children's Home ex-pupils association.

Of the foregoing appropriation item 100-405, Agency Audit Expenses, up to $10,000 in each fiscal year may be used to pay the moving expenses of agencies displaced due to decisions made by the Department of Administrative Services.

Of the foregoing appropriation item 100-405, Agency Audit Expenses, up to $40,000 in fiscal year 1998 and $42,000 in fiscal year 1999 shall be used for the Department of Administrative Services' GRF line item-related auditing expenses. The remainder of the appropriation shall be used for auditing expenses designated in division (A)(1) of section 117.13 of the Revised Code for those state agencies audited on a biennial basis.

SECTION 20.02. Ohio Building Authority

The foregoing appropriation item 100-447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 1997 to June 30, 1999, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of $150,715,000. The foregoing appropriation item 100-448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 1997 to June 30, 1999, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the

aggregate amount of $50,996,000. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The payments to the Ohio Building Authority are for the purpose of paying the expenses of agencies that occupy space in the various state facilities. The Department of Administrative Services is authorized to enter into leases and agreements with the Ohio Building Authority providing for the payment of such expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating such facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to them by the Ohio Building Authority.

SECTION 20.03. DAS - Building Operating Payments

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of all veterans' groups pursuant to section 123.024 of the Revised Code in fiscal years 1998 and 1999.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of this appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services which are not billed to building tenants. Such expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants which are relocated due to building renovations.

Such payments shall be processed by the Department of Administrative Services through intrastate vouchers and placed in the Facilities Management Fund (Fund 132).

SECTION 20.04. State EOC and Minority Affairs

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EOC Fund (Fund 188). These charges shall be deposited to the credit of the State EOC Fund (Fund 188) upon payment made by state agencies; state-supported or state-assisted institutions of higher education; and tax-supported agencies,

unicipal corporations, or other political subdivisions of the state, for services rendered.

The foregoing appropriation item 100-451, Minority Affairs, shall be used to establish minority affairs programs within the Division of EOC. The office shall provide an access point and official representation to multi-cultural communities; research and reports on multi-cultural issues; and educational, governmental, and other services that foster multi-cultural opportunities and understanding in the state of Ohio.

SECTION 20.05. Transfers to Central Service Agency Fund

The Director of Budget and Management may transfer up to $1,500,000 in fiscal year 1998 and up to $500,000 in fiscal year 1999 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The cash transferred shall be used to purchase the necessary equipment, products, and services to install a local area network for the professional licensing boards, to migrate their licensing applications to this network, and to provide for the ongoing operations of the network in fiscal year 1998 and fiscal year 1999. Appropriation authority equal to the cash transfer is hereby appropriated to line item 100-632, Central Service Agency.

The Director of Budget and Management may transfer up to $150,000 in fiscal year 1998 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The cash shall be utilized as necessary to subsidize the operations of the Central Service Agency during the process of transition due to the Medical Board and the Pharmacy Board no longer using Central Service Agency services.

The Director of Budget and Management shall transfer up to $20,000 in fiscal year 1998 from the Occupational Licensing and Regulatory Fund (Fund 4K9) to the Central Service Agency Fund (Fund 115). The Office of Budget and Management shall conduct, or contract for the conduct of, a study examining the feasibility of consolidating the administrative process of licensing and regulating barbers and cosmetologists while respecting the separate identities of the two professions. Appropriation authority equal to the cash transfer is hereby appropriated to line item 100-632, Central Service Agency.

SECTION 20.06. Tuition Reimbursement for Continuing Education

Of the foregoing appropriation item 100-622, Personnel Services, $200,000 in fiscal year 1998 and $200,000 in fiscal year 1999 shall be set

aside for the District 1199 Health Care Employees Tuition Reimbursement Program, per existing collective bargaining agreements. Of the foregoing appropriation item 100-622, Personnel Services, $50,000 in fiscal year 1998 and $50,000 in fiscal year 1999 shall be set aside for the Ohio Education Association Tuition Reimbursement Program, per existing collective bargaining agreements. In addition, the Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the District 1199 Health Care Employees Tuition Reimbursement Program and the Ohio Education Association Tuition Reimbursement Program. These charges shall be deposited into and disbursed from Personnel Services Fund (Fund 125).

SECTION 20.07. Merchandise for Resale

The foregoing appropriation item 100-653, General Services Resale Merchandise, shall be used to account for merchandise for resale which is administered by the General Services Administration Fund and the State Printing Fund. Deposits to the General Services Resale Merchandise Fund may be comprised of the cost of merchandise for resale and a General Services Administration fee or a State Printing Administration fee. The Department of Administrative Services shall transfer any cash that is deposited to the General Services Resale Merchandise Fund for the General Services administration fee or the State Printing Administration fee to the General Services Administration Fund or the State Printing Fund using an intrastate transfer voucher.

SECTION 20.08. Collective Bargaining Arbitration Expenses

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state agencies for the actual costs and expenses the Department incurs in the collective bargaining arbitration process. Such reimbursements shall be processed through intrastate transfer vouchers and placed in the Collective Bargaining Fund (Fund 128).

Workforce Development Fund

There is hereby established in the state treasury the Workforce Development Fund (Fund 5D7). The foregoing appropriation item 100-621, Workforce Development, shall be used to make payments from the fund. The fund shall be under the supervision of the Department of Administrative Services, which may adopt rules with regard to the administration of the

fund. The fund shall be used to pay the costs of the Workforce Development program established by Article 37 of the contract between the State of Ohio and OCSEA/AFSCME, Local 11, effective March 1, 1997. The program shall be administered in accordance with the contract. Revenues shall accrue to the fund as specified in the contract. The fund may be used to pay direct and indirect costs of the program that are attributable to staff, consultants, and service providers. All income derived from the investment of the fund shall accrue to the fund.

SECTION 20.09. Payroll Withholding Fund

The foregoing appropriation item 100-629, Payroll Withholding, shall be used to make payments from the Payroll Withholding Fund (Fund 124). If it is determined by the Director of Budget and Management that additional funds are necessary, such amounts are hereby appropriated.

SECTION 20.10. General Services Charges

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs in the General Services Administration Fund (Fund 117) and the State Printing Fund (Fund 210).

SECTION 20.11. Unemployment Compensation Fund

The foregoing appropriation item 100-628, Unemployment Compensation, shall be used to make payments from the Unemployment Compensation Fund (Fund 113), pursuant to section 4141.241 of the Revised Code. If it is determined that additional amounts are necessary, such amounts are hereby appropriated.

SECTION 20.12. Governor's Residence Gift

The foregoing appropriation item 100-604, Governor's Residence Gift, shall be used to provide part or all of the funding related to construction, goods, or services for the Governor's Residence. All receipts for this line item shall be deposited into Fund 4H2.

SECTION 20.13. Investment Recovery Fund

Of the foregoing appropriation item 100-602, Investment Recovery, up to $2,000,000 in fiscal year 1998 and $2,100,000 in fiscal year 1999 may be

used to refund proceeds from the sale of surplus state property to state agencies. If it is determined by the Director of Budget and Management that additional appropriations are necessary to refund such proceeds, such amounts are hereby appropriated.

SECTION 20.14. Facilities Management Fund/Skilled Trades Unit

The foregoing appropriation line item 100-608, Skilled Trades, shall be used to fund the operating costs of Skilled Trades, which was formerly accounted for in line item 100-631, Facilities Management.

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer up to $352,047 cash from the Facilities Management Fund (Fund 132) to the Skilled Trades Fund (Fund 5C3). This cash shall be used to fund Skilled Trades operations until revenue is received from charges to users of Skilled Trades services.

After final payments are made from fiscal year 1997 encumbrances in the Facilities Management Fund, the Director of Administrative Services shall reconcile fiscal year 1997 financial activity in the Facilities Management Fund and determine the amount of the fund cash balance due to or from Skilled Trades operations.

Not later than June 30, 1998, the Director of Administrative Services shall make a determination of any cash transfer which is required to finalize the transfer of Skilled Trades operations from the Facilities Management Fund to the Skilled Trades Fund. Upon concurrence with this determination, the Director of Budget and Management may transfer this amount between the Facilities Management Fund (Fund 132) and the Skilled Trades Fund (Fund 5C3).

The Department of Administrative Services shall establish charges for recovering the costs of operating Skilled Trades. All receipts from these charges shall be deposited to the Skilled Trades Fund, which is hereby created.

SECTION 20.15. Departmental MIS

The foregoing appropriation item 100-603, Departmental MIS Services, may be used to pay operating expenses of Management Information Systems activities in the Department of Administrative Services.

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer in total up to $683,000 cash from any fund administered by the Department of Administrative Services in the General Services Fund Group or Intragovernmental Service Fund Group to

the Departmental MIS Services Fund (Fund 4P3) to pay operating costs of the Departmental MIS program.

After final payments are made from fiscal year 1997 encumbrances in the Computer Services Fund, the Department of Administrative Services shall reconcile fiscal year 1997 financial activity in the Computer Services Fund and determine the amount of the fund cash balance due to Management Information System program operations.

Not later than June 30, 1998, the Director of Administrative Services shall make a determination of any cash transfer which is required to finalize the transfer of Management Information Systems program operations from the Computer Services Fund to the Departmental MIS Services Fund. Upon concurrence with this determination, the Director of Budget and Management may transfer this amount between the Computer Services Fund and the Departmental MIS Fund.

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer up to $1,530,643 of fiscal year 1998 appropriations and up to $1,837,860 of fiscal year 1999 appropriations from appropriation item 100-603 to any Department of Administrative Services appropriation item in the General Services or Intragovernmental Service Fund Groups. The appropriations transferred shall be used to make payments for Management Information Systems services.

Notwithstanding any other language to the contrary, the Director of Budget and Management may transfer up to $696,104 of fiscal year 1998 appropriations and up to $715,287 of fiscal year 1999 appropriations from appropriation item 100-409, Departmental Information Services, to any Department of Administrative Services appropriation item in the General Revenue Fund. The appropriations transferred shall be used to make payments for Management Information Systems services. The Department of Administrative Services shall establish charges for recovering the costs of Management Information Systems activities. These charges shall be deposited to the credit of the Departmental MIS Fund (Fund 4P3), which is hereby created.

SECTION 20.16. Computer Equipment Purchases

The Director of Administrative Services shall compute the amount of revenue attributable to the amortization of all equipment purchases from 100-607, Computer Services; 100-617, Equipment Purchases; CAP-837, Major Equipment Purchases; and CIR-837, Major Equipment Purchases, which is recovered by the Department of Administrative Services as part of the rates charged by Fund 133, Computer Services. The Director of Budget

and Management may transfer this revenue from Fund 133, Computer Services, to Fund 4N6, Equipment Purchases.

SECTION 20.17. Multi-Agency Radio Communication System

Effective with the implementation of the Multi-Agency Radio Communication System, the costs of operating and administering the Multi-Agency Radio Communication System shall be supported by user charges. The Director of Administrative Services, with the advice of the Multi-Agency Radio Communication System steering committee, shall determine charges that are sufficient to defray the operating and administrative expenses of the system and the manner by which such charges shall be collected. Such user charges shall comply with applicable cost principles issued by the federal Office of Management and Budget. All moneys collected from user charges shall be deposited in the state treasury to the credit of the Multi-Agency Radio Communication System Administration Fund (Fund 5C2), which is hereby created. All investment earnings of the fund shall be credited to the fund.

The foregoing appropriation items 100-417, MARCS, and 100-605, MARCS Administration, shall be used to pay operating and administrative costs incurred by the Department of Administrative Services to develop and implement a multi-agency radio communication system. Notwithstanding any other language to the contrary, all fees, user charges, and reimbursements collected by the Department of Administrative Services for costs incurred in the MARCS and MARCS Administration appropriation items shall be deposited into the state treasury to the credit of the Multi-Agency Radio Communication System Administration Fund.

Multi-Agency Radio Communication System Debt Service Payments

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and which shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100-447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from the Highway Operating Fund (Fund 002) established in section 5735.281 of

the Revised Code.

SECTION 20.18. General Services Refunds

The foregoing appropriation item 100-646, General Services Refunds, shall be used to hold bid guarantee and building plans and specifications deposits until they are refunded. The Director of Administrative Services may request that the Director of Budget and Management transfer cash received for the costs of providing the building plans and specifications to contractors from the General Services Refund Fund to Fund 131, State Architect's Office. Prior to the transfer of cash, the Director of Administrative Services shall certify that such amounts are in excess of amounts required for refunding deposits and are directly related to costs of producing building plans and specifications. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 21. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW

General Revenue Fund

GRF 029-321	Operating Expenses	$ 340,590	$ 373,763
TOTAL GRF General Revenue Fund		$ 340,590	$ 373,763
TOTAL ALL BUDGET FUND GROUPS		$ 340,590	$ 373,763

Operating

The Executive Secretary of the House of Representatives and the Senate Clerk shall determine, by mutual agreement, which of them shall act as the fiscal agent for the Joint Committee on Agency Rule Review.

SECTION 22. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490-100	Personal Services	$ 1,854,500	$ 1,900,863
GRF 490-200	Maintenance	$ 886,142	$ 908,295
GRF 490-300	Equipment	$ 16,400	$ 16,811
GRF 490-403	PASSPORT	$ 54,279,852	$ 54,279,852
GRF 490-404	Eldercare	$ 319,692	$ 273,708
GRF 490-408	Seniors in Schools	$ 800,000	$ 2,000,000
GRF 490-409	Americorps Operations	$ 237,238	$ 299,145
GRF 490-410	Long-Term Care Ombudsman	$ 1,437,048	$ 1,472,974
GRF 490-411	Senior Community Services	$ 13,000,000	$ 13,650,000
GRF 490-412	Residential State Supplement (OSS)	$ 12,236,294	$ 12,930,701
GRF 490-414	Alzheimers Respite	$ 1,548,244	$ 1,574,450
GRF 490-415	Task Force Study	$ 48,400	$ 33,500
GRF 490-499	State Match	$ 14,865	$ 14,865

GRF	490-504	Senior Facilities	$	410,188	$	369,193
GRF	490-506	Senior Volunteers	$	458,437	$	469,148
TOTAL GRF General Revenue Fund			$	87,547,300	$	90,193,505
General Services Fund Group						
480	490-606	Senior Citizens Services Special Events	$	330,361	$	339,611
5E9	490-619	Janis Center	$	43,628	$	0
TOTAL GSF General Services Fund Group			$	373,989	$	339,611
Federal Special Revenue Fund Group						
3C4	490-607	PASSPORT	$	89,607,795	$	110,835,504
3M3	490-611	Federal Aging Nutrition	$	23,141,563	$	21,825,557
3M4	490-612	Federal Supportive Services	$	16,408,844	$	15,090,843
3R7	490-617	Americorps Programs	$	7,079,474	$	8,026,169
322	490-618	Older Americans	$	15,382,983	$	13,634,767
TOTAL FED Federal Special Revenue Fund Group			$	151,620,659	$	169,412,840
State Special Revenue Fund Group						
4C4	490-609	Bed Fee Collection Account	$	736,550	$	371,961
4H1	490-603	General Operations	$	647,640	$	665,774
4J4	490-610	PASSPORT/Residential State Supplement	$	28,000,000	$	24,000,000
4U9	490-602	PASSPORT Fund	$	3,000,000	$	3,000,000
TOTAL SSR State Special Revenue Fund Group			$	32,384,190	$	28,037,735
TOTAL ALL BUDGET FUND GROUPS			$	271,926,138	$	287,983,691

SECTION 22.01. Pre-Admission Review for Nursing Facility Admission

Pursuant to sections 5101.751 and 5101.754 of the Revised Code and an interagency agreement, the Department of Human Services shall designate the Department of Aging to perform assessments under sections 5101.75 and 5111.204 of the Revised Code. Of the foregoing appropriation 490-403, PASSPORT, the Department of Aging may use not more than $2,060,000 in fiscal year 1998 and $2,125,000 in fiscal year 1999 to perform the assessments for persons not eligible for Medicaid in accordance with the department's interagency agreement with the Department of Human Services and to assist individuals in planning for their long-term health care needs.

SECTION 22.02. PASSPORT

Appropriation item 490-403, PASSPORT, and the amounts set aside for the PASSPORT Waiver Program in the 490-610, PASSPORT/Residential State Supplement appropriation item, may be used to assess clients regardless of Medicaid eligibility.

The Director of Aging shall adopt rules in accordance with section

111.15 of the Revised Code governing the nonwaiver funded PASSPORT program, including client eligibility.

The Department of Aging shall administer the Medicaid Waiver funded PASSPORT Home Care program as delegated by the Department of Human Services in an interagency agreement. The foregoing appropriation items 490-403, PASSPORT, 490-603, General Operations, and the amounts set aside for the PASSPORT Waiver Program in the 490-610, PASSPORT/Residential State Supplement appropriation item, shall be used to provide the required state match for federal Medicaid funds supporting the Medicaid Waiver funded PASSPORT Home Care program. Appropriation item 490-403 and the amounts set aside for the PASSPORT Waiver Program in the 490-610, PASSPORT/Residential State Supplement appropriation item, may also be used to support the Department of Aging's administrative costs associated with operating the PASSPORT program.

The foregoing appropriation item 490-607, PASSPORT, shall be used to provide the federal matching share for all PASSPORT program costs determined by the Department of Human Services to be eligible for Medicaid reimbursement.

Eldercare Pilot

The foregoing appropriation item 490-404, Eldercare, shall be used to fund the existing eldercare service programs and shall be limited to providing services to those persons who are enrolled in these programs on the effective date of this act.

Seniors in Schools

The Senior Volunteers in Schools program shall establish at least one program in a rural district.

Senior Community Services

The foregoing appropriation item 490-411, Senior Community Services, shall be used for services designated by the Department of Aging including, but not limited to, home-delivered meals, transportation services, personal care services, respite services, home repair and care coordination. The Department of Aging may use up to $250,000 during each fiscal year for demonstration projects. Service priority shall be given to low income, frail, and cognitively impaired persons age 60 and over. The department shall promote cost sharing by service recipients for those services funded with block grant funds, including, where possible, sliding fee scale payment systems based on the income of service recipients.

Alzheimers Respite

The foregoing appropriation item 490-414, Alzheimers Respite, shall only be used to fund Alzheimer's disease services under section 173.04 of

the Revised Code.

Residential State Supplement

Under the Residential State Supplement Program, $800, for the period beginning July 1, 1997, and ending September 30, 1997, and $850, beginning October 1, 1997, shall be the amount used for determining whether a resident of a residential care facility, as defined in section 3721.01 of the Revised Code, is eligible for payments under the program and for determining the amount per month an eligible resident will receive. The Departments of Aging and Human Services shall reflect this amount in any applicable rules the departments adopt under section 173.35 of the Revised Code.

Transfer of Residential State Supplement Appropriations

The Department of Aging may transfer funds from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Human Services' Fund 4J5, appropriation item 400-618, Residential State Supplement Payments. The funds shall be used to make benefit payments to Residential State Supplement recipients.

Long-term Care Ombudsman

The foregoing appropriation item 490-410, Long-term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.

Bed Fee Collection

The foregoing appropriation item, 490-609, Bed Fee Collection Account, shall be used to distribute bed fees collected in accordance with section 173.26 of the Revised Code. Funds collected through this account shall be used solely to pay the costs of operating the regional long-term care ombudsman programs.

PASSPORT/Residential State Supplement

The foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, shall be used by the Department of Aging to fund the PASSPORT program and Residential State Supplement program.

Of the foregoing appropriation item 490-610, PASSPORT/Residential State Supplement, up to $2,835,000 each fiscal year shall be used to fund the Residential State Supplement program. The remaining available funds shall be used to fund the PASSPORT program.

Martin Janis Senior Citizens Center

There is hereby established in the state treasury Fund 5E9, Janis Center Fund, which shall be used for the purpose of providing maintenance of the

Martin Janis Senior Citizens Center in Columbus. All remaining moneys credited to Fund 481, Golden Age Village Rental, on the effective date of this legislation shall be transferred to Fund 5E9, Janis Center, and Fund 481, Golden Age Village Rental, shall be dissolved.

SECTION 22.03. Residential State Supplement

When the Department of Aging, in consultation with the Director of Budget and Management, determines that available funding is insufficient to make payments to all eligible individuals, the department may establish priority policies to further limit eligibility criteria.

Transfer of Appropriations - Federal Aging Nutrition, Federal Supportive Services, and Older Americans Act

Upon written request of the Director of the Department of Aging, the Director of Budget and Management may transfer appropriation authority among line items 490-611, Federal Aging Nutrition, 490-612, Federal Supportive Services, and 490-618, Older Americans, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report such transfers to the Controlling Board at the next regularly scheduled meeting of the board.

Americorps

The foregoing appropriation items 490-409, Americorps Operations, and 490-617, Americorps Programs, shall be used as specified in the section of this bill with the heading, "Governor's Community Service Council" and in accordance with section 121.40 of the Revised Code.

Senior Facilities

Of the foregoing appropriation item 490-504, Senior Facilities, $50,000 in fiscal year 1998 shall be used by the McKissich Center in Lucas County.

SECTION 22.04. Task Force to Study Grandparents Raising Grandchildren

There is hereby created the Grandparents Raising Grandchildren Task Force consisting of the following members: the Director of Human Services or the Director's designee, the Director of Aging or the Director's designee, two representatives of the Ohio Association of Area Agencies on Aging as designated by the Association, a representative of the Ohio Association of Community Action Agencies as designated by the Association, two persons representing county departments of human services in urban counties as designated by the chairperson, two persons representing county departments of human services in rural counties as designated by the chairperson, a

representative from the state's Kinship Care Task Force as designated by that Task Force, and five additional members appointed by the chairperson. Of the five additional members of the Task Force, no more than three may be from the same political party. The Speaker of the House of Representatives and the President of the Senate jointly shall appoint the chairperson of the Task Force no later than August 1, 1997. Appointments required to be made to the Task Force by the chairperson shall be made no later than September 1, 1997. Vacancies shall be filled in the same manner as original appointments. Members of the Task Force shall serve without compensation, except that they shall be reimbursed for any expenses they incur in attending meetings or conducting any other duties pursuant to their representation on the Task Force.

The Task Force shall meet at the call of the chairperson. The Task Force shall study the unique needs of grandparents raising their grandchildren and develop an action plan to address their needs. As part of conducting the study and developing the action plan, the Task Force shall conduct a survey to determine the number of grandparents raising their grandchildren in the state and what the needs of those grandparents are. Prior to June 1, 1999, the Task Force shall report its activities, findings, recommendations, and action plan to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The Task Force shall cease to exist on making its report.

Task Force to Study Grandparents Raising Grandchildren - Appropriations

The Department of Aging shall pay the administrative expenses of the Task Force to Study Grandparents Raising Grandchildren, including reimbursable expenses incurred by the members. The foregoing appropriation item 490-415, Task Force Study, shall be used to pay such expenses.

SECTION 23. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700-100	Personal Services	$ 1,945,266	$ 1,993,898
GRF 700-200	Maintenance	$ 863,378	$ 884,962
GRF 700-300	Equipment	$ 333,300	$ 341,633
GRF 700-401	Animal Disease Control	$ 4,010,689	$ 4,007,666
GRF 700-402	Amusement Ride Safety	$ 313,863	$ 321,710
GRF 700-403	Milk Lab Program	$ 1,052,113	$ 1,078,551
GRF 700-404	Ohio Proud	$ 267,871	$ 271,309
GRF 700-405	Animal Damage Control	$ 146,063	$ 149,715
GRF 700-406	Consumer Analytical Lab	$ 788,033	$ 807,749
GRF 700-407	Foods, Dairies and Drugs	$ 1,584,208	$ 1,546,861

GRF	700-409	Farmland Preservation	$	200,000	$	200,000
GRF	700-410	Plant Industry	$	1,441,904	$	1,464,646
GRF	700-411	International Trade and Market Development	$	1,159,635	$	1,177,127
GRF	700-412	Weights and Measures	$	1,041,375	$	1,063,566
GRF	700-413	Gypsy Moth Prevention	$	377,908	$	387,243
GRF	700-415	Poultry Inspection	$	258,259	$	266,391
GRF	700-424	Livestock Testing and Inspections	$	202,000	$	207,050
GRF	700-499	Meat Inspection Match	$	4,258,376	$	4,343,522
GRF	700-501	County Agricultural Societies	$	470,000	$	470,000
GRF	700-503	Swine and Cattle Breeder Awards	$	125,000	$	125,000
TOTAL GRF General Revenue Fund			$	20,839,241	$	21,108,599
Federal Special Revenue Fund Group						
3J4	700-607	Indirect Cost	$	969,649	$	905,307
3R2	700-614	Federal Plant Industry	$	617,071	$	598,284
326	700-618	Meat Inspection Service	$	4,208,376	$	4,293,522
336	700-617	Ohio Farm Loan Revolving Fund	$	194,180	$	194,180
382	700-601	Cooperative Contracts	$	732,142	$	738,087
TOTAL FED Federal Special Revenue Fund Group			$	6,721,418	$	6,729,380
State Special Revenue Fund Group						
4C9	700-605	Commercial Feed, Fertilizer and Lime Inspection	$	756,293	$	739,700
4E4	700-606	Utility Radiological Safety	$	95,552	$	97,958
4P7	700-610	Food Safety	$	215,453	$	220,840
4R0	700-636	Ohio Proud Marketing	$	25,700	$	25,700
4R2	700-637	Dairy Inspection Fund	$	2,318,652	$	2,379,199
4T6	700-611	Poultry and Meat Inspection	$	59,945	$	61,444
4T7	700-613	International Trade Rotary	$	28,784	$	28,784
4V0	700-602	Grade A License Fees	$	32,413	$	32,413
4V5	700-615	Animal Industry Laboratory Fund	$	12,850	$	12,850
493	700-603	Fruits and Vegetables	$	340,802	$	349,323
494	700-612	Agricultural Commodity Marketing Program	$	207,142	$	212,322
496	700-626	Ohio Grape Industries	$	508,214	$	515,794
497	700-627	Commodity Handlers Regulatory Program	$	881,313	$	903,346
578	700-620	Ride Inspection Fees	$	293,986	$	301,336
579	700-630	Scale Certification	$	125,228	$	128,359
652	700-634	Laboratory Services	$	761,009	$	763,451
669	700-635	Pesticide Program	$	1,474,629	$	1,495,787
TOTAL SSR State Special Revenue Fund Group			$	8,137,965	$	8,268,606
TOTAL ALL BUDGET FUND GROUPS			$	35,698,624	$	36,106,585

Animal Disease Control

Of the foregoing appropriation item 700-401, Animal Disease Control, $50,000 in each fiscal year shall be distributed to the Hocking Technical College for the Animal Research Lab.

Of the foregoing appropriation item 700-401, Animal Disease Contro, $100,000 in each fiscal year shall be used for Johnne's disease.

Dairy Industry Committee

Of the foregoing appropriation item 700-407, Foods, Dairies and Drugs, $75,000 is fiscal year 1998 shall be used by the Dairy Industry Committee to assist the dairy industry in oversight of the Dairy Industry Strategic Plan.

International Trade and Market Development

The foregoing appropriation item 700-411, International Trade and Market Development, shall be used to develop domestic and international markets for Ohio agricultural products.

Coyote Kill Reimbursement

Appropriation item 700-405, Animal Damage Control, may be used for coyote kill reimbursement pursuant to sections 955.51 to 955.53 of the Revised Code.

Exotic Meat Inspection

Of the foregoing appropriation item 700-499, Meat Inspection Match, $50,000 in fiscal year 1998 and $50,000 in fiscal year 1999 shall be used for the inspection of exotic meat.

SECTION 24. AIR AIR QUALITY DEVELOPMENT AUTHORITY

Agency Fund Group

570	898-601	Operating Expenses	$ 192,760	$	197,579
4Z9	898-602	Small Business Ombudsman	$ 215,000	$	200,000
5A0	898-603	Small Business Assistance	$ 250,000	$	180,000
TOTAL AGY Agency Fund Group			$ 657,760	$	577,579
TOTAL ALL BUDGET FUND GROUPS			$ 657,760	$	577,579

SECTION 25. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

General Revenue Fund

GRF	038-321	Operating Expenses	$ 1,450,079	$	1,484,864
GRF	038-401	Alcohol and Drug Addiction Services	$ 25,440,235	$	26,562,765
GRF	038-404	Prevention Services	$ 900,000	$	900,000
TOTAL GRF General Revenue Fund			$ 27,790,314	$	28,947,629

Federal Special Revenue Fund Group

3G3	038-603	Drug Free Schools	$ 4,352,565	$	4,352,565
3G4	038-614	Substance Abuse Block Grant/	$ 61,964,608	$	61,964,608
3H5	038-607	JOBS Program	$ 700,000	$	700,000
3H8	038-609	Demonstration Grants	$ 2,932,322	$	2,932,322
3J8	038-610	Medicaid	$ 19,000,000	$	21,500,000
3N8	038-611	Administrative Reimbursement	$ 616,875	$	607,301
TOTAL FED Federal Special Revenue					

Fund Group			$	89,566,370	$ 92,056,796
State Special Revenue Fund Group					
4C5	038-606	Revolving Loans for Recovery Homes	$	20,000	$ 20,000
474	038-628	DWI Treatment	$	6,926,557	$ 6,372,437
475	038-621	Detoxification Programs	$	7,830,914	$ 8,490,878
4X4	038-613	Behavioral Health Medicaid Services	$	19,187,025	$ 19,187,025
689	038-604	Education and Conferences	$	243,597	$ 250,419
TOTAL SSR State Special Revenue Fund Group			$	34,208,093	$ 34,320,759
TOTAL ALL BUDGET FUND GROUPS			$	151,564,777	$ 155,325,184

Vocational Rehabilitation Services Agreement

The Department of Alcohol and Drug Addiction Services and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of vocational rehabilitation services and staff to mutually eligible clients. Of the foregoing appropriation, 038-401, Alcohol and Drug Addiction Services, an amount up to $171,395 in fiscal year 1998 and $171,395 in fiscal year 1999 may be transferred to the Rehabilitation Services Commission to provide vocational rehabilitation services and staff in accordance with the interagency agreement.

Treatment Services Expansion

Of the foregoing appropriation item 038-401, Alcohol and Drug Addiction Services, $5,000,000 in fiscal year 1998 and $5,000,000 in fiscal year 1999 shall be used by the Department of Alcohol and Drug Addiction Services to expand community-based treatment of nonviolent offenders, rural treatment services, and treatment services to persons under 100% of the federal poverty guidelines.

Interval Brotherhood Home

Of the foregoing appropriation item 038-411, Alcohol and Drug Addiction Services, $150,000 in each fiscal year shall be used by the Interval Brotherhood Home in Summit County.

Behavioral Health Medicaid Services

The Department of Alcohol and Drug Addiction Services shall administer specified Medicaid services as delegated by the Department of Human Services in an interagency agreement. The foregoing appropriation item 038-613, Behavioral Health Medicaid Services, shall be used to make monthly payments to the statewide Behavioral Health Care vendor responsible for managing the specified Medicaid services transferred from the Department of Human Services.

SECTION 26. AMB AMBULANCE LICENSING BOARD

General Services Fund Group			
4N1 915-601 Operating	$ 211,896	$ 217,446	
TOTAL GSF General Services Fund Group	$ 211,896	$ 217,446	
TOTAL ALL BUDGET FUND GROUPS	$ 211,896	$ 217,446	

SECTION 27. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS

General Services Fund Group		
4K9 891-609 Operating	$ 403,195	$ 410,838
TOTAL GSF General Services Fund Group	$ 403,195	$ 410,838
TOTAL ALL BUDGET FUND GROUPS	$ 403,195	$ 410,838

SECTION 28. ART OHIO ARTS COUNCIL

General Revenue Fund		
GRF 370-100 Personal Services	$ 1,959,769	$ 2,071,379
GRF 370-200 Maintenance	$ 777,000	$ 761,000
GRF 370-300 Equipment	$ 72,560	$ 33,500
GRF 370-502 Program Subsidies	$ 11,703,983	$ 12,468,519
TOTAL GRF General Revenue Fund	$ 14,513,312	$ 15,334,398
General Services Fund Group		
460 370-602 Gifts and Donations	$ 113,958	$ 116,995
4B7 370-603 Per Cent for Art Acquisitions	$ 77,085	$ 79,243
TOTAL GSF General Services Fund Group	$ 191,043	$ 196,238
Federal Special Revenue Fund Group		
314 370-601 Federal Programs	$ 617,800	$ 617,800
TOTAL FED Federal Special Revenue Fund Group	$ 617,800	$ 617,800
TOTAL ALL BUDGET FUND GROUPS	$ 15,322,155	$ 16,148,436

Program Subsidies

A museum is not eligible to receive funds from appropriation item 370-502, Program Subsidies, if $8,000,000 or more in capital appropriations were appropriated by the state for the museum between January 1, 1986, and December 31, 1998.

Of the foregoing appropriation item 370-502, Program Subsidies, $30,000 shall be used for the Ohio-Israeli Cultural Exchange Program in fiscal year 1998.

Of the foregoing appropriation item 370-502, Program Subsidies, $15,000 shall be disbursed to Coventry Village Development Corporation in fiscal year 1998.

Per Cent for Art Acquisitions

The unobligated balance remaining from prior projects of appropriation

line item 370-603, Per Cent for Art Acquisitions, shall be used by the Ohio Arts Council to pay for start-up costs in connection with the selection of artists of new Per Cent for Art projects.

In accordance with section 3379.10 of the Revised Code, the Director of Budget and Management shall determine which appropriations in this act are subject to the Per Cent for the Arts Program. Not later than forty-five days after the effective date of this section, the Director of Budget and Management shall submit to the Director of the Ohio Arts Council and the Controlling Board a report detailing the affected capital projects by agency and the appropriation line item number, the amount of the appropriation and the amount of the appropriation reserved for the Per Cent for the Arts Program.

SECTION 29. AFC OHIO ARTS AND SPORTS FACILITIES COMMISSION

General Revenue Fund

GRF	371-321	Operating Expenses	$ 727,906	$ 837,906
GRF	371-401	Lease Rental Payments	$ 15,903,000	$ 24,775,000
TOTAL GRF General Revenue Fund			$ 16,630,906	$ 25,612,906

General Services Fund Group

4T8	371-601	Administration Fund	$ 20,560	$ 21,136
5A1	371-602	Capital Donations	$ 1,000,000	$ 1,000,000
TOTAL GSF General Services Fund Group			$ 1,020,560	$ 1,021,136
TOTAL ALL BUDGET FUND GROUPS			$ 17,651,466	$ 26,634,042

Capital Donations Fund

The Executive Director of the Arts and Sports Facilities Commission shall certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank or private nonprofit entity, or certification of the availability of funds which have been received from a county or city auditor for deposit to the Capital Donations Fund. These amounts are hereby appropriated to line item 371-602, Capital Donations. Prior to certifying these amounts to the director, the executive director shall make a written agreement with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

Ohio Building Authority Lease Payments

Appropriations to the Arts and Sports Facilities Commission from the General Revenue Fund include $40,678,000 for the biennium for appropriation item 371-401, Lease Rental Payments. This appropriation shall be used for payments to the Ohio Building Authority for the period July 1, 1997 to June 30, 1999, pursuant to the primary leases and

agreements for those buildings made under Chapter 152. of the Revised Code which are the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

SECTION 30. ATH ATHLETIC COMMISSION

General Services Fund Group

4K9	175-609	Operating Expenses	$ 125,374	$	129,378
TOTAL GSF General Services Fund Group			$ 125,374	$	129,378
TOTAL ALL BUDGET FUND GROUPS			$ 125,374	$	129,378

Operating Expenses Fund Switch

At the request of the Executive Director of the Ohio Athletic Commission, the Director of Budget and Management may cancel encumbrances in the General Revenue Fund and Fund 4T9 and reestablish such encumbrances or parts of encumbrances in fiscal year 1998 in the Occupational Licensing and Regulatory Fund (Fund 4K9) for the same purpose and to the same vendor. The Director of Budget and Management shall reduce the appropriation balance in fiscal year 1997 by the amount of encumbrances canceled in the General Revenue Fund and Fund 4T9. As determined by the Director of Budget and Management, the appropriation authority necessary to reestablish such encumbrances or parts of encumbrances in fiscal year 1998 in the Occupational Licensing and Regulatory Fund (Fund 4K9) for the Ohio Athletic Commission is hereby appropriated. At such time that the Director of Budget and Management deems appropriate, the remaining cash balance of Fund 4T9 shall be transferred to Fund 4K9.

SECTION 31. AGO ATTORNEY GENERAL

General Revenue Fund

GRF	055-321	Operating Expenses	$ 43,834,173	$	46,025,881
GRF	055-405	Law-Related Education	$ 180,472	$	184,984
GRF	055-406	Community Police Match and Law Enforcement Assistance	$ 3,100,000	$	3,255,000
GRF	055-411	County Sheriffs	$ 557,475	$	574,525
GRF	055-415	County Prosecutors	$ 469,012	$	481,544
TOTAL GRF General Revenue Fund			$ 48,141,132	$	50,521,934

General Services Fund Group

106	055-612	General Reimbursement	$ 9,518,659	$	9,760,522
107	055-624	Employment Services	$ 1,224,262	$	1,255,052
195	055-660	Workers' Compensation Section	$ 5,376,676	$	5,778,843
418	055-615	Charitable Foundations	$ 1,311,143	$	1,344,756
420	055-603	Attorney General Antitrust	$ 83,417	$	212,223
421	055-617	Police Officers' Training	$ 937,624	$	962,042

		Academy Fee		
5A9	055-618	Telemarketing Fraud Enforcement	$ 150,000	$ 150,000
590	055-633	Peace Officer Private Security Fund	$ 168,276	$ 172,653
629	055-636	Corrupt Activity Investigation and Prosecution	$ 95,103	$ 97,766
631	055-637	Consumer Protection Enforcement	$ 441,429	$ 453,012
TOTAL GSF General Services Fund Group			$ 19,306,589	$ 20,186,869
Federal Special Revenue Fund Group				
3E5	055-638	Anti-Drug Abuse	$ 717,217	$ 717,217
306	055-620	Medicaid Fraud Control	$ 2,147,504	$ 2,147,504
381	055-611	Civil Rights Legal Service	$ 307,638	$ 315,329
383	055-634	Crime Victims Assistance	$ 5,078,000	$ 5,078,000
TOTAL FED Federal Special Revenue Fund Group			$ 8,250,359	$ 8,258,050
State Special Revenue Fund Group				
108	055-622	Crime Victims Compensation	$ 3,577,625	$ 3,711,576
176	055-625	Victims Assistance Office	$ 336,168	$ 344,776
177	055-626	Victims Assistance Programs	$ 1,651,815	$ 1,698,066
4L6	055-606	DARE Programs	$ 3,633,670	$ 3,735,083
417	055-621	Domestic Violence Shelter	$ 12,734	$ 13,091
419	055-623	Claims Section	$ 14,014,063	$ 15,590,586
659	055-641	Solid and Hazardous Waste Background Investigations	$ 768,167	$ 787,815
TOTAL SSR State Special Revenue Fund Group			$ 23,994,242	$ 25,880,993
Holding Account Redistribution Fund Group				
R03	055-629	Bingo License Refunds	$ 5,200	$ 5,200
R04	055-631	General Holding Account	$ 75,000	$ 75,000
R05	055-632	Antitrust Settlements	$ 10,400	$ 10,400
R18	055-630	Consumer Frauds	$ 750,000	$ 750,000
R42	055-601	Organized Crime Commission	$ 200,000	$ 200,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 1,040,600	$ 1,040,600
TOTAL ALL BUDGET FUND GROUPS			$ 100,732,922	$ 105,888,446

Law-Related Education

The foregoing appropriation item 055-405, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students and accessing additional public and private money for new programs.

Workers' Compensation Section

The Workers' Compensation Section Fund (Fund 195) shall receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation

and the Ohio Industrial Commission during the ensuing quarter. Such advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

Corrupt Activity Investigation and Prosecution

The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used to transfer funds deposited pursuant to division (I) of section 2923.31 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

SECTION 32. AUD AUDITOR OF STATE

General Revenue Fund

GRF	070-321	Operating Expenses	$ 30,741,439	$ 31,663,682
GRF	070-405	Electronic Data Processing - Auditing and Administration	$ 586,295	$ 600,952
GRF	070-406	Uniform Accounting Network	$ 2,000,000	$ 2,050,000
TOTAL GRF General Revenue Fund			$ 33,327,734	$ 34,314,634

General Services Fund

109	070-601	Public Audit Expense - Intra-State	$ 7,436,359	$ 7,965,196
422	070-601	Public Audit Expense - Local Government	$ 30,443,318	$ 32,598,189
584	070-603	Training Program	$ 143,274	$ 152,550
675	070-605	Uniform Accounting Network	$ 1,122,095	$ 1,148,501
TOTAL GSF General Services Fund Group			$ 39,145,046	$ 41,864,436

Holding Account Redistribution Fund Group

R06	070-604	Continuous Receipts	$ 200,000	$ 200,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 200,000	$ 200,000
TOTAL ALL BUDGET FUND GROUPS			$ 72,672,780	$ 76,379,070

Electronic Data Processing

The unencumbered balance of appropriation item 070-405, Electronic Data Processing-Auditing and Administration, at the end of fiscal year 1998 is hereby transferred to fiscal year 1999 for use under the same appropriation line item.

Uniform Accounting Network

The foregoing appropriation item 070-406, Uniform Accounting Network, shall be used to pay the costs of the development and implementation of the Uniform Accounting Network. The unencumbered

balance of the appropriation at the end of fiscal year 1998 is hereby transferred to fiscal year 1999 to pay the costs of the development and implementation of the Uniform Accounting Network.

County Treasurer Education Fund

Thirty days after the effective date of this section, the Auditor of State and the Treasurer of State shall certify to the Director of Budget and Management an agreed upon amount of cash to be transferred from the shared County Treasurer Education Fund (Fund 5C5) to the Training Program Fund (Fund 584) in the Auditor of State's office. As determined by the Director, the appropriation authority necessary to reestablish such encumbrances in fiscal year 1998 in the Training Program Fund (Fund 584) is hereby appropriated.

SECTION 33. BRB BOARD OF BARBER EXAMINERS

General Services Fund Group

4K9	877-609	Operating	$ 493,196	$	505,258
TOTAL GSF General Services Fund Group			$ 493,196	$	505,258
TOTAL ALL BUDGET FUND GROUPS			$ 493,196	$	505,258

SECTION 34. OBM OFFICE OF BUDGET AND MANAGEMENT

General Revenue Fund

GRF	042-321	Budget Development and Implementation	$ 2,069,420	$	2,110,808
GRF	042-401	Office of Quality Services	$ 549,977	$	556,875
GRF	042-405	Management Consultants	$ 95,000	$	95,000
GRF	042-410	National Association Dues	$ 37,170	$	39,029
GRF	042-412	Biennial Audit	$ 0	$	40,000
GRF	042-420	Economic Development Study	$ 406,400	$	81,600
GRF	042-434	Financial Planning Commissions	$ 490,306	$	443,425
GRF	042-435	Gubernatorial Transition	$ 0	$	250,000
GRF	042-501	Regional Transit Hold Harmless	$ 22,500	$	30,000
TOTAL GRF General Revenue Fund			$ 3,670,773	$	3,646,737

General Services Fund Group

105	042-603	State Accounting	$ 8,832,348	$	7,003,613
4C1	042-601	Quality Services Academy	$ 62,345	$	64,090
TOTAL GSF General Services Fund Group			$ 8,894,693	$	7,067,703
TOTAL ALL BUDGET FUND GROUPS			$ 12,565,466	$	10,714,440

Office of Quality Services

A portion of the foregoing appropriation item 042-401, Office of Quality Services, may be used to provide financial sponsorship support for

conferences and showcases that promote quality improvement efforts. Such expenditures are not subject to Chapter 125. of the Revised Code.

Quality Conferences

The office of Quality Services may co-sponsor the Team Up Ohio Conference and the Team Excellence in the Public Sector (TEPS) Showcase. The Office may grant funds to other sponsoring entities for the purpose of conducting these events provided that such grants are used exclusively for the direct expenses of the events.

Any state agency, at the discretion and with the approval of the director or other executive authority of the agency, may provide financial or in-kind support for the Team Up Ohio Conference and Team Excellence in the Public Sector (TEPS) Showcase co-sponsored by the Office of Quality Services. Any financial contribution made by an agency shall not exceed $3,000 annually.

Economic Development Study

The foregoing appropriation item 042-420, Economic Development Study, shall be used to complete the study authorized by Section 4 of Am. Sub. H.B. 442 of the 121st General Assembly.

Audit Costs

Of the foregoing appropriation item 042-603, State Accounting, no more than $275,000 in fiscal year 1998 and $285,000 in fiscal year 1999 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or the General Purpose Financial Statements for the state.

SECTION 35. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD

General Revenue Fund

GRF	874-321	Operating Expenses	$ 3,621,069	$	3,280,445
TOTAL GRF General Revenue Fund			$ 3,621,069	$	3,280,445
4G5	874-603	Capitol Square Renovation Gift	$ 931,585	$	926,549
4S7	874-602	Sale of Goods and Services	$ 175,584	$	200,600
4T2	874-604	Capitol Square Improvements	$ 301,201	$	309,634
TOTAL GSF General Services Fund Group			$ 1,408,370	$	1,436,783
2O8	874-601	Underground Parking Garage Operating	$ 2,154,206	$	2,211,290
TOTAL ISF Underground Parking Garage			$ 2,154,206	$	2,211,290
TOTAL ALL BUDGET FUND GROUPS			$ 7,183,645	$	6,928,518

Security Costs

Of the appropriation item 874-321, Operating Expenses, at least $300,000 in fiscal year 1998 shall be used for security costs.

Video Conferencing Equipment and Upkeep

Of the appropriation item 874-603, Capitol Square Renovation Gift, $40,000 in fiscal year 1998 and $10,000 in fiscal year 1999 shall be used for video conferencing equipment and upkeep.

Capital Square Improvement Fund Transfer

Amounts transferred by the Director of Budget and Management from appropriation item 874-601, Underground Parking Garage Operating (Fund 208), to the Capital Square Improvements item 874-604 (Fund 4T2), pursuant to division (J) of section 105.41 of the Revised Code, are hereby appropriated.

SECTION 36. CHR STATE BOARD OF CHIROPRACTIC EXAMINERS

General Services Fund Group				
4K9 878-609	Operating	$ 463,063	$	469,849
TOTAL GSF General Services Fund Group		$ 463,063	$	469,849
TOTAL ALL BUDGET FUND GROUPS		$ 463,063	$	469,849

SECTION 37. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund				
GRF 876-100	Personal Services	$ 8,302,467	$	8,569,509
GRF 876-200	Maintenance	$ 1,025,801	$	1,054,130
GRF 876-300	Equipment	$ 237,900	$	198,301
GRF 876-401	African American Males	$ 664,203	$	680,808
TOTAL GRF General Revenue Fund		$ 10,230,371	$	10,502,748
State Special Revenue Fund				
4H3 876-603	African American Males Gifts and Grants	$ 375,729	$	375,729
TOTAL SSR State Special Revenue Fund		$ 375,729	$	375,729
Federal Special Revenue Fund Group				
334 876-601	Federal Programs	$ 2,851,579	$	2,851,579
TOTAL FED Federal Special Revenue Fund Group		$ 2,851,579	$	2,851,579
TOTAL ALL BUDGET FUND GROUPS		$ 13,457,679	$	13,730,056

Commission on African American Males

The foregoing appropriation item 876-401, African-American Males, shall be used to fund the administrative expenses of the Commission on African Males, the internship program, and a program to provide tutoring to eighth and ninth grade students in the Franklin County area in preparation for the ninth grade proficiency exam. The line item shall also provide funding for the Consequences Program, an alternative sentencing program

targeting nonviolent juvenile offenders.

SECTION 38. COM DEPARTMENT OF COMMERCE

General Revenue Fund						
GRF	800-402	Grants - Volunteer Fire Departments	$	725,000	$	750,000
Total GRF General Revenue Fund			$	725,000	$	750,000
General Services Fund Group						
163	800-620	Administration	$	4,011,799	$	4,036,624
TOTAL GSF General Services Fund Group			$	4,011,799	$	4,036,624
Federal Special Revenue Fund Group						
348	800-622	Underground Storage Tanks	$	186,800	$	186,800
348	800-624	Leaking Underground Tank Trust	$	2,439,187	$	2,500,167
TOTAL FED Federal Special Revenue Fund Group			$	2,625,987	$	2,686,967
State Special Revenue Fund Group						
543	800-602	Unclaimed Funds-Operating	$	4,012,758	$	4,104,391
543	800-625	Unclaimed Funds-Claims	$	22,616,000	$	23,249,248
544	800-612	Banks	$	5,573,488	$	5,652,450
545	800-613	Savings and Loan	$	1,854,310	$	1,886,958
546	800-610	Fire Marshal	$	8,666,887	$	8,769,749
547	800-603	Real Estate Education and Research	$	242,656	$	242,656
548	800-611	Real Estate Recovery	$	265,972	$	265,972
549	800-614	Real Estate	$	2,547,017	$	2,611,160
550	800-617	Securities	$	3,986,708	$	4,025,977
552	800-604	Credit Union	$	2,135,852	$	2,271,624
553	800-607	Consumer Finance	$	1,289,087	$	1,333,612
556	800-615	Industrial Compliance	$	17,373,951	$	16,892,288
6A4	800-630	Real Estate Appraiser-Operating	$	449,451	$	460,849
653	800-629	Underground Storage Tank Registration/Permit	$	1,081,698	$	1,033,576
4B2	800-631	Real Estate Appraisal Recovery	$	67,000	$	68,500
4D2	800-605	Auction Education	$	30,000	$	30,000
4G8	800-606	Savings Banks	$	1,021,263	$	1,038,467
4H9	800-608	Cemeteries	$	213,440	$	218,794
4L5	800-609	Fireworks Training and Education	$	5,000	$	5,000
4X2	800-619	Financial Institutions	$	1,420,343	$	1,436,861
5B8	800-628	Auctioneers	$	336,041	$	339,554
5B9	800-632	PI & Security Guard Provider	$	872,317	$	895,150
TOTAL SSR State Special Revenue Fund Group			$	76,061,239	$	76,832,836
Liquor Control Fund Group						
043	800-321	Liquor Control Operating	$	14,256,025	$	14,459,734
043	800-601	Merchandising	$	262,124,492	$	266,834,121

861	800-634	Salvage and Exchange	$ 102,000	$	105,000
TOTAL LCF Liquor Control Fund Group			$ 276,482,517	$	281,398,855
TOTAL ALL BUDGET FUND GROUPS			$ 359,906,542	$	365,705,282

Grants - Volunteer Fire Departments

The foregoing appropriation item 800-402, Grants - Volunteer Fire Departments, shall be used to make annual grants to volunteer fire departments of up to $10,000, or up to $25,000 in cases where the volunteer fire department provides service for an area affected by a natural disaster. The program shall be administered by the Fire Marshal under the Department of Commerce. The Fire Marshal shall issue necessary rules for the administration and operation of this program.

Unclaimed Funds Payments

The foregoing appropriation item 800-625, Unclaimed Funds-Claims, shall be used to pay claims pursuant to section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are hereby appropriated.

Increased Appropriation Authority - Merchandising

The Director of Commerce may, upon concurrence by the Director of Budget and Management, submit to the Controlling Board for approval a request for increased appropriation authority for appropriation item 800-601, Merchandising.

Administrative Assessments

Notwithstanding any other provisions of law to the contrary, appropriation item 800-620, Administration, shall receive assessments from all operating funds of the department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

Study of Increasing Liquor Agency Commissions

The Department of Commerce, Division of Liquor Control, shall conduct a study examining the effects of increasing agency liquor store wholesale and retail commissions. The study shall report the effect on transfers to the general revenue fund, debt service payments for the Department of Development bond program, funding for the Liquor Control Commission and the amount of commissions paid to agency liquor stores. The results of this study shall be reported to the Chairpersons of the Finance Committees in the House of Representatives and the Senate, to the Speaker of the House of Representatives, and to the President of the Senate by January 1, 1998.

Building Standards Study

Of the foregoing appropriation item, 800-615, Industrial Compliance, up

to $300,000 in fiscal year 1998 shall be used by the Director of Commerce to commence a study of Ohio's Building Standards Law. The study will determine the following as they relate to Ohio's Building Standards Law: (A) the economic impact on the construction, building material manufacturing and housing industries in this state subject to multiple local building codes and different building code enforcement practices; (B) the degree to which local building codes and enforcement add to or detract from the public health, safety and general welfare; (C) the impact of adopting model codes by state or local jurisdictions from a safety, cost and regulatory perspective, with particular attention on the impact of model codes on rural, suburban and urban jurisdictions; and (D) the degree to which local jurisdictions adapt and assimilate new building materials and technologies and its impact on the safety, quality and cost of construction in Ohio. The study shall also review the Model Energy Code.

In determining the organization or organizations which shall consider the study, the Director of the Department of Commerce, or the Director's designee, shall accept recommendations from a committee made up of the following members: one representative of the Ohio Home Builders Association; one representative of the Ohio Manufacturers' Association; one representative of the Ohio Chapter of the National Institute of Building Sciences; one representative of the Ohio Municipal League, one representative of the County Commissioners Association of Ohio; one representative of the Ohio Fire Chiefs Association; the executive secretary of the Board of Building Standards, or the executive secretary's designee; and the State Fire Marshal. The committee shall make its recommendations for the conduct of the study within four months of the effective date of this act.

The Department of Commerce shall report its findings within eighteen months of the effective date of this bill to the Governor, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Chairperson and ranking minority member of the Senate Insurance, Commerce and Labor Committee, and the Chairperson and ranking minority member of the House Commerce and Labor Committee.

Cash Transfer to Liquor Control

At the request of the Director of Commerce, the Director of Budget and Management shall transfer $148,312.99 from Federal Special Revenue (Fund 862) to the Division of Liquor Control (Fund 043).

SECTION 39. OCC OFFICE OF CONSUMERS' COUNSEL

State Special Revenue Fund Group				
5F5 053-601	Consumers' Counsel Operating Fund	$ 5,896,574	$	6,292,716
TOTAL SSR State Special Revenue		$ 5,896,574	$	6,292,716
TOTAL ALL BUDGET FUND GROUPS		$ 5,896,574	$	6,292,716

SECTION 40. CEB CONTROLLING BOARD

General Revenue Fund				
GRF 911-401	Emergency Purposes/Contingencies	$ 6,000,000	$	6,000,000
GRF 911-402	Employee Compensation Adjustment	$ 31,700,000	$	62,300,000
GRF 911-403	School District Financial Planning	$ 250,000	$	250,000
GRF 911-404	Mandate Assistance	$ 2,800,000	$	2,800,000
GRF 911-423	Army National Guard	$ 800,000	$	0
GRF 911-430	Emergency 9-1-1 Training	$ 250,000	$	250,000
GRF 911-433	AFIT	$ 500,000	$	3,500,000
GRF 911-436	Rural Fire Departments	$ 250,000	$	250,000
GRF 911-440	Airport Improvements	$ 2,000,000	$	2,000,000
TOTAL GRF General Revenue Fund		$ 44,550,000	$	77,350,000
State Special Revenue Fund Group				
5E2 911-601	Disaster Services	$ 37,164,000	$	0
TOTAL SSR State Special Revenue Fund Group		$ 37,164,000	$	0
TOTAL ALL BUDGET FUND GROUPS		$ 81,714,000	$	77,350,000

Federal Share

In transferring appropriations to or from appropriation line items which have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

Disaster Assistance

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the foregoing appropriation item 911-401, Emergency Purposes/Contingencies, to a Department of Public Safety General Revenue Fund line item to provide funding for assistance to political subdivisions made necessary by natural disasters or emergencies. Such transfers may be requested and approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use such funding for disaster aid requests which meet Controlling Board criteria for assistance. The department shall submit a report to the Controlling Board quarterly describing all such disaster aid. Southern Ohio Correctional Facility Cost

The Office of Criminal Justice Services and the Public Defender Commission may each request, upon approval of the Director of Budget and Management, additional funds from the foregoing appropriation item 911-401, Emergency Purposes/Contingencies, for costs related to the disturbance that occurred on April 11, 1993, at the Southern Ohio Correctional Facility in Lucasville, Ohio.

Disaster Services

The foregoing appropriation item 911-601, Disaster Services, which is hereby created in the state treasury, shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriation authority to any fund of the state for the payment of state agency program expenses related to the southern Ohio flooding, referred to as FEMA-DR-1164-OH, and, if the Director of Budget and Management determines that sufficient funds exist beyond the expected program costs of the southern Ohio flooding, other disasters declared by the Governor.

Employee Compensation

Notwithstanding division (D) of section 127.14 and division (B) of section 131.35 of the Revised Code, except for the General Revenue Fund, the Controlling Board may, upon the request of either the Director of Budget and Management, or a state agency with the approval of the Director of Budget and Management, increase appropriations for any fund, as necessary for the various state agencies, to assist in paying the costs of increases in employee compensation that occur on or after July 1, 1997, that are provided pursuant to collective bargaining agreements under Chapter 4117. of the Revised Code and the costs of increased compensation provided for employees that are exempt from collective bargaining.

The Controlling Board may transfer appropriations from the foregoing appropriation item 911-402, Employee Compensation Adjustment, to the various agencies based on requests submitted by the Director of Budget and Management to assist in paying for the General Revenue Fund's share of employee compensation increases resulting from collective bargaining agreements under Chapter 4117. of the Revised Code and the costs of increased compensation that are provided to employees that are exempt from collective bargaining.

School District Financial Planning

The foregoing appropriation item 911-403, School District Financial Planning, shall be used to pay costs of implementing school district watch and fiscal emergency provisions of sections 3316.01 to 3316.08 of the Revised Code, including the expenses of the School District Financial Planning and Supervision Commission. Upon the request of any agency

involved in implementing the school district watch or fiscal emergency provisions, the Controlling Board may transfer all or part of the appropriation to the agency.

Mandate Assistance

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government, school districts, and fire departments for the cost of the following four unfunded state mandates:

(1) The cost to county boards of elections for advertising state ballot issues;

(2) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services;

(3) The cost, primarily to small villages and townships, of providing firefighter training and equipment or gear; and

(4) The cost to school districts of in-service training for child abuse detection.

(B) The State and Local Government Commission may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance, to the state agencies charged with administering the state financial assistance to be provided under this section. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that the commission may propose be used for each program of state financial assistance.

Program	Administering Agency	Estimated Annual Amount
Advertising Costs	Ohio Ballot Board	$800,000
Prosecution Costs	Office of Criminal Justice Services	$200,000
Firefighter Training Costs	Department of Commerce	$1,000,000
Child Abuse Detection Training Costs	Department of Education	$800,000

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the commission may propose to the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program.

(D) In addition to making the initial transfers requested by the commission, the Controlling Board may, if requested by the commission,

transfer appropriations received by a state agency under this section back to appropriation item 911-404, Mandate Assistance, or to one or more of the other programs of state financial assistance identified under this section.

(E) It is expected that not all costs incurred by local units of government, school districts, and fire departments under each of the four programs of state financial assistance identified under this section will be fully reimbursed by the state. Reimbursement levels may vary by program and will be based on: the relationship between the appropriation transfers requested by the commission and provided by the Controlling Board for each of the programs; the rules and procedures established for each program by the commission and the administering state agency; and the actual costs incurred by local units of government, school districts, and fire departments.

(F) Each of these programs of state financial assistance shall be carried out as follows:

(1) Advertising Costs

Appropriations may be transferred to the Ohio Ballot Board for use as full or partial reimbursement to county boards of elections for the cost of public notices associated with statewide ballot initiatives.

(2) Prosecution Costs

(a) Appropriations may be transferred to the Office of Criminal Justice Services to cover local prosecution costs for aggravated murder, murder, felonies of the first degree, and felonies of the second degree that occur on the grounds of institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services on or after July 1, 1995.

(b) Upon a delinquency filing in juvenile court or the return of an indictment for aggravated murder, murder, or any felony of the first or second degree that was committed at a Department of Youth Services or a Department of Rehabilitation and Correction institution, the affected county may, in accordance with rules that the Office of Criminal Justice Services shall adopt, apply to the Office of Criminal Justice Services for a grant to cover all documented costs that are incurred by the county prosecutor's office.

(c) Twice each year, the Office of Criminal Justice Services shall designate counties to receive grants from those counties that have submitted one or more applications in compliance with the rules that have been adopted by the Office of Criminal Justice Services for the receipt of such grants. In each year's first round of grant awards, if sufficient appropriations have been appropriated, up to a total of $100,000 may be awarded. In each year's second round of grant awards, the remaining appropriations available for this purpose may be awarded.

(d) If for a given round of grants there are insufficient appropriations to make grant awards to all of the eligible counties, the first priority shall be given to counties with cases involving aggravated murder and murder, second priority shall be given to cases involving a felony of the first degree, and third priority shall be given to cases involving a felony of the second degree. Within these priorities, the grant awards shall be based on the order in which the applications were received, except that applications for cases involving a felony of the first or second degree shall not be considered in more than two consecutive rounds of grant awards.

(3) Firefighter Training Costs

Appropriations may be transferred to the Department of Commerce for use as full or partial reimbursement to local units of government and fire departments for the cost of firefighter training and equipment or gear. In accordance with rules that the department shall adopt, a local unit of government or fire department may apply to the department for a grant to cover all documented costs that are incurred to provide firefighter training and equipment or gear. The department shall make grants within the limits of the funding provided, with priority given to fire departments that serve small villages and townships.

(4) Child Abuse Detection Training Costs

Appropriations may be transferred to the Department of Education for disbursement to local school districts as full or partial reimbursement for the cost of providing in-service training for child abuse detection. In accordance with rules that the department shall adopt, a local school district may apply to the department for a grant to cover all documented costs that are incurred to provide in-service training for child abuse detection. The department shall make grants within the limits of the funding provided.

Army National Guard

If the Director of Administrative Services sells a parcel of land to a village or municipal corporation pursuant to division (B)(1) of Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, or to a county pursuant to division (B)(2) of Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, the village, municipal corporation, or county, after making the offer to purchase the parcel, may request that the Office of Budget and Management approach the Controlling Board for release of up to 50 per cent of the sale price from the foregoing appropriation item 911-423, Army National Guard, to the political subdivision. The amount approved by the Controlling Board shall be transferred to the Office of Budget and Management's appropriation item 042-404, Armory Reimbursement, whereupon the Director of Budget and Management shall act as the fiscal

ent for the payment. Any amounts so transferred are hereby appropriated. Any amount not released in fiscal year 1998 shall be transferred to fiscal year 1999 and is hereby appropriated.

Notwithstanding division (D) of Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, if a village, municipal corporation, or county that receives a payment pursuant to this section sells the parcel within two years after purchasing it, the political subdivision shall pay to the state both of the following:

(A) An amount equal to the payment made pursuant to this section. Such payment shall be deposited to the credit of the General Revenue Fund.

(B) An amount equal to one-half of any net profits from the sale. Such payment shall be deposited to the credit of the Armory Improvements Fund created pursuant to section 5911.10 of the Revised Code.

Net profit shall be calculated by subtracting from the selling price of the parcel the original purchase price paid by the political subdivision and any expenditures by the political subdivision for the public improvements on the parcel.

Upon disposing of all parcels pursuant to Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, the Adjutant General may request release of any amount remaining in appropriation item 911-423, Army National Guard, to be used exclusively for the purpose of armory maintenance and repair.

Emergency 9-1-1 Training

Of the foregoing appropriation item 911-430, Emergency 9-1-1 Training, any unencumbered and unallotted fiscal year 1998 amounts shall be transferred by the Director of Budget and Management to appropriation item 911-430, Emergency 9-1-1 Training, in fiscal year 1999. Those amounts so transferred from fiscal year 1998 to fiscal year 1999 are hereby appropriated. AFIT

Of the foregoing appropriation item 911-433, AFIT, no funds shall be released in fiscal year 1998 or fiscal year 1999 until the Board of Regents present to the Controlling Board a spending plan for AFIT, subsequent to the consortium of universities unanimously agreeing on such plan.

Rural Fire Departments

Upon the passage of legislation by the 122nd General Assembly, the Department of Commerce may apply for release of funds from the foregoing appropriation item 911-436, Rural Fire Departments.

SECTION 41. COS STATE BOARD OF COSMETOLOGY
General Services Fund Group

4K9	879-609	Operating	$	2,015,707	$ 2,116,108
TOTAL GSF General Services Fund Group			$	2,015,707	$ 2,116,108
TOTAL ALL BUDGET FUND GROUPS			$	2,015,707	$ 2,116,108

SECTION 42. CSW COUNSELOR AND SOCIAL WORKERS BOARD

General Services Fund Group

4K9	899-609	Operating	$	853,537	$ 877,176
TOTAL GSF General Services Fund Group			$	853,537	$ 877,176
TOTAL ALL BUDGET FUND GROUPS			$	853,537	$ 877,176

SECTION 43. CLA COURT OF CLAIMS

General Revenue Fund

GRF	015-321	Operating Expenses	$	2,439,674	$ 2,716,330
TOTAL GRF General Revenue Fund			$	2,439,674	$ 2,716,330

State Special Revenue Fund Group

402	015-601	Victims of Crime	$	22,596,920	$ 23,887,350
TOTAL SSR State Special Revenue Fund Group			$	22,596,920	$ 23,887,350
TOTAL ALL BUDGET FUND GROUPS			$	25,036,594	$ 26,603,680

SECTION 44. CJS OFFICE OF CRIMINAL JUSTICE SERVICES

General Revenue Fund

GRF	196-401	Criminal Justice Information System Plan	$	1,000,000	$ 1,000,000
GRF	196-403	Violence Prevention	$	354,650	$ 363,516
GRF	196-424	Operating Expenses	$	997,948	$ 1,022,897
GRF	196-499	State Match	$	673,110	$ 698,040
GRF	196-502	Lucasville Disturbance Costs	$	450,000	$ 250,000
TOTAL GRF General Revenue Fund			$	3,475,708	$ 3,334,453

Federal Special Revenue Fund Group

3L5	196-604	Justice Programs	$	27,003,304	$ 28,609,056
TOTAL FED Federal Special Revenue Fund Group			$	27,003,304	$ 28,609,056

General Services Fund Group

4P6	196-601	General Services	$	138,741	$ 142,585
TOTAL GSF General Services Fund Group			$	138,741	$ 142,585
TOTAL ALL BUDGET FUND GROUPS			$	30,617,753	$ 32,086,094

Indigent Defense

The Office of Criminal Justice Services shall make all efforts to maximize the amount of funding available for the defense of indigent persons.

Criminal Justice Information System Plan

The foregoing appropriation item 196-401, Criminal Justice Information

System Plan, shall be used by the Office of Criminal Justice Services to work on a plan to improve Ohio's criminal justice information systems. The Director of the Office of Criminal Justice Services shall evaluate the progress of this plan and issue a report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the Criminal Justice Policy Board, and the Legislative Budget Office of the Legislative Service Commission by January 1 of each year of the two-year biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 45. DEN STATE DENTAL BOARD

General Services Fund Group

4K9 880-609	Operating	$ 957,452	$	979,096
TOTAL GSF General Services Fund Group		$ 957,452	$	979,096
TOTAL ALL BUDGET FUND GROUPS		$ 957,452	$	979,096

Study of Peer-Review of Complaints

Representatives of the State Dental Board shall meet with representatives of the Ohio Dental Association to discuss establishing criteria for transferring appropriate complaints filed with the Board to the Association for consideration through the Association's peer review process. A report on these discussions shall be prepared and filed with the General Assembly on or before December 31, 1997.

Dental Offices Operating as Facilities with X-ray Equipment

Representatives of the state Department of Health shall meet with representatives of the State Dental Board to study transferring the registration of dental offices operating as facilities with x-ray equipment from the Department to the Board. A report on the study shall be prepared and filed with the General Assembly on or before December 31, 1997.

SECTION 46. BDP BOARD OF DEPOSIT

General Services Fund Group

4M2 974-601	Board of Deposit	$ 800,000	$	800,000
TOTAL GSF General Services Fund Group		$ 800,000	$	800,000
TOTAL ALL BUDGET FUND GROUPS		$ 800,000	$	800,000

Board of Deposit Expense Fund

Upon receiving from the Treasurer of State certification of expenses, the Director of Budget and Management shall transfer cash from the Interest Holding Distribution Fund (Fund 608) to the Board of Deposit Expense Fund (Fund 4M2) which is hereby created. This fund shall be used to pay for banking charges and fees required for the operation of the state treasury

account.

SECTION 47. DEV DEPARTMENT OF DEVELOPMENT

General Revenue Fund

GRF	195-100	Personal Services	$ 2,595,000	$ 2,595,000
GRF	195-200	Maintenance	$ 625,000	$ 625,000
GRF	195-300	Equipment	$ 115,000	$ 115,000
GRF	195-401	Thomas Edison Program	$ 23,250,000	$ 23,696,875
GRF	195-404	Small Business Development	$ 2,360,000	$ 2,360,000
GRF	195-405	Minority Business Development Division	$ 2,058,000	$ 2,058,000
GRF	195-406	Transitional and Permanent Housing	$ 2,859,900	$ 2,864,847
GRF	195-407	Travel and Tourism	$ 6,450,000	$ 6,450,000
GRF	195-408	Coal Research Development	$ 570,000	$ 582,699
GRF	195-410	Defense Conversion Assistance Program	$ 1,100,000	$ 2,350,000
GRF	195-411	Minority Development Financing Advisory Board	$ 347,760	$ 356,454
GRF	195-412	Business Development	$ 11,000,000	$ 11,500,000
GRF	195-414	First Frontier Match	$ 500,000	$ 500,000
GRF	195-415	Regional Offices and Economic Development	$ 6,663,160	$ 6,718,894
GRF	195-416	Governor's Office of Appalachia	$ 654,000	$ 654,000
GRF	195-417	Urban/Rural Initiative Grant Program	$ 10,000,000	$ 4,000,000
GRF	195-422	Technology Action	$ 1,000,000	$ 2,000,000
GRF	195-423	Miami Valley Center for Information Technologies	$ 350,000	$ 650,000
GRF	195-431	Community Development Corporation Grants	$ 2,500,000	$ 2,600,000
GRF	195-432	International Trade	$ 5,300,000	$ 5,400,000
GRF	195-434	Industrial Training	$ 9,937,923	$ 9,600,469
GRF	195-436	Labor/Management Cooperation	$ 1,200,000	$ 1,200,000
GRF	195-440	Emergency Shelter Housing Grants	$ 3,014,800	$ 3,017,674
GRF	195-441	Low and Moderate Income Housing	$ 8,000,000	$ 8,000,000
GRF	195-497	State Match - Community Development Block Grant	$ 1,160,000	$ 1,160,000
GRF	195-498	State Energy Match	$ 100,000	$ 150,000
GRF	195-501	Appalachian Local Development Districts	$ 443,500	$ 443,500
GRF	195-502	Appalachian Regional Commission	$ 160,000	$ 160,000
GRF	195-507	Travel & Tourism Grants	$ 1,550,000	$ 1,300,000
TOTAL GRF General Revenue Fund			$ 105,864,043	$ 103,108,412

General Services Fund Group

135	195-605	Supportive Services	$ 6,749,805	$ 6,918,701

442	195-606	Merchandise for Resale	$	3,000	$	3,000
685	195-636	General Reimbursement	$	1,061,025	$	1,078,948
TOTAL GSF General Services Fund Group			$	7,813,830	$	8,000,649
Federal Special Revenue Fund Group						
308	195-602	Appalachian Regional Commission	$	650,000	$	650,000
308	195-603	Housing and Urban Development	$	31,837,225	$	32,631,507
308	195-605	Federal Projects	$	7,871,000	$	7,871,000
308	195-609	Federal Projects Small Business	$	7,500,000	$	7,500,000
3K9	195-611	Home Energy Assistance Block Grant	$	59,417,200	$	59,492,628
3L0	195-612	Community Services Block Grant	$	16,715,539	$	17,133,177
3K8	195-613	Community Development Block Grant	$	65,000,000	$	65,000,000
3K9	195-614	HEAP Weatherization	$	10,413,818	$	10,420,948
308	195-616	Technology Programs	$	500,000	$	500,000
308	195-618	Energy Federal Grants	$	1,753,019	$	1,796,126
308	195-642	International Trade Promotion	$	200,000	$	0
335	195-610	Oil Overcharge	$	8,500,000	$	8,500,000
380	195-622	Housing Development	$	2,584,607	$	2,634,097
TOTAL FED Federal Special Revenue Fund Group			$	212,942,408	$	214,129,483
State Special Revenue Fund Group						
4F2	195-639	State Special Projects	$	1,821,569	$	1,510,913
4G9	195-633	Travel and Tourism Marketing	$	100,000	$	100,000
4H4	195-641	First Frontier	$	1,000,000	$	1,000,000
4S0	195-630	Enterprise Zone Operating	$	275,000	$	282,000
4S1	195-634	Job Creation Tax Credit Operating	$	225,000	$	235,000
4W1	195-646	Minority Business Enterprise Loan	$	3,800,000	$	3,800,000
444	195-607	Water and Sewer	$	2,300,000	$	2,300,000
445	195-617	Housing Finance Agency	$	2,950,000	$	3,022,551
450	195-624	Minority Business Bonding Program Administration	$	132,381	$	135,690
451	195-625	Economic Development Financing Operating	$	1,998,433	$	2,036,868
611	195-631	Water and Sewer Administration	$	44,000	$	45,000
646	195-638	Low and Moderate Income Housing Trust Fund	$	18,500,000	$	20,500,000
TOTAL SSR State Special Revenue Fund Group			$	33,146,383	$	34,968,022
Facilities Establishment Fund						
037	195-615	Facilities Establishment	$	62,500,000	$	52,500,000
4Z6	195-647	Rural Industrial Park Loan	$	5,000,000	$	5,000,000
5D1	195-649	Port Authority Bond Reserves	$	2,500,000	$	2,500,000
5D2	195-650	Urban Redevelopment Loans	$	10,000,000	$	20,000,000

TOTAL 037 Facilities Establishment Fund			$ 80,000,000	$ 80,000,000
Coal Research/Development Fund				
046	195-632	Coal Research and Development Fund	$ 12,000,000	$ 12,000,000
TOTAL 046 Coal Research/ Development Fund			$ 12,000,000	$ 12,000,000
TOTAL ALL BUDGET FUND GROUPS			$ 451,766,664	$ 452,206,566

SECTION 47.01. Washington Office

Of the foregoing appropriation items 195-100, Personal Services, 195-200, Maintenance, and 195-300, Equipment, no more than $335,700 in fiscal year 1998 and $335,700 in fiscal year 1999 may be transferred to the General Reimbursement Fund (Fund 685) to support the Washington Office. The transfer shall be made using an intrastate transfer voucher.

Thomas Edison Program

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of this program by the Technology Division. For each year of the FY 1998-1999 biennium, the Director of Development shall provide each grantee receiving a subsidy from line item 195-401, Thomas Edison Program, an amount of funding that is a lower percentage of the grantee's overall budget, including cooperating contributions, than from the previous fiscal year.

Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than $2,200,000 in fiscal year 1998 and $2,300,000 in fiscal year 1999 shall be used for the Technology Division's operating expenses in administering this program.

Of the foregoing appropriation item 195-401, Thomas Edison Program, $360,000 in each fiscal year shall be used for The Science and Technology Center for Advanced Liquid Crystalline Optical Materials (ALCOM) in conjunction with Kent State University, The University of Akron, and Case Western Reserve University; and $700,000 in each fiscal year shall be used for the Wright Technology Network.

The Director of Development shall waive any local matching requirements for the Wright Technology Network during the 1997-1999 biennium.

Of the foregoing appropriation item 195-401, Thomas Edison Program,

not less than $14,900,000 in fiscal year 1998 and $15,100,000 in fiscal year 1999 shall be used to provide matching grants to the Ohio Edison Technology Centers to support collaborative programs to promote technological innovation and technology development.

Of the foregoing appropriation item 195-401, Thomas Edison Program, $2,930,000 each year of the biennium shall be used to provide matching grants to the Ohio Edison Technology Centers to support existing and expanded activities in furtherance of the Ohio Technology Network (OTNET).

Of the foregoing appropriation item 195-401, Thomas Edison Program, $300,000 in each year of the biennium shall be used by the Great Lakes Industrial Technology Center to encourage and support small and mid-sized manufacturers to adopt manufacturing techniques and new technology and $100,000 shall be used by the Great Lakes Industrial Technology Center to pursue collaborative efforts with the Wright Technology Network.

SECTION 47.02. Small Business Development

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed.

The foregoing appropriation shall be used to provide grants to local organizations to support the operation of Small Business Development Centers, and other local economic development activity promoting small business and for the cost of administering the program. The centers shall provide technical, financial, and management consultation for small business, and facilitate access to state and federal programs. These funds shall be used as matching funds for grants from the U.S. Small Business Administration and other federal agencies, pursuant to Public Law 96-302 (1980) as amended by Public Law 98-395 (1984) and regulations and policy guidelines for these programs.

In addition, the Office of Small Business shall operate the One-Stop Business Permit Center, the Women's Business Resource Program, support government procurement assistance, and implement and coordinate the duties imposed on the Department of Development by Am. Sub. S.B. 239 of the 115th General Assembly.

SECTION 47.03. Minority Business Development Division

Of the foregoing appropriation item 195-405, Minority Business Development Division, not less than $35,000 shall be used in each fiscal

year of the 1997-1999 biennium to establish or assist in the development of minority business trade organizations and chambers of commerce.

Of the foregoing appropriation item 195-405, Minority Business Development Division, no less than $910,000 shall be used in each fiscal year of the 1997-1999 biennium to continue minority contractors and business assistance organizations in Akron, Cincinnati, Cleveland, Columbus, Dayton, Lima, Portsmouth, Toledo, and Youngstown. No less than $91,000 shall be used in each fiscal year of the biennium for the Akron area, no less than $120,000 shall be used in each fiscal year for the Cincinnati area, no less than $148,000 shall be used in each fiscal year for the Cleveland area, no less than $115,000 shall be used in each fiscal year for the Columbus area, no less than $103,000 shall be used in each fiscal year for the Dayton area, no less than $80,000 shall be used in each fiscal year for the Lima area, no less than $80,000 shall be used in each fiscal year for the Portsmouth area, no less than $89,000 shall be used in each fiscal year for the Toledo area, and no less than $84,000 shall be used in each fiscal year for the Youngstown area.

Of the foregoing appropriation item 195-405, Minority Business Development Division, moneys not expended for grants and contracts may be expended for payroll, equipment, and maintenance costs including the Minority Business Information System (MBIS) that will assist all state agencies in meeting their 15 per cent goal of Minority Business Enterprise (MBE) participation mandated by Am. Sub. H.B. 584 of the 113th General Assembly.

In addition, the Minority Business Development Division shall continue to plan and implement Minority Business Conferences.

SECTION 47.04. Transitional and Permanent Housing Program

Of the foregoing appropriation item 195-406, Transitional and Permanent Housing, the Office of Housing and Community Partnerships shall make grants to local governments and nonprofit organizations for the acquisition, rehabilitation, renovation, construction, conversion, operating, and supportive services costs for both new and existing transitional and/or permanent housing for the homeless.

Of the foregoing appropriation item 195-406, Transitional and Permanent Housing, at least 75 per cent shall be used to provide transitional housing for homeless families and individuals.

Coal Research Development

The foregoing appropriation item 195-408, Coal Research Development, shall be used for the administrative costs of the Coal

Development Office within the Technology Division and for grants which encourage, promote, and assist the use of Ohio coal pursuant to section 1551.32 of the Ohio Revised Code.

Defense Conversion Assistance Program

The Director of Development may use the foregoing appropriation item 195-410, Defense Conversion Assistance Program, in accordance with existing program guidelines, and other resources as appropriate, to match federal dollars for one or more Ohio-based defense conversion projects.

To ensure the most efficient and effective use of state dollars, the Director of Development shall select projects which make maximum use of existing technology development and deployment programs funded in whole or in part by the state.

SECTION 47.05. Business Development

The foregoing appropriation item 195-412, Business Development, shall be used as an incentive for attracting and retaining business opportunities for the state. Any such business opportunity, whether new, expanding, or relocating in Ohio, is eligible for funding. The project must create or retain a significant number of jobs for Ohioans. Grant awards may be considered only when (1) the project's viability hinges on an award of 195-412 Business Development funds; (2) all other public or private sources of financing have been considered; or (3) the funds must act as a catalyst for the infusion into the project of other financing sources.

The department's primary goal shall be to award funds to political subdivisions of the state for off-site infrastructure improvements. In order to meet the particular needs of economic development in a region, the department may elect to award funds directly to a business for on-site infrastructure improvements. Infrastructure improvements are defined as improvements to water system facilities, sewer and sewage treatment facilities, electric or gas service facilities, rail facilities, site preparation, and parking facilities. The Director of Development may recommend the funds be used in an alternative manner when deemed appropriate to meet an extraordinary economic development opportunity or need.

The foregoing appropriation item 195-412, Business Development, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

The foregoing appropriation item 195-412, Business Development, may be used for, but is not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of

portation. The Director of Transportation shall submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

SECTION 47.06. First Frontier Match

The foregoing appropriation item 195-414, First Frontier Match, shall be used as matching funds to counties for the purpose of marketing state, regional, and/or local characteristics which may attract economic development. In each fiscal year, the Director of Development shall allocate no less than $400,000 of the foregoing appropriation to marketing programs by targeted counties, which are defined as counties that have a population of less than 175,000 residents. The balance of the appropriation may be used either for marketing programs by individual targeted counties or regional marketing campaigns, which are defined as marketing programs in which at least one targeted county is participating with one or more other targeted counties or larger counties. In the event that, during a fiscal year, targeted counties are unable to utilize the full amount of funds allocated by the director specifically for targeted county programs, the Director of Development may reallocate the unutilized balance of funds to regional marketing campaigns.

Regional Offices and Economic Development

The foregoing appropriation item 195-415, Regional Offices and Economic Development, shall be used for the operating expenses of the Economic Development Division and the Regional Economic Development Offices and for grants for cooperative economic development ventures.

SECTION 47.07. Governor's Office of Appalachian Ohio

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, shall be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachian Ohio. Funds not expended for liaison and training activities may be expended for special project grants within the Appalachian Region.

Of the foregoing appropriation item 195-416, Governor's Office of Appalachia, no less than $250,000 each fiscal year shall be used to match federal funds from the Appalachian Development Commission to provide job training to impact the Appalachian Region.

Technology Action

With Controlling Board approval, the foregoing appropriation item 195-422, Technology Action, shall be used by the Governor's Science

Advisor, in consultation with the Ohio Science and Technology Council and with the approval of the Director of Development, to match funding for high priority technology initiatives that will make Ohio entities more competitive in federal research and development programs. Guidelines and criteria for the release of funds shall be developed by the Governor's Science Advisor to assure support for projects that advance the state's science and technology priorities, general potential economic growth, and leverage other financing sources.

Miami Valley Center for Information Technologies

Of the foregoing appropriation item 195-423, Miami Valley Center for Information Technologies, $350,000 in fiscal year 1998 and $650,000 in fiscal year 1999 shall go to the Miami Valley Center for Information Technologies.

SECTION 47.08. Community Development Corporations

Of the foregoing appropriation item 195-431, Community Development Corporation Grants, a portion of funds in each fiscal year of the biennium shall be used to make grants to the Ohio Community Development Finance Fund, a nonprofit corporation, in order to leverage private sector funds to assist nonprofit development organizations to create affordable housing and permanent jobs in distressed areas of the state. The remaining moneys shall be used to provide funds to assist local community development corporations develop affordable housing programs and economic development programs in their neighborhoods, and for operating costs.

Of the foregoing appropriation item 195-431, Community Development Corporation Grants, no less than $100,000 in each fiscal year shall be used to provide training, technical assistance, and capacity building assistance to nonprofit development organizations in under served areas of the state. For grants awarded in each fiscal year of this biennium, priority shall be given to proposals submitted by nonprofit development organizations from under served areas of the state.

SECTION 47.09. International Trade

The foregoing appropriation item 195-432, International Trade, shall be used to operate and to maintain Ohio's out-of-state trade offices.

The Director of Development may enter into contracts with foreign nationals to staff foreign offices. Such contracts may be paid in local currency or United States currency and shall be exempt from the provisions of section 127.16 of the Revised Code. The director may also establish

foreign currency accounts in accordance with section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of these foreign trade offices.

The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and assist Ohio manufacturers and agricultural producers exporting to foreign countries in conjunction with the Department of Agriculture.

The foregoing appropriation item 195-432, International Trade, shall be used to establish a full-service trade office in Africa. On or before June 15, 1998, the Director of Development shall provide a fiscal year 1998 status report on the African trade office to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Controlling Board.

Of the foregoing appropriation item 195-432, International Trade, up to $25,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.

SECTION 47.10. Ohio Industrial Training Program

The Department of Development shall continue its job training efforts to impact the high unemployment population in Ohio's eight major cities and in nonurban areas identified by the Ohio Bureau of Employment Services. The foregoing appropriation item 195-434, Industrial Training, shall be used to promote industrial training through training grants for the reimbursement of eligible training expenses.

SECTION 47.11. Emergency Shelter Housing Grants

(A) As used in this section, "emergency shelter housing" means a structure suitable for the temporary housing of the homeless and the provision of, or referral to, supportive services. Shelters that restrict admission to victims of domestic violence, runaways, or alcohol or substance abusers shall not be considered emergency shelter housing.

(B) The foregoing appropriation item 195-440, Emergency Shelter Housing Grants, shall be used by the Office of Housing and Community Partnerships in the Department of Development to make grants to private, nonprofit organizations to provide emergency shelter housing for the homeless. The department shall distribute the grants pursuant to rules adopted by the Director of Development. The Director of Development may amend or rescind such rules and may adopt other rules necessary to implement this section. In awarding grants, the department shall give

preference to organizations applying to fund existing emergency shelter housing.

The department shall notify each organization that applied for a grant under this section of the amount of its grant award, if any. To receive a grant, the organization shall provide matching funds equal to fifty per cent of the total grant it was awarded. The organization shall expend its grant for shelter operations and supportive services, which include employment assistance, case management, information and referral services, transportation, and clothing. In providing employment assistance, the organization shall, at a minimum, refer persons to the Ohio Bureau of Employment Services.

Low and Moderate Income Housing

The Director of Budget and Management, in consultation with the Director of Development, shall use $8,000,000 in each fiscal year to support low- and moderate-income housing activities. No less than $250,000 per year shall be used from either line item 195-441, Low- and Moderate-Income Housing, or line item 195-638, Low- and Moderate-Income Housing Trust, for the Migrant Housing Labor Camp Improvements Program. Up to $8,000,000 in each fiscal year shall be transferred from line item 195-441, Low- and Moderate-Income Housing, to line item 195-638, Low- and Moderate-Income Housing Trust Fund.

HEAP Weatherization

Fifteen per cent of the federal funds received by the state for the Home Energy Assistance Block Grant shall be deposited in the Department of Development's Federal Special Revenue Fund (Fund 3K9) and shall be used to provide home weatherization services in the state.

SECTION 47.12. Travel and Tourism Grants

The foregoing appropriation item 195-507, Travel and Tourism Grants, shall be used to provide grants to local organizations to support various local travel and tourism events in Ohio.

Of the foregoing appropriation item 195-507, Travel and Tourism Grants, up to $200,000 in each fiscal year of the biennium may be used to support the outdoor dramas Trumpet in the Land, Blue Jacket, Tecumseh, and the Becky Thatcher Showboat Drama; $50,000 in fiscal year 1998 shall be used for an architectural and engineering feasibility study of the Middletown Convention and Conference Center; $75,000 in each year shall go to the Cincinnati Film Commission; $150,000 in fiscal year 1998 for the United States International Air and Trade Show in Dayton; and $750,000 in each fiscal year shall be used for grants to the International Center for the

Preservation of Wild Animals. In addition, $250,000 in fiscal year 1998 shall go to the Ohio Showboat Drama, only after local matching funds of at least $50,000 have been obtained.

SECTION 47.13. Minority Business Bonding Fund

Notwithstanding Chapters 122., 169., and 175. of the Revised Code and other provisions of this act, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to $10,000,000 in this biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program pursuant to section 169.05 of the Revised Code. The transfer of any cash by the Director of Commerce from the Department of Commerce's Unclaimed Funds Fund (Fund 543) to the Department of Development's Minority Business Bonding Fund (Fund 449) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after the $2,700,000 transferred to the Minority Business Bonding Fund by the Controlling Board in 1983 has been used for that purpose. Moneys transferred by the Director of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195-623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

Minority Business Bonding Program Administration

Investment earnings of the Minority Business Bonding Fund (Fund 449), shall be credited to Minority Business Bonding Program Administration Fund (Fund 450).

Ohio Minority Development Financing Advisory Board

The foregoing appropriation item 195-411, Minority Development Financing Advisory Board, shall be used to pay operating costs associated with the Minority Development Financing Advisory Board.

Minority Business Enterprise Loan

Of the foregoing appropriation item 195-646, Minority Business Enterprise Loan (Fund 4W1), not less than $500,000 in each fiscal year shall be used to fund the Ohio Mini-Loan Guarantee Program to make loan guarantees to small businesses in an amount not to exceed fifty per cent of the total capital cost of the project being assisted. In each fiscal year, no more than $400,000 shall be used to pay up to 50 per cent of the operating costs of the Minority Development Financing Advisory Board.

In fiscal year 1998, the Director of Development shall use $250,000 from appropriation item 195-646, Minority Business Enterprise Loan, to study minority businesses to identify current minority business needs and to determine how to improve Department of Development services for minority businesses that would promote economic development throughout the state.

All loan repayments from the Minority Development Financing Advisory Board loan program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury, to the credit of the Minority Enterprise Loan Fund (Fund 4W1).

SECTION 47.14. Economic Development Financing Operating

The foregoing appropriation item 195-625, Economic Development Financing Operating, shall be used for the operating expenses of financial assistance programs authorized under Chapter 166. of the Revised Code and under sections 122.43 and 122.45 of the Revised Code.

All Loan and Grant Programs

The Department of Development shall continue to submit to the General Assembly, the Office of Budget and Management and the Legislative Budget Office of the Legislative Service Commission by April 1 of each year a report detailing the status of all open loans and grants made by the department and all loans and grants which have been closed out during the preceding calendar year. A grant shall be considered open for three years from the date it was awarded. The report shall identify, where applicable, the date of Controlling Board approval, the number of jobs estimated to be retained and created, and the number of people estimated to be trained, as well as the actual numbers realized to date. In addition, beginning on July 1 of each year, the Department of Development shall also submit a quarterly report of the loans and grants which have been approved from the beginning of the current calendar year.

SECTION 47.15. Facilities Establishment Fund

The foregoing appropriation item 195-615, Facilities Establishment Fund (Fund 037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, up to $1,600,000 may be transferred each fiscal year from the Facilities Establishment Fund (Fund 037) to the Economic Development Financing Operating Fund (Fund 451). The transfer is subject to Controlling Board approval pursuant to

division (B) of section 166.03 of the Revised Code. The transfer shall be made using an intrastate transfer voucher.

Notwithstanding Chapter 166. of the Revised Code, up to $3,800,000 may be transferred in each fiscal year of the biennium from the Facilities Establishment Fund (Fund 037) to the Minority Business Enterprise Loan (Fund 4W1). The transfer is subject to Controlling Board approval pursuant to division (B) of section 166.03 of the Revised Code. The transfer shall be made using an intrastate transfer voucher.

Notwithstanding Chapter 166. of the Revised Code, up to $5,000,000 cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Port Authority Bond Reserves Fund (Fund 5D1) for use by any port authority in establishing or supplementing bond reserve funds for any bond issuance permitted under Chapter 4582. of the Revised Code. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, a provision that no port authority shall receive more than $2,000,000. The transfer and release of funds are subject to Controlling Board approval. The transfer shall be made using an intrastate transfer voucher. Of the foregoing appropriation item 195-649, Port Authority Bond Reserves, $2,000,000 over the biennium, subject to Controlling Board approval, shall go to the Cleveland Port Authority to establish or supplement bond reserves per the guidelines set forth by the director of development.

Notwithstanding Chapter 166. of the Revised Code, up to $30,000,000 cash may be transferred during the biennium from the Facilities Establishment Fund (Fund 037) to the Urban Redevelopment Loan Fund (Fund 5D2) for the purpose of removing barriers to urban core redevelopment. The Director of Development shall develop program guidelines for the transfer and release of funds, including, but not limited to, the completion of all appropriate environmental assessments before state assistance is committed to a project. The transfer and release of funds are subject to Controlling Board approval. The transfer shall be made using an intrastate transfer voucher.

SECTION 47.16. Supportive Services

The Director of Development may assess divisions of the department for the cost of central service operations. Such an assessment shall be based on a plan submitted to and approved by the Office of Budget and Management by the first day of August of each fiscal year, and contain the characteristics of administrative ease and uniform application.

A division's payments shall be credited to the Supportive Service Fund

(Fund 135) using an intrastate transfer voucher.

General Reimbursement

The foregoing appropriation item 195-636, General Reimbursement, shall be used for conference and subscription fees and other reimbursable costs. Revenues to the General Reimbursement Fund (Fund 685) shall consist of fees and other moneys charged for conferences, subscriptions, and other administrative costs that are not central service costs.

A portion of the cash balance of the Supportive Services Fund (Fund 135) may be transferred to the credit of the General Reimbursement Fund (Fund 685), if requested by the Director of Development and approved by the Director of Budget and Management.

State Special Projects

The foregoing appropriation item 195-639, State Special Projects, shall be used as a general account for the deposit of private sector funds from utility companies and other miscellaneous state funds. Private sector moneys shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) market economic development opportunities in the state, and (3) leverage additional federal funds. State funds shall be used to match federal housing grants for the homeless.

SECTION 47.17. Travel and Tourism Funding Study

The Legislative Service Commission shall conduct a study to identify possible sources of funding to be used by the Division of Travel and Tourism in the Department of Development to encourage persons who reside in oth er states to travel to this state. The Commission shall report its findings not later than September 1, 1998, to the Chairperson and Vice-Chairperson of the Legislative Service Commission, to the Chairpersons of the Finance Committees in the Senate and the House of Representatives, and to the Director of Development.

SECTION 48. OBD OHIO BOARD OF DIETETICS

General Services Fund Group			
4K9 860-609 Operating Expenses	$ 258,462	$	256,346
TOTAL GSF General Services Fund Group	$ 258,462	$	256,346
TOTAL ALL BUDGET FUND GROUPS	$ 258,462	$	256,346

SECTION 49. CDR COMMISSION ON DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

General Revenue Fund					
GRF	145-401	Commission on Dispute Resolution/Management	$	555,613	$ 568,620
TOTAL GRF General Revenue Fund			$	555,613	$ 568,620
General Services Fund Group					
4B6	145-601	Gifts and Grants	$	150,000	$ 150,000
TOTAL GSF General Services Fund Group			$	150,000	$ 150,000
TOTAL ALL BUDGET FUND GROUPS			$	705,613	$ 718,620

Commission on Dispute Resolution/Management

The foregoing appropriation item 145-401, Commission on Dispute Resolution/Management, shall be used in each fiscal year by the Commission on Dispute Resolution and Conflict Management for the purpose of providing dispute resolution and conflict management training, consultation, and materials for state and local government, communities, school districts, courts and, in consultation with the Department of Education, for the purpose of offering competitive school conflict programs to school districts.

The Commission shall assist the Department of Education in the development and dissemination of the school conflict management programs to school districts.

SECTION 50. EDU DEPARTMENT OF EDUCATION

General Revenue Fund					
GRF	200-100	Personal Services	$	10,744,925	$ 0
GRF	200-200	Maintenance	$	8,691,111	$ 0
GRF	200-300	Equipment	$	117,449	$ 0
GRF	200-405	Primary and Secondary Education Funding	$	0	$ 4,470,135,592
GRF	200-406	Head Start	$	83,739,058	$ 0
GRF	200-408	Public Preschool	$	17,468,094	$ 0
GRF	200-411	Family and Children First	$	8,500,500	$ 0
GRF	200-412	Driver Education Administration	$	143,429	$ 0
GRF	200-415	Consumer Education	$	500,000	$ 0
GRF	200-416	Vocational Education Match	$	2,245,026	$ 0
GRF	200-417	Professional Development	$	14,370,077	$ 0
GRF	200-422	School Management Assistance	$	550,596	$ 0
GRF	200-423	Teacher Recruitment	$	1,289,067	$ 0
GRF	200-424	Simulation System	$	449,796	$ 0
GRF	200-426	Ohio Educational Computer Network	$	21,698,858	$ 0
GRF	200-429	Local Professional Development Block Grants	$	9,259,713	$ 0
GRF	200-431	School Improvement Models	$	16,450,000	$ 0
GRF	200-432	School Conflict Management	$	392,575	$ 0

GRF	200-437	Student Proficiency	$ 10,555,476	$	0
GRF	200-441	American Sign Language	$ 226,245	$	0
GRF	200-442	Child Care Licensing	$ 1,359,171	$	0
GRF	200-446	Education Management Information System	$ 12,060,657	$	0
GRF	200-447	GED Testing/Adult High School	$ 1,939,001	$	0
GRF	200-455	Charter Schools	$ 1,200,000	$	0
GRF	200-500	School Finance Equity	$ 109,405,982	$	0
GRF	200-501	School Foundation Basic Allowance	$ 2,202,851,688	$	0
GRF	200-502	Pupil Transportation	$ 179,702,987	$	0
GRF	200-503	Bus Purchase Allowance	$ 36,365,821	$	0
GRF	200-504	Special Education	$ 556,029,126	$	0
GRF	200-505	School Lunch Match	$ 9,450,000	$	0
GRF	200-507	Vocational Education	$ 317,612,847	$	0
GRF	200-509	Adult Literacy Education	$ 8,928,273	$	0
GRF	200-511	Auxiliary Services	$ 95,956,267	$	0
GRF	200-512	Driver Education	$ 6,026,070	$	0
GRF	200-514	Post-Secondary/Adult Vocational Education	$ 20,695,861	$	0
GRF	200-520	Disadvantaged Pupil Impact Aid	$ 277,205,650	$	0
GRF	200-521	Gifted Pupil Program	$ 34,383,349	$	0
GRF	200-524	Educational Excellence and Competency	$ 9,528,000	$	0
GRF	200-526	Vocational Education Equipment Replacement	$ 4,941,622	$	0
GRF	200-532	Nonpublic Administrative Cost Reimbursement	$ 41,829,125	$	0
GRF	200-533	School-Age Child Care	$ 1,046,647	$	0
GRF	200-534	Desegregation Costs	$ 50,400,000	$	0
GRF	200-541	Peer Review	$ 1,840,000	$	0
GRF	200-542	National Board Certification	$ 1,600,000	$	0
GRF	200-543	Entry Year Program	$ 2,396,205	$	0
GRF	200-544	Individual Career Plan & Passport	$ 5,708,968	$	0
GRF	200-551	Reading Improvement	$ 1,666,133	$	0
GRF	200-552	County MR/DD Boards Vehicle Purchases	$ 1,551,774	$	0
GRF	200-553	County MR/DD Boards Transportation Operating	$ 6,611,623	$	0
GRF	200-577	Preschool Special Education	$ 62,268,535	$	0
GRF	200-589	Special Education Aides	$ 1,635,157	$	0
GRF	200-901	Property Tax Allocation - Education	$ 566,800,000	$	600,800,000
GRF	200-906	Tangible Tax Exemption - Education	$ 61,320,000	$	63,210,000
TOTAL GRF General Revenue Fund			$ 4,899,708,534	$	5,134,145,592
General Services Fund Group					
4D1	200-602	Ohio Prevention/Education Resource Center	$ 277,560	$	285,332
138	200-606	Computer Services	$ 4,036,728	$	4,143,201
452	200-638	Fees and Gifts	$ 1,788,862	$	1,838,335

596	200-656	Ohio Career Information System	$	647,156	$	660,812
4P1	200-629	Adult Literacy Education	$	2,364,400	$	2,430,603
4L2	200-681	Teacher Certification and Licensure	$	3,580,741	$	3,675,311
TOTAL GSF General Services Fund Group			$	12,695,447	$	13,033,594
Federal Special Revenue Fund Group						
309	200-601	Educationally Disadvantaged	$	12,486,104	$	12,904,245
366	200-604	Adult Basic Education	$	16,300,000	$	18,000,000
3H9	200-605	Head Start Collaboration Project	$	200,000	$	200,000
367	200-607	School Food Services	$	9,290,000	$	10,160,000
368	200-614	Veterans' Training	$	565,232	$	593,493
369	200-616	Vocational Education	$	10,556,971	$	10,787,320
3L6	200-617	Federal School Lunch	$	159,570,000	$	167,550,000
3L7	200-618	Federal School Breakfast	$	29,818,000	$	31,607,000
3L8	200-619	Child and Adult Care Programs	$	58,600,000	$	59,800,000
3L9	200-621	Vocational Education Basic Grant	$	54,122,121	$	54,122,121
3M0	200-623	ESEA Chapter One	$	356,669,568	$	374,503,047
370	200-624	Education of All Handicapped Children	$	12,902,838	$	12,902,838
3N7	200-627	School-to-Work	$	18,000,000	$	13,500,000
371	200-631	EEO Title IV	$	364,655	$	377,850
372	200-635	Federal Driver Education Projects	$	84,500	$	84,500
373	200-642	Pupil Transportation Safety Project	$	81,000	$	81,000
374	200-647	E.S.E.A. Consolidated Grants	$	260,301	$	265,624
375	200-652	Technical Assistance for Educational Mobility	$	216,720	$	227,556
376	200-653	J.T.P.A.	$	5,000,000	$	5,034,523
3R3	200-654	Goals 2000	$	19,789,214	$	22,000,000
377	200-657	Sex Equity	$	125,685	$	131,969
378	200-660	Math/Science Technology Investments	$	10,802,634	$	12,000,000
3D1	200-664	Drug Free Schools	$	17,410,259	$	19,500,000
3D2	200-667	Honors Scholarship Program	$	1,231,979	$	1,231,979
3E2	200-668	AIDS Education Project	$	718,734	$	620,775
3M1	200-678	ESEA Chapter Two	$	13,478,447	$	14,152,369
3M2	200-680	Ind W/Disab Education Act	$	91,825,830	$	91,825,830
TOTAL FED Federal Special Revenue Fund Group			$	900,470,792	$	934,164,039
State Special Revenue Fund Group						
454	200-610	Guidance and Testing	$	490,662	$	503,912
455	200-608	Commodity Foods	$	8,000,000	$	8,000,000
4V7	200-633	Interagency Vocational Support	$	514,000	$	528,392
5F8	200-645	Textbooks/Instructional Materials	$	25,000,000	$	25,000,000
598	200-659	Auxiliary Services Mobile	$	1,224,444	$	1,258,728

		Units		
4R7	200-695	Indirect Cost Recovery	$ 1,357,434	$ 1,393,146
TOTAL SSR State Special Revenue Fund Group			$ 36,586,540	$ 36,684,178
Lottery Profits Education Fund Group				
017	200-682	Lease Rental Payment Reimbursement	$ 21,105,000	$ 32,780,000
017	200-670	School Foundation - Basic Allowance	$ 584,137,200	$ 0
017	200-671	Special Education	$ 44,000,000	$ 0
017	200-672	Vocational Education	$ 30,000,000	$ 0
017	200-673	Primary and Secondary Lottery Funding	$ 0	$ 666,093,028
017	200-694	Bus Purchase One Time Supplement	$ 10,000,000	$ 0
018	200-649	Disability Access Project	$ 5,000,000	$ 0
018	200-669	Judgement Loan	$ 5,650,000	$ 0
Total 017 and 018 LPE Lottery Profits Education Fund Group			$ 699,892,200	$ 698,873,028
Education Improvement Fund				
006	200-689	Hazardous Waste Removal	$ 1,500,000	$ 1,443,401
TOTAL Education Improvement Fund			$ 1,500,000	$ 1,443,401
TOTAL ALL BUDGET FUND GROUPS			$ 6,550,853,513	$ 6,818,343,832

Primary and Secondary Education Funding

By January 15, 1998, the General Assembly shall develop a plan to provide itemized appropriations for the Department of Education for fiscal year 1999.

In anticipation of a new, improved school finance formula and education reform plan, to be enacted before fiscal year 1999, the foregoing appropriation item, 200-405, Primary and Secondary Education Funding is hereby appropriated.

Payment of fiscal year 1999 earmarks in the Department of Education's budget are subject to the passage of a new school finance formula and education reform plan.

SECTION 50.01. Maintenance

Of the foregoing appropriation item 200-200, Maintenance, up to $25,000 may be expended in each year of the biennium for State Board of Education out-of-state travel.

SECTION 50.02. Head Start

The foregoing appropriation item 200-406, Head Start, shall be distributed by the Department of Education to Head Start agencies. A "Head

Start agency" means an entity that has been approved to be an agency in accordance with Sec. 641 [42 U.S.C. 9836] of the Head Start Act, and amendments thereto or an entity designated for state Head Start funding under divisions (F) and (K) of this section. Participation in state funded Head Start programs is voluntary.

Moneys distributed under this heading shall not be used to reduce expenditures from funds received by a Head Start agency from any other sources. Section 3301.31 of the Revised Code does not apply to funds appropriated under this heading. In lieu of section 3301.31 of the Revised Code, distribution of moneys appropriated under this heading shall be as follows:

(A) In fiscal years 1998 and 1999, up to two per cent of the total appropriation may be used by the Department of Education for administrative costs of complying with this section and management assistance. Staff shall be designated to manage the grant process; monitor program operation; including at least one site visit per Head Start agency per year; provide technical assistance to programs to improve quality; to assist in expansion planning; to assist funded programs to increase staff professional development; increase staff to meet recommended staff/child ratios; wage comparability with other local community entities providing comparable services; to improve the agencies' management capacity generally; to help programs comply with the Head Start performance standards described in 45 C.F.R. 1304; to assist Head Start agencies in developing collaborative practices with child care providers, for full-day, full-year services, other agencies providing comprehensive services, and public schools; support conflict management activities provided by the Ohio Commission on Dispute Resolution and Conflict Management; assist programs with facilities planning, construction, renovation, or lease agreements in combination with the Community Development Finance Fund (CDFF); to collect and analyze data on specific topics and issues that impact policy and program practices (i.e., staff turnover, attendance, transition); and program accreditation. The Department of Education may use these funds to contract for management and training specialist, hire consultants, and to organize volunteer professional services.

The Department of Education shall provide an annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the State Board of Education, Head Start Grantees, and other interested parties. The report shall include the following:

(1) The number of per cent of eligible children by county and by grantee;

(2) The amount of state funds requested for continuation and expansion per grantee;

(3) The amount of state funds received for continuation and expansion per grantee;

(4) The amount of state funds unexpended per grantee;

(5) The number of Head Start site visits made per grantee by the department and a summary of the findings;

(6) The number of full-time equivalent department staff conducting site visits;

(7) Any other data reflecting the progress of Head Start expansion that the department regards as pertinent.

(8) A summary of Ohio's performance on the Head Start national performance indicators;

(9) A summary of programs performance on the state critical performance indicators;

(10) A summary of developmental progress of children participating in the state funded Head Start program.

In addition to the Department report, each grantee shall be required to publish and disseminate an annual progress report to the community.

(B) For purposes of this section, "eligible child" means a child who is at least three years of age and not of compulsory school age whose family earns no more than 100 per cent of the federal poverty level.

For purposes of determining an estimate of the number of eligible children and the per cent served by grantee(s) in each county the Department will use an unduplicated count of TANF, Food Stamp, and Healthy Start (EPSDT) enrollment data provided by the Ohio Department of Human Services as of the first full week of December divided into the actual number of children receiving Head Start services as of the first full week of December.

(C) After setting aside amounts to make any payments due from the prior fiscal year, in fiscal years 1998 and 1999, grants shall first be made to recipients of grants during the preceding fiscal year. Grants under this division may be reduced by the amount received in that year for one-time start-up costs and may be adjusted for actual months of program operation or enrollment as reported during the first full week of December, and may be increased by a reasonable percentage for inflation to be determined by the Department of Education and in accordance with division (H) of this section. The Department may redistribute dollars to programs demonstrating an unmet need based on updated assessments of family needs and community resources, with special attention to the projected impact of

re reform.

(D) After the expenditures in divisions (A) and (C) of this section, the Department shall distribute the remainder of the appropriation in each fiscal year as expansion grants through a competitive bid process. All Head Start agencies established and in operation in Ohio are eligible to apply for expansion grants under this division.

Grantees may submit applications under one of two priorities: Priority One: Head Start/Early Childhood Partnerships. Increase services through collaborative funding and or service models designed to meet the needs of families who are employed, entering the workforce, or participating in Temporary Assistance to Needy Families (TANF) related education, training, or community services activities. These partnerships may include early care and education programs licensed under Chapter 3301. or 5104. of the Revised Code and certified family child care homes. Priority Two: Center-Based, Home-Based, and Other Programs. Serve additional Head Start eligible children in part-day or full-day center-based programs, home-based programs, or combination option programs in accordance with current Head Start Performance Standards. Programs should be designed based on updated assessments of family needs and community resources, with attention to the projected impact of welfare reform on the families to be served.

Should the Head Start agency, in a targeted service area, choose not to expand services, the Department of Education may through a competitive grant process select a new agency to provide state funded expansion services.

(E) Costs for developing and administering a Head Start program may not exceed fifteen per cent of the total approved costs of the program.

The Department of Education may reallocate unobligated or unspent money to participating Head Start agencies for purposes of program expansion, improvements, or special projects to promote excellence and innovation.

The Ohio Department of Education may use up to $1,500,000 in each year of the biennium to assist programs with the costs associated with implementing corrective plans of action.

(F) By January 1, 1998, the Ohio Department of Education in consultation with interested parties and Head Start agencies shall formulate and prescribe target levels for critical performance indicators for the purpose of assessing Head Start programs. On site reviews and follow-up visits will be based on grantee progress in meeting the prescribed target levels.

The Ohio Department of Education shall require corrective plans of

action for programs not achieving target levels. Action plans will include activities to be conducted by the grantee and timelines for activities to be completed and timelines for additional data submission to the Department demonstrating targets have been met. Programs not meeting performance targets in accordance with the plan of action and prescribed timelines may have their continuation funding reduced, be disqualified for expansion consideration until targets are met, or have all state funds withdrawn and a new grantee established.

The Ohio Department of Education site visits will be determined based on the results of the data reported.

The Ohio Department of Education shall require Head Start grantees to document child progress using a common instrument prescribed by the Department and report aggregate results annually. The dates for documenting and reporting will be determined by the Department.

The Ohio Department of Education shall require school districts to collect "preschool" information by program type. All data will be reported via the Education Management Information System (EMIS).

(G) Each Head Start Grantee shall be required to develop local transition agreements among agencies which detail activities and processes to be implemented among programs as required by Head Start Performance Standards.

(H) An increase in funding beyond inflation may be approved under division (C) of this section in order to meet increased costs beyond inflation and in order to maintain comparability with the Head Start agency's federally funded services and program improvements except that any approval of an increase beyond inflation in continuation grants approved in division (C) of this section shall be contingent on the availability of funds after taking into consideration the amount of funds needed to meet targets for expansion of services under division (D) of this section.

(I) The department may audit a Head Start agency's financial and program records. Head Start agencies that have financial practices not in accordance with standard accounting principles, that fail to substantially meet the Head Start Performance Standards, that exhibit below average performance in the on site review or that exhibit below average performance in the review described in divisions (I)(2)(a) to (d) of this section shall, in consultation with the department, propose and implement a corrective plan of action. The corrective plan of action shall be signed by the Policy Council chairperson and the appropriate grantee board official. The corrective plan of action shall include a schedule for monitoring by the department. Such monitoring may include monthly reports, inspections, a timeline for

correction of deficiencies, and technical assistance to be provided by the department or obtained by the Head Start agency. The department may withhold funding pending corrective action. If a Head Start agency fails to satisfactorily complete a corrective plan of action, the department may either deny expansion funding to the agency or withdraw all state Head Start funding from the agency and establish a new state funded agency through a competitive bidding process.

(1) All recipients of funds shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property derived therefrom, shall be under the authority of the approved recipient for the purposes provided in the program. The approved recipient will administer and use such property and funds for the purposes specified.

(2) Monitoring of Head Start agencies by the department shall include, but not be limited to, a review of the following:

(a) Performance audits;

(b) Expenditure reports;

(c) Progress in serving the community needs based on updated assessments of family needs and community resources;

(d) Progress in meeting critical performance indicators.

(J) The information to be provided by each applicant for funds shall include, but not be limited to, description of the program activities, budget, performance indicators, activities for which these funds will be spent.

(K) New agencies may be designated for state Head Start funding if a Head Start agency voluntarily waives its right to apply for state continuation or expansion funding.

When such a condition exists, the Department of Education shall conduct a competitive bidding process to select a new agency to provide state funded continuation and/or expansion services. The bidding process shall include notices of competitive bidding mailed to delegate agencies in the affected area and to newspapers in the Head Start service area.

(L) It is the intent of the General Assembly that appropriations for appropriation items 200-406 and 200-408 be available for transfer between Head Start and Public Preschool programs so that unallocated funds may be used between the two programs.

SECTION 50.03. Public Preschool

The foregoing appropriation item 200-408, Public Preschool, shall be used by the Department of Education to award grants to school districts and

educational service centers to pay the costs of comprehensive preschool programs for three and four-year-old children. "School district" means a city, local, exempted village, joint vocational school district, or educational service center.

(A) In fiscal years 1998 and 1999, up to one per cent of the total appropriation may be used by the Department of Education for administrative costs of complying with this section. Staff shall be designated to manage the grant process; monitor program operation, including at least one site visit per school district per year; and provide technical assistance to programs to improve quality and to assist in expansion planning. The Department of Education shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The report shall include:

(1) The number and per cent of eligible children served by county and by program;

(2) The amount of state funds expended per program;

(3) The amount of state funds unexpended per program;

(4) The amount of parent fees estimated in the proposal and the amount of parent fees collected by program;

(5) The per cent of children served by family income categories by program;

(6) The per cent of parent fees collected to total program budget;

(7) The number of site visits made per program;

(8) The number of full-time equivalent staff conducting site visits;

(9) Any other data reflecting the progress of public preschool programs that the department regards as pertinent;

For purposes of this section "eligible child" means a child from a family earning no more than 185 per cent of the federal poverty level.

(B) In fiscal years 1998 and 1999, up to one per cent of the total appropriation may be used by the department for management assistance; to improve the districts' preschool program management capacity generally; to help programs comply with the Head Start performance standards described in 45 C.F.R. 1304; to assist school districts in developing collaborative practices and building-integrated, developmentally appropriate services; for staff professional development; and to support conflict management programs provided by the Ohio Commission on Dispute Resolution and Conflict Management. The Department of Education may use these management assistance funds to contract for management and training specialists, hire consultants, and to organize volunteer professional services.

(C) After setting aside amounts to make any payments due the prior

fiscal year, in fiscal years 1998 and 1999, grants shall first be made to recipients of grants during the preceding fiscal year, provided the recipient is in compliance with standards established by the Department of Education, Head Start Performance Standards, and provided a majority of children enrolled in the recipient's program are from families earning no more than 185 per cent of the federal poverty level. Continuation grants under this division shall equal the amount of the grant received in the preceding fiscal year except that such amount may be reduced by the amount received in that year for one-time start-up costs and may be increased by a reasonable percentage for inflation to be determined by the Department of Education and in accordance with division (E) of this section.

(D) After the expenditures in divisions (A), (B), and (C) of this section, the department shall distribute the remainder of the appropriation in each fiscal year to serve children from families earning no more than 185 per cent of the federal poverty level. All eligible providers defined in division (A) of this section may apply for expansion grants.

Grants received under this division may be used for start-up costs associated with program expansion such as renovation of facilities, and to make program improvements, including, but not limited to, staff training, retention, and salary upgrades and the provision of additional support staff, such as health and parent coordinators and social workers in accordance with federal guidelines and as is necessary to meet the objectives of the Ohio Family and Children First Initiative. Collaborative and contractual arrangements with Head Start agencies or other programs licensed under Chapter 5104. of the Revised Code, and other service providers are permitted and encouraged.

(E) An increase in funding beyond inflation may be approved under division (C) of this section in order to meet increased costs beyond inflation and in order to maintain comprehensive services comparable with Head Start funded services and program improvements except that any approval of an increase beyond inflation in continuation grants approved under division (C) of this section shall be contingent on the availability of funds.

(F) Each school district shall develop a sliding fee scale based on the family incomes in the district and shall charge families who earn more than the federal poverty level for preschool.

(G) It is the intent of the General Assembly that appropriations for line item 200-406 and 200-408 be available for transfer between Head Start and Public Preschool programs so that unallocated funds may be used between the two programs.

SECTION 50.04. Family and Children First

(A) Of the foregoing appropriation item 200-411, Family and Children First, the Department of Education shall transfer up to $3,587,500 in fiscal year 1998 and $3,677,188 in fiscal year 1999 by intrastate transfer voucher to the Department of Mental Retardation and Developmental Disabilities. These funds shall be spent on direct grants to county family and children first councils and local intersystem services for children clusters created under section 121.37 of the Revised Code. The funds shall be used as partial support payment and reimbursement for the maintenance and treatment costs of multi-need children that come to the attention of the Family and Children First Cabinet Council pursuant to section 121.37 of the Revised Code. The Department of Mental Retardation and Developmental Disabilities shall administer the distribution of the direct grants to the county councils and local clusters. The Department of Mental Retardation and Developmental Disabilities may use up to five per cent of this amount for administrative expenses associated with the distribution of funds to the county councils and local clusters.

(B) Of the funds appropriated in this item, up to $1,643,000 in fiscal year 1998 and $1,775,000 in fiscal year 1999 shall be used as administrative grants to county family and children first councils to provide a portion of the salary and fringe benefits necessary to fund county council coordinators, administrative support, training, or parental involvement. The total initial grant under this provision to any county family and children first council shall not exceed $18,500 in fiscal year 1998 and $20,000 in fiscal year 1999. In the event that not all counties in the state have established a county council, at the beginning of the fourth quarter of a fiscal year, any remaining funds to be used as administrative grants may be distributed among those counties that have established a county council. Of the funds appropriated in this item, up to $15,000 shall be used by the Family and Children First Cabinet Council for administrative costs including stipends to family representatives participating in approved activities of the initiative, educational and informational forums, and technical assistance to local family and children first councils.

(C) Of the foregoing appropriation item 200-411, Family and Children First, up to $3,120,000 in fiscal year 1998 and $5,040,000 in fiscal year 1999 shall be used to fund school-based or school-linked school readiness resource centers in school districts where there is a concentration of risk factors to school readiness and success, including indicators of poverty, health, and family stability. The purpose of these centers is to assist in

providing services to families of school-age children who want and need support.

School readiness resource centers shall be located in each of the state's 21 urban school districts as defined in division (H) of section 3317.02 of the Revised Code. The Ohio Family and Children First Cabinet Council, in consultation with the Department of Education and school districts, shall identify individual schools based on quantitative and qualitative factors that reflect both the need for school readiness resource centers and the local capacity for redesigning, as necessary, a delivery system of family support services. The council and the Department of Education shall organize and provide technical assistance to the school districts and communities in planning, developing, and implementing the centers. The council shall also negotiate a performance agreement that details required program characteristics, service options, and expected results.

Each urban school district and community may receive up to $240,000 for three school readiness resource centers that may be located in or linked to elementary, middle, and high school sites that are connected by student assignment patterns within the school districts. Each school district shall work with a representative of the local family and children first council and a representative cross-section of families and community leaders in the district to design a unified and comprehensive service delivery plan that supports the development and implementation of the school readiness resource centers and the results and conditions agreed to in the performance agreement negotiated with the state council.

Up to $50,000 in each fiscal year may be used by the Ohio Family and Children First Cabinet Council for an evaluation of the effectiveness of the school readiness resource centers. Up to $100,000 in each fiscal year may be used by the cabinet council to approve technical assistance and oversee the implementation of the centers. The administration and management of the school readiness resource centers may be contracted out through a competitive bidding process established by the cabinet council in consultation with the Department of Education.

Driver Education Administration

The foregoing appropriation item 200-412, Driver Education Administration, shall be used by the Department of Education for the administration of driver education programs.

Consumer Education

The foregoing appropriation item 200-415, Consumer and Economic Education, shall be used by the Department of Education to promote the teaching of consumer and economic education as an integral part of the

ire elementary and secondary school curriculum, which shall include the development, dissemination, and implementation of comprehensive education curriculum materials designed to improve understanding of economic principles, family and public needs, and the methods by which our economic systems function.

Vocational Education Match

The foregoing appropriation item 200-416, Vocational Education Match, shall be used by the Department of Education to provide vocational administration matching funds pursuant to 20 U.S.C. 2311.

Professional Development

The foregoing appropriation item 200-417, Professional Development, shall be used by the Department of Education to develop a statewide comprehensive system of twelve professional development centers that support local educators' ability to foster academic achievement in the students they serve. The centers shall include training teachers on site-based management concepts to encourage teachers to become involved in the management of their schools. Each fiscal year, up to $450,000 of the appropriation item shall be used to continue Ohio leadership academies to develop and train superintendents, principals, other administrators, and board members in new leadership and management practices to support high performance schools. This training shall be coordinated with other locally administered leadership programs.

Of the foregoing appropriation item 200-417, Professional Development, up to $6,000,000 in fiscal year 1998 shall be used for the creation or expansion of urban professional development academies in Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo. Challenge grants in the amount of $1,000,000 per academy shall be provided to support academies that have established an improvement plan that includes an overall professional development plan that align with and advances the district improvement plan, and that defines the contribution the academy is expected to make toward the achievement of the professional development plan.

(A) These challenge grants are to support start-up academies that include all of the following:

(1) A contractual relationship for the operation of the academy between the school district, one or more public or private universities, and the teachers' union;

(2) A self-supporting foundation for the operation of the academy;

(3) A governing committee comprised of the superintendent of the public school; the president of the teachers' union; the dean of the college of

education of each participating university; and at least two representatives of the business community to be determined by the governing committee;

(4) Mandatory teacher participation in job-embedded, team-building activities that may include principals and other administrative staff;

(5) Annual evaluation of the academy to be filed with the Ohio Department of Education, which shall determine the parameters of the annual evaluations, that include the school district's progress toward the achievement of its improvement plan.

(B) Challenge grants of up to $1,000,000 per academy will be provided to support existing academies that agree to implement one or more of the following:

(1) Adoption of a policy of mandatory teacher participation in academy activities;

(2) Creation of a leadership component in the academy;

(3) The participation of personnel from other urban districts in the academy.

Existing academies shall conduct annual evaluations of the academy to be filed with the Ohio Department of Education, which shall determine the parameters of the annual evaluations.

School districts receiving a $1,000,000 challenge grant for the creation of an urban professional development academy may select, but are not required to select, the New American Schools Program as the focus of their academy. The challenge grant for the Cincinnati City School District may be used for the expansion of either the Mayerson Academy or the New American Schools project, or both, at the discretion of the district.

Of the foregoing appropriation item 200-417, Professional Development, $50,000 each year shall be distributed to the Ohio Geographical Alliance at such time as matching funds are provided by the National Geographical Society. These moneys shall be used by the Ohio Geographical Alliance to provide inservice geography training to Ohio public school teachers.

Of the foregoing appropriation 200-417 Professional Development, $75,000 in each fiscal year shall be distributed by the Department of Education to the Ohio University Leadership Project.

Of the foregoing appropriation item 200-417, Professional Development, up to $500,000 each year shall be used by the Department of Education to work with school districts in coordinating and improving the training and performance of classroom teachers.

Of the foregoing appropriation item 200-417, Professional Development, $25,000 in each fiscal year shall be used by the Lake County

Educational Service Center and $25,000 in each fiscal year shall be used by the Geauga County Educational Service Center. Both projects shall be used for professional teacher development of innovative teaching practices in science and math.

Of the foregoing appropriation item 200-417, Professional Development, $500,000 in each fiscal year shall be used by the Rural Appalachian Initiative to create professional development academies for teachers, principals, and superintendents in the Appalachian region.

Of the foregoing appropriation item 200-417, Professional Development, up to $900,000 in fiscal year 1998 and up to $1,800,000 in fiscal year 1999 shall be used by the Department of Education in cooperation with the Regional Professional Development Centers to train mentor teachers and provide stipends of $1,500 per year to each mentor teacher to assist in the professional development of beginning teachers.

Of the foregoing appropriation item 200-417, Professional Development, up to $500,000 in fiscal year 1998 and up to $1,000,000 in fiscal year 1999 shall be used by the Department of Education in cooperation with the Regional Professional Development Centers to train teacher assessors and provide stipends of $2,500 per year to each teacher assessor to assist in the evaluation of the classroom performance of beginning teachers.

School Management Assistance

The foregoing appropriation item 200-422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel, to coordinate school district borrowing under the provisions of section 3313.483 of the Revised Code, and to implement year-end borrowing authority by districts pursuant to section 133.303 of the Revised Code.

Teacher Recruitment

The foregoing appropriation item 200-423, Teacher Recruitment, shall be used by the Department of Education to establish programs targeted at recruiting under-represented populations into the teaching profession. In each year, the appropriation item shall be used by the department to include, but not be limited to, alternative teacher licensure or certification programs emphasizing the recruitment of highly qualified minority candidates into teaching, including emphasizing the recruitment of highly qualified minority candidates into teaching positions in schools which have a high percentage of minority students. The recruitment programs shall also target recruiting qualified candidates available as a result of downsizing of the military and

business sectors. Funding shall also be targeted to statewide, regional, and local programs that are competitively selected as promising programs demonstrating the potential of significantly increasing Ohio's minority teaching force.

Simulation System

The foregoing appropriation item 200-424, Simulation System, shall be used by the Department of Education to develop software and other computer assistance to maintain and enhance a system of administrative, statistical, and legislative education information to be used for policy analysis. The data base shall be kept current at all times. Such a system will be used to supply information and analysis of data to the General Assembly and other state policy makers, including the Office of Budget and Management and the Legislative Budget Office of the Legislative Service Commission.

The Department of Education may use funding from this line item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information.

Ohio Education Computer Network

The foregoing appropriation item 200-426, Ohio Education Computer Network, shall be used by the Department of Education to maintain a system of information technology throughout Ohio and to provide technical assistance for such a system in support of the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

This system shall support the development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. The technical assistance shall include, but not be restricted to, the development and maintenance of adequate computer software systems to support network activities. Program funds may be used, through a formula and guidelines devised by the department, to subsidize the activities of not more than twenty-four designated data acquisition sites, as defined by State Board of Education rules, to provide to school districts and chartered nonpublic schools computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to provide adequate services to member districts to assure the effective operation of local automated administrative systems used for the management information system.

In order to broaden the scope of the use of technology for education, the department may use up to $250,000 each fiscal year of these funds to coordinate the activities of the computer network with other agencies funded

by the department or the state of Ohio. In order to improve the efficiency of network activities, the department and data acquisition sites may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the department, may utilize the services of appropriate state purchasing agencies.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to $5,637,000 in fiscal year 1998 and $5,637,000 in fiscal year 1999 shall be used by the Department of Education to support connections of all public school buildings to the Ohio Educational Computer Network. In each fiscal year the Department of Education shall use these funds to help reimburse data acquisition sites or school districts for the operational costs associated with using the Ohio Educational Computer Network. The Department of Education shall develop a formula and guidelines for the distribution of these funds to the data acquisition sites or individual school districts.

For each year of the biennium the Department of Education shall use up to $250,000 to continue to manage and develop the statewide union catalog and InfOhio Network of library resources that will be accessible to all school districts through the Ohio Educational Computer Network, and up to $180,000 each year to develop and implement software to interface with the InfOhio union catalog and other electronic library systems to provide access for public school library media centers to the union catalog.

In each fiscal year the Department of Education shall use up to $180,000 to defray the costs associated with leasing additional telecommunications capacity needed to connect non-public schools to the Ohio Educational Computer Network.

In each fiscal year the Department of Education shall use up to $1,809,665 in fiscal year 1998 and up to $1,854,906 in fiscal year 1999 to assist designated data acquisition sites for operational costs associated with the increased use of the system by chartered non-public schools. The Department of Education shall develop a formula and guidelines for distribution of these funds to designated data acquisition sites.

Of the foregoing appropriation item 200-426, Ohio Educational Computer Network, up to $130,000 in fiscal year 1998 and up to $120,000 in fiscal year 1999 shall be used by the Department of Education to contract through a competitive selection process with an independent for-profit or nonprofit entity to provide current and historical information on Ohio government to school libraries for the purposes of enhancing social studies course instruction and supporting student research projects.

Local Professional Development Block Grants

Of the foregoing appropriation line item 200-429, Local Professional Development Block Grants, $500,000 in each fiscal year shall be used to establish or enhance alternative disciplinary schools by providing grants of $100,000 annually to each of the following programs: Wood County Alternative School Program, Interval Opportunity School in Summit County, Portage County Opportunity School in Ravenna, Auglaize County Alternative School Program, Licking County Alternative School Program. Such pilot programs shall encourage collaborative relationships with juvenile courts and other agencies to develop effective teaching and learning programs.

Of the foregoing appropriation item 200-429, Local Professional Development Block Grants, $200,000 in each fiscal year shall be provided to the Stark County Schools Teacher Technical Training Center.

The remainder of the appropriation shall be distributed on a per teacher basis to all school districts and joint vocational school districts for locally developed teacher training and professional development and for the establishment of local professional development committees. School districts and joint vocational school districts shall not be precluded from using these funds for cooperative activities on a county or regional basis.

School Improvement Models

The foregoing appropriation item 200-431, School Improvement Models, shall be used by the Department of Education to continue to support the creation of a statewide network of school improvement sites by providing competitive venture capital grants to schools that demonstrate the capacity to invent or adapt school improvement models. The department shall showcase projects of exceptional merit and shall promote the networking of venture schools with both venture and nonventure schools so that administrators and teachers outside the district can benefit from the knowledge gained at these sites.

Up to $250,000 in each fiscal year shall be used by the Department of Education for personal services and maintenance costs necessary to administer the grants.

Of the foregoing appropriation item, 200-431, School Improvement Models, $500,000 in fiscal year 1998 and $500,000 in fiscal year 1999 shall be used to conduct performance audits of each of the 21 urban school districts, as defined by section 3317.02 of the Revised Code. The Auditor of State will conduct the performance audits to review any programs or areas of operation where the Auditor believes greater operational efficiencies or enhanced program results can be achieved. Of the appropriation for fiscal

year 1998, funds may be carried over to fiscal year 1999 as needed to coincide with audit billings.

The State Superintendent of Public Instruction shall, at least annually, assess individual school district responses to such performance audits. These assessments shall be compiled into a report to the Speaker of the Ohio House of Representatives, the President of the Ohio Senate, and the chairs and ranking minority members of the House and Senate committees on Education and Finance.

Of the foregoing appropriation item 200-431, School Improvement Models, $200,000 in each fiscal year shall be distributed to the Toledo International Language Center.

Of the foregoing appropriation item 200-431, School Improvement Models, $250,000 in each fiscal year shall be used by the Rural Appalachian Initiative to provide one-time grants to establish benchmark data on current performance, to develop plans for achieving the benchmarks, and to improve the Appalachian school districts' performances against the benchmarks.

School Conflict Management

Of the foregoing appropriation item 200-432, School Conflict Management, the amounts shall be used by the Department of Education for the purpose of providing dispute resolution and conflict management training, consultation and materials for school districts, and for the purpose of providing competitive school conflict management grants to school districts.

The Department of Education shall assist the Commission on Dispute Resolution in the development and dissemination of the school conflict management program.

Student Proficiency

The foregoing appropriation item 200-437, Student Proficiency, shall be used to develop, field test, print, distribute, score, and report results from the tests required under sections 3301.0710 and 3301.0711 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code.

American Sign Language

Of the foregoing appropriation item 200-441, American Sign Language, up to $150,000 in each fiscal year of the biennium shall be used to implement pilot projects in Manual English and to develop ways of including American Sign Language in the ninth- through twelfth-grade curriculum.

The remainder of the appropriation shall be used by the Department of

Education to provide supervision and consultation to school districts in dealing with parents of handicapped children who are deaf or hard of hearing, in integrating American Sign Language as a foreign language, and in obtaining interpreters and improving their skills.

Child Care Licensing

The foregoing appropriation item 200-442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs in accordance with sections 3301.52 to 3301.59 of the Revised Code.

Education Management Information System

The foregoing appropriation item 200-446, Education Management Information System, shall be used to provide school districts with the means to implement local automated information systems, and to implement, develop, and improve the Education Management Information System (EMIS).

Up to $822,706 in fiscal year 1998 and $843,274 in fiscal year 1999 shall be used by the Department of Education for hardware, personnel, equipment, staff development, software, and forms modification, as well as to support EMIS special report activities in the department that are designed to use the data collected by the system.

Up to $2,714,234 in fiscal year 1998 and $2,782,090 in fiscal year 1999 shall be distributed to designated data acquisition sites for costs relating to the processing, storing, and transfer of data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development and support services, and to provide services to participate in the State Education Technology Plan pursuant to section 3301.07 of the Revised Code.

Up to $6,023,718 in fiscal year 1998 and $6,174,310 in fiscal year 1999 shall be distributed to school districts and joint vocational school districts on a per-pupil basis. From this money, each school district with enrollment greater than 100 students and each vocational school district shall receive a minimum of $5,000 for each year of the biennium. Each school district with enrollment between one and one hundred and each county office of education shall receive $3,000 for each year of the biennium. This money shall be used for costs associated with the development and operation of local automated record based information systems that provide data as required by the management information system, and facilitate local district, school, and classroom management activities.

Of the foregoing appropriation item 200-446, Education Management

Information System, up to $2,500,000 in fiscal year 1998 and up to $500,000 in fiscal year 1999 shall be used by the Department of Education to procure or develop a common EMIS software. School districts and data acquisition sites shall use the common EMIS software unless the department determines that in a particular case local legacy software is completely compatible, performs tasks required for EMIS, and does not contain year 2000 problems.

GED Testing/Adult High School

The foregoing appropriation item 200-447, GED Testing/Adult High School, shall be used to provide General Educational Development (GED) testing at no cost to first time applicants, pursuant to rules adopted by the State Board of Education. Of the foregoing appropriation item 200-477, GED/Adult High School, up to $250,000 in each fiscal year shall be used by the department to reimburse local shool districts for a portion of the costs incurred in providing summer instructional or intervention services to students who have not graduated due to their inability to pass one or more parts of the state's ninth grade proficiency test. School districts may provide these services to students directly or contract with post-secondary or nonprofit community-based institutions in providing instruction. The remainder of the appropriation shall be used for state reimbursement to school districts for adult high school continuing education programs pursuant to section 3313.531 of the Revised Code or for costs associated with awarding adult high school diplomas under section 3313.611 of the Revised Code.

SECTION 50.05. School Finance Equity

The foregoing appropriation item 200-500, School Finance Equity, shall be distributed to school districts based on the formula specified in section 3317.0213 of the Revised Code.

SECTION 50.06. School Foundation Basic Allowance

Of the foregoing appropriation item 200-501, School Foundation Basic Allowance, up to $6,000,000 in each year of the biennium shall be expended by the State Board of Education for the extended service allowance which shall be the teachers' salaries pursuant to the schedule contained in section 3317.13 of the Revised Code, plus fifteen per cent for retirement and sick leave; up to $425,000 shall be expended in each year of the biennium for court payments pursuant to section 2151.357 of the Revised Code; up to $150,000 in each year of the biennium shall be expended pursuant to section

3313.64 of the Revised Code; the Superintendent of Public Instruction shall expend in each year of the biennium the amount necessary for the purpose of making payments for the vocational education pupil recomputation pursuant to division (M) of section 3317.024 of the Revised Code and the provisions under the section headed "Vocational Education Pupil Recomputation" in this act and the special education pupil recomputation pursuant to division (I) of section 3317.023 of the Revised Code; up to $100,000 shall be expended in each year of the biennium for supplemental payments pursuant to the section headed "Supplemental Payment" of this act; an amount shall be available each year of the biennium for the cost of the reappraisal guarantee pursuant to section 3317.04 of the Revised Code; up to $9,000,000 in each year of the biennium shall be reserved for payments pursuant to sections 3317.026, 3317.027, and 3317.028 of the Revised Code; up to $2,000,000 in each year of the biennium shall be reserved for Youth Services tuition payments pursuant to division (F) of section 3317.024 of the Revised Code, up to $1,300,000 in fiscal year 1998 and $1,300,000 in fiscal year 1999 for small district aid; for districts with an ADM of less than 100, in addition to other funds, an amount shall be paid equal to the amount above the actual fiscal year 1996 and 1997 amounts for basic aid, including any guarantee aid the district would have received in fiscal years 1996 and 1997 had the amendments to divisions (D) and (E) of section 3317.0212 of the Revised Code, as amended in this act, been in effect; up to $500,000 in each fiscal year shall be used to make payments to school districts that lose enrollment due to the implementation of the community schools program pursuant to this act; $500,000 shall be transferred each year by the Director of Budget and Management to appropriation item 200-422, School Management Assistance, to help the Department of Education administer, monitor, and implement the fiscal emergency and fiscal watch provisions under Chapter 3316. of the Revised Code. Up to $44,530,000 in fiscal year 1998 and up to $46,995,608 in fiscal year 1999 shall be reserved to fund the state reimbursement of educational service centers pursuant to section 3317.11 of the Revised Code; and up to $1,200,000 in fiscal year 1998 shall be used by the Superintendent of Public Instruction to make incentive payments in any amounts the superintendent deems necessary to joint educational service centers established pursuant to section 3311.053 of the Revised Code. These supplemental payments may be made in fiscal year 1998 to defray the direct or indirect expenses of dissolving participating educational service centers. Each joint educational service center seeking a supplemental payment in fiscal year 1998 shall submit to the Superintendent of Public Instruction any documents and

information that the Superintendent may require no later than December 31, 1997.

Of the foregoing appropriation item, 200-501, School Foundation Basic Allowance, up to $1,000,000 in each fiscal year shall be used by the Department of Education for a pilot program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section titled "Private Treatment Facility Pilot Project."

The remaining portion of this appropriation item shall be expended for basic state aid for the public schools of city, local, and exempted village school districts.

SECTION 50.07. Potential Value Recomputation

The recalculation described in division (B) of this section shall be made prior to any expenditure by the superintendent for the purpose of making payments for the vocational education pupil recomputation pursuant to the section headed "Vocational Education Pupil Recomputation" in Am. Sub. H.B. 117 of the 121st General Assembly and for the special education pupil recomputation pursuant to division (I) of section 3317.023 of the Revised Code.

(A) Notwithstanding division (B) of section 3317.022 of the Revised Code as amended by this act, in each year of the biennium the Department of Education shall first calculate all state basic aid payments to school districts required under Chapter 3317. of the Revised Code and other sections of this act under which payments are made from appropriation items 200-501, School Foundation Basic Allowance, and 200-670, School Foundation Basic Allowance, as if such division had not been enacted. Such calculated amounts shall be paid to school districts in accordance with section 3317.01 of the Revised Code.

(B) After the calculation required by division (A) of this heading, the department shall recalculate all state basic aid payments to school districts required under Chapter 3317. of the Revised Code and other sections of this act, utilizing in such recalculation the provisions of division (B) of section 3317.022 of the Revised Code. From the additional available money, the department shall pay each district an amount equal to the difference between its calculated amount of basic aid under division (A) of this heading and its recalculated amount under this division. If there is not enough additional money to pay such amounts to all school districts, the department shall pay each district a percentage of such amount equal to the percentage the total amount of additional available money represents of the total amount of

money that would be necessary to make the payments prescribed under this division to all districts.

SECTION 50.08. Pupil Transportation

Of the foregoing appropriation item 200-502, Pupil Transportation, up to $680,000 may be used by the Department of Education each year for training prospective and experienced school bus drivers in accordance with training programs prescribed by the department; up to $63,500 of the item shall be used each fiscal year for school bus rider safety programs pursuant to sections 3327.16 and 5126.061 of the Revised Code; and up to $25,725,000 in fiscal year 1998 and $27,010,000 in fiscal year 1999 shall be used for handicapped transportation; and the remainder shall be used for the state reimbursement of public school districts' costs in transporting pupils to and from the school to which they attend in accordance with the district's policy, State Board of Education standards, and the Revised Code.

Bus Purchase Allowance

The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts and educational service centers pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 25 per cent of the amount appropriated may be used to reimburse school districts and educational service centers for the purchase of buses to transport handicapped and nonpublic school students.

Special Education

The foregoing appropriation item 200-504, Special Education, shall be used for special education; up to $22,000,000 in each fiscal year shall be used for home instruction and special instructional services for handicapped children; up to $2,000,000 may be used in each fiscal year for occupational and physical therapy contract services, including services provided by physical therapy assistants and certified occupational therapy assistants; up to $1,000,000 in fiscal year 1998 and up to $1,150,000 in fiscal year 1999 shall be used for parent mentoring programs; and the remaining portion of this appropriation item shall be used for special education units not to exceed 13,934 in each fiscal year. In approving new units, to the extent possible, priority shall be given to school districts with low adjusted valuations per pupil as that term is defined in section 3317.0213 of the Revised Code. The number of special education units that are allocated to institutions shall not exceed 320 units in each year of the biennium. Of the foregoing appropriation item, $100,000 shall be expended each year of the biennium for teacher training. The Controlling Board may approve the use of unallocated funds in line item 200-504 to fully fund home instruction,

special instructional services for handicapped children, and occupational and physical therapy services as defined by Rule 3301-51-06 of the Ohio Administrative Code.

Notwithstanding the prohibition in section 3317.05 of the Revised Code that the State Board of Education annually approve for school districts, educational service centers, institutions, and county MR/DD boards no more than the number of special education units for which it determines appropriations have been made and notwithstanding the amounts required to be annually paid to school districts, educational service centers, institutions, and county MR/DD boards for approved special education units under divisions (N) and (O)(1) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, if the foregoing appropriation item is not sufficient to fund 13,934 special education units in each fiscal year in accordance with divisions (N) and (O)(1) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, the State Board of Education may approve up to 13,934 special education units in each fiscal year, in lieu of the amounts required to be paid for approved units under divisions (N) and (O)(1) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, shall proportionately reduce those amounts so that the total amount the State Board pays to school districts, educational service centers, institutions, and county MR/DD boards for all approved units does not exceed the amount of funds available in the foregoing appropriation item for such units. During the course of each fiscal year, the State Board may alter its determination of any reduction under this section for that fiscal year.

Notwithstanding section 3317.03 of the Revised Code, special education units may be funded on a pro rata basis for those students in average daily membership in approved special education classes for the first full school week during the month of February.

School Lunch

The foregoing appropriation item 200-505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

SECTION 50.09. Vocational Education

The foregoing appropriation item 200-507, Vocational Education, shall be used for vocational education units not to exceed 7,141 in each fiscal year. Up to $6,695,000 in fiscal year 1998 and $7,500,000 in fiscal year 1999 may be used for nonvocational units necessary for graduation pursuant to section 3317.16 of the Revised Code, up to $6,210,000 in fiscal year 1998 and $6,500,000 in fiscal year 1999 shall be used for joint vocational school

equalization pursuant to section 3317.16 of the Revised Code, up to $300,000 shall be distributed to the Toledo Technology Academy each fiscal year, up to $9,000,000 in fiscal year 1998 and up to $10,000,000 in fiscal year 1999 shall be used to fund the Jobs for Ohio Graduates (JOG) program, up to $2,100,000 in fiscal year 1998 and $2,205,000 in fiscal year 1999 may be used to support tech prep consortia, and up to $7,031,208 in fiscal year 1998 and $7,193,118 in fiscal year 1999 shall be used to fund the Graduation, Reality, and Dual Role Skills (GRADS) program.

Funds for nonvocational units necessary for graduation shall be distributed according to rules adopted by the State Board of Education. If federal funds for vocational education cannot be used for local school district leadership in either year under division (M) of section 3317.024 of the Revised Code or division (B) of section 3317.16 of the Revised Code, without being matched by state funds, then an amount as determined by the Superintendent of Public Instruction shall be made available from state funds appropriated for vocational education. If any state funds are used for this purpose, federal funds in an equal amount shall be distributed for vocational education units funded pursuant to division (M) of section 3317.024 or division (B) of section 3317.16 of the Revised Code in accordance with authorization of the state plan for vocational education for Ohio as approved by the Secretary of the United States Department of Education.

Notwithstanding the prohibition in section 3317.05 of the Revised Code that the State Board of Education annually approve for school districts, educational service centers, and institutions no more than the number of vocational education units for which it determines appropriations have been made and notwithstanding the amounts required to be annually paid to school districts, educational service centers, and institutions for approved vocational education units under division (M) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, if the foregoing appropriation item is not sufficient to fund 7,141 vocational education units in fiscal year 1998 and 7,141 vocational units in fiscal year 1999 in accordance with division (M) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, the State Board of Education may approve up to 7,141 vocational education units in fiscal year 1998 and 7,141 vocational education units in fiscal year 1999 and, in lieu of the amounts required to be paid for approved units under division (M) of section 3317.024 and division (B) of section 3317.16 of the Revised Code, shall proportionately reduce those amounts so that the total amount the State Board pays to school districts, educational service centers, and institutions

for all approved units does not exceed the amount of funds available in the foregoing appropriation item for such units. During the course of each fiscal year, the State Board may alter its determination of any reduction under this section for that fiscal year.

Of the foregoing appropriation item 200-507, Vocational Education, up to $500,000 in each fiscal year shall be used by the Department of Education to establish an employer student apprenticeship training program for high school students in grades 11 and 12. Rules, procedures, and regulations for the employer student apprenticeship program will be developed by the School-to-Work office in the Ohio Bureau of Employment Services.

The Legislative Office of Education Oversight shall study the various programs designed to serve at-risk high school students. Differences and possible overlaps of purposes, goals, objectives and strategies among such programs as Jobs for Ohio Graduates (JOGS), Graduation, Reality, and Dual Role Skills (GRADS), Occupational Work Experience (OWE), Occupational Work Adjustment (OWA) will be identified.

Of the foregoing appropriation item 200-507, Vocational Education, $100,000 in fiscal year 1998 shall be used for the Cuyahoga County Vocational Apprenticeship Program, which provides funding for training in the building trades of eligible residents of the City of Cleveland. The program utilizes new housing development and rehabilitation programs of four nonprofit neighborhood development corporations as the focus of the skills training apprenticeship program. The four neighborhood development corporations participating in the program are the Glenville Development Corporation, Northeastern Neighborhood Development Corporation, Bell, Burton, and Carr Development Corporation, and the Buckeye Area Development Corporation.

Adult Literacy Education

The foregoing appropriation item 200-509, Adult Literacy Education, shall be used to support Adult Basic and Literacy Education instructional programs, the State Literacy Resource Center program, and the State Advisory Council on Adult Education and Literacy.

Of the foregoing appropriation item, up to $410,000 in fiscal year 1998 and $512,500 in fiscal year 1999 shall be used to satisfy state match requirements for the support and operation of the State Literacy Resource Center and the State Advisory Council on Adult Education and Literacy.

Of the foregoing appropriation item 200-509, Adult Literacy Education, up to $50,000 in each fiscal year shall be used to provide funds to literacy councils that have not previously received funding. Each of these councils,

in order to receive funds, shall have its plan of service approved by the local Family and Children First council.

The remainder shall be used to continue to satisfy the state match requirement for the support and operation of the Ohio Department of Education administered instructional grant program for Adult Basic and Literacy Education in accordance with the department's state plan for Adult Basic and Literacy Education as approved by the State Board of Education and the Secretary of the United States Department of Education.

Auxiliary Services

The foregoing appropriation item 200-511, Auxiliary Services, shall be used by the State Board of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to $1,000,000 in each fiscal year of the biennium may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students pursuant to section 3365.10 of the Revised Code.

Driver Education

The foregoing appropriation item 200-512, Driver Education, shall be used by the State Board of Education for subsidizing driver education courses for which the State Board of Education prescribes minimum standards pursuant to section 3301.07 of the Revised Code and courses for students released by high school principals to attend commercial driver training schools licensed under Chapter 4508. of the Revised Code.

Post-Secondary/Adult Vocational Education

The foregoing appropriation item 200-514, Post-Secondary/Adult Vocational Education, shall be used by the State Board of Education to provide post-secondary/adult vocational education pursuant to sections 3313.52 and 3313.53 of the Revised Code.

Of the foregoing appropriation item 200-514, up to $500,000 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-514, Post-Secondary/Adult Vocational Education, up to $30,000 in each fiscal year shall be used for the statewide coordination of the activities of the Ohio Young Farmers.

Disadvantaged Pupil Impact Aid

The foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, shall be distributed to school districts in each fiscal year pursuant to the formula established by division (B) of section 3317.023 of the Revised Code.

Annually, $1,450,000 shall be used by the Department of Education to provide state matching funds to implement the federal building based Effective School Program.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to $3,000,000 in each year of the biennium shall be used for school breakfast programs. Of the $3,000,000, $500,000 shall be used each year by the Department of Education to provide start-up grants to rural school districts that start school breakfast programs. The remainder of the $3,000,000 shall be used to: (1) partially reimburse school buildings within school districts that are required to have a school breakfast program pursuant to section 3313.813 of the Revised Code, at a rate decided upon by the department, for each breakfast served to any pupil enrolled in the district; (2) partially reimburse districts participating in the National School Lunch Program that have at least 20 per cent of students who are eligible for free and reduced meals according to federal standards, at a rate decided upon by the department; and (3) to partially reimburse districts participating in the National School Lunch Program for breakfast served to children eligible for free and reduced meals enrolled in the district, at a rate decided upon by the department.

Of the funds distributed to the Cleveland City School District under division (B) of section 3317.023 of the Revised Code, up to $7,100,000 in fiscal year 1998 and $8,700,000 in fiscal year 1999 shall be used to operate a pilot school choice program in the Cleveland City School District pursuant to sections 3313.974 to 3313.979 of the Revised Code.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, $3,850,000 in fiscal year 1998 and $8,750,000 in fiscal year 1999 shall be used for competitive discipline intervention grants for the 21 urban school districts as defined in division (H) of section 3317.02 of the Revised Code. The grants shall be administered by the Ohio Department of Education and designed to reduce problems with student attendance, truancy, dropouts, and discipline.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, $150,000 in fiscal year 1998 and $250,000 in fiscal year 1999 shall be distributed to the Franklin County Educational Council to provide a cross district alternative learning environment for students with alternative learning requirements, in collaboration with member districts and community services.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, $900,000 each year shall be used to support dropout recovery programs administered by the Ohio Department of Education, Jobs for

Ohio's Graduates program.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to $1,000,000 in each year of the biennium shall be used to fund grants to improve reading performance, using programs such as Failure Free Reading, Slavin's Success for All, and other programs that have a demonstrated record of improving reading comprehension. The grants shall be made by the Department of Education to 20 schools in which at least 50 per cent of fourth grade students failed to pass at least four parts of the fourth grade proficiency test. The grants shall be made in the amount of $50,000 for each school.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, the Department shall distribute $75,000 in each fiscal year to the Collinwood Community Center to continue outreach work on the Parents' Pledge of Responsibility in the Cleveland City School District. This distribution shall come from the Cleveland City School District's Disadvantaged Pupil Impact Aid.

Of the foregoing appropriation item 200-520, Disadvantaged Pupil Impact Aid, up to $500,000 in each fiscal year shall be used by the Department of Education to encourage school districts to set high academic standards and provide a helping hand for students striving to meet them. Any school district that offers a summer school program for students who have been enrolled in the fourth and sixth grades, whether district-wide, in several school buildings or within a cluster of school buildings, may retain those students who fail to attend summer school programs if those students attend schools that offer such programs. A Summer Proficiency Academy shall be any school district's summer school program that is conducted for students who have been enrolled in the fourth and sixth grades, whether district-wide, in several school buildings or within a cluster of school buildings, that addresses the needs of students who did not pass at least three of the five parts of either the fourth-grade or sixth-grade proficiency test, that is of at least six weeks' duration, and that provides an innovative, enriching educational experience. The department shall use the funds indicated in this paragraph to make grants to those school districts that conduct such Summer Proficiency Academies and that have valuation per pupil less than 150 per cent of the statewide average valuation per pupil, to defray 75 per cent of the costs of conducting such academies. The amount of each grant shall not exceed $150,000 and each school district shall be eligible for up to four grants in each fiscal year. Grants shall be made to school districts based on the percentage of students failing three or more tests, with first priority given to districts with the highest failure rates. As

used in this paragraph, "valuation per pupil"; has the same meaning as in division (A) (4) of section 3317.0212 of the Revised Code.

SECTION 50.10. Gifted Pupil Program

The foregoing appropriation item 200-521, Gifted Pupil Program, shall be used for gifted education units not to exceed 927 in fiscal year 1998 and 950 in fiscal year 1999. Up to $70,000 per year shall be used for the operation and support of the Ohio Summer School for the Gifted. Up to $600,000 per year shall be used for research and demonstration projects.

Notwithstanding the prohibition in section 3317.05 of the Revised Code that the State Board of Education annually approve for school districts and educational service centers no more than the number of gifted education units for which it determines appropriations have been made and notwithstanding the amounts required to be annually paid to school districts and educational service centers for approved gifted education units under division (O)(2) of section 3317.024 of the Revised Code, if the foregoing appropriation item is not sufficient to fund the maximum allowable number of funded gifted education units in each fiscal year of the biennium in accordance with division (O)(2) of section 3317.024 of the Revised Code, the State Board of Education may approve up to the maximum allowable number of funded gifted education units in each fiscal year of the biennium and, in lieu of the amounts required to be paid for approved units under division (O)(2) of section 3317.024 of the Revised Code, shall proportionately reduce those amounts so that the total amount the State Board and educational service centers pays to school districts for all approved units does not exceed the amount of funds available in the foregoing appropriation item for such units. During the course of each fiscal year, the State Board may alter its determination of any reduction under this section for that fiscal year.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, the Department of Education shall be authorized to expend up to $1,000,000 each year for the Summer Honors Institute for gifted freshmen and sophomore high school students.

Of the foregoing appropriation item 200-521, Gifted Pupil Program, up to $200,000 each year shall be used for the W.E.B. DuBois Talented Tenth Teacher Training Academy. The program will provide a summer honors program to promising minority students identified by their school districts as potential future teachers, pursuant to section 3313.608 of the Revised Code.

SECTION 50.11. Supplemental Unit Allowance

(A) As used under this heading:

(1) "Basic aid" has the same meaning as in division (A)(1) of section 3317.0212 of the Revised Code.

(2) "Adjusted formula amount" has the same meaning as in division (A)(6) of section 3313.98 of the Revised Code.

(3) "ADM" has the same meaning as in section 3317.02 of the Revised Code.

(4) "Per pupil basic aid" means a district's basic aid divided by its ADM.

(5) "Dollar amount" means the amount shown in the following table for the corresponding type of unit and the appropriate fiscal year:

TYPE OF UNIT	DOLLAR AMOUNT FY 1998
Division (M) of R.C. 3317.024	$5,345
Division (N) of R.C. 3317.024	$5,702
Division (O)(1) of R.C. 3317.024	$2,293
Division (O)(2) of R.C. 3317.024	$2,523

(6) "FY" means fiscal year.

(7) "Average unit amount" means the amount shown in the following table for the corresponding type of unit and the appropriate fiscal year:

TYPE OF UNIT	AVERAGE UNIT AMOUNT FY 1998
Division (M) of R.C. 3317.024	$4,937
Division (N) of R.C. 3317.024	$5,360
Division (O)(1) of R.C. 3317.024	$2,129
Division (O)(2) of R.C. 3317.024	$2,343

(B) In the case of each unit described in division (M),(N), or (O) of section 3317.024 of the Revised Code and allocated to a city, local, or exempted village school district, the Department of Education, in addition to the amounts specified in such divisions, shall pay a supplemental unit allowance equal to the sum of the following amounts:

(1) An amount equal to 50% of the average unit amount for the unit;

(2) An amount equal to the percentage of the dollar amount for the unit that is obtained by dividing the district's basic aid per pupil by its adjusted formula amount.

If, prior to the fifteenth day of May of a fiscal year, a school district's basic aid is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new basic aid per pupil amount under division (B)(1) of this section. Such new basic aid per pupil amount shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit described in division (M) of section 3317.024 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amount specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of $3,321 in fiscal year 1998 and $4,861 in fiscal year 1999.

(2) In the case of each unit described in division (N) of section 3317.024 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amount specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of $3,542 in fiscal year 1998 and $5,277 in fiscal year 1999.

(3) In the case of each unit described in division (O)(1) of section 3317.024 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amounts specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of $941 in fiscal year 1998 and $1,401 in fiscal year 1999.

(4) In the case of each unit described in division (O)(2) of section 3317.024 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the Department, in addition to the amounts specified in such division and in section 3317.16 of the Revised Code, shall pay a supplemental unit allowance of $873 in fiscal year 1998 and $1,406 in fiscal year 1999.

SECTION 50.12. Educational Excellence and Competency

Of the foregoing appropriation item 200-524, Educational Excellence and Competency, up to $35,000 in each year of the biennium shall be reserved for the Ohio Science Olympiad and up to $35,000 in each year of the biennium shall be reserved for the International Science and Engineering

Fair. In each year of the biennium, $250,000 shall be reserved for a Math and Science Initiative to enhance math and science education for elementary students in a county-wide collaborative.

The Department of Education shall distribute $100,000 in fiscal year 1998 and $150,000 in fiscal year 1999 to the Christopher Project. The department shall distribute $120,000 in each fiscal year to the Regional District/University Consortium to Validate At-Risk Programs for Rural School Districts. The Department shall distribute $75,000 in each fiscal year to the Cincinnati Artworks Project. In fiscal year 1998, $100,000 shall be used for the Fairborn Community Vision and $300,000 in fiscal year 1998 and $100,000 in fiscal year 1999 shall be used for Ledgemont Education Excellency. In addition, the department shall distribute $275,000 in each fiscal year to the Summit County Technology Project.

In each fiscal year, $300,000 shall be used for a pilot project for the integration and implementation of distance learning, virtual reality, and computer technology to prepare students for careers in industry. Of this amount, $65,000 in each fiscal year shall be distributed to the Math, Science and Industrial Technology Institute at Kent State University-Trumbull Campus for purposes of this pilot project and $235,000 in each fiscal year shall be distributed to the Trumbull County Educational Service Center for the Industrial Technology Career Academy pilot project. In each fiscal year, $140,000 shall be used for the Crouse School Readiness Program.

Of the foregoing appropriation item 200-524, Educational Excellence and Competency, $90,000 in fiscal year 1998 shall be used for the Cleveland Language pilot program; and $20,000 in fiscal year 1998 shall be used for the Columbus Language pilot program.

Of the foregoing appropriation item 200-524, Educational Excellence and Competency, $850,000 in fiscal year 1998 and $850,000 in fiscal year 1999 shall be used to assist local school districts in the implementation of financial literacy programs. Financial literacy programs shall promote economic awareness and provide students with financial basics such as earning, saving, spending wisely, and planning for the future. In fiscal year 1998, each school district shall be eligible for one $1,000 grant per kindergarten through third grade classroom for implementation of such programs. In fiscal year 1999, each school district shall be eligible for one $1,000 grant per kindergarten through sixth grade classroom for implementation of such programs. Grants shall be awarded on a first-come, first-served basis.

The remainder of the appropriation shall be used by the Department of Education to fund programs for at-risk students each year as follows:

Earn and Learn	$1,030,000
Trumbull County "Make Learning Fun"	$75,000
LEAF	$65,000
Coventry	$25,000
Columbus Youth Corp	$50,000
Montgomery County Summer Math program	$215,000
Columbus City District's "I Know I Can"	$645,000
Dayton-Montgomery County Scholarship Program	$645,000
Cleveland Scholarship	$500,000
Cleveland Initiative for Education	$360,000
Cincinnati Project Succeed Academy	$100,000
Cincinnati Scholarship Foundation	$645,000
Improved Solutions for Urban Systems (ISUS)	$100,000
Lorain County Access	$150,000
Amer-I-Can	$850,000
London Learns	$100,000
Project Succeed	$1,000,000
Greater Toledo School-To-Work Consortium	$100,000
Muskingum Valley Services Center	$100,000

For the Cleveland Initiative in Education program, the grant shall support its mentoring and advocacy program.

Of the foregoing appropriation item 200-524, Educational Excellence and Competency, $83,000 in fiscal year 1998 and $83,000 in fiscal year 1999 shall be used for the Shaker Heights Educational Mobility program.

Each program or entity that receives funds under the foregoing appropriation item 200-524, Educational Excellence and Competency, shall submit annually to the chairpersons of the education committees of the House of Representatives and the Senate and to the Department of Education a report that includes a description of the services supported by the funds, a description of the results achieved by those services, an analysis of the effectiveness of the program, and an opinion as to the program's applicability to other school districts. No funds shall be provided by the Department of Education to a district for the fiscal year 1999 until its report for the fiscal year 1998 has been submitted.

Vocational Education Equipment Replacement

The foregoing appropriation item 200-526, Vocational Education Equipment Replacement, shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the

instruction of students in job skills taught as part of a vocational program or programs approved for such instruction by the State Board of Education. School districts replacing or updating vocational education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of units of vocational education in all eligible districts making application for funds.

The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted under either process shall be provided to a school district on a 40, 50, or 60 per cent of cost on the basis of a district vocational priority index rating developed by the Department of Education for all districts each year. The vocational priority index shall give preference to districts with a large percentage of disadvantaged students and shall include other socio-economic factors as determined by the State Board of Education.

Nonpublic Administrative Cost Reimbursement

The foregoing appropriation item 200-532, Nonpublic Administrative Cost Reimbursement, shall be used by the State Board of Education for the purpose of implementing section 3317.063 of the Revised Code.

School-Age Child Care

Of the foregoing appropriation item 200-533, School-Age Child Care, up to $200,000 in each fiscal year shall be used for the "Training Ohio's Parents for Success" program. Up to $500,000 in each fiscal year shall be used for the "Parents as Teachers" program.

Of the foregoing appropriation item 200-533, School-Age Child Care, up to $62,500 in each fiscal year shall be used by the Cincinnati YWCA for its Home Instruction Program for Preschool Youngsters (HIPPY).

As used under this heading "school-age child care" means a program of child care conducted outside of regular school hours for school age children.

The remainder of the foregoing appropriation item 200-533, School-Age Child Care, shall be used by the Department of Education to provide grants to city, local, and exempted village school districts and educational service centers for school-age child care programs. In each fiscal year, the department shall make grants. All grants shall be awarded by the department on the basis of project proposals submitted by school district boards of education or educational service center governing boards. The board of education of each district or governing board of each educational service center that receives a grant shall keep a record of how the grant is used, and

issue a report at the end of the school year for which the grant was made explaining the goals and objectives determined, the activities implemented, and the progress made toward achieving goals and objectives.

Desegregation Costs

The foregoing appropriation item 200-534, Desegregation Costs, shall be used to pay desegregation costs.

(A) Notwithstanding any section of law to the contrary, if in each fiscal year, due to federal court order, the Department of Education is obligated to pay for desegregation costs in any school district, the costs shall be paid from the foregoing appropriation item 200-534, Desegregation Costs.

Of the foregoing appropriation item 200-534, Desegregation Costs, up to $900,000 in fiscal year 1998 and up to $1,000,000 in fiscal year 1999 may be used to cover the legal fees associated with desegregation cases brought against the state.

By May 1 of each year, the Department of Education will determine if the appropriation exceeds the state's obligation for desegregation costs. Any appropriations in excess of the state's obligation shall be transferred to appropriation item 200-406, Head Start, by the Director of Budget and Management.

(B) As part of managing state desegregation costs, any board of education of a school district subject to a federal court desegregation order that requires the district board to bus students for the purpose of racial balance shall, within one year of the effective date of this act:

(1) Update its plan required under Am. Sub. H.B. 298 of the 119th General Assembly designed to satisfy the court so as to obtain release from the court's desegregation order; and

(2) Submit an updated copy of the plan to the State Board of Education.

Upon request of the district board, the State Board shall provide technical assistance to the school district board in developing a plan.

Within ninety days of the date on which the plan is submitted to the State Board of Education, the district board, or the district board and the State Board of Education jointly if both are parties to the desegregation case, shall submit the plan to the court and apply for release from the court's desegregation order.

Of the foregoing appropriation item 200-534, Desegregation Costs, Cleveland City Schools shall receive $40,000,000 in fiscal year 1998 and $38,200,000 in fiscal year 1999; Dayton City Schools shall receive at least $4,500,000 in each of fiscal year 1998 and fiscal year 1999.

Of the foregoing appropriation item 200-534, Desegregation Costs, $5,000,000 in each fiscal year shall be used by the Department of Education

to support the Cincinnati Magnet School Program.

SECTION 50.13. Peer Review

The foregoing appropriation item 200-541, Peer Review, shall be used by the Department of Education to develop a peer review program for teachers, to provide training, and to implement the peer review program in school districts on a pilot basis in fiscal year 1998. Funds for fiscal year 1999 shall be awarded on a competitive basis to school districts wishing to implement peer review programs. In each fiscal year, $640,000 shall be distributed to the Regional Professional Development Centers to provide training for mentor teachers and for leadership teams from districts implementing peer review programs.

Of the foregoing appropriation item 200-541, Peer Review, $125,000 in each fiscal year shall be used by the Rural Appalachian Initiative to develop a peer review and coaching model whereby teachers coach one another. In addition, funds shall be used to train and provide stipends for teacher coaches and mentors, and to develop training modules for professional improvement through establishing and attaining goals.

National Board Certification

The foregoing appropriation item 200-542, National Board Certification, shall be used by the Department of Education to pay the application fee for teachers from public and chartered nonpublic schools applying to the National Board for Professional Teaching Standards for professional teaching certificates or licenses that the board offers, and to provide grants in each fiscal year to recognize and reward teachers who become certified by the board pursuant to section 3319.55 of the Revised Code.

In each fiscal year, the appropriation item shall be used to pay for the first 400 applications received by the department. Each prospective applicant for certification or licensure shall submit an application to the Department of Education. When the department has collected a group of applications, but no later than 30 days after receipt of the first application in a group, it shall send the applications to the National Board for Professional Teaching Standards along with a check to cover the cost of the application fee for all applicants in that group.

Of the foregoing appropriation item 200-542, National Board Certification, up to $300,000 shall be used each fiscal year by the Department of Education to support the connection of teacher applicants to university programs that enhance applicant learning and professional development during the National Board Certification process.

SECTION 50.14. Entry Year Program

The foregoing appropriation item 200-543, Entry Year Program, shall be used by the Department of Education to expand the pilot residency programs established pursuant to provisions of Am. Sub. H.B. 152 of the 120th General Assembly.

The Department of Education shall select eligible beginning teachers to participate in a year-long entry year program which provides for guidance and coaching by experienced school district and university faculty and regular teacher performance assessment. The program is designed to assess each beginning teacher with the Education Testing Service's Praxis III examination. These funds shall be used to support the supervisory, teaching, and assessment services associated with the pilot residency program in urban, suburban, and rural sites.

Individual Career Plan and Passport

The foregoing appropriation item 200-544, Individual Career Plan and Passport, shall be used to enable students to develop career plans, to identify initial educational and career goals, and to develop a career passport which provides a clear understanding of the student's knowledge, skills, and credentials to present to future employers, universities, and other training institutes.

The appropriation shall be allocated to school districts pursuant to guidelines developed by the Department of Education for programs described in section 3313.607 of the Revised Code for children in the kindergarten through twelfth grades. Funds so allocated shall be used for educational materials, services, career information, curriculum development, staff development, mentorships, career exploration, and career assessment instruments as needed to develop individualized career plans and passports.

Reading Improvement

The foregoing appropriation item 200-551, Reading Improvement, shall be used by the Department of Education to fund the Reading Recovery training network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds for this appropriation item may also be used to conduct evaluations of the impact and effectiveness of Reading Recovery and other reading improvement programs.

In addition, the Department of Education shall report to the General Assembly and the Governor each fiscal year on the progress that has been made in implementing these programs, including an evaluation of the effectiveness of the programs.

Twenty per cent of the foregoing appropriation item 200-551, Reading Improvement, shall be used for the continuation of a phonics demonstration project as described in Sub. H.B. 81 of the 121st General Assembly. The Department of Education may make a portion of the funds for the demonstration project available to additional school districts that want to participate in the program that did not receive funding under the original project authorized in Sub. H.B. 81 of the 121st General Assembly.

County MR/DD Boards-Vehicle Purchases

The foregoing appropriation item 200-552, County MR/DD Boards-Vehicle Purchases, shall be used to provide financial assistance to MR/DD boards for the purchase of vehicles as permitted in section 3317.07 of the Revised Code.

The foregoing appropriation item 200-553, County MR/DD Boards-Transportation Operating, shall be used to provide financial assistance for transportation operating costs as provided in division (Q) of section 3317.024 of the Revised Code.

Special Education Aides

The foregoing appropriation item 200-589, Special Education Aides, shall be used by the Department of Education to assist school districts in funding aides pursuant to paragraph (A)(3)(c)(i)(b) of Rule 3301-51-04 of the Administrative Code.

Special Education Preschool Units

The foregoing appropriation item 200-577, Preschool Special Education, shall be distributed by the Department of Education to county boards of mental retardation and developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units in accordance with divisions (N) and (O)(1) of section 3317.024 of the Revised Code. The department may reimburse county boards of mental retardation and developmental disabilities, educational service centers, and school districts for related services as defined in Rule 3301-01-05 of the Ohio Administrative Code, for occupational and physical therapy services provided by a physical therapy assistant and certified occupational therapy assistant, and for an instructional assistant. The State Board of Education shall approve such units pursuant to section 3317.05 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers. The Controlling Board may approve the transfer of unallocated funds from appropriation item 200-504, Special Education, to appropriation item 200-577, Preschool Special Education, to fully fund existing units as necessary or to fully fund additional units. The Controlling

Board may approve the transfer of unallocated funds from appropriation item 200-577, Preschool Special Education, to appropriation item 200-504, Special Education, to fully fund existing units, as necessary, or to fully fund additional units.

Auxiliary Services Mobile Repair

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient then the Treasurer of State shall transfer $1,500,000 in fiscal year 1998 within thirty days of the effective date of this section and $1,500,000 in fiscal year 1999 by August 1, 1998, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Mobile Repair Fund (Fund 598).

SECTION 50.15. Lottery Profits Education Fund

Appropriation item 200-670, School Foundation - Basic Allowance, shall be used in conjunction with GRF item 200-501 to provide payments to school districts pursuant to Chapter 3317. of the Revised Code.

Of the foregoing appropriation item, 200-670, School Foundation Basic Allowance, $25,000,000 in fiscal year 1999 shall be used from the funds transferred from the Unclaimed Prizes Trust Fund pursuant to the section entitled "Transfers from the Unclaimed Prizes Fund" of this act.

Appropriation item 200-671, Special Education, shall be used in conjunction with GRF item 200-504 to provide payments to school districts pursuant to Chapter 3317. of the Revised Code. Appropriation item 200-672, Vocational Education, shall be used in conjunction with GRF item 200-507 to provide payments to school districts pursuant to Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of the GRF line item 200-501 and fund 017 line item 200-670, GRF line item 200-504 and fund 017 line item 200-671, and GRF line item 200-507 and fund 017 line item 200-672. If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer the amount appropriated under the Lottery Profits Education Fund for item 200-682, Lease Rental Payment Reimbursement, to the General Revenue Fund on a schedule determined by the director. These funds shall support the General Revenue Fund appropriation 200-413, Lease Rental Payments.

Disability Access Projects

(A) As used in this section:

(1) "Percentile" means the percentile in which a school district is ranked according to the most recent ranking of school districts with regard to income and property wealth under division (B) of section 3318.011 of the Revised Code.

(2) "School district" means a city, local, or exempted village school district, except for a school district that is one of the state's 21 urban school districts as defined in division (H) of section 3317.02 of the Revised Code.

(3) As used in this section, "valuation per pupil" means a district's total taxable value as defined in section 3317.02 of the Revised Code divided by the district's ADM as defined in division (A) of section 3317.021 of the Revised Code.

(B) The Department of Education shall adopt rules for awarding grants to school districts with a valuation per pupil less than $200,000, to be used for construction, reconstruction, or renovation projects in classroom facilities, the purpose of which is to improve access to such facilities by physically handicapped persons. The rules shall include application procedures.

No school district shall be awarded a grant under this section in excess of $100,000. In addition, any school district shall be required to pay a percentage of the cost of the project for which the grant is being awarded equal to the percentile in which the district is so ranked.

The foregoing appropriation item 200-649, Disability Access Projects, shall be used to fund capital projects that make buildings more accessible to students with disabilities pursuant to this section. Of the foregoing appropriation item 200-649, Disability Access Projects, $60,000 shall be used for the Danville High School wheelchair lift.

Judgment Loan

The foregoing appropriation item 200-669, Judgment Loan, shall be used to make loans to eligible districts under this section.

(A) A school district is an "eligible district" for purposes of division (B) of this subsection if, in the two-year period immediately preceding the effective date of this subsection, the district was the subject of either:

(1) A single final nonappealable judgment, consent judgment, or settlement agreement in a civil action for damages for injury, death, or loss of person or property, the amount of which was equal to at least 90 per cent of the district's annual expenditures for operating expenses for the fiscal year in which the judgment, consent judgment, or settlement agreement was issued;

(2) Multiple final nonappealable judgments, consent judgments, or

settlement agreements for such damages arising out of a single transaction or occurrence, or a series of transactions or occurrences arising out of the same wrongful act, the total of which judgments, consent judgments, or settlement agreements was an amount equal to at least 90 per cent of the district's total expenditures for operating expenses in any one of the fiscal years in which any such judgment, consent judgment, or settlement agreement was issued.

(B) Upon application by the board of education of an eligible district and to the extent funds are appropriated for the purpose, the Superintendent of Public Instruction, with the approval of the Director of Budget and Management, may enter into a loan agreement with the board under which the Department of Education shall loan to the district the amount of money necessary to pay all or part of any judgment, consent judgment, or settlement agreement described in division (A) of this section, plus any accrued interest. For repayment of the loan, the loan agreement shall require the department to deduct annually from state aid payments due to the district under Chapter 3317. of the Revised Code, and if necessary under sections 321.24 and 323.156 of the Revised Code, an amount equal to two thousandths of the district's total taxable value reported pursuant to divisions (A)(1) and (2) of section 3317.021 of the Revised Code, for the lesser of the following periods:

(1) A period of twenty-five years, commencing with the later of the year of receipt of the loan or fiscal year 1999;

(2) A period equal to the number of years required to deduct an amount equal to the total amount of the loan from the district's state aid payments, commencing with the later of the year of receipt of the loan or fiscal year 1999.

Bus Purchase One Time Supplement

Of the foregoing appropriation item 200-694, Bus Purchase One Time Supplement, $2,100,000 shall be distributed by the Department of Education pursuant to the provisions of law governing appropriation line item 200-552, County MR/DD Boards - Vehicle Purchases.

The remaining funds allocated under this section shall be distributed by the Department of Education pursuant to the provisions of law governing appropriation line item 200-503, Bus Purchase Allowance.

Lottery Profits Transfers*

On May 15 of each fiscal year, the Director of Budget and Management shall determine if lottery profits transfers will meet the appropriation amounts from the Lottery Profits Education Fund.

On or after the date specified in each fiscal year, if the director

determines that lottery profits will not meet appropriations and if other funds are not available to meet the shortfall, the Superintendent of Public Instruction shall take the actions specified under the "Reallocation of Funds" section of this act.

Transfers from the Unclaimed Prizes Fund

By July 15 of fiscal year 1999, the Director of Budget and Management shall transfer $25,000,000 from the State Lottery Commission's Unclaimed Prizes Fund to the Lottery Profits Education Fund, to be used solely for purposes specified in the Department of Education's budget. Transfers of unclaimed prizes under this provision shall not count as Lottery Profits in the determination made concerning excess profits titled "Lottery Profits" under the Department of Education in this act.

Teacher Certification and Licensure

The foregoing appropriation item 200-681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer teacher certification and licensure functions pursuant to sections 3301.071, 3301.074, 3301.50, 3301.51, 3319.088, 3319.22, 3319.24 to 3319.28, 3319.281, 3319.282, 3319.29, 3319.301, 3319.31, and 3319.51 of the Revised Code.

SECTION 50.16. Property Tax Allocation

The Superintendent of Public Instruction shall not request and the Controlling Board shall not approve the transfer of funds from appropriation item 200-901, Property Tax Allocation--Education, to any other appropriation line item.

Textbooks/Instructional Materials

As used in this section, "valuation per pupil" means a district's total taxable value as defined in section 3317.02 of the Revised Code divided by the district's ADM as defined in division (A) of section 3317.021 of the Revised Code.

Money in the foregoing appropriation item 200-645, Textbooks/Instructional Materials, shall be distributed on a per pupil basis to all city, exempted village, and local school districts with a valuation per pupil less than $200,000. City, exempted village, and local school districts shall use moneys received from the appropriation item for textbooks, instructional software, instructional materials, and any other materials the district deems to be helpful in providing appropriate instruction to students in the following subject areas: reading, writing, mathematics, science, and citizenship.

SECTION 50.17. Distribution Formulas*

The Department of Education shall report the following to the Director of Budget and Management, the Legislative Office of Education Oversight, and the Legislative Budget Officer of the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations; and

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 50.18. ADM Calculation for Big Eight Districts

(A) As used in this section, "big eight school district," "urban school district," "all-day kindergarten," "extended kindergarten," and "traditional kindergarten" have the same meanings as in section 3317.02 of the Revised Code.

(B) Notwithstanding the changes made by this act to the provisions for determining a district's ADM under sections 3317.02, 3317.023, and 3317.08 of the Revised Code, for fiscal year 1998 the average daily membership shall be determined under those sections in the same manner as it was determined for fiscal year 1997 except that a big eight school district may include three-fourths of its all-day kindergarten and extended kindergarten average daily membership in its average daily membership for purposes of those sections, plus one-half of its traditional kindergarten average daily membership for those purposes. Thereafter, the average daily membership shall be determined as provided in sections 3317.02, 3317.023, and 3317.08 of the Revised Code, as amended by this act.

(C) If the kindergarten average daily membership reported by the big eight school districts in fiscal year 1998 is not sufficient to spend all funds available that year in appropriation item 200-501, School Foundation Basic Allowance, for increasing aid to big eight school districts providing all-day and extended kindergarten, the Department of Education shall use the remainder of those funds to make payments to each urban other than a big eight school district providing all-day or extended kindergarten that fiscal year. The Department shall determine a per-pupil amount that it shall pay under this division for each child enrolled in all-day or extended

indergarten in an urban school district.

SECTION 50.19. Educational Service Centers Funding

Notwithstanding division (B) of section 3317.11 of the Revised Code, no funds shall be provided to an educational service center in either fiscal year for any pupils in the ADM of a city or exempted village school district unless an agreement to provide services under section 3313.843 of the Revised Code was entered into by January 1, 1997, except that funds shall be provided to an educational service center for any pupils in the ADM of a city school district if the agreement to provide services was entered into within one year of the date upon which such district changed from a local school district to a city school district. Funds for fiscal year 1997 shall be provided from the educational service center earmark under appropriation item 200-501 in fiscal year 1998 to those four educational service centers which were eligible for funding for fiscal year 1997 but which were not funded for that fiscal year because of insufficient funds. If insufficient funds are appropriated in fiscal year 1998 for the purposes of division (B) of section 3317.11 of the Revised Code, the Department shall first distribute to the appropriate educational service center $32 per pupil in the ADM of every local school district in the state. The remaining funds in the fiscal year shall be distributed to the appropriate educational service center at a rate of $32 per pupil in the ADM of each city and exempted village school district that had entered into an agreement with an educational service center for that fiscal year under section 3313.843 of the Revised Code by January 1, 1997, in order of the dates on which such agreements were entered into, beginning with the earliest such date; except that any county district that received funds for the pupils in the ADM of a city or exempted village district in fiscal year 1995 or 1996 shall receive funds for the pupils in the ADM of such district in fiscal year 1998 if such district has entered into an agreement with that educational service center for that fiscal year. If insufficient funds are appropriated in fiscal year 1999 for the purposes of division (B) of section 3317.11 of the Revised Code, the Department shall first distribute to the appropriate educational service center $32 per pupil in the ADM of every local district in the state. The remaining funds in the fiscal year shall be distributed to the appropriate educational service center at a rate of $32 per pupil in the ADM of each city and exempted village school district that had entered into an agreement with an educational service center for that fiscal year under section 3313.843 of the Revised Code by January 1, 1997, in order of the dates on which such agreements were entered into, beginning with the earliest such date; except that any

educational service center that received funds for the pupils in the ADM of a city or exempted village district in both fiscal years 1997 and 1998 shall receive funds for the pupils in the ADM of such district in fiscal year 1999 if such district has entered into an agreement with that educational service center for that fiscal year.

Notwithstanding division (B) of section 3317.11 of the Revised Code, in lieu of the $34 figure provided in that division, the figure for fiscal year 1998 shall be $32.

The provisions added to section 3313.843 of the Revised Code by this act, pertaining to allowing agreements between educational service centers and city school districts with ADMs in excess of 13,000 provided an agreement was initially extered into between such entities when the ADM was less than 13,000, shall apply to payments made to any such educational service center pursuant to division (B) of section 3317.11 of the Revised Code in fiscal year 1997.

SECTION 50.20. Supplemental Payment

In addition to any other payments made under Chapter 3317. of the Revised Code, or under this act, a payment for fiscal year 1998 not greater than the sum of the computation under division (A) of this section and for fiscal year 1999 not greater than the sum of the computation under division (B) of this section may be made to each school district, subject to the recommendation of the Superintendent of Public Instruction and approval of the Controlling Board, for mandated costs not met from increases in funds for the appropriate year from this act. The increases for fiscal year 1998 shall be calculated by determining additional state funds received for the year under other sections of this act and sections 3317.022 and 3317.023 of the Revised Code, plus additional state funds for approved units in operation for fiscal year 1998 funded under divisions (M), (N), and (O) of section 3317.024 of the Revised Code and the heading "Supplemental Unit Allowance" above amounts received by the district from such sections and divisions and under the heading "Supplemental Payment" in Section 45.11 of Am. Sub. H.B. 117 of the 121st General Assembly and Supplemental Unit Allowance in Section 45.06 of Am. Sub. H.B. 117 of the 121st General Assembly, for fiscal year 1997. The increases for fiscal year 1999 shall be calculated by determining additional state funds received for such year under other sections of this act and sections 3317.022 and 3317.023 of the Revised Code plus additional state funds for approved units in operation for fiscal year 1999 funded under divisions (M), (N), and (O) of section 3317.024 of the Revised Code above the amounts received by the district

from such sections and divisions and under this section of this act for fiscal year 1998.

(A) For fiscal year 1998, the amount calculated under this division shall be the cost of employing additional full-time equivalent classroom teachers and educational service personnel whose employment was necessary to avoid a reduction in state aid under divisions (C) and (D) or (E) of section 3317.023 of the Revised Code and who exceed in number the number of full-time equivalent classroom teachers and full-time equivalent educational service personnel who were employed by the district during the first full week of October, 1996. The amount shall equal the minimum salaries for such additional full-time equivalent employees required by section 3317.13 of the Revised Code multiplied by 114 per cent.

(B) For fiscal year 1999, the amount calculated under this division shall be the cost of employing the additional full-time equivalent classroom teachers and educational service personnel whose employment was necessary to avoid a reduction in state aid under divisions (C) and (D) or (E) of section 3317.023 of the Revised Code and who exceed in number the number of full-time equivalent classroom teachers and educational service personnel who were employed by the district during either the first full week of October 1996, or during the first full week of October 1997, whichever week the number was smaller. The amount shall equal the minimum salaries for such additional full-time equivalent employees required by section 3317.13 of the Revised Code multiplied by 114 per cent.

The Department of Education shall determine application procedures and the schedule for applications and payments, subject to approval by the Controlling Board. The Department of Education may pay during the first half of each fiscal year, an amount equal to one-half of the estimated payment to which a district is entitled under this section. Subsequent to the approval of the Controlling Board, the amount of any over-payments shall be deducted from payments made under this act during the remainder of the fiscal year.

Only those school districts eligible to receive payments under section 3317.022 of the Revised Code may receive any payment under this section.

The Superintendent of Public Instruction and the Controlling Board, before finalizing recommendations or approving payments pursuant to this section, may consider:

(1) Increases in revenues to a school district from sources other than Chapter 3317. of the Revised Code;

(2) Information relating to assumptions concerning potential state revenues made at the time of adoption of a new salary schedule for the

ict.

SECTION 50.21. Distribution-School District Subsidy Payments

The provisions of this section shall not take effect unless the Director of Budget and Management adopts an order putting them into effect and certifies a copy of the order to the Superintendent of Public Instruction and the Controlling Board.

Notwithstanding any other provision of the Revised Code, the monthly distribution of payments made to school districts and educational service centers pursuant to section 3317.01 of the Revised Code for the first six months of each fiscal year shall equal, as nearly as possible, six and two-thirds per cent of the estimate of the amounts payable for each fiscal year. The monthly distribution of payments for the last six months of each fiscal year shall equal, as nearly as possible, 10 per cent of the final calculation of the amounts payable to each school district for that fiscal year.

The treasurer of each school district or educational service center may accrue, in addition to the payments defined in this section, to the accounts of the calendar years that end during each fiscal year, the difference between the sum of the first six months' payments in each fiscal year and the amounts the district would have received had the payments been made in, as nearly as possible, in each fiscal year, twelve equal monthly payments.

Notwithstanding the limitations on the amount of borrowing and time of payment provided for in section 133.10 of the Revised Code but subject to the provisions of sections 133.26 and 133.30 of the Revised Code, a board of education of a school district may at any time between July 1, 1997, and December 31, 1997, or at any time between July 1, 1998, and December 31, 1998, borrow money to pay any necessary and actual expenses of the school district during the last six months of calendar years 1997 and 1998 and in anticipation of the receipt of any portion of the payments to be received by that district in the first six months of calendar years 1998 and 1999 representing the respective amounts accrued pursuant to the preceding paragraph, and issue notes to evidence that borrowing to mature no later than the thirtieth day of June of the calendar year following the calendar year in which such amount was borrowed. The principal amount borrowed in the last six months of calendar years 1997 or 1998 under this paragraph may not exceed the entire amount accrued or to be accrued by the district treasurer in those calendar years pursuant to the preceding paragraph. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts are lawfully appropriated by the board of education. No board of education shall be required to use the authority granted by this

paragraph. The receipts so anticipated, and additional amounts from distributions to the districts in the first six months of calendar years 1998 and 1999 pursuant to Chapter 3317. of the Revised Code needed to pay the interest on the notes, shall be deemed appropriated by the board of education to the extent necessary for the payment of the principal of and interest on the notes at maturity, and the amounts necessary to make those monthly distributions are hereby appropriated from the General Revenue Fund. For the purpose of better ensuring the prompt payment of principal of and interest on the notes when due, the resolution of the board of education authorizing the notes may direct that the amount of the receipts anticipated, together with those additional amounts needed to pay the interest on the borrowed amounts, shall be deposited and segregated, in trust or otherwise, to the extent, at the time or times, and in the manner provided in that resolution. The borrowing authorized by this section shall not constitute debt for purposes of section 133.04 of the Revised Code. School districts shall be reimbursed by the state for all necessary and actual costs to districts arising from this provision, including, without limitation, the interest paid on the notes while the notes are outstanding. The Department of Education shall adopt rules that are not inconsistent with this section for school district eligibility and application for reimbursement of such costs. Payments of these costs shall be made out of any anticipated balances in appropriation items distributed under Chapter 3317. of the Revised Code. The department shall submit all requests for reimbursement under these provisions to the Controlling Board for approval.

During the last six months of each calendar year, instead of deducting the amount the Superintendent of Public Instruction would otherwise deduct from a school district's or educational service center's state aid payments in accordance with the certifications made for such year pursuant to sections 3307.56 and 3309.51 of the Revised Code, the Superintendent shall deduct an amount equal to 40 per cent of the amount so certified. The secretaries of the retirement systems shall compute the certifications for the ensuing year under such sections as if the entire amounts certified as due in the calendar year ending the current fiscal year, but not deducted pursuant to this paragraph, had been deducted and paid in that calendar year. During the first six months of the ensuing calendar year, in addition to deducting the amounts the Superintendent of Public Instruction is required to deduct under such sections during such period, the Superintendent shall deduct from a district's or educational service center's state aid payments an additional amount equal to the amount that was certified as due from the district for the calendar year that ends during the fiscal year, but that was not deducted

because of this paragraph. The Superintendent's certifications to the Director of Budget and Management during the first six months of the calendar year shall reflect such additional deduction.

SECTION 50.22. Vocational Education Pupil Recomputation

The Department of Education shall recompute the total amount required to be paid to each city, local, and exempted village school district for fiscal years 1998 and 1999 under Chapter 3317. of the Revised Code. Such recomputation shall make the following changes in the original computation:

(A) In lieu of the amount computed as prescribed by section 3317.022 of the Revised Code, substitute the amount to which the district would be entitled under such section if the ADM used in the computation included the number of full-time equivalent pupils enrolled in vocational units that are used to make the computation required by division (M)(2) of section 3317.024 of the Revised Code;

(B) In lieu of the amount computed as prescribed by division (M) of section 3317.024 of the Revised Code, substitute zero.

If the recomputed amount in either fiscal year exceeds the amount required to be paid to the district under Chapter 3317. of the Revised Code, the excess amount shall be paid to the district for the appropriate fiscal year as a supplemental payment from the amount appropriated from appropriation item 200-501 School Foundation Basic Allowance. Such payments shall be deemed to be basic aid for purposes of this act.

50.23 Reallocation of Funds

(A) As used in this section:

(1) "Basic aid" means the amount calculated for the school district received for the fiscal year under sections 3317.022, 3317.023, and 3317.025 to 3317.028 of the Revised Code, as modified by language under the headings "Basic Aid Formula Amount," "Basic Aid Guarantees," and "Vocational Education Pupil Recomputations" of this act and section 3317.0212 of the Revised Code.

(2) "Nonbasic aid" means:

(a) In the case of a school district, the amount computed for the district for fiscal year 1998 or fiscal year 1999 under Chapter 3317. of the Revised Code and this act, excluding the district's basic aid;

(b) In the case of a county board of mental retardation and developmental disabilities or for an institution providing special education

programs under section 3323.091 of the Revised Code, the amount computed for the board or institution under divisions (N) and (O) of section 3317.024 of the Revised Code.

(3) "Total taxable value" has the meaning given in section 3317.02 of the Revised Code.

(4) "Total basic revenue" means the district's basic aid plus one of the following:

(a) For fiscal year 1998, two and three-tenths per cent of the district's total taxable value for the most recently completed tax year for which data are available for all school districts at the time the computations required by divisions (C) to (E) of this section are made;

(b) For fiscal year 1999, two and three-tenths per cent of the district's total taxable value for the most recently completed tax year for which data are available for all school districts at the time the computations required by divisions (C) to (E) of this section are made.

(B) If in either fiscal year of the biennium the Superintendent of Public Instruction determines prior to January 16, 1998, or January 16, 1999, respectively, that the amount appropriated to the Department of Education for distribution under this act and Chapter 3317. of the Revised Code is insufficient to make all of the payments required under such provisions, or if the Governor issues an order under section 126.05 of the Revised Code to reduce expenditures and incurred obligations and the order requires the Superintendent to reduce such state aid payments, or if lottery profits transfers are insufficient to meet the amounts appropriated from the Lottery Profits Education Fund for basic aid, vocational education, and special education, and if other funds are not sufficient to offset the shortfall, the Superintendent shall reduce basic and nonbasic aid payments so that the total amount expended in the fiscal year will not exceed either the amount appropriated or the amount available for expenditure pursuant to the Governor's order. Subject to Controlling Board approval, the Superintendent shall reallocate appropriations not yet expended from one program to another.

(C)(1) If further reductions in basic and nonbasic aid are necessary following the reallocations implemented pursuant to division (B) of this section, the Superintendent shall request the Controlling Board to approve the use of the money appropriated by this division. The Superintendent shall include with the Superintendent's request a report listing the amount of reductions that each school district will receive pursuant to divisions (D) to (H) of this section if the request is not approved, and also the amount of the reduction, if any, that will still be required if the use of the money

appropriated by this section is approved.

(2) In accordance with division (C)(1) of this section, there is hereby appropriated to the Department of Education from the unobligated balance remaining in the Lottery Profits Education Fund at the end of fiscal year 1997 and at the end of fiscal year 1998 the lesser of: the unobligated balance in the fund, or the amount needed to preclude a reallocation pursuant to divisions (D) to (H) of this section. The money appropriated by this division may be spent or distributed by the department only with the approval of the Controlling Board.

(D) If reductions in basic and nonbasic aid are still necessary following the actions taken pursuant to divisions (B) and (C) of this section, the Superintendent shall determine by what percentage expenditures for basic and nonbasic aid must be reduced for the remainder of the fiscal year to make the total amount distributed for the year equal the amount appropriated or available for distribution. The Superintendent shall reduce by that percentage the amount to be paid in nonbasic aid to each city, exempted village, local, and joint vocational school district, to each educational service center, to each county board of mental retardation and developmental disabilities, and to each institution providing special education programs under section 3323.091 of the Revised Code for the remainder of the fiscal year.

(E) As used in divisions (F) to (H) of this section, "school district" means city, local, and exempted village school districts.

(F) After computing the reduction required by division (D) of this section, the Superintendent shall:

(1) Determine the difference between the amount by which total basic and nonbasic aid payments must be reduced and the amount of the reductions made under division (D) of this section;

(2) Determine each school district's total basic revenue;

(3) Determine the total basic revenue of all such districts;

(4) Except as otherwise provided in division (G) of this section, reduce each such school district's basic aid by an amount computed as follows:

(a) Multiply the amount obtained under division (F)(1) of this section by the district's total basic revenue;

(b) Divide the product thus obtained by the total basic revenue of all districts. The quotient thus obtained shall be the amount by which the district's basic aid shall be reduced for the fiscal year.

(5) If the amount computed for a district under division (F)(4)(b) of this section equals or exceeds the basic aid remaining to be paid to the district for the fiscal year, the district shall receive no further basic aid in the fiscal

year.

(G) If the amount by which any district's basic aid is required to be reduced under division (F)(4) of this section exceeds the amount of basic aid remaining to be paid to the district for the fiscal year, the department shall further reduce the basic aid to be paid to all other districts as follows:

(1) Determine the difference between:

(a) The amount determined under division (F)(1) of this section; and

(b) The amounts by which basic aid payments were reduced under divisions (F)(4) and (5) of this section.

(2) Determine the difference between:

(a) The total basic revenue of all districts; and

(b) The sum of the total basic revenue of each district to which division (F)(5) of this section applies.

(3) Reduce each remaining school district's basic aid by an amount computed as follows:

(a) Multiply the amount computed under division (G)(1) of this section by the district's total basic revenue;

(b) Divide the product obtained by the amount computed under division (G)(2) of this section. The quotient thus obtained shall be the additional amount by which the district's basic aid shall be reduced for the fiscal year.

(H) If the sum of the reductions under divisions (F) and (G) of this section equals or exceeds the amount of basic aid remaining to be paid to the district for the fiscal year, the district shall receive no further basic aid payments in the fiscal year and the department shall further reduce the amount of basic aid to be paid to the remaining school districts in accordance with the procedure set forth in division (G) of this section, but substituting the remaining amount of the deficit after the first operation of division (G) for the amount specified in division (G)(1) of this section, and subtracting the total basic revenue of those districts no longer participating in the allocation from the amount specified in division (G)(2) of this section.

SECTION 50.24. Lottery Profits

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 018) in the State Treasury. At no time shall the amount to the credit of the fund exceed $50,000,000. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund. Notwithstanding any provisions of law to the contrary, for fiscal years 1998 and 1999, there is hereby appropriated to the Department of Education, from the Lottery Profits Education Reserve Fund, an amount necessary to make loans authorized by sections 3317.0210, 3317.0211, and 3317.62 of the Revised

Code. All loan repayments from loans made in fiscal years 1992, 1993, 1994, 1995, 1996, 1997, or 1998 shall be deposited into the credit of the Lottery Profits Education Reserve Fund.

(B)(1) On or before July 15, 1997, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 1997 exceed $661,200,000.

After certifying fiscal year 1997 excess lottery profits pursuant to this division, and notwithstanding divisions (C) and (D) of this section, the Director of Budget and Management shall allocate up to $30,000,000 of the certified fiscal year 1997 excess lottery profits to support appropriations in fiscal year 1998 and fiscal year 1999 from the Lottery Profits Education Fund (Fund 017) for appropriation item 228-690, SchoolNet Electrical Infrastructure, to be used for the purposes specified in this act.

The remaining balance of certified fiscal year 1997 excess lottery profits shall be distributed in fiscal year 1998 pursuant to divisions (C) and (D) of this section.

(2) On or before July 15, 1998, the Director of Budget and Management shall determine the amount by which lottery profit transfers received by the Lottery Profits Education Fund for fiscal year 1998 exceed $679,417,200. The amount so determined shall be distributed in fiscal year 1999 pursuant to divisions (E) and (F) of this section.

The Director of Budget and Management shall annually certify the amounts determined pursuant to this section to the Speaker of the House of Representatives and the President of the Senate.

(C) Not later than January 16, 1998, the Department of Education, in consultation with the Director of Budget and Management, shall determine, based upon estimates, if a reallocation of funds as described in the section titled "Reallocation of Funds" of this act is required.

If a reallocation of funds is required, then the Superintendent of Public Instruction shall request Controlling Board approval for a release of any balances in the Lottery Profits Education Fund available for the purpose of this division and pursuant to divisions (C)(1) and (2) of the section titled "Reallocation of Funds" of this act. Any moneys so released are hereby appropriated.

(D) In fiscal year 1998, if the Department of Education does not determine that a reallocation of funds is necessary by January 16, as provided in division (C) of this section, or if there is a balance in the Lottery Profits Education Fund after the release of any amount needed to preclude a reallocation of funds as provided in division (C) of this section, the moneys

in the Lottery Profits Education Fund shall be allocated as provided in this division. Any amounts so allocated are hereby appropriated.

(1) An amount equal to five per cent of the estimated lottery profits of $661,200,000 in fiscal year 1997 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 1998. Any amounts exceeding $50,000,000 shall be distributed pursuant to divisions (D)(2), (3), and (4) of this section.

(2) After reserving the required amount under division (D)(1) of this section, an amount equal to $25,000,000 or the unreserved amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Public School Building Fund (Fund 021) to be allocated and distributed in accordance with Chapter 3318. of the Revised Code. The Department of Education shall submit annually a report to the Governor and General Assembly on the use of these funds. The report shall include for each project, a description of the need for the project, the total cost, the state and local share of the cost, and the project repayment schedule.

(3) After the allocation under division (D)(2) of this section, an amount equal to $20,000,000 or the unreserved amount remaining in the fund, whichever is the lesser amount, shall be allocated to the Department of Education to assist school districts in complying with federal regulations on asbestos abatement and removal and to assist school districts in making school buildings accessible to the handicapped.

(4) After the allocation under division (D)(3) of this section, the unreserved amount remaining in the fund shall be distributed pursuant to division (G) of this section.

(E) Not later than January 16, 1999, the Department of Education, in consultation with the Director of Budget and Management, shall determine, based upon estimates, if a reallocation of funds as described in the section titled "Reallocation of Funds" of this act is required.

If a reallocation of funds is required, then the Superintendent of Public Instruction shall request Controlling Board approval for a release of any balances in the Lottery Profits Education Fund available for the purpose of this division and pursuant to divisions (C)(1) and (2) of the section titled "Reallocation of Funds" of this act. Any moneys so released are hereby appropriated.

(F) In fiscal year 1999, if the Department of Education does not determine that a reallocation of funds is necessary by January 16, as provided in division (E) of this section, or if there is a balance in the Lottery

Profits Education Fund after the release of any amount needed to preclude a reallocation of funds as provided in division (E) of this section, the moneys in the Lottery Profits Education Fund shall be allocated as provided in this division. Any amounts so allocated are hereby appropriated.

(1) An amount equal to five per cent of the estimated lottery profits transfers of $679,417,200 in fiscal year 1998 or the amount remaining in the fund, whichever is the lesser amount, shall be transferred to the Lottery Profits Education Reserve Fund within the limitations specified in division (A) of this section and be reserved and shall not be available for allocation or distribution during fiscal year 1999. Any amounts exceeding $50,000,000 shall be distributed pursuant to divisions (F)(2), (3), and (4) of this section.

(2) After reserving the required amount under division (F)(1) of this section, an amount equal to $25,000,000 or the unreserved amount remaining in the fund, whichever is the lesser amount, shall be transferred to the School Building Fund (Fund 021) to be allocated and distributed in accordance with Chapter 3318. of the Revised Code. The Department of Education shall submit annually a report to the Governor and General Assembly on the use of these funds. The report shall include for each project, a description of the need for the project, the total cost, the state and local share of the cost, and the project repayment schedule.

(3) After the allocation under division (F)(2) of this section, an amount equal to $20,000,000 or the unreserved amount remaining in the fund, whichever is the lesser amount, shall be allocated to the Department of Education to assist school districts in complying with federal regulations on asbestos abatement and removal and to assist school districts in making school buildings accessible to the handicapped.

(4) After the allocation under division (F)(3) of this section, the amount remaining in the fund shall be distributed pursuant to division (G) of this section.

(G) In the appropriate fiscal year, any remaining amounts after the operations required by division (D) or (F) of this section, respectively, shall be available for distribution in accordance with this division.

(1) As used in this division:

(a) "State basic aid" means:

(i) In the case of a school district, the amount computed for a district under sections 3317.022, 3317.023, and 3317.025 to 3317.028 of the Revised Code exclusive of amounts computed under division (B) of section 3317.023 of the Revised Code, plus any amount computed for the district under section 3317.0212 of the Revised Code or under the heading "Basic Aid Guarantee" of this act or any amount computed under section 3317.11

or 3317.16 of the Revised Code.

(ii) In the case of a 169 board, the amount computed under divisions (N) and (O) of section 3317.024 of the Revised Code.

(b) "ADM" means:

(i) In the case of a city, local, or exempted village school district, the district's average daily membership determined pursuant to section 3317.03 of the Revised Code, exclusive of those pupils who are enrolled in units for which an educational service center governing board receives funding under division (N) of section 3317.024 of the Revised Code or who are enrolled in a joint vocational school district;

(ii) In the case of a joint vocational school district, the sum of the number of pupils excluded from city, local, or exempted village school district ADMs under division (G)(1)(b)(i) of this section by virtue of their enrollment in that joint vocational school district;

(iii) In the case of an educational service center, the sum of the number of pupils excluded from city, local, and exempted village school district ADMs under division (G)(1)(b)(i) of this section by virtue of their enrollment in a unit for which that educational service center governing board receives funding under division (N) of section 3317.024 of the Revised Code;

(iv) In the case of a 169 board, the sum of the pupils included in classes and units approved for funding under section 3317.05 of the Revised Code.

(c) "169 board" means a county board of mental retardation and developmental disabilities.

(2) Ninety-seven and forty-three one-hundredths per cent of the amount made available for distribution under this division in each fiscal year shall be distributed to city, local, joint vocational, and exempted village school districts and educational service centers eligible to receive funds pursuant to Chapter 3317. of the Revised Code and to 169 boards in proportion to the percentage that the ADM of each such district, educational service center, or board is of the ADM of all such districts, educational service centers, and boards and shall be for the use of the public schools of the district or educational service center and 169 board programs. Two and fifty-seven one-hundredths per cent of such amount made available for distribution under this division in each fiscal year shall be distributed to nonpublic schools for the purposes of section 3317.063 of the Revised Code. Not later than the first day of March of each fiscal year, the Department of Education shall compute each school district's, each educational service center's, and each 169 board's share for that year of the amount to be distributed under this division and shall, subject to Controlling Board approval, distribute the

shares so determined.

Amounts distributed to school districts, educational service centers, and 169 boards pursuant to this division shall be used solely to purchase textbooks and equipment. If funds have been appropriated by a board for any purposes permitted under this section, the amounts distributed to the district or educational service center under this division shall be used for additional expenditures for such purposes and shall not be substituted for funds previously appropriated by the board.

(3) Districts, educational service centers, 169 boards, and nonpublic schools shall report to the Department of Education no later than the last day of May of each fiscal year on the usage of funds received under this division. The Department of Education shall compile district and educational service center data and report on the usage of all funds distributed under this division to the Controlling Board by the last day of June of each fiscal year. If the department determines that a district or educational service center or a 169 board used funds distributed pursuant to this division for purposes not permitted, it shall reduce the district's, educational service center's, or board's state basic aid payments for the ensuing fiscal year by the amount improperly used.

It is the intent of the General Assembly that moneys distributed pursuant to this section shall not be included in any spending base calculations when appropriations for the 1999-2000 biennium are being considered.

SECTION 50.25. * As used in this section, "port authority" has the same meaning as in division (A)(1) of section 3317.0211 of the Revised Code.

(A) Notwithstanding division (D) of section 3317.0211 of the Revised Code, in lieu of the requirement in that division to repay amounts received under that section within two years of the end of the fiscal year in which such amounts were received, a district may repay such amounts as described in division (B) of this section if the Superintendent of Public Instruction finds all of the following to be the case:

(1) The district is required under division (D) of section 3317.0211 of the Revised Code to repay all outstanding amounts received under that section by June 30, 1993;

(2) The district will be unable to repay the amounts owed to the state as a result of the failure of a port authority to pay taxes it owes on property in the district;

(3) The port authority has agreed to make payments of outstanding taxes it owes such that, no later than June 30, 1998, it will have paid at least $590,000.

(B) A school district authorized under division (A) of this section to make repayments under this division shall, whenever it receives any payments of delinquent taxes owed by a port authority, pay the sum total of each such payment plus the payment amount designated by the Superintendent of Public Instruction pursuant to division (C) of this section to the Department of Education for deposit to the credit of the Lottery Profits Education Fund. Such a school district shall repay the total amount owed under division (D) of section 3317.0211 of the Revised Code no later than June 30, 1998.

(C) The Superintendent of Public Instruction shall designate a payment amount such that, when combined with the amount paid by the port authority, the sum will equal approximately one-tenth of the total amount owed to the state under division (D) of section 3317.0211 of the Revised Code.

SECTION 50.26. * For the school year commencing July 1, 1997, or the school year commencing July 1, 1998, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-03 of the Administrative Code if the following conditions apply:

(A) The board of education requests the waiver;

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction either of the following:

(1) That providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district;

(2) That the cost of providing the necessary facilities or personnel to meet the required ratio would require the board of education to take action under division (E) of section 3313.483 of the Revised Code.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

SECTION 50.27. Notwithstanding section 3317.026 of the Revised Code as enacted by this act, the certification required to be made by the county auditor under division (B) of that section on or before February 28, 1998,

shall be for the total of the tax value reductions for tax years 1996 and 1997 and for the amount of refunded taxes resulting from those reductions and refunded on or after July 1, 1996, but on or before December 31, 1997. The Tax Commissioner, in making the determination under division (B) of that section, shall determine whether the amount of those refunded taxes exceeds three per cent of the taxes charged and payable for tax year 1997, and shall proceed as otherwise required by that section.

SECTION 50.28. * Teacher and Nonteacher Salary Schedules

(A) As used under this heading:

(1) "Teachers' salary schedule" means the salary schedule adopted pursuant to section 3317.14 of the Revised Code, except that it does not include any separate salary level for teachers with twelve or more years of service or for any separate level of training and experience except those levels separately set forth in the salary schedule in section 3317.13 of the Revised Code.

(2) "Nonteaching salary schedule" means the salary schedule adopted pursuant to section 3317.12 of the Revised Code.

(B) If the salary for any number of years' service at any level of training and experience in a board of education's teachers' salary schedule that was in effect on June 30, 1994, was less than the amount required for that number of years' service at that level in order to be in compliance with the minimum salary requirements imposed by this act for the 1994-1995 school year, that board shall increase the salaries for each position classification and level of service in the nonteaching salary schedule for the 1994-1995 school year as follows:

(1) Add the salaries at each level of training and experience in the teachers' salary schedule that was in effect on June 30, 1994.

(2) At each level of training and experience, increase the salary in the June 30, 1994, teachers' salary schedule if an increase is required for the 1994-1995 school year in order to bring that schedule into compliance with this act, but do not increase the salary to more than the minimum amount required to be in compliance.

(3) Recompute division (B)(1) under this heading, substituting the increased salaries included in division (B)(2) under this heading.

(4) Divide the sum obtained in division (B)(3) under this heading by the sum obtained in division (B)(1) under this heading.

(5) Multiply the salary for each position classification and level of service included in the nonteaching salary schedule by the quotient obtained in division (B)(4) under this heading.

No school district affected by this division shall pay any nonteaching school employee for the 1994-1995 school year at a rate that is less than that to which the employee would be entitled if the employee were paid under the adjusted nonteaching salary schedule computed under division (B)(5) of this heading.

SECTION 50.29. * Notwithstanding any provision of division (F) of section 3311.06 of the Revised Code, as last amended by Am. Sub. S.B. 140 of the 118th General Assembly, limiting interdistrict payments under annexation agreements to amounts certified under section 3317.029 of the Revised Code, a party to an annexation agreement entered into prior to the effective date of this act which contains an agreement to pay, in respect of its territory which is annexed territory, an amount which exceeds or exceeded the amount certified under section 3317.029 of the Revised Code may pay such agreed amount, if the agreement expressly states the intention of the parties not to be bound by such limitation if so permitted by law.

SECTION 50.30. * Notwithstanding any provision of section 133.06 of the Revised Code, a city, exempted village or local school district with territory in a charter county, established pursuant to Sections 3 and 4 of Article X, Ohio Constitution, may incur net indebtedness during the biennium not exceeding $4,000,000 for no more than 20 years in order to purchase and renovate a building. The agreement establishing the school district's indebtedness may require the application of divisions (B), (C), and (E) of section 3317.18 of the Revised Code to the repayment of the indebtedness under the agreement.

SECTION 50.31. There is hereby created the Centralized School Purchasing Study Committee, consisting of eight members. Two of the members shall be members of the House of Representatives appointed by the Speaker of the House of Representatives and shall be members of different political parties. Two of the members shall be members of the Senate appointed by the President of the Senate and shall be members of different political parties. Two of the members shall be appointed by the Governor. One of the members shall be an employee of the Department of Administrative Services selected by the Director of Administrative Services and one of the members shall be an employee of the Department of Education selected by the Superintendent of Public Instruction.

The Committee shall study the feasibility and advantages or disadvantages of school districts centrally purchasing textbooks, buses, and computer hardware and software. The Committee shall submit a report, with any recommendations, to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the committees of the House of Representatives and the Senate that review education legislation.

SECTION 50.32. Private Treatment Facility Pilot Project

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities which have entered into a contract with the Ohio Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 1998 or 1999 or both, the department pays through appropriation item 470-401, Care and Custody.

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) Act One, in Akron;

(e) Friars Club, in Cincinnati.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the State of Ohio and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education for fiscal years 1998 and 1999. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility

to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under the age of twenty-two years residing in the treatment center.

The Ohio Family and Children First Cabinet Council shall recommend educational criteria to the Department of Education within thirty days of the enactment of this section. Prior to September 1, 1998, the Department of Education shall develop educational criteria, which take into consideration the recommendations of the Family and Children First Cabinet Council.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal years 1998 and 1999 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district shall, notwithstanding any conflicting provision of the Revised Code, pay tuition for the child for fiscal years 1998 and 1999 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership

certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 1998 and 1999, the Department of Education shall reimburse, from appropriations made for the purpose, a school district, educational service center, or residential treatment facility, whichever is providing the service, which has demonstrated that it is in compliance with the funding criteria for each served child for whom a school district must pay tuition under division (C) of this section. The amount of this reimbursement in either fiscal year shall be the formula amount specified in section 3317.022 of the Revised Code.

(E) Funds provided to a school district, educational service center, or residential treatment facility under this section shall be used to supplement, not supplant, funds from other public sources for which the school district, service center, or residential treatment facility is entitled or eligible.

(F) The Department of Education shall track the utilization of funds provided to school districts, educational service centers, and residential treatment facilities under this section and monitor the effect of the funding on the educational programs they provide in participating residential treatment facilities. The department shall monitor the programs for educational accountability.

SECTION 50.33. In fiscal year 1998 and fiscal year 1999, in addition to the limitation specified in division (B)(1) of section 5747.03 of the Revised Code requiring at least fifty per cent of the income tax collected by the state under section 5747.02 of the Revised Code be returned to certain subdivisions of the state pursuant to Section 9 of Article XII, Ohio Constitution, there shall also be a limitation that at least seventy-five per cent of the moneys deposited in the general revenue fund shall be expended for primary and secondary education, including vocational and special education, the Ohio School for the Deaf, and the Ohio School for the Blind and for the purpose of making payments to school districts as required by section 323.156 and divisions (F) and (G) of section 321.24 of the Revised Code.

SECTION 50.34. The Superintendent of Public Instruction shall contract with an independent research entity to develop a methodology and research design for an evaluation of the pilot project approved pursuant to section 3313.975 of the Revised Code. The independent research entity shall consult with the Legislative Office of Education Oversight in the development of the methodology and research for the evaluation. The evaluation shall

consist of two parts. The first part shall be a formative evaluation examining the implementation of the program, which shall be completed by December 31, 1997. The second part shall be a comprehensive evaluation of the results of the program, which shall be completed by September 1, 1999. The comprehensive evaluation shall include at a minimum a study of the impact of scholarships on student attendance, conduct, commitment to education, and standardized test scores; parental involvement; the school district's ability to provide services to district students; and the availability of alternative educational opportunities. The evaluation shall also study the economic impact of scholarships on the school district.

SECTION 50.35. No school district shall be required to repay the Department of Education any amounts distributed to the district in calendar year 1991 to cover desegregation costs of the district for fiscal year 1990, which amounts were paid to the district as a result of a United States District Court order, and which court order was subsequently reversed by the United States Court of Appeals.

SECTION 50.36. No later than January 1, 1998, the Department of Education shall make recommendations to the General Assembly on implementing performance-based incentives for school districts. The basis of the recommendations shall be derived from the following criteria: proficiency test scores, graduation rates, staff attendance, parental involvement, and student attendance and dropout rates. Recommendations shall include methods of measuring the criteria that assign a higher weight to positive results produced by school districts that spend less per pupil. The recommendations also shall include suggested methods of rewarding school districts with high or improved performance. The recommendations shall provide a range of options for rewarding performance or improvement and a cost estimate of each option.

SECTION 50.37. (A) On the effective date of this section, the Technology Advisory Committee, created by section 3301.80 of the Revised Code as it existed prior to its amendment by this act, is hereby abolished.

(B) Prior to August 1, 1997, the initial members of the Information, Learning, and Technology Authority, created by section 3301.80 of the Revised Code as amended by this act, shall be appointed and their terms of office shall commence on August 1, 1997.

SECTION 50.38. As used in this section, "technology programs" means the programs, office, and services described under sections 3301.075, 3301.0714, 3301.80, and 3317.51 of the Revised Code.

Upon appointment of all the initial members of the Information, Learning, and Technology Authority created under section 3301.80 of the Revised Code as amended by this act, but not later than 60 days after the effective date of this section, the Superintendent of Public Instruction is hereby authorized to transfer and shall transfer to the Information, Learning, and Technology Authority all of the following:

(A) The equipment, records, files, effects, and other personal property of the Department of Education that are used in the administration of any of the technology programs;

(B) The employees of the Department who administer any of the technology programs;

(C) The contractual obligations, assets, and liabilities of the Department that are related to the administration of any of the technology programs.

The Authority is thereupon and thereafter successor to, assumes the obligations of, and otherwise constitutes the continuation of the Department for purposes of the technology programs.

Any business pertaining to the technology programs that was commenced but not completed by the Department on the effective date of this section shall be completed by the Authority in the same manner, and with the same effect, as if completed by the Department. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer required by this section and any such validation, cure, right, privilege, remedy, obligation, or liability shall be administered by the Authority. All of the Department's rules, orders, and determinations pertaining to the technology programs continue in effect as rules, orders, and determinations of the Authority, until modified or rescinded by the Authority. If necessary to ensure the integrity of the numbering of the Administrative Code, the Director of the Legislative Service Commission shall renumber the Department's rules pertaining to the technology programs to reflect their transfer to the Authority.

All employees transferred to the Authority pursuant to division (B) of this section shall retain their respective civil service classifications and status, and, notwithstanding section 124.13 of the Revised Code, all vacation time and other benefits earned by those employees of the Department shall be deemed to have been earned by them as employees of the Authority. Any such employee who, at the time of transfer, has a

temporary or provisional appointment shall be transferred subject to the same right of removal, examination, or termination as though the transfer was not made.

Wherever the Department is referred to in any law, contract, or other document pertaining to the technology programs, the reference shall be deemed to refer to the Authority.

No action or proceeding pertaining to the technology programs pending on the effective date of this act is affected by the transfer, and any such action or proceeding shall be prosecuted or defended in the name of the authority. In all such actions and proceedings, the Authority upon application to the court shall be substituted as a party.

SECTION 50.39. By December 31, 2002, the Legislative Office of Education Oversight shall complete an evaluation of the assets and liabilities to the state's system of educational options that result from the establishment of community schools under this act. The evaluation shall at least include an assessment of any advantages to providing a greater number of educational choices to Ohio parents, any detrimental impacts on the state education system or on individual school districts, and the effects of attending community schools on the academic achievement of students.

SECTION 50.40. Urban Initiative Funding

(A) The following amounts within the line items specified below are hereby identified as "urban initiative moneys": line item 200-501, School Foundation Basic Allowance, $23,000,000 in fiscal year 1998 and $63,800,000 in fiscal year 1999 for extended and full-day kindergarten; line item 200-411, Family and Children First, $3,900,000 in fiscal year 1998 and $6,300,000 in fiscal year 1999, for school readiness resource centers; line item 200-507, Vocational Education, $1,500,000 in fiscal year 1998 and $1,800,000 in fiscal year 1999 for the Jobs for Ohio Graduates program, and $900,000 in each fiscal year for the graduation, reality and dual role skills program; line item 200-417, Professional Development, $6,000,000 in fiscal year 1998 for urban leadership academies; and line item 200-541, Peer Review, $1,840,000 in fiscal year 1998 and $3,640,000 in fiscal year 1999 for teacher peer review.

(B) Districts shall be entitled to receive the "urban initiative money" described in division (A) of this section unless they do not meet criteria in divisions (C)(1) and (2) of this section by the date specified. If a district does not meet the criteria, "urban initiative moneys" shall cease to be

provided on a monthly basis by the Department of Education.

(C) In order to receive "urban initiative moneys" as described in division (A) of this section, "big eight" school districts and "urban school districts" as identified in section 3317.02 of the Revised Code shall meet the following criteria:

(1) Within six months upon receiving the recommendations of the Auditor of State's performance audit, or, in the case of the Cleveland City School District and the Youngstown City School District, by October 30, 1997, the board of education or other managing authority of the district must adopt a plan to promote economy and efficiency in operations consistent with the recommendations of such performance audit. The plan must be approved by the Superintendent of Public Instruction, in consultation with the Director of Budget and Management.

(2) The board of education or other managing authority of the district must implement an academic performance benchmarking program that is approved by the State Board of Education by May 30, 1998. The plan must contain baseline data on performance indicators including graduation rates, attendance rates, dropout rates, and levels of literacy and basic competency as assessed under sections 3301.0710 and 3301.0711 of the Revised Code. The plan must establish an action plan for achieving enhanced performance levels on all indicators.

SECTION 50.41. The amendments to sections 3365.01, 3365.02, 3365.021, 3365.03, and 3365.06 of the Revised Code by this act shall first apply to ninth and tenth grade students and nonchartered school students enrolling in college courses in the school year that begins July 1, 1998.

SECTION 50.42. The Office of Information, Learning, and Technology Services shall effectively implement the clearinghouse established under section 3301.801 of the Revised Code not later than December 1, 1997. The office may contract, collaborate, or otherwise cooperate with other agencies or organizations in order to meet this requirement.

SECTION 50.43. There is hereby created the Ohio Schools Technology Implementation Task Force composed of six voting members, three of whom shall be members of the Senate appointed by the President of the Senate and three of whom shall be members of the House of Representatives appointed by the Speaker of the House of Representatives. Not more than

two members from each house shall be members of the same political party. From among these six voting members, the President of the Senate and the Speaker of the House of Representatives jointly shall appoint a chair of the Task Force. The Task Force shall include as ex officio nonvoting members the Superintendent of Public Instruction or the Superintendent's designee; the Directors of Budget and Management, Administrative Services, and the Office of Information, Learning, and Technology Services or their designees; a representative designated by the head of the Ohio Education Computer Network; a representative designated by the Chairperson of the Public Utilities Commission of Ohio; and a representative appointed by the Chairperson of the Ohio Education Broadcasting Network Commission. The voting members may, by majority vote, elect to include any number of additional nonvoting members on the Task Force.

The Legislative Service Commission and the Legislative Budget Office of the Legislative Service Commission shall provide any staffing assistance requested by the Task Force.

The Task Force shall develop recommendations for a comprehensive framework for coordinating the planning and implementation of technology in Ohio schools and issue a report not later than January 31, 1998. Upon issuing its report, the Task Force shall cease to operate.

SECTION 50.44. (A) There is hereby created the Teacher Professional Development Task Force. The purpose of the task force shall be to develop a comprehensive structure for the delivery of continuing professional development for teachers employed in the state's primary, secondary, vocational, and special educational system. On or before January 31, 1998, the task force shall issue to the President of the Senate, the Speaker of the House of Representatives, and the State Superintendent of Public Instruction a report outlining a comprehensive structure for the delivery of continuing professional development to such school teachers. On the date of the issuance of its report, the task force is abolished.

(B) The task force shall be composed of six legislators, three appointed by the President of the Senate and three by the Speaker of the House of Representatives. No more than two of the appointed members from each house shall be members of the same political party. From among these six appointed members, the President of the Senate and the Speaker of the House of Representatives jointly shall appoint a chair of the Task Force. Ex-officio nonvoting members of the task force shall include the State Superintendent of Public Instruction, or the Superintendent's designee; the Director of Budget and Management, or the Director's designee; a member

appointed by the head official of the Ohio State School Boards Association; a member appointed by the head official of the Ohio Association of Educational Service Center Superintendents; a member appointed by the head official of the Ohio Education Association; a member appointed by the head official of the Ohio Federation of Teachers; a member appointed by the head official of the Buckeye Association of School Administrators; and two members of the institutions of higher education that have teacher education colleges, one member of which shall be from such a public institution appointed by the Chancellor of the Board of Regents and the other shall be from such a private institution appointed by the head official of the Association of Independent Colleges and Universities of Ohio. The voting members of the task force may appoint, by a majority vote, additional ex-officio nonvoting members to serve on the task force. The Legislative Service Commission and the Legislative Budget Office shall provide staff and services to the task force.

SECTION 50.45. Notwithstanding division (C)(1) of section 3313.975 of the Revised Code, in addition to students in kindergarten through third grade, initial scholarships may be awarded to fourth grade students in fiscal year 1998 and to fourth and fifth grade students in fiscal year 1999.

SECTION 50.46. The Ohio School Facilities Commission is authorized to conduct a pilot project to demonstrate innovative methods in construction management techniques and local control. No later than 60 days after the effective date of this act, the School Facilities Commission shall select a school district suitable for the pilot project. The project will be funded from appropriations for school facilities construction contained in Amended Substitute Senate Bill 102 of the 122nd General Assembly.

SECTION 50.47. Open Enrollment Study

The Legislative Office of Education Oversight shall conduct a study of open enrollment in Ohio. No later than December 31, 1998, the office shall issue a report of the results of the study to all members of the General Assembly.

SECTION 50.48. (A) Notwithstanding section 3319.01 of the Revised Code, the board of education of a local school district may elect not to employ a superintendent if all of the following apply:

(1) The educational service center containing the district was created as of July 1, 1997, under a merger of two educational service centers pursuant to Section 45.32 of Am. Sub. H.B. 117 of the 121st General Assembly, which service centers each contained only one local school district at the time of the merger.

(2) The governing board of the service center requires its superintendent to assume for the district the powers and duties of a local district superintendent, if the other local school district contained in the service center elects to employ a superintendent.

(3) The governing board of the service center requires either its superintendent or an assistant superintendent it employs to assume for the district the powers and duties of a local district superintendent, if the other local school district contained in the educational service center elects not to employ a superintendent.

(B) The governing board of an educational service center described under division (A)(1) of this section may do one of the following:

(1) If one of the local school districts contained in the service center elects not to employ a superintendent, require the service center superintendent to assume for that district the powers and duties of a local district superintendent;

(2) If both local school districts contained in the service center elect not to employ a superintendent, require the service center superintendent to assume for one district the powers and duties of a local district superintendent, and require an assistant superintendent employed by the service center to assume for the other district the powers and duties of a local district superintendent.

SECTION 50.49. Notwithstanding Chapter 3318. of the Revised Code, for purposes of complying with the local share and repayment tax requirements of section 3318.05 of the Revised Code, any school district given conditional approval for classroom facilities assistance under section 3318.04 of the Revised Code as of January 1, 1993, that approved a replacement permanent improvement levy at the November 5, 1996, election shall be permitted to use the proceeds of such levy, and any notes issued or to be issued in anticipation thereof, as available funds, within the meaning specified under section 3318.03 of the Revised Code, to pay the local share of the cost of the approved classroom facilities project. Notwithstanding the local share as previously determined for purposes of the conditional approval of the project, the local share shall be equal to the amount of proceeds to be obtained by the district under such replacement permanent

improvement levy. Such school districts shall not be required to obtain approval of either of the propositions described in divisions (A) or (B) of section 3318.051 of the Revised Code. The agreement required under section 3318.08 of the Revised Code for the construction and sale of the project shall include provisions for the transfer of the proceeds of the replacement permanent improvement levy, and any notes issued in anticipation thereof, to the school district's project construction account, and for the levy of the replacement permanent improvement levy.

SECTION 50.50. Notwithstanding section 3311.054 of the Revised Code, an educational service center created on or before July 1, 1997, under a merger pursuant to Section 45.32 of Am. Sub. H.B. 117 of the 121st General Assembly, which service center's new governing board is to be established in accordance with division (B) of section 3311.054 of the Revised Code, shall elect a new board pursuant to division (C) of that section at the general election to be held on November 4, 1997, provided the service center has complied with divisions (B)(1) and (2) of that section at least seventy-five days before such election.

SECTION 50.51. Temporary Certificates

Notwithstanding sections 3319.01 and 3319.22 of the Revised Code, during each fiscal year, the board of education of any city, local, or exempted village school district may request the State Board of Education to issue a one-year temporary educator license valid for being employed as a superintendent, or in any other administrative position, to a specific individual specified by the district board. The State Board of Education may issue the educator license if the requesting district board has determined both of the following:

(A) The person is of good moral character;

(B) The person holds at least a baccalaureate degree from an accredited institution of higher education in a field related to finance or administration, or has five years of recent work experience in education, management, or administration.

A one-year temporary educator license is valid only in the district whose board requested the license under this section. A person holding such license may be employed as a superintendent or in any other administrative position in such district. The State Board of Education may renew such license annually upon request of the employing district.

SECTION 50.52. Community Schools

The foregoing appropriation item 200-455, Community Schools, shall be paid to the Lucas County Educational Service Center for the Superintendent to use in awarding planning and start-up grants pursuant to this section. Of the foregoing appropriation item 200-455, Community Schools, $150,000 in each fiscal year may be retained by the Lucas County Educational Service Center to pay for additional services and responsibilities under this act, subject to the reporting of actual expenses incurred to the Department of Education.

From the money received each year from appropriation item 200-455, Community Schools, the Superintendent of the Lucas County Educational Service Center shall make grants to community schools. The Superintendent shall make a grant of up to $50,000 to a proposing group with a preliminary agreement obtained under division (B)(4) of Subsection 4 of this section in order to defray planning and initial start-up costs. In the first year of operation of a community school, the Superintendent shall make a grant of no more than $100,000 to the governing authority of the school to partially defray additional start-up costs. The amount of the grant shall be based on a thorough examination of the needs of the community school. The Superintendent shall not utilize money received under this section for any other purpose other than those specified under this section.

The governing authority of a community school established pursuant to this section and the Governing Board of the Lucas County Educational Service Center may enter into an agreement, through the adoption of identical resolutions, under which the Service Center Board will provide services to the community school. Services provided under the agreement and the amount and manner in which the community school board will pay for such services shall be mutually agreed to by the school's governing board and the Service Center Board and shall be specified in the service agreement. No agreement may extend beyond June 30, 2003.

The immediately following sections of law, designated as Subsections 1 through 13, are (a) integral parts of this section and (b) a discrete phase of this act. Within the scope of this section, the subsections are cited and referred to by only their subsection numbers. For any other purposes, however, the subsections may be cited and referred to by stating, first, the number of this section and, then, following a decimal point, the number of the subsection. For example, if this section were numbered "37.05," Subsection 5 of this section would be cited and referred to in the form, "Section 37.05.5 of this act."

Subsection 1. (A) Until June 30, 2003, the definition of "political subdivision" in section 2744.01 of the Revised Code includes a community school established under this section.

(B) Until June 30, 2003, the definition of "employer" in sections 3307.01 and 3309.01 of the Revised Code includes the governing authority of a community school established pursuant to this section, and the definition of "teacher" in section 3307.01 of the Revised Code includes any person employed as a teacher by a community school established pursuant to this section.

(C) Until June 30, 2003, the definition of "public employer" in section 4117.01 of the Revised Code includes the governing authority of a community school established pursuant to this section.

(D) Until June 30, 2003, no agreement entered into under Chapter 4117. of the Revised Code may contain any provision that in any way limits the effect or operation of this section or limits the authority of a school district board of education or governing board of an educational service center to enter into a contract with a community school under this section. However, nothing in this section shall be construed to prohibit an agreement entered into under Chapter 4117. of the Revised Code from containing requirements and procedures governing the reassignment of teachers who are employed in a school at the time it is converted to a community school pursuant to this section and who do not choose or are not chosen to teach in that community school.

(E) Until June 30, 2003, a community school established under this section shall be considered a school district for the purposes of Chapter 3323. of the Revised Code and shall be considered a political subdivision for purposes of section 5111.10 of the Revised Code.

Subsection 2. (A) As used in this section:

(1) "Lucas County area" includes the entire territory of any school district having the majority of its territory in Lucas County.

(2) "Start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (P) of Subsection 5 of this section.

(B) The General Assembly finds that the establishment of independent community schools throughout the state has potential desirable effects, including providing parents a choice of academic environments for their children and providing the education community with the opportunity to establish limited experimental educational programs in a deregulated setting. However, the potential effects of a statewide system of community schools could also generate some adverse results. Therefore, the General Assembly

finds it advisable to establish a pilot project in the Lucas County area which will permit the operation of community schools in a limited area of the state in order to provide for the evaluation and measurement of the effects of these schools.

No more than twenty start-up school contracts may be in effect at any time under this section. The Superintendent of the Lucas County Educational Service Center shall be responsible for ensuring that the twenty start-up schools represent diverse educational missions, are intended to serve a number of different grade levels, and will appeal to students with a variety of interests or characteristics in order to provide for a range of educational experiments within the pilot project schools. Upon entering into a preliminary agreement pursuant to Subsection 4 of this section, the potential sponsor of a community school shall file a copy of the preliminary agreement with the Superintendent of the Lucas County Educational Service Center. Within twenty-four hours of receipt of the preliminary agreement for a start-up school, the Superintendent shall determine whether the proposed school will add to the diversity of the pilot project schools through offering a unique educational mission, serving grade levels of students or students with certain characteristics or interests not yet being served by other community schools, or offering innovative instructional methods. If the school will not add to the diversity of the pilot project schools and would be overserving students of a certain type or grade level, the Superintendent may reject the school's preliminary agreement and shall immediately notify the sponsor and the proposing group or individual. Upon entering into a community school contract, the sponsor shall file a copy of the approved contract with that Superintendent. Within twenty-four hours of the filing of the contract, the Superintendent shall notify the sponsor whether twenty start-up school contracts were already in effect at the time of the filing. If twenty such contracts were in effect, the contract filed by the sponsor shall be voided.

Within twenty-four hours of a request of any person, the Superintendent shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts currently in effect.

(C) No start-up or converted community school shall begin operation under this section after June 30, 2000.

(D) Within ninety days of the effective date of this section, the Director of the Legislative Office of Education Oversight, in consultation with the Superintendent of the Lucas County Educational Service Center, a classroom teacher appointed by the board of the Ohio Education Association, a classroom teacher appointed by the board of the Ohio

Federation of Teachers, and a classroom teacher who is a member of neither of these organizations selected by that Superintendent, shall develop a study design for the evaluation of the pilot project schools and the overall effects of the community school pilot project. The study design shall include the criteria that the Office will use to determine the positive and negative effects of the project overall, and the success or failure of individual community schools. The design shall include a description of the data that must be collected by the Superintendent and by each community school and sponsor and a timeline for the collection of the data. Data shall be collected at regular intervals, but no evaluation of the results of data collected shall be made by the Office prior to June 2001. A preliminary report, together with any recommendations to improve the project, shall be issued to the Speaker of the House of Representatives and the President of the Senate by June 30, 2001. A final report, with recommendations as to the future of community schools in Ohio, shall be made to the Speaker and President by June 1, 2003.

Subsection 3. (A) Any individual or group of individuals may propose the creation of a community school in the Lucas County area pursuant to the provisions of this section. Any board of education in the Lucas County area may permit any of the schools under its control, upon request of a proposing individual or group and provided the individual or group meets the requirements of this section, to become a community school. No nonpublic chartered or nonchartered school in existence on January 1, 1997, is eligible to become a community school under this section.

(B) A community school created under this section is a public school, independent of any school district, and is part of the state's program of education. A community school may sue and be sued, lease facilities as needed, contract for any services necessary for the operation of the school provided no such contract shall extend beyond June 30, 2003, and enter into contracts with a sponsor pursuant to this section. The governing authority of a community school may carry out any act and ensure the performance of any function that is in compliance with the Ohio Constitution, this section, statutes applicable to community schools, and the contract entered into under this section establishing the school.

(C) The Superintendent of the Lucas County Educational Service Center shall provide technical assistance to sponsors and to individuals and groups proposing community schools under this section throughout the planning, application, start-up, and continued operation phases of the pilot project community schools. The Superintendent shall assist sponsoring boards of education and community school governing authorities, their staffs and administrators in obtaining training in their duties and responsibilities. The

Superintendent shall develop and maintain professional relationships in national organizations involving charter schools.

A representative of the Lucas County Educational Service Center knowledgeable about special education and related services shall participate in the development of the individualized education program for any student identified as a handicapped child enrolled in a community school.

Subsection 4. (A) As used in this section, "sponsor" means a school district located in the Lucas County area, the Lucas County Educational Service Center, or the University of Toledo College of Education with which the governing authority of a proposed community school enters into a contract pursuant to this subsection.

(B)(1) Any individual or group of individuals may propose the establishment of a community school to the board of education of the Lucas County area city, local, or exempted village school district in which the community school is proposed to be located. If such city, local, or exempted village board wishes to sponsor the school, the board and the proposing individual or group shall sign a preliminary agreement pursuant to division (B)(4) of this subsection and the board shall enter into negotiations for the contract required by division (C) of this subsection.

If such city, local, or exempted village board does not enter into a preliminary agreement within thirty calendar days of the date on which the initial proposal was made to it by the proposing individual or group, or if the board directly notifies the proposing individual or group at any time that it does not wish to sponsor the community school, the individual or group may instead propose the establishment of a community school to either of the following public entities:

(a) The Governing Board of the Lucas County Educational Service Center;

(b) The governing authority of the University of Toledo College of Education.

Such governing board or authority may enter into a preliminary agreement pursuant to division (B)(4) of this subsection with the proposing person or group.

(2) An employee or group of employees of the Lucas County Educational Service Center may propose the establishment of a community school to the Governing Board of the Center. If the Board wishes to sponsor the school, the Board and any proposing employees shall sign a preliminary agreement pursuant to division (B)(4) of this subsection and the Board shall enter into negotiations for the contract required by division (C) of this subsection.

(3) An employee or group of employees of the University of Toledo College of Education may propose the establishment of a community school to the governing authority of the College. If the authority wishes to sponsor the school, the authority and any proposing employees shall sign a preliminary agreement pursuant to division (B)(4) of this subsection and the authority shall enter into negotiations for the contract required by division (C) of this subsection.

(4) A preliminary agreement indicates the intention of a public entity described in this subsection to sponsor the community school. Unless the Superintendent of the Lucas County Educational Service Center rejects the preliminary agreement pursuant to Subsection 2 of this section, a proposing individual or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the public entity. Provided the proposing individual or group adheres to the preliminary agreement and all provisions of this section, the public entity shall negotiate in good faith to enter into a contract in accordance with division (C) of this subsection.

(5) At any time after the expiration of a sixty-calendar-day period following the signing of a preliminary agreement by a city, local, or exempted village board and a proposing individual or group, the proposing individual or group may cancel the preliminary agreement and may instead propose the establishment of the school to the Lucas County Educational Service Center or the University of Toledo College of Education unless one of the following occurs:

(a) The school district board and the governing authority of the proposed community school mutually agree to and sign a contract meeting the requirements of Subsection 5 of this section;

(b) The school district board and the individual or group proposing the school mutually agree to extend the period for negotiation of a contract meeting the requirements of Subsection 5 of this section.

(C) A majority vote of the appropriate public entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and establish the community school. Except as limited in Subsection 2 of this section, an unlimited number of community schools may be established in any one school district provided that a contract is entered into for each community school pursuant to this section.

(D) Prior to entering into a contract under this section, a potential sponsor shall determine whether the proposed community school consists of a facility and governing board that is substantially the same as the facility and governing board of a nonpublic school in existence on January 1, 1997.

If the potential sponsor determines the facility and board to be substantially the same, it shall not enter into a contract with the governing authority of the school. Upon request of a potential sponsor, the Office of the Secretary of State shall provide any records filed with that office that are relevant to a determination under this subsection. The Secretary of State may charge the potential sponsor a reasonable fee for any information provided under this division.

Subsection 5. Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(A) That the school shall be established as a nonprofit corporation established under Chapter 1702. of the Revised Code;

(B) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(C) Performance standards and assessments by which the success of the school will be evaluated by the sponsor, which shall include the statewide proficiency tests;

(D) The admission standards of Subsection 8 of this section;

(E) Dismissal procedures;

(F) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(G) Requirements and procedures for program and financial audits, including audits by the Auditor of State and the Department of Education. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the Auditor of State.

(H) Facilities to be used, their location, and their method of acquisition;

(I) Qualifications of teachers, including a requirement that the school's classroom teachers be certificated in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(J) That the school will comply with the following requirements:

(1) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(2) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(3) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by

a sectarian school or religious institution;

(4) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0714, 3313.33, 3313.50, 3313.643, 3313.66, 3313.661, 3313.662, 3313.67, 3313.672, 3313.673, 3313.69, 3313.71, 3313.80, 3313.96, 3319.321, 3319.39, 3321.01, 3327.10, 4111.17, and 4113.52 and Chapters 102., 117., 1347., 2744., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district;

(5) The school will comply with sections 3313.61 and 3313.611 of the Revised Code, except that the requirement in those sections that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(6) The school governing authority will submit an annual report of its activities and progress in meeting the goals and standards of division (C) of this subsection and its financial status to the sponsor and to the parents of all students enrolled in the school. The financial statement shall be in such form as shall be prescribed by the Auditor of State.

(K) Arrangements for providing health and other benefits to employees;

(L) The length of the contract, which shall not exceed five years nor extend beyond June 30, 2003;

(M) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract, and a description of the process by which the governing authority will be selected in the future;

(N) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the dollar formula amount specified for the year under section 3317.022 of the Revised Code.

(O)(1) Requirements and procedures regarding the disposition of employees, equipment, materials, supplies, and facilities of the school in the event the contract is terminated or not renewed pursuant to this section;

(2) Provisions to ensure that, if for any reason a school must close prior to June 30, 2003, the school will be kept open for students to attend until the end of the school year in which it is determined that the school must close;

(3) Provisions establishing procedures for resolving disputes or

differences of opinion between the sponsor and the governing authority of the community school.

(P) Whether or not the school is to be created by converting all or part of an existing public school and, if it is, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees.

(Q) Any additional details concerning the management and administration of the school;

(R) If the proposed community school is a currently existing public school, alternative arrangements, approved by the board of education of the school district in which the school is located, for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion.

Subsection 6. Except as otherwise specified in this section and in the contract between a community school and a sponsor, such school is exempt from all state laws and rules pertaining to schools, school districts, and boards of education, except those laws and rules that grant certain rights to parents.

Subsection 7. Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

In the case where a community school is proposed to be located in a facility owned by a school district or the Lucas County Educational Service Center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement to lease the facility to the governing authority of the community school. Such lease may be under any terms and conditions agreed to by the district or service center board and the school.

Subsection 8. The governing authority of each community school established under this chapter shall adopt admission procedures that specify the following:

(A) That except as provided in this subsection, admission to the school shall be open to any individual entitled to attend school in the Lucas County area pursuant to section 3313.64 or 3313.65 of the Revised Code and shall not be open to any student who is not entitled to attend school in the Lucas County area under those sections.

(B) That admission to the school may be limited to students who have attained a specific grade level or are within a specific age group; to students

that meet a definition of "at-risk," as defined in the contract; or to residents of a specific geographic area as defined in the contract.

(C) That there will be no discrimination in the admission of students to the school; and that, upon admission of any handicapped student, the community school will comply with all federal and state laws regarding the education of handicapped students.

(D) That the school may not limit admission to students on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability.

(E) That the community school will admit the number of students that does not exceed the capacity of the school's programs, classes, grade levels, or facilities.

(F) That, except as otherwise provided under division (B) of this subsection, if the number of applicants exceeds the capacity restrictions of division (E) of this subsection, students shall be admitted by lot from all those submitting applications, except preference shall be given to students attending the school the previous year and may be given to siblings of such students.

Notwithstanding divisions (A) through (F) of this subsection, in the event the racial composition of the enrollment of the community school is violative of a federal desegregation order, the community school shall take any and all corrective measures to comply with the desegregation order.

Subsection 9. (A) The expiration of the contract for a community school between a sponsor and a school shall be the date provided in the contract. A successor contract may be entered into unless the contract is terminated or not renewed pursuant to this subsection. However, no contract shall extend beyond June 30, 2003.

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

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

(2) At least sixty days prior to the termination or nonrenewal of a contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail

and that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing.

(3) A decision by a sponsoring board of education or the University of Toledo College of Education to terminate a community school contract may be appealed to the Superintendent of the Lucas County Educational Service Center. A decision by the Lucas County Educational Service Center to terminate a contract of a school it sponsors may be appealed to the State Board of Education. The decision by the Superintendent or the State Board, as applicable, pertaining to an appeal under this division is final.

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

(D) Notwithstanding anything to the contrary in section 2744.02 of the Revised Code, a sponsor of a community school and the officers, directors, or employees of such a sponsor are not liable in damages in a tort or other civil action for harm allegedly arising from either of the following:

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

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

(E) As used in this subsection:

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

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

Subsection 10. (A) As used in this subsection:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to Subsection 5 of this section.

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

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

(4) "Actual cost" means the actual cost of providing special education

and related services to a special education student pursuant to an IEP in the school district where that student is entitled to attend school pursuant to sections 3313.64 and 3313.65 of the Revised Code, as calculated in a manner acceptable to the Superintendent of Public Instruction.

(5) "Basic aid" has the same meaning as in division (A)(1) of section 3317.022 of the Revised Code.

(6) "Guarantee funds" means any payments received by a school district pursuant to section 3317.0212 of the Revised Code.

(7) "Per pupil state funds" for a district means the figure obtained when the sum of the district's total annual basic aid payments plus guarantee funds is divided by the district's ADM as defined in division (A) of section 3317.02 of the Revised Code.

(8) "Entitled to attend school in the district" means a student is entitled to attend school in a district pursuant to the provisions of section 3313.64 or 3313.65 of the Revised Code.

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

(1) The board of education of each city, exempted village, and local school district in the Lucas County area to annually report the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school established under this chapter and for each child, both of the following:

(a) The community school in which the child is enrolled. In addition, for each such child receiving special education and related services in a community school pursuant to an IEP the board shall report the actual cost for such child.

(b) If the district receives disadvantaged pupil impact aid for the child pursuant to section 3317.023 of the Revised Code, the amount received for such child.

(2) The governing authority of each community school established under this section to annually report the number of students enrolled in the school who are not receiving special education and related services pursuant to an IEP, the number of enrolled students who are receiving special education and related services pursuant to an IEP and the number of such students counted in a unit approved by the State Board of Education and funded under division (N) of section 3317.024 of the Revised Code, the community school's base formula amount, and for each student, the city, exempted village, or local school district the student is entitled to attend under section 3313.64 or 3313.65 of the Revised Code.

(C) From the payments made to a city, exempted village, or local school

district under Chapter 3317. and, if necessary, sections 321.14 and 323.156 of the Revised Code, the Department of Education shall annually subtract all of the following:

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under division (B)(1) of this subsection who are enrolled in that community school and are not receiving special education and related services pursuant to an IEP is multiplied by the base formula amount of that community school as adjusted by the school district's cost-of-doing-business factor.

(2) The sum of the actual costs for all district students reported under division (B)(1) of this subsection who are to be receiving special education and related services pursuant to an IEP in their respective community schools, less the sum of the prorated share for each such student of any amounts received from state or federal funds to provide special education and related services to students in the respective community schools. This prorated share of state or federal funds received for each such student shall be determined on the basis of all such funds received by a community school for students receiving similar services, as calculated in a manner acceptable to the Superintendent of Public Instruction.

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

(D) The Department shall annually pay to a community school, or to the Lucas County Educational Service Center on behalf of a start-up school for which the Service Center's Treasurer is the chief financial officer and custodian of its funds pursuant to subsection 12 of this section, all of the following:

(1) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the number of students enrolled in the school as reported under division (B)(2) of this subsection who are not receiving special education and related services pursuant to an IEP is multiplied by the community school's base formula amount, as adjusted by that school district's cost-of-doing-business factor;

(2) For each student enrolled in the school receiving special education

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

(3) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the number of that district's students enrolled in the community school and residing in the district in a family receiving assistance under Title IV-A of the "Social Security Act" is multiplied by the per pupil amount of disadvantaged pupil impact aid that school district receives that year.

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

For purposes of counting students in average daily membership under this division, prior to the first day of classes each year in any community school established under this section, the parent, guardian, or custodian of each student who is enrolled or intends to enroll that year in the community school shall register the student's name and address with the superintendent of the school district in which the student is entitled to attend school. The superintendent shall include all such students in the district's average daily membership as if the students were enrolled during the first full week of October in that school year.

(2) During the first year of operation of a community school under this section, in addition to all other payments made to any school district in which a student enrolled in the community school is entitled to attend school pursuant to Chapter 3317. of the Revised Code, the Department of Education shall pay such school district for each student enrolled in the community school who is otherwise entitled to attend school in the district an amount equal to 50 per cent of the district's per pupil state funds.

(F) A community school may apply to the Department of Education for unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received unit funding as a school district-operated school before it was converted to a

community school shall retain any units awarded to it as a school district-operated school, provided the school continues to meet eligibility standards for the unit.

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

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

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

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

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

(K) For purposes of determining the number of students for which division (D)(3) of this subsection applies in any school year, a community school may submit to the state Department of Human Services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. Upon receipt of a list under this division, the Department of Human Services shall determine, for each school district where one or more students on the list are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the number of students residing in that school district in a family receiving assistance under Title IV-A of the "Social Security Act." The Department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the Department shall report to the state Department of Education the number of

students on the list who reside in each school district in a family receiving assistance under Title IV-A of the "Social Security Act." In complying with this division, the Department of Human Services shall not report to the state Department of Education any personally identifiable information on any student.

Subsection 11. The board of education of the city, local, or exempted village school district in which a community school is located shall provide transportation to students enrolled in the community school within the boundaries of the district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. A school board is not required to provide transportation to a resident student attending a community school outside the district.

Subsection 12. (A) Except as provided in division (B) of this subsection, all money received by a start-up school during the period ending June 30 of the first full fiscal year of its operation shall be placed in the custody of the Treasurer of the Lucas County Educational Service Center, who shall serve during that period as the chief financial officer of the school and shall maintain all funds and accounts of the school. After the first full fiscal year of a start-up school's operation, its governing authority may elect to continue having the Treasurer serve as its chief financial officer and the custodian of its funds, and the Treasurer shall comply with the governing authority's election.

When serving as the chief financial officer for a start-up school, the Treasurer shall disburse money upon receipt of a voucher signed by the chief administrative officer of the school's governing authority, or a designee of that officer. The Treasurer may invest funds of the start-up school in the same manner as the funds of the Service Center are invested, but the Treasurer shall not commingle the funds with any funds of the Lucas County Educational Service Center or any school district.

When serving as the chief financial officer for a start-up school, the Treasurer shall keep all financial records for the start-up school and, upon request, shall provide the start-up school with all financial reports required by the Auditor of State or by the community school contract and this section.

(B) The Treasurer may transfer four per cent of all funds in the Treasurer's custody that were paid to the start-up school by the state pursuant to division (D) of Subsection 10 of this section to the general fund of the Educational Service Center to defray the Treasurer's costs in performing functions required by this subsection.

Subsection 13. (A)(1) The governing authority of any community school established under this section may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract. No employee contract shall extend beyond June 30, 2003.

(2) Except as provided under division (A)(3) of this subsection, employees hired under this subsection may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. No agreement under such chapter shall extend beyond June 30, 2003. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this subsection shall be considered an appropriate unit. As applicable, employment under this subsection is subject to either Chapter 3307. or 3309. of the Revised Code.

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

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

ployees.

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

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the State Employment Relations board as a new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

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

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

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

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

(b) That any employee organization certified as the exclusive

esentative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

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

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

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

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a community school pursuant to division (A)(3) of

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

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

SECTION 51. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK COMMISSION

General Revenue Fund				
GRF	374-100	Personal Services	$ 1,478,205	$ 1,493,738
GRF	374-200	Maintenance	$ 833,608	$ 854,448
GRF	374-300	Equipment	$ 291,150	$ 299,885
GRF	374-401	Statehouse News Bureau	$ 261,038	$ 267,565
GRF	374-404	Telecommunications Operating Subsidy	$ 5,186,691	$ 5,154,000
TOTAL GRF General Revenue Fund			$ 8,050,692	$ 8,069,636
General Services Fund Group				
140	374-601	Fees and Grants	$ 149,972	$ 149,972
463	374-601	Fees and Grants	$ 255,000	$ 240,000
4F3	374-602	Project Equity	$ 1,250,000	$ 1,250,000
TOTAL GSF General Services Fund Group			$ 1,654,972	$ 1,639,972
TOTAL ALL BUDGET FUND GROUPS			$ 9,705,664	$ 9,709,608

Statehouse News Bureau

The foregoing appropriation item 374-401, Statehouse News Bureau, shall be used solely to support the operations of the Ohio Statehouse News Bureau.

Telecommunications Operating Subsidy

The foregoing appropriation item, 374-404, Telecommunications Operating Subsidy, shall be distributed by the Ohio Educational Telecommunications Network Commission to Ohio's qualified public educational television stations, radio reading services, and educational radio stations to support their operations. The funds shall be distributed pursuant to an allocation developed by the Ohio Educational Telecommunications

Network Commission.

SECTION 52. ELC OHIO ELECTIONS COMMISSION

General Revenue Fund					
GRF 051-321	Operating Expenses	$	431,571	$	441,792
TOTAL GRF General Revenue Fund		$	431,571	$	441,792
State Special Revenue Fund Group					
4P2 051-601	Ohio Elections Commission Fund	$	100,000	$	100,000
TOTAL SSR State Special Revenue Fund Group		$	100,000	$	100,000
TOTAL ALL BUDGET FUND GROUPS		$	531,571	$	541,792

SECTION 53. FUN STATE BOARD OF EMBALMERS AND FUNERAL DIRECTORS

General Services Fund Group					
4K9 881-609	Operating	$	443,706	$	452,773
TOTAL GSF General Services Fund Group		$	443,706	$	452,773
TOTAL ALL BUDGET FUND GROUPS		$	443,706	$	452,773

SECTION 54. ERB STATE EMPLOYMENT RELATIONS BOARD

General Revenue Fund					
GRF 125-321	Operating Expenses	$	3,479,365	$	3,548,952
TOTAL GRF General Revenue Fund		$	3,479,365	$	3,548,952
General Services Fund Group					
440 125-601	Transcript and Other	$	18,569	$	19,089
572 125-603	Research and Training	$	48,424	$	49,751
TOTAL GSF General Services Fund Group		$	66,993	$	68,840
TOTAL ALL BUDGET FUND GROUPS		$	3,546,358	$	3,617,792

Transcript and Other

The foregoing appropriation item 125-601, Transcript and Other, shall be used by the State Employment Relations Board for costs associated with providing hearing transcripts, publications and periodicals. Revenues to the Transcript and Other Fund (Fund 440) shall consist of fees charged for transcripts, publications and periodicals. The fees charged for transcripts, publications and periodicals shall be in amounts sufficient to cover expenses associated with producing and providing them.

Research and Training

The foregoing appropriation item 125-603, Research and Training, shall

be used for costs related to planning, organizing and conducting training seminars and for costs associated with compiling clearinghouse data. Revenues to the Research and Training Fund (Fund 572) shall consist of fees received from seminar participants and revenues received from the sale of clearinghouse data.

SECTION 55. BES BUREAU OF EMPLOYMENT SERVICES

General Revenue Fund

GRF	795-404	Migrant Rest Center Operating	$	167,718	$	171,911
GRF	795-406	Workforce Development	$	339,450	$	349,634
GRF	795-407	OBES Operations	$	12,280,000	$	22,780,000
GRF	795-408	Labor Market Projections	$	174,765	$	179,133
GRF	795-410	Women's Programs	$	460,494	$	472,006
GRF	795-411	Customer Service Centers	$	1,004,500	$	1,029,613
GRF	795-412	Prevailing Wage/Min. Wage & Minors	$	2,311,301	$	2,369,084
GRF	795-413	OSHA Match	$	129,721	$	132,964
GRF	795-414	Apprenticeship Council	$	234,548	$	240,281
GRF	795-416	Veterans' Programs	$	70,000	$	70,000
GRF	795-417	Public Employment Risk Reduction Program	$	1,286,887	$	1,319,058
TOTAL GRF General Revenue Fund			$	18,459,384	$	29,113,684

Federal Special Revenue Fund Group

331	795-601	Unemployment Compensation Administration	$	110,977,523	$	110,844,684
365	795-602	Job Training Program	$	92,617,786	$	92,617,786
349	795-614	OSHA Enforcement	$	1,228,422	$	1,314,055
TOTAL FED Federal Special Revenue Fund Group			$	204,823,731	$	204,776,525

State Special Revenue Fund Group

4A9	795-607	Unemployment Compensation Special Administrative Fund	$	15,004,248	$	8,018,000
4G1	795-610	Interagency Programs	$	1,391,000	$	1,488,370
4R3	795-609	Banking Fees	$	550,605	$	566,022
557	795-613	Apprenticeship Council Conference	$	15,000	$	15,000
5A5	795-616	Unemployment Compensation Benefit Automation	$	6,344,736	$	6,522,389
TOTAL SSR State Special Revenue Fund Group			$	23,305,589	$	16,609,781
TOTAL ALL BUDGET FUND GROUPS			$	246,588,704	$	250,499,990

OBES Operations

Of appropriation line item 795-407, OBES Operations, $780,000 in each fiscal year shall be used to re-open and operate the local unemployment insurance and employment services office in the City of Elyria. Of the foregoing appropriation line item, 795-407, $5,500,000 in fiscal year 1999 shall be used to maintain the operation of a local office in

the following cities: Bellefontaine, Bowling Green, Cambridge, Columbus (North), Delaware, Marion, Newark, Parma, Ravenna, Sandusky, Toledo (Downtown), Warren, Washington Court House, and Wooster.

Administration Support Services

The Administrator of Employment Services may assess programs of the bureau for the cost of administration, support, and technical services. Such an assessment shall be based upon a plan submitted to and approved by the Office of Budget and Management by the first day of August of each fiscal year, and shall contain the characteristics of administrative ease and uniform application. A program's payments shall be transferred via intrastate transfer voucher to the Unemployment Compensation Administration Fund (Fund 331).

Employer Surcharge

The surcharge and the interest on the surcharge amounts due for calendar years 1988 and 1989 as required by Am. Sub. H.B. 171 of the 117th General Assembly and Am. Sub. H.B. 111 of the 118th General Assembly shall be assessed, collected, accounted for, and made available to the Administrator of the Bureau of Employment Services in the same manner as are the surcharge and interest amounts pursuant to section 4141.251 of the Revised Code.

Unemployment Compensation Benefit Reserve Fund

Upon certification by the Administrator of the Bureau of Employment Services to the Director of Budget and Management, all cash available in the Unemployment Compensation Benefit Reserve Fund in the state treasury shall be transferred to the fund of the same name held in the custody of the Treasurer of State. The amounts transferred are hereby appropriated.

SECTION 56. ENG STATE BOARD OF ENGINEERS AND SURVEYORS

General Services Fund Group

4K9 892-609	Operating	$ 825,252	$ 843,678
TOTAL GSF General Services Fund Group		$ 825,252	$ 843,678
TOTAL ALL BUDGET FUND GROUPS		$ 825,252	$ 843,678

SECTION 57. EBR ENVIRONMENTAL BOARD OF REVIEW

General Revenue Fund

GRF 172-100	Personal Services	$ 322,583	$ 325,062
GRF 172-200	Maintenance	$ 63,857	$ 65,581
GRF 172-300	Equipment	$ 3,400	$ 2,100
TOTAL GRF General Revenue Fund		$ 389,840	$ 392,743

TOTAL ALL BUDGET FUND GROUPS			$ 389,840	$ 392,743

SECTION 58. EPA ENVIRONMENTAL PROTECTION AGENCY

General Revenue Fund

GRF	716-321	Central Administration	$ 3,688,765	$ 3,780,221
GRF	717-321	Water Quality Planning and Assessment	$ 7,783,614	$ 8,133,514
GRF	718-321	Ground Water	$ 1,035,597	$ 1,098,797
GRF	719-321	Air Pollution Control	$ 2,608,893	$ 2,673,946
GRF	721-321	Public Water System Supervision	$ 2,857,608	$ 2,939,948
GRF	724-321	Pollution Prevention	$ 630,799	$ 630,799
GRF	725-321	Laboratory	$ 1,116,505	$ 1,145,330
GRF	726-321	Corrective Actions	$ 304,462	$ 281,279
GRF	715-501	Local Air Pollution Control	$ 1,398,489	$ 1,437,647
GRF	715-503	Science Advisory Program	$ 500,000	$ 500,000
GRF	715-504	Special Sanitary District Distress Fund	$ 3,000,000	$ 0
TOTAL GRF General Revenue Fund			$ 24,924,732	$ 22,621,481

General Services Fund Group

199	715-602	Laboratory Services	$ 700,000	$ 700,000
4A1	715-640	Sale of Goods and Services	$ 3,148,826	$ 3,148,680
TOTAL GSF General Services Fund Group			$ 3,848,826	$ 3,848,680

Federal Special Revenue Fund Group

3F2	715-630	State Revolving Loan Fund - Operating Expenses	$ 3,733,024	$ 3,821,161
3F3	715-632	PCB Toxics	$ 3,584,637	$ 3,571,485
3F4	715-633	Water Quality Management	$ 934,238	$ 624,238
3F5	715-641	Nonpoint Source Pollution Management	$ 4,339,154	$ 4,197,440
3J1	715-620	Urban Stormwater	$ 461,309	$ 589,109
3J5	715-615	Maumee River	$ 1,183,511	$ 600,734
3K2	715-628	Clean Water Act 106	$ 2,535,049	$ 2,784,249
3K3	715-637	DOE Agreement in Principle	$ 1,932,687	$ 1,988,973
3K4	715-634	DOD Base Realignment/Closure Grant	$ 861,500	$ 861,500
3K6	715-639	Remedial Action Plan	$ 510,493	$ 723,887
3M5	715-652	Haz Mat Transport Uniform Safety	$ 268,745	$ 276,707
3N1	715-655	Pollution Prevention Grants	$ 90,000	$ 90,000
3N4	715-657	DOE Cost Recovery Grants	$ 3,098,920	$ 3,137,675
352	715-611	Wastewater Pollution	$ 349,132	$ 395,000
353	715-612	Public Water Supply	$ 2,308,500	$ 2,308,500
354	715-614	Hazardous Waste Management	$ 4,678,123	$ 4,678,123
356	715-616	Indirect Costs	$ 3,600,000	$ 3,600,000
357	715-619	Air Pollution Control	$ 3,074,005	$ 2,876,047
362	715-605	Underground Injection Control	$ 119,000	$ 119,000
TOTAL FED Federal Special Revenue				

Fund Group			$ 37,662,027	$ 37,243,828
State Special Revenue Fund Group				
4C3	715-647	Central Support Indirect	$ 7,254,006	$ 7,437,442
4D7	715-603	Natural Resources Damage Assessment	$ 86,610	$ 86,610
4G3	715-618	Jennison Wright Cleanup	$ 140,352	$ 140,352
4J0	715-638	Underground Injection Control	$ 321,139	$ 329,488
4K2	715-648	Clean Air	$ 1,863,000	$ 1,863,000
4K3	715-649	Solid Waste	$ 9,960,931	$ 9,037,732
4K4	715-650	Surface Water Protection	$ 6,985,194	$ 6,985,194
4K5	715-651	Drinking Water Protection	$ 4,799,522	$ 3,945,546
4P5	715-654	Cozart Landfill	$ 130,000	$ 130,000
4R5	715-656	Scrap Tire Management	$ 4,255,459	$ 4,243,359
4R9	715-658	Voluntary Action Program	$ 1,345,567	$ 1,269,754
4T3	715-659	Title V Permit Program	$ 11,000,000	$ 10,900,000
4U7	715-660	Construction & Demolition Debris	$ 300,160	$ 300,160
4V8	715-663	Microdot Settlement	$ 40,000	$ 0
500	715-608	Immediate Removal Special Account	$ 591,800	$ 599,639
503	715-621	Hazardous Waste Facility Management	$ 7,580,537	$ 7,901,421
503	715-661	Hazardous Waste Facility Cleanup	$ 3,123,667	$ 3,173,266
503	715-662	Hazardous Waste Facility Board	$ 796,573	$ 810,122
505	715-623	Hazardous Waste Clean-up	$ 18,444,873	$ 17,852,771
6A1	715-645	Environmental Education	$ 2,119,976	$ 2,125,114
602	715-626	Motor Vehicle Inspection and Maintenance	$ 2,301,013	$ 2,390,569
644	715-631	ER Radiological Safety	$ 198,095	$ 190,451
660	715-629	Infectious Wastes Management	$ 179,630	$ 120,480
678	715-635	Air Toxic Release	$ 272,236	$ 290,016
679	715-636	Emergency Planning	$ 1,799,000	$ 1,849,372
676	715-642	Water Pollution Control Loan Administration	$ 0	$ 1,060,000
696	715-643	Air Pollution Control Administration	$ 740,000	$ 750,000
699	715-644	Water Pollution Control Administration	$ 500,000	$ 500,000
TOTAL SSR State Special Revenue Fund Group			$ 87,129,340	$ 86,281,858
TOTAL ALL BUDGET FUND GROUPS			$ 153,564,925	$ 149,995,847

Cash Transfer from Hazardous Waste Funds to Solid Waste Fund

Notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer $882,619 cash from Fund 503, Hazardous Waste Facility Management and $882,619 from Fund 505, Hazardous Waste Clean-up, to Fund 4K3, Solid Waste.

Special Sanitary District Distress Fund

Of the foregoing appropriation item, GRF 715-504, Special Sanitary District Distress Fund, $3,000,000 in fiscal year 1998 shall be used exclusively to abate or correct unsanitary conditions in a special sanitary district created under section 1541.21 of the Revised Code concerning which the Director of Environmental Protection has issued proposed Administrative Orders prior to April 1994, but has not issued Final Administrative Orders. The Special Sanitary District Distress Fund shall be abolished on June 30, 1999, or whenever the balance in the fund is $0, whichever occurs earlier.

Area-Wide Planning Agencies

Of the foregoing appropriation item, GRF 717-321, Water Quality Planning and Assessment, $450,000 in fiscal year 1998 and $450,000 in fiscal year 1999 shall be divided evenly between the following six area-wide planning agencies: Eastgate Development and Transportation Agency, Toledo Metropolitan Area Council of Governments, Northeast Ohio Four County Regional Planning and Development Organization, Northeast Ohio Areawide Coordinating Agency, Ohio-Kentucky-Indiana Regional Council of Governments, and Miami Valley Regional Planning Commission.

Hazardous Waste Study Committee

The Director of Environmental Protection shall review the funding needs and program activities of the Division of Hazardous Waste Management and the Division of Emergency and Remedial Response and present that information to an advisory committee established by the Director. The committee shall be composed of three representatives of the Environmental Protection Agency, two representatives of permitted hazardous waste facilities, two representatives of industry involved in emergency and remedial response, and two representatives of state-wide environmental advocacy organizations. The committee shall make recommendations to the Director regarding funding needs and program activities. The Director shall report the committee's recommendations to the Speaker of the House of Representatives and the President of the Senate not later than October 1, 1998.

Scrap Tire Program

Of the foregoing appropriation item Fund 4R5, 715-656 Scrap Tire Management, $400,000 in fiscal year 1998 and $400,000 in fiscal year 1999 shall be used to fund a tire development and reprocessing project.

Harrison County Garage Environmental Assessment

Of the foregoing appropriation item GRF 726-321, Corrective Actions, $30,000 in fiscal year 1998 shall be used to fund the Harrison County Garage environmental assessment.

SECTION 59. ETH OHIO ETHICS COMMISSION

General Revenue Fund

GRF	146-100	Personal Services	$ 974,594	$ 999,737
GRF	146-200	Maintenance	$ 201,828	$ 213,358
GRF	146-300	Equipment	$ 19,855	$ 20,419
TOTAL GRF General Revenue Fund			$ 1,196,277	$ 1,233,514

General Services Fund Group

4M6	146-601	Ohio Ethics Commission Fund	$ 305,466	$ 313,335
TOTAL GSF General Services Fund Group			$ 305,466	$ 313,335
TOTAL ALL BUDGET FUND GROUPS			$ 1,501,743	$ 1,546,849

SECTION 60. EXP OHIO EXPOSITIONS COMMISSION

General Revenue Fund

GRF	723-403	Junior Fair Subsidy	$ 351,575	$ 360,364
TOTAL GRF General Revenue Fund			$ 351,575	$ 360,364

State Special Revenue Fund Group

506	723-601	Operating Expenses	$ 13,681,316	$ 14,156,858
4N2	723-602	Ohio State Fair Harness Racing	$ 462,600	$ 475,553
TOTAL SSR State Special Revenue Fund Group			$ 14,143,916	$ 14,632,411
TOTAL ALL BUDGET FUND GROUPS			$ 14,495,491	$ 14,992,775

SECTION 61. GOV OFFICE OF THE GOVERNOR

General Revenue Fund

GRF	040-321	Operating Expenses	$ 3,881,928	$ 3,978,976
GRF	040-400	Office of the Lt. Governor	$ 445,549	$ 456,688
GRF	040-403	National Governors Conference	$ 166,831	$ 171,002
GRF	040-408	Office of Veterans' Affairs	$ 251,320	$ 257,603
TOTAL GRF General Revenue Fund			$ 4,745,628	$ 4,864,269

General Services Fund Group

412	040-607	Notary Commission	$ 148,289	$ 152,175
TOTAL GSF General Services Fund Group			$ 148,289	$ 152,175
TOTAL ALL BUDGET FUND GROUPS			$ 4,893,917	$ 5,016,444

Appointment of Legal Counsel for the Governor

The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.

SECTION 62. DOH DEPARTMENT OF HEALTH

General Revenue Fund

GRF	440-402	Osteoporosis Awareness	$	100,000	$	100,000
GRF	440-406	Hemophilia Services	$	1,283,430	$	1,319,641
GRF	440-407	Encephalitis Control Project	$	231,338	$	239,622
GRF	440-412	Cancer Incidence Surveillance System	$	257,918	$	264,366
GRF	440-413	Ohio Health Care Data System	$	2,845,466	$	2,916,602
GRF	440-416	Child and Family Health Services	$	9,624,602	$	9,790,167
GRF	440-418	Immunizations	$	6,954,191	$	7,209,773
GRF	440-426	Medicare Balance Billing	$	117,638	$	119,526
GRF	440-430	Adult Care Facilities	$	1,632,366	$	1,636,820
GRF	440-439	Nursing Home Survey and Certification	$	3,251,423	$	3,327,564
GRF	440-444	AIDS Prevention/AZT	$	6,390,820	$	7,371,466
GRF	440-445	Nurse Aide Program	$	649,901	$	666,149
GRF	440-451	Prevention	$	5,055,488	$	4,916,583
GRF	440-452	Child and Family Health Care Operations	$	1,209,653	$	983,644
GRF	440-453	Quality Assurance	$	6,752,095	$	5,724,528
GRF	440-457	Services to State Employees	$	126,125	$	129,275
GRF	440-458	Health Care Policy and Regulation	$	2,208,213	$	2,263,418
GRF	440-459	Ohio Early Start	$	6,150,000	$	6,150,000
GRF	440-461	Vital Statistics	$	3,861,540	$	3,701,829
GRF	440-501	Local Health Districts	$	3,968,688	$	3,968,688
GRF	440-504	Poison Control Network	$	451,925	$	456,973
GRF	440-505	Medically Handicapped Children	$	12,287,287	$	12,594,469
GRF	440-506	Tuberculosis	$	200,000	$	200,000
GRF	440-507	Cystic Fibrosis	$	661,586	$	678,126
GRF	440-508	Migrant Health	$	123,000	$	126,075
GRF	440-509	Health Services Agencies	$	619,000	$	619,000
GRF	440-510	Arthritis Care	$	316,367	$	324,276
TOTAL GRF General Revenue Fund			$	77,330,060	$	77,798,580

General Services Fund Group

142	440-618	General Operations	$	2,512,567	$	2,647,874
211	440-613	Central Support Indirect Costs	$	22,349,069	$	22,783,043
473	440-622	Lab Handling Fee	$	3,465,708	$	3,555,987
683	440-633	Employee Assistance Program	$	787,517	$	815,360
698	440-634	Nurse Aide Training	$	143,157	$	147,165
TOTAL GSF General Services Fund Group			$	29,258,018	$	29,949,429

Federal Special Revenue Fund Group

320	440-601	Maternal Child Health Block Grant	$	29,270,343	$	30,031,356
387	440-602	Preventive Health Services Block Grant	$	9,846,953	$	10,108,752

389	440-604	Women, Infants and Children	$ 177,016,356	$ 181,972,815
391	440-606	Medicaid/Medicare	$ 17,814,581	$ 18,000,201
392	440-618	General Operations	$ 53,388,938	$ 55,669,989
TOTAL FED Federal Special Revenue Fund Group			$ 287,337,171	$ 295,783,113
State Special Revenue Fund Group				
4D6	440-608	Genetics Services	$ 2,225,139	$ 2,280,767
4F9	440-610	Sickle Cell Disease Control	$ 800,000	$ 818,750
4L3	440-609	Non-Governmental Revenue	$ 1,082,326	$ 976,739
4T4	440-603	Child Highway Safety	$ 194,000	$ 199,432
470	440-618	General Operations	$ 7,796,683	$ 7,933,054
471	440-619	Certificate of Need	$ 400,000	$ 0
477	440-627	Medically Handicapped Children Audit	$ 2,400,000	$ 2,460,000
5B5	440-616	Quality, Monitoring, and Inspection	$ 0	$ 1,048,966
5D6	440-620	Second Chance Trust	$ 100,000	$ 100,000
5E1	440-624	Health Services	$ 6,700,000	$ 8,100,000
610	440-626	Radiation Emergency Response	$ 810,366	$ 831,588
666	440-607	Medically Handicapped Children-County Assessments	$ 14,000,000	$ 14,350,000
TOTAL SSR State Special Revenue Fund Group			$ 36,508,514	$ 39,099,296
Holding Account Redistribution Fund Group				
R14	440-631	Vital Statistics	$ 66,820	$ 66,820
R23	440-630	Board of Examiners of Nursing Home Administrators	$ 2,100	$ 2,100
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	$ 10,000	$ 10,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 78,920	$ 78,920
TOTAL ALL BUDGET FUND GROUPS			$ 430,512,683	$ 442,709,338

SECTION 62.01. Child and Family Health Services

Of the foregoing appropriation item 440-416, Child and Family Health Services, $1,300,000 in each fiscal year shall be used for family planning services. None of the funds received through these family planning grants shall be used to provide abortion services. None of the funds received through these family planning grants shall be used for referrals for abortion, except in the case of a medical emergency. These funds shall be distributed on the basis of the relative need in the community served by the Director of Health to family planning programs, which shall include family planning programs funded under Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and Title X of the "Public Health Services Act," 58 Stat. 682 (1946), 42 U.S.C.A. 201, as amended, as well as to other family planning programs which the Department of Health also

determines will provide services that do not include referrals for abortion, other than in the case of medical emergency, with state funds, but that otherwise substantially comply with the quality standards for such programs under Title V and Title X.

The Director of Health shall, by regulation, provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $25,000 in fiscal year 1998 shall be used by the Preble County Commission to conduct a study to determine if a Wellness Center should be established in Preble County. Any unused funds shall be credited to appropriation item 440-416, Child and Family Health Services.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $47,000 in fiscal year 1998 shall be used by the Monroe County Health Planning Council.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $150,000 in each fiscal year shall be used to provide malpractice insurance for physicians and other health professionals providing prenatal services in programs funded by the Ohio Department of Health.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $650,000 in each fiscal year shall be used for the Help Me Grow program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $200,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $25,000 shall be used by the Carroll County Health Department.

Of the foregoing appropriation item 440-416, Child and Family Health Services, $50,000 in each fiscal year shall be used by the Cuyahoga County Health Department for the development of a Pulmonary Hemosiderosis Prevention Program.

Prevention

Of the foregoing appropriation item 440-451, Prevention, $100,000 shall be used in each fiscal year for rape prevention programs.

Of the foregoing appropriation item 440-451, Prevention, $54,500 in fiscal year 1998 and $49,820 in fiscal year 1999 shall be used by the Miami Valley Youth Health Improvement Coalition to prevent youths from cigarette or marijuana use and from alcohol consumption. These funds shall be made available for use in the following counties: Champaign, Clark,

Darke, Greene, Miami, Montgomery, Preble, and Shelby.

Hemophilia AIDS Prevention

Of the foregoing appropriation, 440-406, Hemophilia Services, $235,000 in fiscal year 1998 and $245,000 in fiscal year 1999 shall be used by the Ohio Department of Health to provide grants to the nine hemophilia treatment centers to provide prevention services for persons with hemophilia and their family members affected by AIDS and other bloodborne pathogens.

HIV/AIDS Prevention/Protease Inhibitors

Of the foregoing appropriation item 440-444, AIDS Prevention/AZT, $3.0 million in fiscal year 1998 and $3.9 million in fiscal year 1999 shall be used to assist persons with HIV/AIDS in acquiring protease inhibitor drugs.

Hemophilia Insurance Pilot Project

Of the foregoing appropriation item 440-406, Hemophilia Services, $205,000 in each fiscal year shall be used to implement the Hemophilia Insurance Pilot Project.

Maternal Child Health Block Grant

Of the foregoing appropriation item 440-601, Maternal Child Health Block Grant (Fund 320), $2,091,299 shall be used in each fiscal year for the purposes of abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. Such guidelines shall be pursuant to Title V of the "Social Security Act," 42 U.S.C.A. 510 and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Medically Handicapped Children Audit

The Medically Handicapped Children Audit Fund (Fund 477) shall receive revenue from audits of hospitals and recoveries from third-party payors. Funds may be expended for payment of audit settlements and for costs directly related to obtaining recoveries from third-party payors and for encouraging Program for Medically Handicapped Children recipients to apply for third-party benefits. Funds also may be expended for payments for diagnostic and treatment services on behalf of medically handicapped children, as defined in division (A) of section 3701.022 of the Revised Code, Ohio residents who are twenty-one or more years of age and who are suffering from cystic fibrosis.

Medically Handicapped Children - County Assessments

The foregoing appropriation item, 440-607, Medically Handicapped Children - County Assessments, shall be used to make payments pursuant to division (E) of section 3701.023 of the Revised Code.

Sickle Cell Fund

The foregoing State Special Revenue Fund Group appropriation item 440-610, Sickle Cell Disease Control (Fund 4F9), shall be used by the Department of Health to administer programs authorized by section 3701.131 of the Revised Code. The source of the funds is as specified in section 3701.23 of the Revised Code.

Cancer Registry System

The foregoing appropriation item 440-412, Cancer Incidence Surveillance System, shall be used to establish and maintain a cancer registry system within the Department of Health pursuant to sections 3701.261 to 3701.263 of the Revised Code. In each fiscal year of the biennium, $50,000 of line item 440-412 shall be used as an operating subsidy for the Cleveland Cancer Data Systems.

Genetics Services

The foregoing State Special Revenue Fund Group appropriation item 440-608, Genetics Services (Fund 4D6), shall be used by the Department of Health to administer programs authorized by sections 3701.501 and 3701.502 of the Revised Code.

Sudden Infant Death Syndrome

A portion of the foregoing appropriation item 440-601, Maternal and Child Health Block Grant (Fund 320), shall be used to ensure that current information on sudden infant death syndrome is available for distribution by local health districts.

Poison Control Network

Of the foregoing appropriation, 440-504, Poison Control Network, all available funds in each fiscal year shall be used by the Ohio Department of Health for grants to the consolidated Ohio Poison Control Center to provide poison control services to Ohio citizens.

Of the foregoing appropriation item 440-504, Poison Control Network, $250,000 in fiscal year 1998 and $250,000 in fiscal year 1999 shall be used to consolidate the poison control centers in Ohio in a single location in Hamilton County.

Tuberculosis

The foregoing appropriation item 440-506, Tuberculosis, shall be used to make payments to counties pursuant to section 339.43 of the Revised Code.

Child and Family Health Services ISTV

The Director of Budget and Management shall transfer cash from Fund 3P8, Disproportionate Share, to the Department of Health Fund 5E1, Health Services, in an amount of $14,800,000. This amount shall be used for the

following purposes: $4,900,000 shall be used in fiscal years 1998 and 1999 for rabies prevention; $1,000,000 in each fiscal year shall be disbursed to the local Child and Family Health Services Clinics to provide services to uninsured low-income persons; $1,500,000 in each fiscal year to Federally Qualified Health Centers and federally designated look-alikes to provide services to uninsured low-income persons; $1,000,000 in each fiscal year shall be used for the diagnosis and treatment of sexually transmitted diseases; and $700,000 in each fiscal year for family planning services. None of the funds received through family planning grants under appropriation item 440-624, Health Services (Fund 5E1), shall be used to provide abortion services. None of the funds received through family planning grants under appropriation item 440-624, Health Services (Fund 5E1), shall be used for referrals for abortion, except in the case of a medical emergency. These funds shall be distributed on the basis of the relative need in the community served by the Director of Health to family planning programs, which shall include family planning programs funded under Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and Title X of the "Public Health Services Act," 58 Stat. 682 (1946), 42 U.S.C.A. 201, as amended, as well as to other family planning programs which the Department of Health also determines will provide services that do not include referrals for abortion, other than in the case of medical emergency, with state funds, but that otherwise substantially comply with the quality standards for such programs under Title V and Title X.

The Director of Health shall, by regulation, provide reasonable methods by which a grantee wishing to be eligible for federal funding may comply with these requirements for state funding without losing its eligibility for federal funding. The Director of Health shall adopt rules for the use of these funds by September 30, 1997.

The Director of Health shall require recipients of these funds to acknowledge that Fund 5E1, Health Services, does not have a revenue source beyond this biennium and that there is no assurance that funding for these initiatives will continue in the next biennium.

Public Health

Of the foregoing appropriation item 440-624, Health Services, $500,000 in fiscal year 1998 and $1,000,000 in fiscal year 1999 shall be transferred to the Ohio State University College of Medicine and Public Health. The funds shall support the development of statewide public health initiatives that are consistent with the "Ohio Public Health Plan: Strategies to Implement the Five Point Plan," including the development of data collection mechanisms

and data processes to track and evaluate public health programs and outcomes. The College of Medicine and Public Health shall work in collaboration with the Department of Health and the local departments of health to provide consultative program development and design services in health behavior, health promotion, epidemiology, biometrics, health services and management, and environmental health sciences. Measurable outcome-based initiatives shall be developed in a minimum of the following areas: childhood immunizations; emerging infectious diseases; women's health issues; the prevention of teenage pregnancy; improved outcomes of pregnancy; and the value of nutritional education and dietary modification as a strategy for the prevention of heart disease and cancer.

The Director of Health shall require The Ohio State University College of Medicine and Public Health to acknowledge that Fund 5E1, Health Services, does not have a revenue source beyond this biennium and that there is no assurance that funding for these initiatives will continue in the next biennium.

AIDS Drug Reimbursement Program

Of the foregoing appropriation item 440-444, AIDS Prevention/AZT, $124,500 in fiscal years 1998 and 1999 shall be used for the AIDS Drug Reimbursement Program and section 3701.241 of the Revised Code and Title XXVI of the "Public Health Services Act," 104 Stat. 576 (1990), 42 U.S.C.A. 2601, as amended. The Department of Health is authorized to promulgate rules pursuant to section 111.15 and Chapter 119. of the Revised Code as necessary for the administration of the program.

Ohio Early Start Program

The foregoing appropriation item 440-459, Ohio Early Start, shall be used to provide services to children under age three who are at risk of developmental delay or child abuse and neglect. Funds shall be allocated with the approval of the Family and Children First Cabinet Council and pursuant to rules adopted in accordance with Chapter 119. of the Revised Code.

Ohio Health Care Data System

Of the foregoing appropriation item, 440-413, Ohio Health Care Data System, the Director of Health may distribute up to $450,000 in each fiscal year to the Ohio Corporation for Health Information to expand the electronic data interchange effort and for special projects.

Transfer of Laboratory Services

The Director of Health shall contract with The Ohio State University to perform the state laboratory testing, analytical duties and any other related functions currently performed by the Bureau of Laboratories at the

ent of Health.

Osteoporosis Awareness Program

Grants from pharmaceutical companies, and others, that are credited to appropriation item 440-609, Non-Governmental Revenue (Fund 4L3), for the purpose of osteoporosis awareness and appropriations in line item 440-402, Osteoporosis Awareness, are to be used by the Office of Women's Health Initiatives to implement an Osteoporosis Awareness Program.

SECTION 62.02. Study of Health Services Agencies

(A) There is hereby created a study committee to perform an examination of the roles and functions of health service agencies, as specified in section 3702.58 of the Revised Code. The committee shall consider the value of health service agencies by examining whether other entities duplicate the roles held and the functions performed by health service agencies.

Not later than June 30, 1998, the study committee shall complete its examination and submit a report to the Speaker of the House of Representatives, Minority Leader of the House of Representatives, President of the Senate, and Minority Leader of the Senate. On submission of its report, the committee shall cease to exist.

(B) The membership of the study committee shall include the chair of the House of Representatives Health, Retirement, and Aging Committee, the chair of the Senate Health Committee, the ranking minority members of each of those committees, and the following individuals appointed jointly by the Speaker of the House of Representatives and the President of the Senate:

(1) Two representatives of health service agencies;

(2) One representative of the Department of Health;

(3) One representative of the Department of Human Services;

(4) One representative of OHA: The Association for Hospitals and Health Systems;

(5) One representative of the Ohio Public Health Association;

(6) One representative of the Association of Ohio Health commissioners.

(C) The two members who are chairs of legislative committees shall serve as co-chairpersons of the study committee. The study committee shall meet at the call of the co-chairpersons.

(D) The members of the study committee shall serve without reimbursement, except to the extent that serving on the committee is considered a part of their regular duties of employment.

SECTION 63. HEF HIGHER EDUCATION FACILITIES COMMISSION

State Special Revenue Fund Group					
461	372-601	Operating Expenses	$ 12,000	$	12,000
TOTAL AGY Agency Fund Group			$ 12,000	$	12,000
TOTAL ALL BUDGET FUND GROUPS			$ 12,000	$	12,000

SECTION 64. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS

General Revenue Fund					
GRF	148-100	Personal Services	$ 162,548	$	165,910
GRF	148-200	Maintenance	$ 36,500	$	37,800
GRF	148-300	Equipment	$ 2,700	$	0
TOTAL GRF General Revenue Fund			$ 201,748	$	203,710
General Services Fund Group					
601	148-602	Gifts and Miscellaneous	$ 7,709	$	7,925
TOTAL GSF General Services Fund Group			$ 7,709	$	7,925
TOTAL ALL BUDGET FUND GROUPS			$ 209,457	$	211,635

SECTION 65. OHS OHIO HISTORICAL SOCIETY

General Revenue Fund					
GRF	360-501	Operating Subsidy	$ 3,806,782	$	3,901,952
GRF	360-502	Site Operations	$ 6,943,246	$	7,288,749
GRF	360-503	Ohio Bicentennial Commission	$ 500,000	$	500,000
GRF	360-504	Ohio Preservation Office	$ 342,627	$	349,193
GRF	360-505	Afro-American Museum	$ 1,097,300	$	1,122,233
GRF	360-506	Hayes Presidential Center	$ 735,000	$	757,050
GRF	360-508	Historical Grants	$ 1,240,000	$	625,000
TOTAL GRF General Revenue Fund			$ 14,664,955	$	14,544,177
TOTAL ALL BUDGET FUND GROUPS			$ 14,664,955	$	14,544,177

SECTION 65.01. Subsidy Appropriation

Upon approval by the Director of Budget and Management, the foregoing appropriation items shall be released to the Ohio Historical Society in quarterly amounts that in total do not exceed the annual appropriations. The funds and fiscal records of the Society for fiscal years 1998 and 1999 shall be examined by independent Certified Public Accountants approved by the Auditor of State, and a copy of the audited financial statements shall be filed with the Office of Budget and Management and the Controlling Board. The Society shall prepare and submit to the Office of Budget and Management the following:

(A) An estimated operating budget for each fiscal year of the biennium. The operating budget shall be submitted at or near the beginning of each year.

(B) Financial reports, indicating actual receipts and expenditures for the fiscal year to date. These reports shall be filed at least semiannually during the fiscal biennium.

The foregoing appropriations shall be considered to be the contractual consideration in accordance with section 149.30 of the Revised Code.

Governor's Portrait

A portion of the foregoing appropriation 360-501, Operating Subsidy, shall be used for a portrait of the sitting governor to be displayed in the Statehouse.

Ohio History Day

No less than $30,000, from all sources, shall be spent by the Ohio Historical Society in each fiscal year to support the programs associated with Ohio History Day.

Historical Grants

Of the foregoing appropriation item 360-508, Historical Grants, $10,000 in fiscal year 1998 shall go to the Chesterland Historical Society in Geauga County for improvement of the historical village, $150,000 in fiscal year 1998 shall go to the Noble County Historical Society to be used for the renovation of the county jail, $20,000 shall go to Zoar Town Hall, $100,000 in fiscal year 1998 shall go to the Big Walnut Historical Society for improvements to the Hopkins House, and $30,000 in fiscal year 1998 shall go to the Geauga Historical Society.

Of the foregoing appropriation item 360-508, Historical Grants, $25,000 in each fiscal year shall go to Thurber House; $50,000 in each fiscal year shall go to the Ohio Ceramic Pottery Museum Association in Crooksville; $15,000 in fiscal year 1998 shall go to the Belmont County Museum; and $500,000 per year shall go to the Western Reserve Historical Society, $250,000 of which shall be used for the Crawford Auto Museum and $250,000 of which shall be used for maintenance of the home of President Garfield, and for the Hale Farm and Education Center.

Of the foregoing appropriation item 360-508, Historical Grants, $5,000 in fiscal year 1998 shall go to the Waynesville Bicentennial Commission; $10,000 shall go to the Franklinton Historical Society; $50,000 in fiscal year 1999 shall go to the Fairfield County Bicentennial Commission; $25,000 in fiscal year 1998 shall go to the Fremont Sesquicentennial; and $100,000 in fiscal year 1998 shall go to the Newark Bicentennial Commission.

Of the foregoing appropriation item 360-508, Historical Grants,

$200,000 in fiscal year 1998 shall be used to stabilize Bieber Mill on the Olentangy River.

Afro-American Museum

Of the foregoing appropriation item 360-505, Afro-American Museum, $100,000 in each fiscal year shall go to the Zion Church Satellite Museum.

National Museum of Afro-American History and Culture Planning Committee

The Governor shall appoint to the National Museum of Afro-American History and Culture Planning Committee the four members appointed from the public at large to their initial terms in accordance with division (A)(1) of section 149.303 of the Revised Code, as amended by this act, not later than January 15, 1998, to terms beginning on February 1, 1998. One of the initial appointees shall serve a term of one year, one shall serve a term of two years, one shall serve a term of three years, and one shall serve a term of four years. Thereafter, members appointed from the public at large shall serve a term of four years in accordance with section 149.303 of the Revised Code, as amended by this act. Any member serving on the Committee on February 1, 1998, whose appointment to the Committee is not abolished by the amendment of section 149.303 of the Revised Code in this act shall continue to serve on the Committee until the expiration of that member's term.

Hayes Presidential Center

If a United States government agency, including but not limited to the National Park Service, chooses to take over the operations and/or maintenance of the Hayes Presidential Center, in whole or in part, the Ohio Historical Society shall make arrangements with the National Park Service or other United States government agency for the efficient transfer of operations and/or maintenance.

Ohio Historical Society Review Committee

(A) There is hereby created the Ohio Historical Society Review Committee consisting of seven members. The Governor, the Speaker of the House of Representatives, the President of the Senate, and the minority leaders of the House and the Senate shall each appoint one member. The President of the Ohio Historical Society Board of Trustees, and another member of the Ohio Historical Society Board shall also be members.

(1) All members shall serve without compensation.

(2) Four members shall constitute a quorum.

(3) The review committee shall meet at least once per month.

(4) The society's members shall include one representative who is elected by the society and one who is appointed by the Governor.

(5) The review committee shall select a chairperson from among its members.

(B) The task of the review committee shall include, but is not limited to, the formulation of financial alternatives concerning future funding needs, a review of the appropriateness of the statutory duties of the Society, and a review of the financial and governance relationship between the state and the Ohio Historical Society.

(C) The review committee shall make recommendations to the Governor, the House of Representatives, the Senate, and the Ohio Historical Society by July 1, 1998, at which time the committee shall be terminated.

(D) The review committee may enter into professional services contracts to assist with their review. Such expenses, and other expenses related to the activities of the review committee shall be paid from the foregoing appropriation line item 360-501, Operating Subsidy. No more than $50,000 in fiscal year 1998 shall be used for these purposes.

SECTION 66. REP OHIO HOUSE OF REPRESENTATIVES

General Revenue Fund

GRF	025-321	Operating Expenses	$	17,740,070	$ 18,006,171
TOTAL GRF General Revenue Fund			$	17,740,070	$ 18,006,171

General Services Fund Group

103	025-601	House Reimbursement	$	1,100,000	$ 1,250,000
4A4	025-602	Miscellaneous Sales	$	31,000	$ 33,000
TOTAL GSF General Services Fund Group			$	1,131,000	$ 1,283,000
TOTAL ALL BUDGET FUND GROUPS			$	18,871,070	$ 19,289,171

SECTION 67. HUM DEPARTMENT OF HUMAN SERVICES

General Revenue Fund

GRF	400-100	Personal Services		
		State	$ 24,887,655	$ 24,203,384
		Federal	$ 25,903,478	$ 25,191,277
		Personal Services Total	$ 50,791,133	$ 49,394,661
GRF	400-200	Maintenance		
		State	$ 12,713,144	$ 12,364,947
		Federal	$ 13,232,047	$ 12,869,639
		Maintenance Total	$ 25,945,191	$ 25,234,586
GRF	400-300	Equipment		
		State	$ 509,837	$ 393,239
		Federal	$ 530,646	$ 409,290
		Equipment Total	$ 1,040,483	$ 802,529
GRF	400-402	Electronic Benefits Transfer (EBT)		
		State	$ 1,246,689	$ 3,352,293
		Federal	$ 1,246,690	$ 3,352,293

		EBT Total	$	2,493,379	$	6,704,586
GRF	400-405	Family Violence Prevention Programs	$	837,396	$	837,396
GRF	400-408	Child & Family Services Activities	$	6,215,200	$	8,485,200
GRF	400-409	Wellness Block Grant	$	11,260,943	$	14,780,943
GRF	400-410	TANF State	$	275,961,220	$	273,359,220
GRF	400-411	TANF Federal Block Grant	$	652,968,000	$	652,968,000
GRF	400-413	Day Care Match/Maint. of Effort	$	76,417,731	$	76,454,291
GRF	400-416	Computer Projects				
		State	$	44,909,572	$	46,070,675
		Federal	$	45,090,428	$	48,929,325
		Computer Projects Total	$	90,000,000	$	95,000,000
GRF	400-420	Child Support Administration	$	3,947,873	$	5,454,789
GRF	400-502	Child Support Match	$	20,832,779	$	20,832,779
GRF	400-504	Non-TANF County Administration	$	63,874,136	$	63,874,136
GRF	400-511	Disability Assistance	$	63,850,000	$	67,500,000
GRF	400-512	Non-TANF Emergency Assistance	$	3,500,000	$	3,500,000
GRF	400-522	Burial Claims	$	1,957,580	$	1,957,580
GRF	400-525	Health Care/Medicaid				
		State	$	2,153,036,174	$	2,313,019,471
		Federal	$	3,011,154,330	$	3,148,279,721
		Health Care Total	$	5,164,190,504	$	5,461,299,192
GRF	400-527	Child Protective Services	$	42,869,323	$	46,298,869
GRF	400-528	Adoption Services				
		State	$	27,087,542	$	28,696,379
		Federal	$	22,432,645	$	24,248,969
		Adoption Services - Total	$	49,520,187	$	52,945,348
GRF	400-534	Adult Protective Services	$	3,022,000	$	3,022,000
GRF	400-552	County Social Services	$	12,446,274	$	12,446,274
TOTAL GRF General Revenue Fund						
		State	$	2,851,383,068	$	3,026,903,865
		Federal	$	3,772,558,264	$	3,916,248,514
		GRF Total	$	6,623,941,332	$	6,943,152,379
General Services Fund Group						
4A8	400-658	Child Support Collections	$	53,043,094	$	55,633,397
4R4	400-665	BCII	$	107,120	$	107,120
5C9	400-671	Medicaid Program Support	$	12,632,287	$	40,947,522
5C9	400-672	Medicaid Services	$	50,262,934	$	51,073,042
613	400-645	Training Activities	$	75,000	$	75,000
TOTAL GSF General Services Fund Group			$	116,120,435	$	147,836,081
Federal Special Revenue Fund Group						
3A1	400-640	Income Maintenance Reimbursement	$	36,655,982	$	36,655,982
3A2	400-641	Emergency Food Distribution	$	1,785,443	$	1,785,443
3D3	400-648	Children's Trust Fund Federal	$	1,784,158	$	1,475,393
3F0	400-650	Hospital Care Assurance Assessment Match Fund	$	340,218,986	$	340,218,986
3F0	400-663	ICF-MR Assessment Match	$	12,452,221	$	12,765,685

		Fund		
3F0	400-664	NF Assessment Match Fund	$ 13,011,474	$ 12,965,673
3G5	400-655	Interagency Reimbursement	$ 724,067,680	$ 769,631,787
3G9	400-657	Special Activities Family Assistance	$ 312,039	$ 312,039
3H7	400-617	Day Care Federal	$ 146,405,354	$ 136,021,680
316	400-602	State and Local Training	$ 6,247,400	$ 6,247,400
327	400-606	Child Welfare	$ 23,769,257	$ 23,688,180
384	400-610	Food Stamps and State Administration	$ 112,379,309	$ 118,309,517
385	400-614	Foreign Refugees	$ 3,297,920	$ 3,297,920
395	400-616	Special Activities/Child and Family Services	$ 5,174,917	$ 4,993,406
396	400-620	Social Services Block Grant	$ 76,854,157	$ 76,854,157
397	400-626	Child Support	$ 201,488,414	$ 221,708,695
398	400-627	Adoption Maintenance/ Administration	$ 147,479,666	$ 150,185,636
3N0	400-628	IV-E Foster Care Maintenance/Pass Through	$ 104,718,769	$ 112,155,363
3P7	400-668	Medicaid Program Support	$ 17,717,519	$ 55,992,635
3P7	400-673	Medicaid Services	$ 70,771,816	$ 69,838,515
TOTAL FED Federal Special Revenue Fund Group			$ 2,046,592,481	$ 2,155,104,092
State Special Revenue Fund Group				
198	400-647	Children's Trust Fund	$ 3,059,390	$ 3,059,390
4E3	400-605	Nursing Home Assessments	$ 90,379	$ 90,379
4E7	400-604	Child and Family Services Collections	$ 135,000	$ 135,000
600	400-603	Third-Party Recoveries	$ 6,005,000	$ 4,374,063
4F1	400-609	Foundation Grants/Child and Family Services	$ 1,646,130	$ 1,346,130
651	400-649	Hospital Care Assurance Program Fund	$ 233,699,681	$ 244,952,989
4J5	400-613	Nursing Facility Bed Assessments	$ 38,498,446	$ 33,742,364
4J5	400-618	Residential State Supplement Payments	$ 14,000,000	$ 14,000,000
4K1	400-621	ICF MR Bed Assessments	$ 20,542,826	$ 21,384,855
4N7	400-670	Wellness Block Grant	$ 1,000,000	$ 1,000,000
4V2	400-612	Child Support Activities	$ 187,500	$ 187,500
4X3	400-638	Ohio Care	$ 123,193	$ 0
6A7	400-656	Ford Foundation	$ 60,000	$ 60,000
5E4	400-615	Private Child Care Agencies Training	$ 10,000	$ 10,000
TOTAL SSR State Special Revenue Fund Group			$ 319,057,545	$ 324,342,670
Agency Fund Group				
192	400-646	Support Intercept - Federal	$ 81,824,040	$ 102,280,049
5B6	400-601	Food Stamp Intercept	$ 5,000,000	$ 5,000,000
583	400-642	Support Intercept-State	$ 10,394,942	$ 12,993,677
TOTAL AGY Agency Fund Group			$ 97,218,982	$ 120,273,726
Holding Account Redistribution Fund Group				
R12	400-643	Refunds and Audit	$ 200,000	$ 200,000

	tlements				
R13 400-644	Forgery Collections	$	700,000	$	700,000
TOTAL 090 Holding Account Redistribution Fund Group		$	900,000	$	900,000
TOTAL ALL BUDGET FUND GROUPS		$	9,203,830,775	$	9,691,608,948

SECTION 67.01. Family Violence Prevention

The foregoing appropriation item 400-405, Family Violence Prevention Programs, may be used to provide grants for county and local family violence prevention community education initiatives, and to provide funding for domestic violence shelters that the Department of Human Services determines are exclusively for victims of domestic violence.

Electronic Benefits Transfer

The foregoing appropriation line item 400-402, Electronic Benefits Transfer, shall be used by the Department of Human Services to establish in a number of counties to be designated by the department a program to distribute food stamps via off-line computer technology that involves the issuance of a plastic card with an embedded computer chip to each family that is eligible for food stamps. The department shall establish the program under rules adopted in accordance with section 111.15 of the Revised Code. The department shall establish this program in cooperation with the United States Department of Agriculture, Food and Nutrition Service.

SECTION 67.02. Health Care/Medicaid

The foregoing appropriation item 400-525, Health Care/Medicaid, shall not be limited by the provisions of section 131.33 of the Revised Code.

SECTION 67.03. Disability Assistance

The following schedule shall be used to determine monthly grant levels in the Disability Assistance Program effective July 1, 1997.

Persons in Assistance Group	Monthly Grant
1	$115
2	159
3	193
4	225
5	251
6	281
7	312
8	361

9	394
10	426
11	458
12	490
13	522
14	554
For each additional person add	40

For the Disability Assistance Program, the Department of Human Services shall retain data and report monthly to the Legislative Budget Office of the Legislative Service Commission and Office of Budget and Management demographic information of the recipients and recipient utilization of medical assistance organized by recipients' county of residence. The reports shall provide information available to the Department that the Department and Offices mutually agree will be in the reports. Information about medical benefit utilization shall include data on payments for recipients by category of service.

Disability Assistance-Legal Immigrant and Refugee Assistance

Of the foregoing appropriation item 400-511, Disability Assistance, not more than $3,000,000 in fiscal year 1998 and not more than $5,000,000 in fiscal year 1999 may be used to provide cash assistance to refugees and legal immigrants who meet all of the following qualifications: They must have formerly qualified for Supplemental Security Income, must have resided in Ohio as of August 22, 1996 and maintained their Ohio residency since that date, must have been in the United States for 60 months and be in the process for naturalization or unable to naturalize because of age or disability, including language disability, but not qualify for an Immigration and Naturalization Service exemption. The Department of Human Services shall adopt rules and procedures pursuant to section 111.15 of the Revised Code to set eligibility requirements and benefit levels.

Effective July 1, 1997, the following schedule shall be used to determine monthly grant levels in the Disability Assistance-Legal Immigrant and Refugee Assistance category of the Disability Assistance program:

Persons in Assistance Group	Monthly Grant
1	$200
2	$244

The aforementioned grants for Disability Assistance-Legal Immigrant and Refugee Assistance shall not exceed $3 million in fiscal year 1998 and $5 million in fiscal year 1999. The Director of the Department of Human Services shall adjust the grant levels for the Disability Assistance-Legal

Immigrant and Refugee Assistance recipients to assure that the total cost of providing cash assistance to these assistance groups does not exceed $3 million in fiscal year 1998 and $5 million in fiscal year 1999.

TANF Federal Funds

Upon the request of the Department of Human Services, the Controlling Board may increase appropriations in item 400-411 provided sufficient Federal TANF block grant funds exist to do so, without any corresponding decrease in other line items. The department must first provide the Office of Budget and Management with documentation to support the need for the increased appropriation.

TANF Cash Assistance

The Department of Human Services shall use a portion of the monies appropriated for the TANF program in appropriation line items 400-410, 400-411, and 400-658 to increase the cash assistance provided to recipients of benefits under the TANF program by no less than six percent as compared to the cash assistance provided under the Aid to Dependent Children prior to July 1, 1997.

TANF County Incentives

Of the foregoing appropriation item 400-411, TANF Federal Block Grant, the Department of Human Services may use up to $15,000,000 in fiscal year 1999 to provide financial incentives to those county departments of human services that have exceeded performance standards adopted by the state department, and where the board of county commissioners has entered into a written agreement with the state department under section 5101.02 of the Revised Code governing the administration of the county department. Any financial incentive funds provided pursuant to this division shall be used by the county department solely for additional or enhanced services for families eligible for assistance under Chapter 5107. of the Revised Code. The county departments of human services may retain and expend such funds without regard to the state or county fiscal year in which the financial incentives were earned or paid. Each county department of human services shall file an annual report with the state Department of Human Services providing detailed information on the expenditure of these financial incentives and an evaluation of the effectiveness of the county department's use of these funds in achieving self-sufficiency for families eligible for assistance under Chapter 5107. of the Revised Code.

TANF Child Care

From the foregoing appropriation items 400-410, TANF-State, 400-411, TANF-Federal, or both, a total of not less than $29.4 million in fiscal year 1998 and not less than $49.9 million in fiscal year 1999 shall be used to

ovide child care services to TANF eligible children.

TANF Transportation Services

From the foregoing appropriation items 400-410, TANF-State, and 400-411, TANF-Federal Block Grant, up to $5,000,000 in fiscal year 1998 and $5,000,000 in fiscal year 1999 shall be used to expand the accessibility of transportation services for participants in programs funded from these line items.

Single Allocation for County Departments of Human Services

Using the foregoing appropriation items 400-504, Non-TANF County Administration; 400-610, Food Stamps and State Administration; 400-640, Income Maintenance Reimbursement; 400-410, TANF State; 400-411, TANF Federal Block Grant; 400-620, Social Services Block Grant; 400-552, County Social Services; 400-413, Day Care Match/Maintenance of Effort; 400-617, Day Care Federal; 400-534, Adult Protective Services; and 400-614, Foreign Refugees, the Department of Human Services may establish a single allocation for county departments of human services that are subject to a partnership agreement between a board of county commissioners and the Department. The county department is not required to use all the money from one or more of the foregoing appropriations items listed in this paragraph for the purpose the specific appropriation item is made so long as the county department uses the money for a purpose at least one of the other of those foregoing appropriation items is made. The county department may not use the money in the allocation for a purpose other than a purpose any of those foregoing appropriation items are made. If the spending estimates used in establishing the single allocation are not realized and the county department uses money in one or more of those foregoing appropriation items in a manner for which federal financial participation is not available, the Department shall use state funds available in one or more of those foregoing appropriation items to ensure that the county department receives the full amount of its allocation. The single allocation is the maximum amount the county department will receive from those foregoing appropriation items.

Reports on Public Assistance

With regard to the foregoing appropriation items 400-410, TANF-State, 400-411, TANF Federal Block Grant, and 400-658, Child Support Collections, the Department of Human Services shall retain data and submit bimonthly reports to the Office of Budget and Management and the Legislative Budget Office of the Legislative Service Commission. The reports shall include the number of assistance groups; number of recipients; age of recipients; number of recipient groups by recipient group size;

number of recipients with earned income by income groupings; number of recipients with unearned income; number of recipients by current length of stay on TANF; educational level of recipients; recipient work history; and the number of recipients exempted from work or training requirements. Reports shall be provided within two weeks after the end of the month.

Family Nutrition Program

Of the foregoing appropriation item 400-610, Food Stamps and State Administration, $271,820 shall be used to fund a family nutrition program provided by the Ohio State University Research Foundation during fiscal year 1996. This program has been established in cooperation with, and funded by, the food consumer service of the United States Department of Agriculture.

Reports on Interagency Transfers

With regard to the foregoing appropriation item 400-655, Interagency Reimbursement, the Department of Human Services shall provide the Legislative Budget Office of the Legislative Service Commission with a report each month that details interagency transfers through the line item. The reports shall break down transfers by agency and line item to which transfers are made. Transfers shall further be broken down by source of federal funds, including federal program number (as shown in the Catalog of Federal Domestic Assistance), grant number, and department reporting category number. In addition, transfers of Medicaid dollars shall be grouped between reimbursement for services and administrative costs. Reports shall be provided to the Legislative Budget Office within two weeks after the end of the month.

SECTION 67.04. Hospital Care Assurance Assessment Match Fund

Appropriation item 400-650, Hospital Care Assurance Assessment Match Fund, shall be used by the Department of Human Services to receive and distribute funds in connection with the Hospital Care Assurance Program.

ICF-MR Assessment Match Fund

Appropriation item 400-663, ICF-MR Assessment Match Fund, shall be used by the Department of Human Services to receive and distribute funds in connection with programs funded by franchise fees paid by Intermediate Care Facilities for the Mentally Retarded.

NF Assessment Match Fund

Appropriation item 400-664, NF Assessment Match Fund, shall be used by the Department of Human Services to receive and distribute funds in connection with programs funded by franchise fees paid by nursing facilities

and hospitals.

SECTION 67.05. Transfer of Funds

The Ohio Department of Human Services shall transfer through intrastate transfer vouchers, cash from State Special Revenue Fund 4K1, ICF/MR Bed Assessments, to fund 4K8, Home and Community-Based Services, in the Ohio Department of Mental Retardation and Developmental Disabilities. The sum of the transfers shall be equal to the amounts appropriated per fiscal year in line item 322-604, Waiver - Match. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both Departments.

The Ohio Department of Human Services shall transfer, through intrastate transfer voucners, cash from the State Special Revenue Fund 4J5, Home and Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in the Ohio Department of Aging. The sum of the transfers shall be equal to the amount appropriated per fiscal year in line item 490-610, PASSPORT/Residential State Supplement. The transfer may occur on a quarterly basis or on a schedule developed and agreed to by both departments.

Day Care for Foster Parents

Of the foregoing appropriation item 400-527, Child Protective Services, not more than $1,400,000 in fiscal year 1998 and not more than $1,400,000 in fiscal year 1999, may be used to reimburse counties for child day care services purchased in behalf of children in foster care. Such funds may be used as matching funds for federal funds that may be available for this purpose. The Department of Human Services shall adopt rules, in accordance with section 111.15 of the Revised Code, establishing reimbursement procedures and conditions to be followed by counties.

Transfer from the Children's Trust Fund to the Wellness Block Grant Fund

The Director of Budget and Management shall transfer $1,000,000 in fiscal year 1998 and $1,000,000 in fiscal year 1999 from Fund 198, Children's Trust Fund, to Fund 4N7, Wellness Block Grant, within the Department of Human Services' budget.

Foster Care Liability Coverage

On behalf of public children services agencies and in consultation with the Department of Insurance and the Office of State Purchasing, the Department of Human Services may seek and accept proposals for a uniform and statewide insurance policy to indemnify foster parents for personal injury and property damage suffered by them due to the care of a

foster child. Premiums for such a policy shall be the sole responsibility of each public children services agency that agrees to purchase the insurance policy.

Protective Services Incentive Funding

Notwithstanding the formula in section 5101.14 of the Revised Code, from the foregoing appropriation item 400-527, Child Protective Services, the Department of Human Services may use no more than $2 million in fiscal year 1999 as incentive funding for public children services agencies to promote innovative practice standards and efficiencies in service delivery. The department shall develop a process for the release of these funds and may adopt rules in accordance with section 111.15 of the Revised Code governing the distribution, release, and use of these funds.

Day Care/Head Start Collaborations

The Department of Human Services and the county departments of human services shall work to develop collaborative efforts between Head Start and child care providers. The Department of Human Services may use the foregoing appropriation items 400-413, Day Care Match/Maintenance of Effort, and 400-617, Day Care Federal, to support collaborative efforts between Head Start and child day care centers.

Day Care Funding for Latchkey Children

The Department of Human Services shall use not less than $5,000,000 in fiscal year 1998 and not less than $5,000,000 in fiscal year 1999 of the Child Care Development Block Grant moneys to support low-income families who need assistance in the provision of before-school and after-school care for their children. The Department of Human Services shall establish rules determining eligibility for these dollars adopted in accordance with section 111.15 of the Revised Code.

Evening and Night Time Child Care

When the Department of Human Services adopts rules establishing a procedure for determining the rates of maximum reimbursement for publicly funded child care, the department shall adopt an enhanced rate to encourage the development of child care for parent(s) who work nontraditional hours.

Human Services Staff Reduction

From staffing levels that existed on January 1, 1997, the Department of Human Services is required to reduce its full-time equivalent positions by 150 by July 1, 1999. At least thirty-nine positions must be eliminated by January 1, 1998. The remaining positions must be eliminated by July 1, 1999.

Child Protective Services Information System

From the foregoing appropriation item 400-416, Computer Projects, the

Department of Human Services shall expend at least $6,000,000 in fiscal year 1998 and at least $6,000,000 in fiscal year 1999 to implement a statewide automated child welfare information system (SACWIS) to be used by the 88 county public children service agencies.

These designated moneys shall be used to support the 88 county children services agencies' implementation of a statewide automated child welfare information system which is currently operational in another state once Ohio's right to use the system has been secured through a competitively bid request for proposal process.

(A) If applicable, the Department of Human Services shall:

(1) Make the necessary revisions to the transferred system in order to enable the system to comply with Ohio law;

(2) Develop and distribute the revised software to the 88 county public children services agencies for their use;

(3) Provide training and system support for the county employees who will use the system;

(4) Provide for the maintenance and general upkeep of the system.

(B) The system shall be operational in all 88 counties by June 30, 1999;

(C) The system shall be designed to successfully interface with the Support Enforcement Tracking System (SETS) and the Client Registry and Information System-Enhanced (CRIS-E).

Adoption Assistance

Of the foregoing appropriation item 400-528, Title IV-E and State Adoption Services, not more than $3,700,000 in fiscal year 1998 and not more than $3,700,000 in fiscal year 1999 shall be used in support of post finalization adoption services offered pursuant to section 5153.163 of the Revised Code. The Department of Human Services shall adopt rules and procedures pursuant to section 111.15 of the Revised Code to set payment levels and limit eligibility for post finalization adoption services as necessary to limit program expenditures to the amounts set forth in this section, based on factors, including but not limited to, any or all of the following: type, or extent, of the adopted child's disability or special need; and resources available to the adoptive family to meet the child's service needs.

Social Service Block Grant (SSBG) Earmark for Day Care Services

Of the foregoing appropriation item 400-620, Social Services Block Grant, no less than $15,000,000 in fiscal year 1998 and $15,000,000 in fiscal year 1999 shall be used for child day care services. The remainder of the SSBG funding may be used to provide social services as authorized in section 5101.465 of the Revised Code, including adult day care.

Child Support Collections/TANF MOE

The foregoing appropriation item 400-658, Child Support Collections, shall be used by the Department of Human Services to meet the TANF Maintenance of Effort requirements of Pub. L. No. 104-193. After the state has met the maintenance of effort requirement, the Department of Human Services may use funds from line item 400-658 to support public assistance activities.

Transfer of Unspent Funds from Fiscal Year 1998 to Fiscal Year 1999

Upon the request of the Department of Human Services, the Controlling Board may transfer any remaining unspent fiscal year 1998 funds from appropriation item 400-410, TANF State, to appropriations for fiscal year 1999 so that the state of Ohio will be able to meet the Maintenance of Effort requirements for the Temporary Assistance for Needy Families Block.

Upon the request of the Department of Human Services, the Controlling Board may transfer any remaining unspent fiscal year 1998 funds from appropriation item 400-413, Day Care/Maintenance of Effort, to appropriations for fiscal year 1999 so that the state of Ohio will be able to meet the Maintenance of Effort requirements for the Child Care Development Block Grant.

Upon the request of the Department of Human Services, the Controlling Board may transfer any remaining unspent fiscal year 1998 funds from individual county consolidations from appropriation item 400-527, Child Protective Services, to appropriations for fiscal year 1999 so that the counties may meet the obligations for services funded through that line item.

Upon the request of the Department of Human Services, the Controlling Board may transfer any remaining unspent fiscal year 1998 funds from the Post Finalization Special Adoption Services portion of appropriation item 400-528, Adoption Services, to appropriations for fiscal year 1999 so that counties may meet the obligations for services funded through that portion of the line item.

Upon the request of the Department of Human Services, the Controlling Board may transfer any remaining unspent fiscal year 1998 funds from appropriation item 400-409, Wellness Block Grant, to appropriations for fiscal year 1999 so that the counties may meet the obligations for services funded through that line.

Private Child Care Agencies Training

The foregoing appropriation item 400-615, Private Child Care Agencies Training, shall be used by the Department of Human Services to provide the state match for federal Title IV-E training dollars for private child placing agencies and private noncustodial agencies. Revenues shall consist of

eys derived from fees established under section 5101.112 of the Revised Code and paid by private child placing agencies and private noncustodial agencies.

Funding for Emergency Food Distribution Programs

Of the foregoing appropriation item 400-610, Food Stamps and State Administration, $1.5 million in fiscal year 1998 and $1.5 million in fiscal year 1999 shall be used by the Department of Human Services to purchase commodities and distribute those commodities to supplement the emergency food distribution programs. Agencies receiving commodities under this program shall provide reports in accordance with rules developed by the Department of Human Services.

Transfers for Lead Assessments

Of the foregoing appropriation item 400-525, Health Care/Medicaid, $77,790 (state share only) in fiscal year 1998, and $111,477 (state share only) in fiscal year 1999 shall be used to transfer funds from the General Revenue Fund to the General Operations Fund (Fund 142) of the Department of Health. Transfer of the funds shall be made through intrastate transfer vouchers pursuant to an interagency agreement for the purpose of performing environmental lead assessments in the homes of Medicaid Healthcheck recipients.

Transfer IMD/DSH Cash

The Director of Budget and Management may transfer cash from the Disproportionate Share Fund (3P8) in the Department of Human Services to the OhioCare Fund (4X5) in the Department of Mental Health, the Behavioral Health Medicaid Services Fund (4X4) in the Department of Alcohol and Drug Addiction Services, and the Medicaid Program Support Fund - State (5C9) in the Department of Human Services and shall transfer cash in the amount of $14,800,000 to the Health Services Fund (5E1) in the Department of Health.

Interagency Agreement on Specified Medicaid Services

Based on an interagency agreement, the Department of Human Services may delegate authority to the Department of Alcohol and Drug Addiction Services and the Department of Mental Health to administer specified Medicaid services. Monthly reimbursement shall be made by intrastate transfer voucher from the Department of Human Services' appropriation items 400-525, Health Care/Medicaid, and 400-655, Interagency Reimbursement, to the Department of Drug and Alcohol Addiction Services' Behavioral Health Medicaid Services Fund (4X4) and the Department of Mental Health's OhioCare Fund (4X5).

Medicaid Program Support Fund-State

The Department of Human Services' Medicaid Program Support Fund-State (5C9) is hereby created in the state treasury. The Fund shall be used to receive earned federal reimbursement generated by the Institutions for Mental Diseases/Disproportionate Share Hospital Program. The foregoing appropriation item 400-671, Medicaid Program Support, may be used for the following purposes: to pay for Medicaid services to eligible children under age nineteen, whose family income does not exceed 150 per cent of the federal poverty level; to pay for a new Medicaid home and community-based waiver program for non-aged persons with chronic, long-term disabilities; and, to make residual payments associated with the specified Medicaid services transferred to the Department of Alcohol and Drug Addiction Services and the Department of Mental Health.

The foregoing appropriation item 400-672, Medicaid Services, may be used by the Department of Human Services to pay for Medicaid services or to transfer moneys by intrastate transfer voucher to the Department of Mental Health's OhioCare Fund (4X5) in accordance with an interagency agreement which delegates authority from the Department of Human Services to the Department of Alcohol and Drug Addiction Services and the Department of Mental Health to administer specified Medicaid services.

Medicaid Program Support Fund-Federal

The Department of Human Services' Medicaid Program Support Fund-Federal (3P7) is hereby created in the state treasury. The foregoing appropriation item 400-668, Medicaid Program Support, may be used to pay for Medicaid services to eligible children under age nineteen, whose family income does not exceed 150 per cent of the federal poverty level; and for a new Medicaid home and community-based waiver program for non-aged persons with chronic, long-term disabilities. Funds also may be used for residual payments associated with the specified Medicaid services transferred to the Department of Alcohol and Drug Addiction Services and the Department of Mental Health.

The foregoing appropriation item 400-672, Medicaid Services, may be used by the Department of Human Services to pay for Medicaid services and contracts.

OhioCare Start-up Fund Name Change

The name of the Department of Human Services' OhioCare Start-up Fund (3P7) is hereby changed to the Medicaid Program Support Fund-Federal.

Rural Medicaid Managed Care Pilot Programs

The Director of Human Services may contract with one or more organizations to develop and/or implement Medicaid Managed Care Pilot

Programs in rural sections of Ohio.

Medicaid Managed Care Reimbursement Study Committee

The Medicaid Managed Care Reimbursement Study Committee shall meet by August 1, 1997, to begin reviewing the appropriateness of the negotiated Medicaid reimbursement rates paid to managed care organizations for services provided to Medicaid recipients in fiscal year 1998. By November 1, 1997, the Committee must report its findings and/or recommendations concerning the fiscal year 1998 rates to the Governor, the Speaker of the House of Representatives, and the President of the Senate.

Medicaid Managed Care for Individuals with MR/DD

In preparing the budget for medical assistance for state fiscal years 2000 and 2001, as it pertains to services provided to individuals with mental retardation and developmental disabilities, the Office of Budget and Management and the Department of Human Services shall review the results of any study regarding the use of a managed care system that is prepared and submitted to it by the Hattie Larlham Foundation, the Ohio Department of Mental Retardation and Developmental Disabilities Action Committee, the Ohio Private Residential Association, the Ohio Coalition for Services to Persons with Mental Retardation and Developmental Disabilities, or any other entity.

Transfer Lapsed Funds in Fund 4A6 to GRF

The Department of Human Services shall certify the cash balance of Fund 4A6 to the Director of Budget and Management who shall transfer the remaining unexpended, unobligated balance in Fund 4A6 to the General Revenue Fund.

Holding Account Redistribution Group

The foregoing appropriation items 400-643 and 400-644, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

Agency Fund Group

The foregoing appropriation items 400-646, 400-601, and 400-642, Agency Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are directed to the appropriate governmental agency other than the Department of Human Services. If it is determined that additional appropriation authority is necessary, such amounts are hereby appropriated.

State Special Revenue Fund Group

The foregoing appropriation items that appear in the Department of

Human Services' State Special Revenue Fund Group shall be used to collect revenue from various sources and use the revenue to support programs administered by the Department of Human Services. If it is determined that additional appropriations are necessary, the department shall notify the Director of Budget and Management on forms prescribed by the Controlling Board. If the director agrees that the additional appropriation is necessary in order to perform the functions allowable in the appropriation item then such amounts are hereby appropriated. The Director of Budget and Management shall notify the Controlling Board at their next regularly scheduled meeting as to the action taken.

SECTION 67.06. Transfer of Moneys from Hold Harmless Fund and General Assistance Compensation Fund to HCAP Fund

Section 5 of Sub H.B. 870 of the 119th General Assembly is hereby repealed. Any moneys remaining in the Hold Harmless Fund (Fund 4E5) and in the General Assistance Compensation Fund (Fund 462) on the effective date of this repeal shall be transferred by the Director of Budget and Management to the Hospital Care Assurance Program Fund (Fund 651) to be distributed to hospitals pursuant to section 5112.08 of the Revised Code.

SECTION 67.07. Adoptive Placement Payments

The foregoing appropriation item 400-408, Child & Family Services Activities, may be used to make payments pursuant to agreements entered into under section 5103.12 of the Revised Code.

Consolidation of State Grants

With the consent of a county, the Department of Human Services may combine into a single and consolidated grant of state aid, funds that would otherwise be provided to that county pursuant to the operation of section 5101.14 of the Revised Code and other funds that would otherwise be provided to that county for the purpose of providing kinship care. In fiscal year 1999, the grant shall also include unspent funds remaining from any grant provided to the county under this section in fiscal year 1998.

Funds contained in any such consolidation grant shall not be subject to either statutory or administrative rules which would otherwise govern allowable uses from such funds, except that such funds shall continue to be used by the county to meet the expenses of its children services program. Funds contained in any consolidation grant shall be paid to each county within thirty days after the beginning of each calendar quarter. Funds

provided to a county under this section shall be deposited in the children services fund, established in section 5101.143 of the Revised Code, and shall be used for no other purpose than to meet the expenses of the children services program. Within ninety days after the end of fiscal year 1999, each county shall return to the Department of Human Services any unspent balance in the consolidated grant, unless this section is renewed for a subsequent period of time.

Adoption Connection of Cincinnati

Of the foregoing appropriation item 400-528, Adoption Services, $42,000 in fiscal year 1998 and $42,000 in fiscal year 1999 is earmarked for Adoption Connection of Cincinnati.

SECTION 66.08. Study on Transfer of Assets and the Medicaid Estate Recovery Program

The Department of Human Services shall conduct a study, or contract for a study to be conducted, for the purpose of determining the extent to which applicants for nursing home services paid for through the Medicaid program are transferring their assets for less than fair market value as a means of avoiding depletion of their assets for their own support prior to becoming eligible for Medicaid. The study shall include an analysis of the Medicaid estate recovery program, including a compilation of data regarding the follwing: the frequency of homestead property being available for recovery, the amount spent on the estate recovery program in comparison to the amount actually recovered, and the experience of other states in operating Medicaid estate recovery programs. The study shall include any recommendations for legislative changes that would either deter the occurrence of pre-eligibility asset transfers or enhance the efficacy of the Department's Medicaid estate recovery program. Results of the study shall be filed by January 1, 1999, with the Governor, the Speaker of the House of Representatives, and the President of the Senate.

SECTION 68. IGO OFFICE OF THE INSPECTOR GENERAL

General Revenue Fund

GRF	965-321	Operating Expenses	$	506,824	$ 560,960
Total GRF General Revenue Fund			$	506,824	$ 560,960
TOTAL ALL BUDGET FUND GROUPS			$	506,824	$ 560,960

SECTION 69. NET OFFICE OF INFORMATION, LEARNING AND TECHNOLOGY SERVICES

General Revenue Fund				
GRF	228-404	SchoolNet	$ 17,249,333	$ 17,586,800
GRF	228-539	Education Technology	$ 6,550,073	$ 6,550,073
GRF	228-559	Interactive Parenting Program	$ 1,650,000	$ 1,200,000
Total GRF General Revenue Fund			$ 25,449,406	$ 25,336,873
General Services Fund Group				
5D4	228-640	SchoolNet Fees	$ 100,000	$ 100,000
TOTAL GSF General Services Fund Group			$ 100,000	$ 100,000
State Special Revenue Fund Group				
4W9	228-630	Ohio SchoolNet Telecommunity Fund	$ 1,625,000	$ 1,625,000
4X1	228-632	Distance Learning Administration	$ 100,000	$ 100,000
4X1	228-634	Distance Learning	$ 2,984,000	$ 2,984,000
4Y4	228-698	SchoolNet Plus	$ 126,064,253	$ 30,600,000
5G0	228-650	Interactive Video Distance Learning	$ 9,200,000	$ 0
TOTAL SSR State Special Revenue Fund Group			$ 139,973,253	$ 35,309,000
Lottery Profits Education Fund Group				
017	228-690	SchoolNet Electrical Infrastructure	$ 30,000,000	$ 0
TOTAL 017 and 018 Lottery Profits Education Fund Group			$ 30,000,000	$ 0
TOTAL ALL BUDGET FUND GROUPS			$ 195,522,659	$ 60,745,873

SECTION 69.01. SchoolNet

The foregoing appropriation item 228-404, SchoolNet, shall be used by the Office of Information, Learning and Technology Services to make grants to qualifying schools, including the State School for the Blind and the Ohio School for the Deaf for the provision of hardware, software, telecommunications services, and staff development to support educational uses of technology in the classroom.

The Ohio Educational Telecommunications Network Commission with the advice of the Office of Information, Learning and Technology Services shall make grants totaling up to $1,400,000 in each year of the biennium for research development and production of interactive instructional programming series and teleconferences to support SchoolNet. Up to $50,000 of this amount shall be used in each year of the biennium to provide for the administration of these activities by the Ohio Educational Telecommunications Network Commission. The programming shall be targeted to the needs of the poorest 200 school districts as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code.

Of the foregoing appropriation item 228-404, SchoolNet, $3,300,000 in each fiscal year shall be distributed by the Office of Information, Learning and Technology Services to low-wealth districts or consortia including low-wealth school districts, as determined by the district's adjusted valuation per pupil as defined in section 3317.0213 of the Revised Code, or the State School for the Blind or the Ohio School for the Deaf, with the advice of the Information, Learning and Technology Authority.

Of the foregoing appropriation item 228-404, SchoolNet, up to $250,000 in fiscal year 1998 may be used to develop educational materials related to the restoration of the Statehouse and its role in Ohio government.

Of the foregoing line item 228-404, SchoolNet, $250,000 in fiscal year 1998 shall be used for the Cincinnati Zoo Distance Learning Project.

The remaining funds allocated under this section shall be used by the Office of Information, Learning and Technology Services for administration and professional development for teachers and administrators for the use of educational technology. The Office shall make grants to provide technical assistance and professional development on the use of educational technology to school districts.

Eligible recipients of grants include regional training centers, county offices of education, data collection sites, instructional technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. Services provided through these grants may include use of private entities subcontracting through the grant recipient.

Grants shall be made to entities on a contractual basis with the Office of Information, Learning and Technology Services. Contracts shall include provisions that demonstrate how services will benefit technology use in the schools, and in particular will support SchoolNet efforts to support technology in the schools. Contracts will specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time.

Grants shall be awarded in a manner consistent with the goals of SchoolNet. Special emphasis in the award of grants should be placed on collaborative efforts among service providers.

Application for funds from this appropriation must be consistent with school district technology plans as described in Section 31 of Am. Sub. H.B. 790 of the 120th General Assembly. Funds allocated through these grants may be combined with funds received through other state or federal grants for technology as long as the school district's technology plan specifies the use of these funds. The Office may combine the application for these grants

with the SchoolNet application process authorized in Am. Sub. H.B. 790 of the 120th General Assembly.

Education Technology

The foregoing appropriation item 228-539, Education Technology, shall be used to provide funding to suppliers of information services to school districts for the provision of hardware, software, and staff development in support of educational uses of technology in the classroom as prescribed by the State Plan for Technology pursuant to section 3301.07 of the Revised Code, and to support assistive technology for children and youth with disabilities.

Up to $5,619,581 in each fiscal year shall be used by the Office of Information, Learning and Technology Services to contract with instructional television and $930,492 in each fiscal year shall be used by the office to contract with education media centers to provide Ohio schools with instructional resources and services.

Resources may include, but not be limited to the following: pre-recorded video materials (including videotape, laser discs, and CD-ROM discs); computer software for student use and/or student access to electronic communication, databases, spreadsheet, and word processing capability; live student courses or courses delivered electronically; automated media systems; and instructional and professional development materials for teachers. The office shall cooperate with such agencies in the acquisition, development, and delivery of such educational resources to ensure high-quality and educational soundness at the lowest possible cost. Delivery of such resources may utilize a variety of technologies, with preference given to a high-speed integrated information network that can transport video, voice, data, and graphics simultaneously.

Services shall include presentations and technical assistance that will help students and teachers integrate educational materials that support curriculum objectives, match specific learning styles, and are appropriate for individual interests and ability levels.

SECTION 69.02. Interactive Parenting Program

The foregoing appropriation item 228-559, Interactive Parenting Program, shall be used by the Office of Information, Learning and Technology Services to fund a grant to RISE, Inc. as partial support to train preschool staff members and parents.

It is the intent of the General Assembly that the office, in conjunction with RISE, Inc., shall develop a program which may be conducted in conjunction with state supported technology programs including, but not

limited to, SchoolNet appropriation item 228-404, Ohio Educational Computer Network appropriation item 228-426 and Education Technology appropriation item 228-539, designed to educate preschool staff members and providers on developmentally appropriate teaching methods and to involve parents more closely in the education and development of their children. The project shall include an interactive instructional program, which will be distributed to program participants at up to twenty-six locations throughout the state. The interactive instructional program shall be developed to enhance the professional development, training, and performance of preschool staff members; the education and care-giving skills of the parents of preschool children; and the preparation of preschool aged children for learning.

The project shall utilize the grant and matching non-public funds to continue a direct-service program that will include at least three teleconferences to be distributed by Ohio-based public television utilizing satellite or microwave technology in a matter designed to promote interactive communications between the program participants located at sub-sites within the Ohio Educational Broadcast Network or as determined by the office. Program participants shall communicate with trainers and participants at other program sites through telecommunications and facsimile and on-line computer technology. To the maximum extent possible, the project shall utilize systems currently available in state supported technology programs and conduct the program in a manner that promotes innovative, interactive communications between the program participants at all of the sites. Parent support groups and teacher training sessions will supplement the teleconferences, and will occur on a local basis.

RISE, Inc., may subcontract components of the project.

Individuals eligible to participate in the program shall include those children, their parents, custodians, or guardians, and preschool staff members who are eligible to participate in a preschool program as defined in division (A) of section 3301.52 and section 5104.02 of the Revised Code.

(A) In addition to the foregoing, up to $400,000 each fiscal year may be used by RISE, Inc., to enter into a competitively bid contract with a not-for-profit entity or entities to conduct a series of training programs for adult volunteers who work with adolescent youths in after school mentoring programs, including youth serving organizations such as Boy Scouts, Girl Scouts, Big Brothers, Big Sisters, 4-H, and public school mentor programs. The series of programs shall be designed to:

(1) Improve the quality and effectiveness of adult volunteers so that they would sustain their involvement with youths over time. Specifically, they

would improve their ability to motivate, supervise, and communicate with young people.

(2) Improve the quality and effectiveness of adult volunteers so that the children they mentor, coach, teach, or befriend would sustain their involvement with youth-serving organizations over time.

(3) Encourage collaboration between all Ohio youth-serving organizations, including: 4-H, Boy Scouts, Girls Scouts, Big Brother, Big Sisters, and others.

(4) Provide cost-efficient, sustainable distance learning to both rural and urban sites.

(B) In order to be eligible for the contract with RISE, Inc., the program participants shall be able to demonstrate that leading national experts in adolescent development intervention programs will be utilized and that such program will make use of a variety of media to engage participants and assist them in learning the goals of the program. The program shall be designed to focus on the adult volunteers who assist in youth development. Training content shall focus on:

(1) Development issues for youth;

(2) Best practices to motivate, guide and communicate with these youths;

(3) Strategies for successful adult-to-adult interpersonal relationships that are necessary for on-going learning and support.

The program may include: two broadcast seminars of three hours in length from a central up-link station, distributed up to 88 counties, corporate settings and extension offices with on-site facilitated discussion and exercises; high production-value video sought in various locations; direct interactive adult learning activities; and shall develop program workbooks. The program shall also involve at least three small group facilitated follow-up discussion workshops; and development and distribution of at least two home videos. The program shall also provide Internet access, interactive lines, bulletin board, and CD-ROM.

Private sector supporters or RISE, Inc., subcontractors shall match 50 per cent of the contract amount awarded under this program. Upon completion of the program, a study and report shall be made by The Ohio State University with measurable outcome variables.

Upon completion of each of the school years for which the grant was made, RISE, Inc., shall issue a report to the office and the members of the General Assembly explaining the goals and objectives determined, the activities implemented, the progress made toward the achievement of the goals and objectives, and the outcome of the project.

Distance Learning

Appropriation item 228-634, Distance Learning, shall be distributed by the Office of Information, Learning and Technology Services on a grant basis to eligible school districts to establish "distance learning" in the school district. Per the agreement with Ameritech, school districts are eligible for funds if they are within an Ameritech service area. Funds to administer the program shall be expended by the office up to the amount specified in the agreement with Ameritech.

Within 30 days of the effective date of this section, the Director of Budget and Management shall transfer from fund 4XI in the State Special Revenue Fund Group any investment earnings from moneys paid to the office or to the Department of Education by any telephone company as part of a settlement agreement between such company and the Public Utilities Commission in fiscal year 1995.

SECTION 69.03. SchoolNet Plus

In fiscal year 1998, by July 10, the Director of Budget and Management shall transfer $28,000,000 cash from the General Revenue Fund to the Office of Information, Learning and Technology Services' SchoolNet Plus Fund (4Y4). In fiscal year 1998, by July 10, the Director of Budget of Management shall transfer $3,664,253 from the Lottery Commission's Unclaimed Prizes Fund (Fund 872) to the Office of Information, Learning and Technology Services' SchoolNet Plus Fund (4Y4). In addition, on or before July 31, 1997, pursuant to the section titled "Transfer of Fiscal Year 1997 Ending Balances" $94,400,000 in surplus revenue shall be transferred to the SchoolNet Plus Fund (4Y4). A total of $31,664,253 shall be distributed from Fund (4Y4) line item 228-698, SchoolNet Plus, to non-qualifying districts to bring their total SchoolNet Plus payment up to $350 per pupil for students in kindergarten through the fourth grade.

To complete the SchoolNet Plus program, the Director of Budget and Management shall transfer in fiscal year 1999 $30,600,000 cash from the General Revenue Fund to the office's SchoolNet Plus Fund (4Y4).

Before any city, local, or exempted village school district applies for and receives additional funds through the SchoolNet Plus program, it must certify to the Office of Information, Learning, and Technology Services that it has used any previous moneys received through the SchoolNet Plus program to purchase and install computers for children enrolled in grades kindergarten through four, and that the equipment and software are being utilized daily as of the certification date. School districts may use their SchoolNet Plus moneys for assistant technology for disabled students.

Interactive Video Distance Learning

The foregoing appropriation item 200-650, Interactive Video Distance Learning, shall be used in fiscal year 1998 to help fund interactive video distance learning projects in local, exempted village, city, and joint vocational schools. The Office of Information, Learning, and Technology shall determine grant amounts in accordance with the guidelines of this section. Priority shall be given to consortiums of schools where a significant number of all the schools in a geographic area have demonstrated a desire to participate in the program and where no interactive video distance learning project involving multiple school districts now exists. Efforts shall be made to ensure that consortiums funded are geographically dispersed around the state.

The Office of Information, Learning, and Technology Services shall calculate a maximum grant amount for each approved school district or consortium. Such maximum grant shall be the amount sufficient to equip one classroom in each high school building of the participating school districts capable of both originating and receiving programming and may include one additional classroom in each high school building for receiving only. The maximum grant amount may also include funds for interconnecting the various sites involved in the consortium, for planning and for professional development. The percentage of the maximum grant amount awarded to school districts or consortia shall be greater for lower property valuation districts, and consortia of lower property valuation districts, and less for higher property valuation districts, and consortia. The amount awarded shall take into account the subsidy and discount available through the Federal Communication Commission's telephone universal service plan for schools, and may include a subsidy, up to the maximum permissible under the Snow-Rockefeller amendment, of the monthly telephone, cable, or other connection charges for operation of the interactive distance learning programming. School districts or consortia of school districts whose per pupil valuation for the average of the preceding two years exceed 60 per cent of the statewide median valuation per pupil shall be eligible for funds only if they commit, as part of the application process, to provide programming without charge or at minimal cost to school districts whose valuation is below the statewide median valuation per pupil.

SECTION 69.04. SchoolNet Electrical Infrastructure

The foregoing appropriation item 228-690, SchoolNet Electrical Infrastructure, may be used by school districts to renovate existing buildings with sufficient electrical service to safely operate educational technology

consistent with their SchoolNet and SchoolNet Plus technology plans. The Office of Information, Learning and Technology Services will review grant proposals from school districts for the use of these funds. In evaluating grant proposals the office will consider the ability and commitment of school districts to contribute local public and private resources to upgrade the electrical service and will give consideration to consortia of school districts which have formed to optimize resources to upgrade their electrical service. In no case will grant awards exceed $1,000,000 for a single school district. Funding recommendations for this appropriation made by the office are subject to the review of the Information, Learning and Technology Authority.

Of the foregoing appropriation item 228-690, SchoolNet Electrical Infrastructure, $3,000,000 in fiscal year 1998 shall be distributed to the University of Akron for the completion of Medina Achievement Center/Medina Educational Support Center link-up project.

If an appropriation balance is available in this line item as of June 30, 1998, the Director of Budget and Management shall transfer the balance of the appropriation to fiscal year 1999.

SECTION 70. INS DEPARTMENT OF INSURANCE

State Special Revenue Fund Group

554	820-606	Operating Expenses	$ 14,576,639	$	15,029,623
555	820-605	Examination	$ 5,537,374	$	5,678,223
TOTAL SSR State Special Revenue Fund Group			$ 20,114,013	$	20,707,846
TOTAL ALL BUDGET FUND GROUPS			$ 20,114,013	$	20,707,846

Market Conduct Examination

When conducting a market conduct examination of any insurer doing business in this state, the Superintendent of Insurance may assess the costs of such examination against the insurer. The Superintendent may enter into consent agreements to impose administrative assessments or fines for conduct discovered that may be violations of statutes or regulations administered by the Superintendent. All costs, assessments, or fines collected shall be deposited to the credit of the Department of Insurance Operating Fund (Fund 554).

Examinations of Domestic Fraternal Benefit Societies

The Superintendent of Insurance may transfer funds from the Department of Insurance Operating Fund (Fund 554) established by section 3901.021 of the Revised Code to the Superintendents Examination Fund (Fund 555) established by section 3901.071 of the Revised Code, only for the expenses incurred in examining Domestic Fraternal Benefit Societies as

required by section 3921.35 of the Revised Code.

SECTION 71. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund				
GRF 018-321	Operating Expenses	$ 623,000	$	648,000
GRF 018-502	Court Security Subsidy	$ 1,250,000	$	10,000,000
TOTAL GRF General Revenue Fund		$ 1,873,000	$	10,648,000
General Services Fund Group				
403 018-601	Ohio Jury Instructions	$ 173,000	$	173,000
TOTAL GSF General Services Fund Group		$ 173,000	$	173,000
TOTAL ALL BUDGET FUND GROUPS		$ 2,046,000	$	10,821,000

State Board of Uniform State Laws

Notwithstanding the provisions of section 105.26 of the Revised Code, of the foregoing appropriation item 018-321, Operating Expenses, up to $53,900 in fiscal year 1998 and up to $56,595 in fiscal year 1999 may be used to pay the expenses of the commissioners of the State Board of Uniform Laws, including membership dues to the National Conference of Commissioners of Uniform State Laws.

Court Security Subsidy

The foregoing appropriation line item 018-502, Court Security Subsidy, shall be used for planning, training, and equipment necessary for court security. This appropriation shall not be used for on-going operational expenses. The Judicial Conference of Ohio, at their discretion, may reimburse courts for previous expenses related to planning, training or equipment used for court security.

Within thirty days of the effective date of this act, the Executive Director of the Judicial Conference of Ohio shall issue a written report to the Speaker of the House of Representatives, the President of the Senate, the Chair of the House Finance and Appropriations Committee, and the Chair of the Senate Finance and Financial Institutions Committee on the planned method of distributing funds for grants from the foregoing appropriation item 018-502, Court Security Subsidy.

Ohio Jury Instructions Fund

The Ohio Jury Instructions Fund (Fund 403) shall consist of grants, royalties, dues, conference fees, bequests, devises, and other gifts received for the purpose of supporting costs incurred by the Judicial Conference of Ohio in dispensing education and informational data to the State of Ohio's judicial system. Fund 403 shall be used by the Judicial Conference of Ohio to pay expenses incurred in dispensing educational and informational data to the State of Ohio's judicial system. All moneys accruing to Fund 403 in

excess of $173,000 in fiscal year 1998 and in excess of $173,000 in fiscal year 1999 are hereby appropriated for the purposes authorized.

No money in the Ohio Jury Instructions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 72. JSC THE JUDICIARY/SUPREME COURT

General Revenue Fund

GRF	005-321	Operating Expenses - Judiciary	$ 74,092,450	$ 77,565,272
GRF	005-401	State Criminal Sentencing Pool	$ 342,131	$ 353,296
GRF	005-501	County Appeal Risk Pool	$ 2,000,000	$ 2,000,000
GRF	010-321	Operating Expenses - Supreme Court	$ 8,455,163	$ 8,778,035
GRF	010-401	Law-Related Education	$ 197,340	$ 197,340
GRF	010-402	Community Punishment	$ 85,000	$ 85,000
TOTAL GRF General Revenue Fund			$ 85,172,084	$ 88,978,943

General Services Fund Group

6A2	005-602	Dispute Resolution	$ 35,000	$ 35,000
672	005-601	Continuing Judicial Education	$ 225,000	$ 225,000
Total GSF General Services Fund Group			$ 260,000	$ 260,000

State Special Revenue Fund Group

643	010-601	Commission on Continuing Legal Education	$ 254,946	$ 267,074
6A8	010-602	Supreme Court Admissions	$ 180,868	$ 186,294
4C8	010-603	Attorney Registration	$ 1,379,241	$ 1,440,696
Total SSR State Special Revenue Fund Group			$ 1,815,055	$ 1,894,064

Federal Special Revenue Fund Group

3J0	005-603	Federal Miscellaneous	$ 700,000	$ 700,000
TOTAL FED Federal Special Revenue Fund			$ 700,000	$ 700,000

Holding Account Redistribution Fund Group

R47	010-604	Supreme Court Cost Fund	$ 10,000	$ 10,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 10,000	$ 10,000
TOTAL ALL BUDGET FUND GROUPS			$ 87,957,139	$ 91,843,007

County Appeal Risk Pool

The foregoing appropriation item 005-501, County Appeal Risk Pool, may be distributed to reimburse counties for increased expenditures which occur as a result of the felony sentence and racial disparity appeal provisions of Am. Sub. S.B. 2 of the 121st General Assembly. The funds are to be distributed to counties in accordance with the recommendations of the Felony Sentence Appeal Cost Oversight Committee established pursuant to

section 2945.68 of the Revised Code. The funds shall be used for the purposes of providing financial assistance to counties in accordance with section 2945.68 of the Revised Code.

Community Punishment

The foregoing appropriation item, 010-402, Community Punishment, shall be used by the Supreme Court and the Ohio Criminal Sentencing Commission to encourage common pleas court judges to punish felony offenders in local punishments funded through the Department of Rehabilitation and Correction's Bureau of Community Sanctions.

Continuing Judicial Education

The Continuing Judicial Education Fund (Fund 672) shall consist of fees paid by judges and court personnel for attending continuing education courses and other gifts and grants received for the purpose of continuing judicial education. The foregoing appropriation item 005-601, Continuing Judicial Education, shall be used to pay expenses for continuing education courses for judges and court personnel. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Continuing Judicial Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Judicial Education Fund shall be credited to the Fund.

Dispute Resolution

The Dispute Resolution Fund (Fund 6A2) shall consist of grants and other moneys awarded to promote alternative dispute resolution in the Ohio courts and deposited into the Dispute Resolution Fund pursuant to the Rules for the Government of the Bar of Ohio. The foregoing appropriation item 005-602, Dispute Resolution, shall promote alternative dispute resolution programs in the Ohio courts and be used for the education of judges, attorneys, and other court personnel in dispute resolution concepts. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Dispute Resolution Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Dispute Resolution Fund shall be credited to the Fund.

Federal Miscellaneous

The Federal Miscellaneous Fund (3J0) shall consist of grants and other moneys awarded to the Supreme Court of Ohio (The Judiciary) by the

United States Government, the State Justice Institute, or other entities that receive the moneys directly from the United States Government or the State Justice Institute and distribute those moneys to the Supreme Court of Ohio (The Judiciary). The foregoing appropriation item 005-603, Federal Miscellaneous, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in the Federal Miscellaneous Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on moneys in the Federal Miscellaneous Fund on or after July 1, 1995, shall be credited or transferred to the General Revenue Fund.

Law-Related Education

The foregoing appropriation item 010-401, Law-Related Education, shall be distributed directly to the Ohio Center for Law-Related Education for the purposes of providing continuing citizenship education activities to primary and secondary students, expanding delinquency prevention programs, increasing activities for at-risk youth, and accessing additional public and private money for new programs.

Continuing Legal Education

The foregoing appropriation item 010-601, Commission on Continuing Legal Education, shall be used to compensate employees of the Commission on Continuing Legal Education, established pursuant to the Supreme Court Rules for the Government of the Bar of Ohio, and to fund other activities of the Commission considered appropriate by the Court. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Continuing Legal Education Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Continuing Legal Education Fund shall be credited to the Fund.

Supreme Court Admissions

The foregoing appropriation item 010-602, Supreme Court Admissions, shall be used to compensate Supreme Court employees who are primarily responsible for administering the attorney admissions program, pursuant to the Rules for the Government of the Bar of Ohio, and to fund any other activities considered appropriate by the Court. Moneys shall be deposited into the Supreme Court Admissions Fund (Fund 6A8) pursuant to the Supreme Court Rules for the Government of the Bar of Ohio. If it is

determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Supreme Court Admissions Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Supreme Court Admissions Fund shall be credited to the Fund.

Attorney Registration

In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 010-603, Attorney Registration, may be used to compensate employees and fund the appropriate activities of the following offices established by the Supreme Court pursuant to the Rules for the Government of the Bar of Ohio: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, the Board of Commissioners on the Unauthorized Practice of Law, and the Office of Attorney Registration. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Attorney Registration Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on moneys in the Attorney Registration Fund shall be credited to the Fund.

Supreme Court Cost Fund

The Supreme Court Cost Fund (R47) is hereby created in the state treasury and shall consist of all security deposits and other funds other than filing or docket fees received by the clerk of the Supreme Court pursuant to the Rules of Practice of the Supreme Court. The foregoing appropriation item 010-604, Supreme Court Cost Fund, shall be used and distributed by the clerk as provided in the Rules of Practice of the Supreme Court or order of the Supreme Court. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No moneys in the Supreme Court Cost Fund shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board.

SECTION 73. LEC LAKE ERIE COMMISSION

State Special Revenue Fund

4C0	780-601	Lake Erie Protection Fund	$ 270,001	$	308,964

5D8	780-602	Lake Erie Resources Fund	$ 477,555	$ 490,921
TOTAL SSR State Special Revenue Fund Group			$ 747,556	$ 799,885
TOTAL ALL BUDGET FUND GROUPS			$ 747,556	$ 799,885

The foregoing appropriation items 780-601, Lake Erie Protection Fund, and 780-602, Lake Erie Resources Fund, shall be administered pursuant to sections 1506.23 and 1506.24 of the Revised Code.

Not later than July 31 of each fiscal year, the Lake Erie Commission shall certify to the Director of Budget and Management a cash amount to transfer from the Lake Erie Protection Fund (Fund 4C0) to the Lake Erie Resources Fund (Fund 5D8) to be used for the operating expenses of the Lake Erie Commission.

Notwithstanding division (A) of section 1506.23 and division (A) of section 1506.24 of the Revised Code, not later than July 31, 1997, the Ohio Lake Erie Commission shall designate one of its members to administer the Lake Erie Protection Fund and the Lake Erie Resources Fund and, with the approval of the Commission, to expend moneys from the funds for the purposes described in sections 1506.23 and 1506.24 of the Revised Code.

SECTION 74. LRS LEGAL RIGHTS SERVICE

General Revenue Fund

GRF	054-100	Personal Services	$ 298,363	$ 316,896
GRF	054-200	Maintenance	$ 48,145	$ 49,493
GRF	054-300	Equipment	$ 2,633	$ 2,707
GRF	054-401	Ombudsman	$ 363,534	$ 363,534
TOTAL GRF General Revenue Fund			$ 712,675	$ 732,630

General Services Fund Group

416	054-601	Gifts and Donations	$ 1,189	$ 1,222
TOTAL GSF General Services Fund Group			$ 1,189	$ 1,222

Federal Special Revenue Fund Group

3B8	054-603	Protection and Advocacy - Mentally Ill	$ 656,625	$ 656,625
3N3	054-606	Protection Advocacy - Individual Rights	$ 210,168	$ 210,168
3N9	054-607	Assistive Technology	$ 56,490	$ 56,490
305	054-602	Protection and Advocacy - Developmentally Disabled	$ 1,006,478	$ 1,006,478
TOTAL FED Federal Special Revenue Fund Group			$ 1,929,761	$ 1,929,761
TOTAL ALL BUDGET FUND GROUPS			$ 2,643,625	$ 2,663,613

SECTION 75. JLE JOINT LEGISLATIVE ETHICS COMMITTEE

General Revenue Fund

GRF 028-321	Legislative Ethics Committee	$ 540,960	$	555,197
TOTAL GRF General Revenue Fund		$ 540,960	$	555,197
State Special Revenue Fund Group				
4G7 028-601	Joint Legislative Ethics Commitee	$ 50,000	$	35,000
TOTAL SSR State Special Revenue Fund		$ 50,000	$	35,000
TOTAL ALL BUDGET FUND GROUPS		$ 590,960	$	590,197

SECTION 76. LSC LEGISLATIVE SERVICE COMMISSION

General Revenue Fund				
GRF 035-321	Operating Expenses	$ 7,231,000	$	7,445,000
GRF 035-402	Legislative Interns	$ 705,000	$	740,000
GRF 035-403	Legislative Budget Office	$ 2,405,000	$	2,521,000
GRF 035-404	Legislative Office of Education Oversight	$ 658,933	$	683,891
GRF 035-405	Correctional Institution Inspection Committee	$ 475,000	$	490,000
GRF 035-406	ATMS Replacement Project	$ 80,000	$	80,000
GRF 035-407	Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	$ 830,000	$	320,000
GRF 035-409	National Associations	$ 510,957	$	376,729
GRF 035-410	Legislative Information Systems	$ 3,200,000	$	3,200,000
TOTAL GRF General Revenue Fund		$ 16,095,890	$	15,856,620
General Services Fund Group				
410 035-601	Sale of Publications	$ 25,000	$	25,000
4F6 035-603	Legislative Budget Services	$ 120,000	$	128,000
4F7 035-605	Head Start Study	$ 60,000	$	0
TOTAL GSF General Services Fund Group		$ 205,000	$	153,000
TOTAL ALL BUDGET FUND GROUPS		$ 16,300,890	$	16,009,620

ATMS Replacement Project

Of the foregoing appropriation item 035-406, ATMS Replacement Project, any amounts not used for the ATMS project may be used to pay the operating expenses of the Legislative Service Commission.

National Associations

Of the foregoing appropriation item 035-409, National Associations, $8,000 in each fiscal year shall be used for the State and Local Legal Center.

Legislative Office of Education Oversight

The foregoing appropriation item 035-404, Legislative Office of Education Oversight, shall be used to support the legislative oversight activities of the Legislative Committee on Education Oversight established in section 3301.68 of the Revised Code.

The Legislative Office of Education Oversight shall study ways for school districts to create a collaborative high school with neighboring

districts. The study will determine the types of incentives, including state assistance, necessary to encourage schools toward this type of collaboration. The Legislative Office of Eduction Oversight shall report their recommendations to the Speaker of the House and the President of the Senate no later than June 30, 1999.

No later than January 31, 1999, the Legislative Office of Education Oversight shall issue a report on the status of the educational service center consolidations mandated by Section 45.32 of Am. Sub. H.B. 117 of the 121st General Assembly, as amended. The Office shall submit its report to the Speaker of the House of Representatives and the President of the Senate.

Head Start Study

The foregoing appropriation item 035-605, Head Start Study, shall be used by the Legislative Office of Education Oversight to conduct research on Head Start. The purpose of the study is to evaluate the implementation of Head Start, including the nature and quality of the educational programming, its cost, staff, and facilities, and the program's impact on participating children and families.

The Director of the Legislative Office of Education Oversight shall notify the Director of Budget and Management upon completion of the Head Start Study. The Director of Budget and Management shall transfer any unexpended and unobligated cash balances in Fund 4F7 to the General Revenue Fund.

Section 103.41 Report

Notwithstanding section 103.41 of the Revised Code, the Legislative Budget Office of the Legislative Service Commission may submit the estimates required by that section for calendar years 1996 and 1997 in October, 2000.

Workforce Study Committee Additional Duties

The Legislative Service Commission Study Committee on Job Training and Workforce Development Programs appointed on February 5, 1997, by motion of the Commission pursuant to its authority in section 103.12 of the Revised Code, shall review the functions and duties of state, county, and other programs, including those performed by local offices of the Bureau of Employment Services and by state and county human services offices, that are directed toward job training, job placement, and workforce development. The Study Committee, after consulting with interested parties including the Director of Human Services and the Administrator of the Bureau of Employment Services, shall make recommendations to the Governor and to the Speaker and the Minority Leader of the House of Representatives and the President and the Minority Leader of the Senate, on behalf of the

General Assembly, to improve the integration, efficiency, effectiveness, and collaboration of federal, state, and locally funded job training, job placement, and workforce development efforts.

SECTION 77. LIB STATE LIBRARY BOARD

General Revenue Fund						
GRF	350-100	Personal Services	$	4,827,514	$	4,912,567
GRF	350-200	Maintenance	$	1,673,015	$	1,743,662
GRF	350-300	Equipment	$	611,932	$	634,043
GRF	350-400	Ohio Public Library Information Network	$	6,547,592	$	5,685,478
GRF	350-501	Cincinnati Public Library	$	739,232	$	757,713
GRF	350-502	Regional Library Systems	$	851,653	$	867,944
GRF	350-503	Cleveland Public Library	$	974,246	$	998,602
GRF	350-504	Ohio Humanities Council	$	100,000	$	100,000
TOTAL GRF General Revenue Fund			$	16,325,184	$	15,700,009
General Services Fund Group						
139	350-602	Intra-Agency Service Charges	$	9,991	$	10,271
459	350-602	Interlibrary Service Charges	$	660,607	$	677,055
TOTAL GSF General Services Fund Group			$	670,598	$	687,326
Federal Special Revenue Fund Group						
313	350-601	LSCA Federal	$	4,261,756	$	4,261,756
313	350-603	LSCA Construction	$	551,592	$	551,592
TOTAL FED Federal Special Revenue Fund Group			$	4,813,348	$	4,813,348
TOTAL ALL BUDGET FUND GROUPS			$	21,809,130	$	21,200,683

Ohio Public Library Information Network

Of the foregoing appropriation line item 350-400, Ohio Public Library Information Network, up to $1,000,000 in fiscal year 1998 shall be used to fund the Net Wellness Program. The remainder of appropriation item 350-400, Ohio Public Library Information Network, shall be used for an information telecommunications network linking public libraries in the state and such others as may be certified as participants by the Ohio Public Library Information Network Board.

The Ohio Public Library Information Network Board shall consist of eleven members appointed by the State Library Board from among the staff of public libraries and past and present members of Boards of Trustees of public libraries, based on the recommendations of the Ohio library community. The Ohio Public Library Information Network Board in consultation with the State Library shall develop a plan of operations for the network. The Board shall have the authority to make decisions regarding the use of the foregoing appropriation line items 350-400, Ohio Public Library Information Network, and to receive and expend grants to carry out the

operations of the network in accordance with state law and the authority to appoint and fix the compensation of a director and necessary staff. The State Library will be the fiscal agent for the network and shall have fiscal accountability for the expenditure of funds.

In order to limit access to obscene and illegal materials through Internet use at Ohio Public Library Information Network (OPLIN) terminals, local libraries with OPLIN computer terminals shall adopt policies that control access to obscene and illegal materials. These policies may include use of technological systems to select or block certain Internet access. The OPLIN shall condition provision of its funds, goods, and services on compliance with these policies. The OPLIN board shall also adopt and communicate specific recommendations to local libraries on methods to control such improper usage. These methods may include each library implementing a written policy controlling such improper use of library terminals; requirements for parental involvement or written authorization for juvenile Internet usage.

The OPLIN Board shall research and implement or advise libraries on emerging technologies and methods that may be effective means to control access to obscene and illegal materials. On January 1, 1998, and quarterly thereafter through April 1, 1999, the OPLIN Executive Director shall provide written reports on a quarterly basis to the Governor, the Speaker of the House of Representatives, and the President of the Senate on any steps being taken by OPLIN and public libraries in this state to limit and control such improper usage as well as information on technological, legal, and law enforcement trends nationally and internationally affecting this area of public access and service.

The Ohio Public Library Information Network, InfOhio, and Ohio Link shall to the extent feasible, coordinate and cooperate in their purchase or other acquisition of the use of electronic databases for their respective users and shall contribute funds in an equitable manner to such effort.

Ohio Humanities Council

The foregoing appropriation item 350-504, Ohio Humanities Council, shall be used for joint humanities library projects.

SECTION 78. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group

043	970-321	Operating	$	529,300	$ 540,458
TOTAL LCF Liquor Control Fund Group			$	529,300	$ 540,458
TOTAL ALL BUDGET FUND GROUPS			$	529,300	$ 540,458

SECTION 79. LOT STATE LOTTERY COMMISSION

State Lottery Fund Group

044	950-100	Personal Services	$	20,393,308	$	20,900,088
044	950-200	Maintenance	$	26,253,110	$	26,980,020
044	950-300	Equipment	$	5,080,222	$	3,815,872
044	950-402	Game and Advertising Contracts	$	60,424,684	$	61,208,888
044	950-601	Prizes, Bonuses, and Commissions	$	170,196,883	$	174,343,332
871	950-602	Annuity Prizes	$	157,269,859	$	164,744,244
872	950-603	Unclaimed Lottery Prizes	$	5,000,000	$	5,000,000
TOTAL SLF State Lottery Fund Group			$	444,618,066	$	456,992,444
TOTAL ALL BUDGET FUND GROUPS			$	444,618,066	$	456,992,444

Operating Expenses

The foregoing appropriation items include all amounts necessary for the purchase and printing of tickets, consultant services, and advertising. The Controlling Board may, at the request of the State Lottery Commission, authorize additional expenditures for operating expenses by the State Lottery Commission from the State Lottery Fund up to a maximum of 15 per cent of anticipated total revenue accruing from the sale of lottery tickets.

Prizes, Bonuses, and Commissions

Any sums, in addition to the amounts specifically appropriated in appropriation item 950-601, Prizes, Bonuses, and Commissions, which are determined to be necessary for these purposes, are hereby appropriated.

Annuity Prizes

With the approval of the Office of Budget and Management, the State Lottery Commission shall transfer cash from the State Lottery Fund (Fund 044) to the Annuity Prizes Fund (Fund 871), in an amount sufficient to fund such prizes. The Treasurer of State shall, from time to time, credit the Deferred Prizes Trust Fund (Fund 871) the pro rata share of interest earned by the Treasurer of State on invested balances.

Any sums, in addition to the amounts specifically appropriated in the appropriation item 950-602, Annuity Prizes, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 80. LLW LOW-LEVEL RADIOACTIVE WASTE FACILITY DEVELOPMENT AUTHORITY

State Special Revenue Fund

5A6	710-601	Low-Level Radioactive Waste Development Fund	$	1,066,480	$	1,127,190
TOTAL SSR State Special Revenue						

Fund Group		$ 1,066,480	$	1,127,190
TOTAL ALL BUDGET FUND GROUPS		$ 1,066,480	$	1,127,190

SECTION 81. MED STATE MEDICAL BOARD

General Services Fund Group

4K9 883-609	Operating	$ 5,823,491	$	0
5C6 883-609	State Medical Board Operating	$ 0	$	5,865,118
TOTAL GSF General Services Fund Group		$ 5,823,491	$	5,865,118
TOTAL ALL BUDGET FUND GROUPS		$ 5,823,491	$	5,865,118

Transfer Operations - Fund 4K9 and Fund 5C6

At the request of the Executive Director of the State Medical Board, the Director of Budget and Management may cancel encumbrances in Fund 4K9 and reestablish such encumbrances, or parts thereof, in fiscal year 1999 in Fund 5C6 for the same purpose and to the same vendor. The Director of Budget and Management shall reduce the appropriation balance in fiscal year 1998 by the amount of encumbrances canceled in Fund 4K9. As determined by the Director of Budget and Management, the appropriation authority necessary to reestablish such encumbrances, or parts thereof, in fiscal year 1999 in Fund 5C6 for the State Medical Board is hereby appropriated.

At such time that the Director of Budget and Management deems appropriate, the estimated cash balance of Fund 4K9 which is to the credit of the State Medical Board as determined by the Director of Budget and Management, shall be transferred to Fund 5C6. The Director of Budget and Management shall transfer the difference between any estimated amount previously transferred and the final amount prior to the end of fiscal year 1999.

SECTION 82. DMH DEPARTMENT OF MENTAL HEALTH

Division of General Administration Intragovernmental Service Fund Group

151 235-601	General Administration	$ 67,012,077	$	68,847,261
TOTAL ISF Intragovernmental Service Fund Group		$ 67,012,077	$	68,847,261

Division of Mental Health--
Psychiatric Services to Correctional Facilities

General Revenue Fund

GRF 332-401	Forensic Services	$ 4,275,652	$	4,857,543
TOTAL GRF General Revenue Fund		$ 4,275,652	$	4,857,543
TOTAL ALL BUDGET FUND GROUPS		$ 71,287,729	$	73,704,804

Forensic Services

The foregoing appropriation item 322-401, Forensic Services, shall be used to provide psychiatric services to courts of common pleas. Funds used for this purpose shall be allocated through community mental health boards to certified community agencies and shall be distributed according to the criteria delineated in Rule 5122:4-1-01 of the Administrative Code. These community forensic funds may also be used to provide forensic training to community mental health boards and to provide evaluations of patients of forensic status in facilities operated by the Department of Mental Health prior to conditional release to the community.

In addition, appropriation item 332-401 may be used to support pilot projects involving mental health, substance abuse, courts, and law enforcement to identify and develop appropriate alternative services to institutionalization for non-violent mentally ill offenders, and to provide linkage to community services for severely mentally disabled offenders released from institutions operated by the Department of Rehabilitation and Correction. Funds may also be utilized for subsidies to communities to provide forensic monitoring and tracking in addition to pilot community programs serving persons of forensic status on conditional release or probation.

In addition, the Department of Mental Health may transfer an amount of the foregoing appropriation, 332-401, Forensic Services, to the Department of Youth Services' Community Mental Health and Substance Abuse Treatment Fund (4J7) and the Department of Rehabilitation and Correction's Community Mental Health and Substance Abuse Treatment Fund (4J3). No later than sixty days after the effective date of this act, the Departments of Mental Health, Rehabilitation and Correction, and Youth Services shall enter into an interagency agreement to define the relationship and responsibilities between parties regarding the funding and monitoring of the Mental Health and Substance Abuse Demonstration Grant projects. Specific amounts to be transferred shall be determined by the interagency agreement. Transfers shall be made by intrastate transfer voucher.

Division of Mental Health--
Administration and Statewide Programs

General Revenue Fund

GRF	333-100	Personal Services - Central Administration	$	15,940,094	$ 16,346,471
GRF	333-200	Maintenance	$	2,570,711	$ 2,629,897
GRF	333-300	Equipment	$	651,826	$ 486,926
GRF	333-402	Residency Traineeship Programs	$	1,468,513	$ 1,505,226
GRF	333-403	Behavioral Health Medicaid Administration	$	730,000	$ 645,750
GRF	333-415	Rental Payments OPFC	$	39,489,000	$ 32,411,000

GRF	333-416	Research Program Evaluation	$	939,184	$	962,664
TOTAL GRF General Revenue Fund			$	61,789,328	$	54,987,934
General Services Fund Group						
149	333-609	Sale of Goods and Services	$	2,438,758	$	2,506,829
TOTAL General Services Fund Group			$	2,438,758	$	2,506,829
Federal Special Revenue Fund Group						
3A7	333-612	Social Services Bk. Gt.	$	24,000	$	24,000
3A8	333-613	Letter of Credit	$	125,755	$	7,000
3A9	333-614	Mental Health Block Grant	$	644,212	$	644,212
3B1	333-635	Community Medicaid Expansion	$	4,624,851	$	4,839,524
324	333-605	Medicaid/Medicare	$	150,000	$	150,000
TOTAL Federal Special Revenue Fund Group			$	5,568,818	$	5,664,736
State Special Revenue Fund Group						
4X5	333-607	Behavioral Health Medicaid Services	$	160,790,181	$	160,790,181
485	333-632	Mental Health Operating	$	117,606	$	120,899
TOTAL State Special Revenue Fund Group			$	160,907,787	$	160,911,080
TOTAL ALL BUDGET FUND GROUPS			$	230,704,691	$	224,070,579

Residency Traineeship Programs

The foregoing appropriation item 333-402, Residency Traineeship Programs, shall be used to fund training agreements entered into by the Department of Mental Health for the development of curricula and the provision of training programs to support public mental health services. The appropriation line item may also be used to assist in the development of a statewide public academic mental health council to coordinate the collaboration between the public mental health system and college and university traineeship programs established pursuant to section 5119.11 of the Ohio Revised Code.

Behavioral Health Medicaid Administration

The foregoing appropriation item 333-403, Behavioral Health Medicaid Administration, shall be used to monitor, assess, and evaluate the vendor responsible for specified Medicaid services transferred from the Department of Human Services to the Departments of Mental Health and Alcohol and Drug Addiction Services. In addition, the appropriation item may be used to pay for costs to ensure that uniform statewide methods for pre-admission screening are in place to perform assessments for persons in need of mental health services or whom institutional placement in a hospital or in another inpatient facility is sought. Pre-admission screening includes the following activities: pre-admission assessment, consideration of continued stay requests, discharge planning and referral, and adjudication of appeals and grievance procedures.

Management Tools in Community Services through Medicaid

(A) The Directors of Mental Health and Alcohol and Drug Addiction Services shall convene a workgroup to examine and make recommendations regarding the implementation of management controls and related standards for transfer Medicaid services and the community mental health, alcohol, and other drug addition services that are provided by the Departments of Mental Health and Alcohol and Drug Addiction Services and boards of alcohol, drug addiction, and mental health services and reimbursed through the Medicaid program pursuant to interagency agreements with the Department of Human Services. The recommendations for Medicaid management controls and standards shall ensure that systems of providing alcohol, drug addiction, and mental health services are integrated, are managed locally, as required by Chapter 340. of the Revised Code, and meet applicable standards for accessibility, quality, and cost-effectiveness.

The issues addressed by the workgroup shall include the following:

(1) Standards and procedures to be followed that allow for selection of providers that are best-qualified for delivery of services;

(2) Methods and standards for setting and negotiating reimbursement rates;

(3) Methods and protocols for utilization review, management review, and external quality review;

(4) Requirements and standards for consumer and family education;

(5) Standards for consumer and provider grievance and appeal procedures;

(6) The entire range of service-purchasing options, including individual providers, provider networks, and integrated service delivery system contracting;

(7) Methods for making the service procurement process more efficient, including reduction and elimination of unnecessary regulatory requirements.

(B) The members of the workgroup shall be appointed by the Directors of Mental Health and Alcohol and Drug Addiction Services. The membership shall include representatives of boards of alcohol, drug addiction, and mental health services, boards of county commissioners, and other constituency groups identified by the Directors.

(C) Not later than September 30, 1997, the workgroup shall prepare a report of its recommendations for legislative, executive, and administrative initiatives, not including recommendations regarding transfer Medicaid services, and submit a copy of the report and initiatives to the Governor, Speaker of the House of Representatives, President of the Senate, and the Minority Leaders of both the House of Representatives and the Senate.

Not later than December 31, 1997, the workgroup shall prepare a report

of its recommendations for legislative, executive, and administrative initiatives regarding transfer Medicaid services and submit a copy of the report and recommendations to the Governor, Speaker of the House of Representatives, President of the Senate, and the Minority Leaders of both the House of Representatives and the Senate. The workgroup shall cease to exist on submission of the second report.

Rental Payments to the Ohio Public Facilities Commission

The foregoing appropriation item 333-415, Rental Payments to the Ohio Public Facilities Commission, shall be used to meet all payments at the times they are required to be made during the period from July 1, 1997 to June 30, 1999, by the Department of Mental Health to the Ohio Public Facilities Commission pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of $71,900,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 82.01. Division of Mental Health--Hospitals

General Revenue Fund				
GRF	334-408	Community Mental Health and Hospital Services	$ 321,032,595	$ 323,242,956
GRF	334-506	Court Costs	$ 966,274	$ 966,274
TOTAL GRF General Revenue Fund			$ 319,998,869	$ 322,209,230
General Services Fund Group				
149	334-609	Sale of Goods and Services	$ 5,000,328	$ 5,016,303
150	334-620	Special Education	$ 80,000	$ 80,000
TOTAL GSF General Services Fund Group			$ 5,080,328	$ 5,096,303
Federal Special Revenue Fund Group				
3A6	334-608	Federal Miscellaneous	$ 13,000	$ 13,000
3B0	334-617	Elementary/Secondary Education Act	$ 121,859	$ 121,859
324	334-605	Medicaid/Medicare	$ 13,902,568	$ 13,119,261
TOTAL FED Federal Special Revenue Fund Group			$ 14,037,427	$ 13,254,120
State Special Revenue Fund Group				
485	334-632	Mental Health Operating	$ 2,946,516	$ 2,981,700
692	334-636	Risk Fund	$ 550,605	$ 566,022
TOTAL SSR State Special Revenue Fund Group			$ 3,497,121	$ 3,547,722
TOTAL ALL BUDGET FUND GROUPS			$ 344,613,745	$ 346,017,375

Allocation of 334-408 Line Item

Of the foregoing appropriation item 334-408, Community Mental

Health and Hospital Services, a minimum of $146,587,699 in fiscal year 1998 and $149,519,453 in fiscal year 1999 shall be allocated to the community mental health boards as subsidy dollars.

Risk Fund

The foregoing appropriation item 334-636, Risk Fund, shall be used to make payments pursuant to section 5119.62 of the Revised Code.

SECTION 82.02. Division of Mental Health--Community Support Services

General Revenue Fund					
GRF	335-419	Community Medication Subsidy	$ 4,960,052	$	6,448,068
GRF	335-502	Community Mental Health Programs	$ 36,623,180	$	37,648,629
GRF	335-508	Services for Severely Mentally Disabled Persons	$ 57,567,677	$	59,361,999
TOTAL GRF General Revenue Fund			$ 99,150,909	$	103,458,696
General Services Fund Group					
4N8	335-606	Family Stability Incentive	$ 7,000,000	$	7,000,000
TOTAL GSF General Services Fund Group			$ 7,000,000	$	7,000,000
Federal Special Revenue Fund Group					
3A7	335-612	Social Services Block Grant	$ 13,580,000	$	13,580,000
3A8	335-613	Letter of Credit	$ 3,428,000	$	428,000
3A9	335-614	Mental Health Block Grant	$ 12,240,033	$	12,240,033
3B1	335-635	Community Medicaid Expansion	$ 142,000,000	$	154,700,000
TOTAL FED Federal Special Revenue Fund Group			$ 171,248,033	$	180,948,033
TOTAL ALL BUDGET FUND GROUPS			$ 276,761,221	$	290,253,729
Department Total					
General Revenue Fund			$ 487,214,758	$	487,513,403
General Services Fund Group			$ 14,519,086	$	14,603,132
Department Total					
Federal Special Revenue Fund Group			$ 190,854,278	$	199,866,889
Department Total					
State Special Revenue Fund Group			$ 164,404,908	$	164,458,802
Intragovernmental Fund Group			$ 67,012,077	$	68,847,261
Total Department of Mental Health			$ 924,005,107	$	935,289,487

SECTION 82.03. Community Medication Subsidy

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide

subsidized support for methadone costs.

General Community Mental Health Programs

The foregoing appropriation item 335-502, Community Mental Health Programs, shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards.

The purpose of the appropriation shall be to provide subsidized support for general mental health services to Ohioans. The range of mental health services eligible for funding shall be defined in a Department of Mental Health administrative rule. Community mental health boards shall allocate funds in support of these services in accordance with the mental health needs of the community.

Mental Health Services for Severely Mentally Disabled Persons

The foregoing appropriation item 335-508, Services for Severely Mentally Disabled Persons, shall be used to fund mental health services for adults and children who meet or have formerly met criteria established by the Department of Mental Health under its definition of severely mentally disabled. Those adults and children who constitute severely mentally disabled shall include those with a history of recent or chronic psychiatric hospitalizations, a history of psychosis, a prognosis of continued severe social and adaptive functioning impairment, or those certified impaired by the Social Security Administration for reasons of mental illness. In addition to the above, children and adolescents who are currently determined to be severely mentally disabled, or who are at risk of becoming severely mental disabled, and who are already in or about to enter the juvenile justice system, or child welfare system, or receiving special education services within the education system may also receive services funded by appropriation item 335-508, Services for Severely Mentally Disabled Persons.

Of the foregoing appropriation item 335-508, Services for Severely Mentally Disabled Persons, no less than $5,371,895 in fiscal year 1998 and $5,871,895 in fiscal year 1999 shall be used to fund the Housing Assistance Program, which shall continue to be managed by the Department of Mental Health.

Of the foregoing appropriation item 335-508, Services for Severely Mentally Disabled Persons, $2.7 million in each fiscal year shall be used to transfer cash from the General Revenue Fund to Fund 4N8, Family Stability Incentive. This transfer shall be made using an intrastate voucher.

Behavioral Health Medicaid Services

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Human Services in an

interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Human Services, to make monthly payments to the statewide Behavioral Health Care vendor responsible for managing any specified Medicaid services which may be transferred from the Department of Human Services to the Department of Mental Health, and to support the expansion of the Multi-Agency Community Services Information System.

Committee to Study Mental Health Funding

There is hereby created the Committee to Study Mental Health Funding. The Committee shall consist of five members of the House of Representatives, three of whom shall be of the majority party and two of whom shall be of the minority party. All five members are to be appointed by the Speaker of the House of Representatives. The Committee shall also consist of five members of the Senate, three of whom shall be of the majority party and two of whom shall be of the minority party. All five members are to be appointed by the President of the Senate. The Speaker of the House of Representatives and President of the Senate shall jointly appoint one of the five House members to serve as chairperson of the Committee. The members of the Committee shall be appointed within thirty days of the effective date of this section.

The Committee shall study the use of funding in the Department of Mental Health's budget, including the methodology by which the funds are distributed, how they are spent, and their effectiveness. Not later than June 30, 1998, the Committee shall submit a report of its findings and recommendations regarding funding in the Department of Mental Health's budget to the Speaker and the Minority Leader of the House of Representatives and the President and the Minority Leader of the Senate. The Legislative Service Commission and the Legislative Budget Office shall provide staff for the Committee.

SECTION 83. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

General Administration and Statewide Services

General Revenue Fund

GRF	320-321	Central Administration	$	11,015,916	$ 11,291,313
GRF	320-411	Special Olympics	$	200,000	$ 200,000
GRF	320-412	Protective Services	$	1,307,328	$ 1,307,328
GRF	320-415	Rent Payments-OPFC	$	41,966,000	$ 38,194,000
TOTAL GRF General Revenue Fund			$	54,489,244	$ 50,992,641

General Services Fund Group					
4B5	320-640	Conference/Training	$ 657,000	$	692,196
TOTAL GSF General Services Fund Group			$ 657,000	$	692,196
Federal Special Revenue Fund Group					
3A4	320-605	Administration Support	$ 5,000,000	$	5,174,825
3A5	320-613	DD Council	$ 799,020	$	826,986
325	320-618	Client Assistance Program	$ 465,750	$	482,051
325	320-634	Protective Services	$ 828,000	$	856,980
TOTAL FED Federal Special Revenue Fund Group			$ 7,092,770	$	7,340,842
TOTAL ALL BUDGET FUND GROUPS			$ 62,239,014	$	59,025,679

Rental Payments to the Ohio Public Facilities Commission

The foregoing appropriation item 320-415, Rental Payments to the Ohio Public Facilities Commission, shall be used to meet all payments at the times they are required to be made during the period from July 1, 1997, to June 30, 1999, by the Department of Mental Retardation and Developmental Disabilities to the Ohio Public Facilities Commission pursuant to leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of $80,160,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.20 of the Revised Code.

SECTION 83.01. Community Services

General Revenue Fund					
GRF	322-405	State Use Program	$ 251,125	$	257,403
GRF	322-413	Residential and Support Services	$ 128,243,095	$	131,449,172
GRF	322-414	Sermak Class Services	$ 2,000,000	$	2,000,000
GRF	322-451	Family Support Services	$ 6,914,478	$	7,087,340
GRF	322-452	Case Management	$ 6,067,537	$	6,219,225
GRF	322-501	County MR/DD Boards	$ 44,194,082	$	46,104,904
TOTAL GRF General Revenue Fund			$ 187,670,317	$	193,118,044
General Services Fund Group					
4J6	322-645	Intersystem Services for Children	$ 3,587,500	$	3,677,188
4U4	322-606	Community MR and DD Trust	$ 102,800	$	105,678
4V1	322-611	Miscellaneous Use	$ 20,500	$	21,013
488	322-603	Residential Services Refund	$ 2,831,000	$	2,992,546
TOTAL GSF General Services Fund Group			$ 6,541,800	$	6,796,425
Federal Special Revenue Fund Group					
3A4	322-605	Community Program Support	$ 2,320,000	$	2,401,200
325	322-608	Federal Grants	$ 1,131,378	$	1,170,976
3A4	322-610	Community Residential	$ 5,000,000	$	5,175,000

		Support		
325	322-612	Social Service Block Grant	$ 15,100,000	$ 15,100,000
3A5	322-613	DD Council	$ 3,244,725	$ 3,358,290
325	322-614	Health and Human Services	$ 207,000	$ 214,245
325	322-617	Elementary & Secondary Education Act	$ 143,380	$ 148,833
3G6	322-639	Medicaid Waiver	$ 165,410,100	$ 173,782,807
3M7	322-650	CAFS Medicaid	$ 121,729,131	$ 126,221,647
TOTAL FED Federal Special Revenue Fund Group			$ 314,285,714	$ 327,572,998
State Special Revenue Fund Group				
4K8	322-604	Waiver - Match	$ 11,798,099	$ 12,191,446
TOTAL SSR State Special Revenue Fund Group			$ 11,798,099	$ 12,191,446
TOTAL ALL BUDGET FUND GROUPS			$ 520,295,930	$ 539,678,913

Residential and Support Services

The foregoing appropriation item 322-413, Residential and Support Services, shall be used for state contracted purchase of service in accordance with section 5123.18 of the Revised Code, supported living services contracted by county boards of mental retardation and developmental disabilities in accordance with sections 5126.40 to 5126.47 of the Revised Code, and home and community-based waiver services and OBRA waiver services pursuant to Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

After all obligations from the foregoing appropriation item 322-413, Residential and Support Services, are settled, any remaining appropriations may be used by the Director, who shall then have continuing authority to use the appropriation for the following purposes:

(1) To transfer state contracted purchase of service moneys to supported living when providers and county boards agree on specified conversions in accordance with standards in division (C) of section 5126.44 and section 5126.451 of the Revised Code;

(2) To provide additional moneys for purchase of service providers for persons they serve who are ineligible for such placement on the waiver with funding in accordance with the provisions of section 5123.18 of the Revised Code;

(3) To provide moneys for Individual Options and OBRA Waiver services for persons enrolled prior to July 1, 1995;

(4) To provide additional moneys for supported living services and to provide moneys for match if additional home and community-based waiver services are available.

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may develop residential and support service programs that enable persons with

mental retardation and developmental disabilities to live in the community. Notwithstanding Chapter 5121. and section 5123.122 of the Revised Code, the department may waive the support collection requirements of those statutes for persons in community programs developed by the department under this section. The department shall adopt rules pursuant to Chapter 119. of the Revised Code or may use existing rules for the implementation of these programs.

Shared Funding Agreement

As used under this heading, "government agency" and "residential services" have the same meanings as in section 5123.18 of the Revised Code.

The Department of Mental Retardation and Developmental Disabilities may enter into a shared funding agreement with government agencies to provide residential services to an individual for whom the department may use funds in appropriation item 322-413, Residential and Support Services, and the government agency may use other public funds. If adequate funds are available in appropriation item 322-413, the department may renegotiate a shared funding agreement as necessary.

If a government agency or provider of residential services has reason to believe that the amount the department will pay under a shared funding agreement for an individual's residential services is based on inaccurate cost reports or likely to cause the individual to receive substandard care, the agency or provider may appeal to the Director of Mental Retardation and Developmental Disabilities pursuant to rules the director shall adopt in accordance with Chapter 119. of the Revised Code. If the director determines good cause exists after hearing an appeal, he may change the amount the department will pay for an individual's residential services.

The amount the department pays for an individual's residential services under a shared funding agreement shall not exceed the maximum rate for purchase of service contracts established by rule 5123-11-01 of the Ohio Administrative Code and shall not be reduced by any public funds the individual is eligible to receive or have paid on his behalf by another government agency.

OBRA Waiver Program-Payment of One-Time Costs and Cost of Room and Board

Pursuant to rules adopted under Chapter 119. of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may use appropriation item 322-413, Residential and Support Services, to pay one-time costs and the cost of room and board for individuals receiving home and community-based services under the OBRA program. One-time

costs are costs associated with establishing a home in the community.

State Subsidies to MR/DD boards

Of the foregoing appropriation item 322-501, County MR/DD Boards, $1,500,000 in each fiscal year shall be used to fund the tax equity program in accordance with sections 5126.16, 5126.17, and 5126.18 of the Revised Code.

In fiscal year 1998 and fiscal year 1999, up to $550,000 of the foregoing appropriation item 322-501, County MR/DD Boards, may be transferred to the Ohio Association of County Boards of Mental Retardation and Developmental Disabilities for technical assistance to county MR/DD boards, and other agencies under contract with the county boards, for implementation of Medicaid services through the home and community-based waivers, OhioCare, and any other Medicaid services that may be developed for the provision of community services, including, but not limited to, case management, delegation of nursing, and other administrative services.

Developmental Center Program to Develop a Model for Billing for Services Rendered

Developmental centers of the Department of Mental Retardation and Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The department may develop a methodology for recovery of all costs associated with the provisions of these services.

Family Support Services

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 5126.11 of the Revised Code, the Department of Mental Retardation and Developmental Disabilities may implement programs funded by appropriation item 322-451, Family Support Services, to provide assistance to persons with mental retardation or developmental disabilities and their families who are living in the community. The department shall establish rules to implement these programs.

Case Management

The foregoing appropriation item 322-452, Case Management, shall be allocated to county boards of mental retardation and developmental disabilities for the purpose of providing case management services and to assist in bringing state funding for all department approved case managers within county boards of mental retardation and developmental disabilities to the level authorized in division (D) of section 5126.15 of the Revised Code. The department may request approval from the Controlling Board to transfer

any unobligated appropriation authority from other state General Revenue Fund appropriation items within the department's budget to appropriation item 322-452, Case Management, to be used to meet the statutory funding level in division (D) of section 5126.15 of the Revised Code.

Notwithstanding division (D) of section 5126.15 of the Revised Code and subject to funding in appropriation item 322-452, Case Management, no county may receive less than its allocation of fiscal year 1995.

Sermak Class Services

Notwithstanding Chapters 5123. and 5126. of the Revised Code, the foregoing appropriation item 322-414, Sermak Class Services, shall be used to implement the requirement of the consent decree in the case of Sermak v. Manuel, c-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division.

Waiver - Match

The foregoing appropriation item 322-604, Waiver Match, shall be used as state matching funds for the home and community-based waivers.

The Department of Human Services may enter into an interagency agreement with the Department of Mental Retardation and Developmental Disabilities providing for the Department of Mental Retardation and Developmental Disabilities to operate the program.

Action Committee for MR/DD System Vision Paper

The Director of the Department of Mental Retardation and Developmental Disabilities shall appoint a committee to provide assistance in forming recommendations for the implementation of an action plan for the MR/DD System Vision Paper. The committee shall be composed of representatives of the department, county boards of mental retardation and developmental disabilities, residential providers, and other advocates for individuals with developmental disabilities. The committee shall work at the direction of the Director or the Director's designee to produce written recommendations for the action plan. The committee shall provide minutes of meetings, materials distributed, and final written recommendations to two members of the House of Representatives, who shall not be of the same political party and who shall be appointed by the Speaker of the House of Representatives, and to two members of the Senate, who shall not be of the same political party and who shall be appointed by the President of the Senate. The Director may appoint subcommittees with additional representatives to enable greater participation and involvement in this system reform. The committee shall be formed within thirty days after the effective date of this section.

Temporary Language for Cash Transfer

Sixty days after the effective date of this section, the Director of Mental Retardation and Developmental Disabilities shall certify the cash balance of the Special Education Fund (Fund 153) to the Director of Budget and Management. Fund 153 is used for maintenance and equipment needs of the developmental centers. Upon approval by the Director of Budget and Management, the remaining cash in Fund 153 shall be transferred to Fund 152, which is hereby renamed the Miscellaneous Revenue Fund.

SECTION 83.02. Developmental Centers

General Revenue Fund				
GRF	323-321	Developmental Centers Operations	$ 98,760,405	$ 100,241,811
TOTAL GRF General Revenue Fund			$ 98,760,405	$ 100,241,811
General Services Fund Group				
152	323-609	Miscellaneous Revenue	$ 750,919	$ 771,945
TOTAL GSF General Services Fund Group			$ 750,919	$ 771,945
Federal Special Revenue Fund Group				
3A4	323-605	Developmental Center Reimbursement	$ 130,462,156	$ 139,594,507
325	323-608	Federal Grants	$ 362,250	$ 374,928
325	323-617	Elementary & Secondary Education Act	$ 246,263	$ 254,882
TOTAL FED Federal Special Revenue Fund Group			$ 131,070,669	$ 140,224,317
State Special Revenue Fund Group				
489	323-632	Operating Expense	$ 9,228,116	$ 9,458,896
TOTAL SSR State Special Revenue Fund Group			$ 9,228,116	$ 9,458,896
TOTAL ALL BUDGET FUND GROUPS			$ 239,810,109	$ 250,696,969
DEPARTMENT TOTAL GENERAL REVENUE FUND			$ 340,919,966	$ 344,352,496
DEPARTMENT TOTAL GENERAL SERVICES FUND GROUP			$ 7,949,719	$ 8,260,566
DEPARTMENT TOTAL FEDERAL SPECIAL REVENUE FUND GROUP			$ 452,449,153	$ 475,138,157
DEPARTMENT TOTAL STATE SPECIAL REVENUE FUND GROUP			$ 21,026,215	$ 21,650,342
TOTAL DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL			$ 822,345,053	$ 849,401,561

LITIES

SECTION 84. MIH COMMISSION ON MINORITY HEALTH

General Revenue Fund

GRF 149-321	Operating Expenses	$ 536,570	$	552,894
GRF 149-501	Minority Health Grants	$ 1,000,000	$	1,034,614
GRF 149-502	Lupus Program	$ 180,000	$	180,000
TOTAL GRF General Revenue Fund		$ 1,716,570	$	1,767,508

State Special Revenue Fund Group

4C2 149-601	Minority Health Conference	$ 110,121	$	113,204
TOTAL SSR State Special Revenue Fund Group		$ 110,121	$	113,204
TOTAL ALL BUDGET FUND GROUPS		$ 1,826,691	$	1,880,712

Lupus Program

The foregoing appropriation item 149-502, Lupus Program, shall be used to provide grants for programs in patient, public, and professional education on the subject of Systemic Lupus Erythemtosus; to encourage and develop local centers on Lupus information gathering and screening; and to provide outreach to minority women.

SECTION 85. DNR DEPARTMENT OF NATURAL RESOURCES

General Revenue Fund

GRF 727-321	Division of Forestry	$ 8,733,287	$	8,969,392
GRF 728-321	Division of Geological Survey	$ 2,032,838	$	1,988,375
GRF 729-321	Computer Information Services	$ 723,300	$	1,220,558
GRF 730-321	Division of Parks and Recreation	$ 32,572,392	$	33,359,003
GRF 733-321	Division of Water	$ 3,325,826	$	3,433,847
GRF 736-321	Division of Chief Engineer	$ 3,568,915	$	3,441,573
GRF 737-321	Division of Soil and Water	$ 3,747,847	$	3,826,753
GRF 738-321	Division of Real Estate and Land Management	$ 2,376,602	$	2,375,216
GRF 741-321	Division of Natural Areas	$ 3,093,164	$	3,166,234
GRF 743-321	Division of Civilian Conservation	$ 4,958,526	$	4,958,526
GRF 725-401	Wildlife - GRF Central Support	$ 1,146,016	$	1,146,016
GRF 725-404	Fountain Square Rental Payments - OBA	$ 1,088,000	$	1,091,000
GRF 725-408	Reclamation and Mining	$ 2,392,395	$	2,452,204
GRF 725-412	Reclamation Commission	$ 67,500	$	69,225
GRF 725-413	OPFC Rental Payments	$ 16,291,000	$	17,014,000
GRF 725-415	Mine Examining Board	$ 120,778	$	123,797
GRF 725-423	Stream and Ground Water Gauging	$ 416,022	$	404,660
GRF 725-425	Wildlife License Reimbursement	$ 1,000,000	$	1,000,000

GRF	725-456	Canal Lands	$	352,254	$	376,912
GRF	725-502	Soil and Water Districts	$	8,951,148	$	10,129,334
TOTAL GRF General Revenue Fund			$	96,957,810	$	100,546,625
General Services Fund Group						
155	725-601	Departmental Services-Intrastate	$	700,188	$	658,418
157	725-651	Central Support Indirect	$	6,667,678	$	6,845,984
158	725-604	Reprint and Replacement-Intrastate	$	112,000	$	113,500
160	725-652	Public Education and Information	$	15,151	$	15,576
161	725-635	Depreciation Reserve	$	2,345,276	$	2,410,944
162	725-625	CCC Earned Revenue	$	1,339,406	$	1,365,341
204	725-687	Information Services	$	1,974,476	$	2,157,964
206	725-689	General Services	$	556,200	$	643,550
207	725-690	Real Estate	$	43,598	$	50,643
4D5	725-618	Recycled Materials	$	97,861	$	100,548
4S9	725-622	Capital Expenses	$	676,611	$	696,294
4X8	725-662	Water Resources Council	$	285,100	$	280,950
430	725-671	Canal Lands	$	933,619	$	925,347
507	725-681	Departmental Services-Interstate	$	735,230	$	762,054
508	725-684	Reprint and Replacement-Interstate	$	346,794	$	354,526
510	725-631	Property Management	$	192,361	$	201,933
516	725-620	Water Management	$	2,575,737	$	2,657,479
519	725-623	Burr Oak Water Plant	$	1,184,289	$	2,073,603
635	725-664	Fountain Square Facilities Management	$	2,278,070	$	2,376,364
697	725-670	Submerged Lands	$	753,165	$	796,693
TOTAL GSF General Services Fund Group			$	23,812,810	$	25,487,711
Federal Special Revenue Fund Group						
3B3	725-640	Forest Products	$	40,000	$	40,000
3B4	725-641	Flood Control	$	180,000	$	180,000
3B5	725-645	Abandoned Mine Lands	$	7,370,478	$	7,573,761
3B6	725-653	Land and Water Conservation	$	678,000	$	310,000
3B7	725-654	Regulatory	$	1,269,960	$	1,311,666
3P0	725-630	Natural Areas and Preserves-Federal	$	123,395	$	110,000
3P1	725-632	Geological Survey-Federal	$	450,560	$	457,587
3P2	725-642	Oil and Gas-Federal	$	272,100	$	272,100
3P3	725-650	Real Estate and Land Management-Federal	$	874,170	$	458,970
3P4	725-660	Water-Federal	$	158,437	$	160,309
3R5	725-673	Acid Mine Drainage Abatement/Treatment	$	500,000	$	500,000
328	725-603	Weeks Fund	$	1,347,312	$	1,272,520
332	725-669	Mine Grant	$	100,000	$	100,000
TOTAL FED Federal Special Revenue Fund Group			$	13,364,412	$	12,746,913
State Special Revenue Fund Group						
4B8	725-617	Forestry Development	$	102,800	$	105,678

4J2	725-628	Injection Well Review	$	94,030	$	96,044
4M7	725-631	Wildfire Suppression	$	100,000	$	100,000
4U6	725-668	Scenic Rivers Protection Fund	$	300,000	$	250,000
5B3	725-674	Mining Regulation	$	51,400	$	52,839
509	725-602	State Forest	$	1,533,470	$	1,544,126
511	725-646	Statewide Mapping	$	773,511	$	786,356
512	725-605	State Parks	$	23,204,011	$	23,831,229
514	725-606	Permit and Lease	$	749,406	$	816,697
517	725-615	Oil and Gas Well Plugging	$	825,052	$	851,927
518	725-643	Oil and Gas Permit Fees	$	3,108,089	$	3,072,487
521	725-627	Recreation Vehicle	$	60,000	$	60,000
522	725-656	Natural Areas Checkoff Funds	$	700,000	$	725,000
525	725-608	Reclamation Forfeiture	$	1,850,400	$	1,902,211
526	725-610	Strip Mining Administration Fees	$	1,146,606	$	1,184,852
527	725-637	Surface Mining Administration	$	2,056,764	$	1,861,165
529	725-639	Unreclaimed Land Fund	$	605,526	$	622,409
530	725-647	Surface Mining Reclamation	$	122,948	$	75,000
531	725-648	Reclamation Supplemental Forfeiture	$	1,983,829	$	991,392
532	725-644	Litter Control and Recycling	$	10,500,000	$	10,499,950
609	725-658	Defaulted Areas	$	301,069	$	309,431
615	725-661	Dam Safety	$	128,000	$	123,127
TOTAL SSR State Special Revenue Fund Group			$	50,296,911	$	49,861,920
Wildlife Fund Group						
015	725-509	Fish/Wildlife Subsidy	$	145,000	$	149,999
015	740-321	Division of Wildlife Conservation	$	45,261,203	$	37,056,106
81A	725-612	Wildlife Education	$	1,392,501	$	1,429,092
815	725-636	Cooperative Management Projects	$	123,052	$	145,497
816	725-649	Wetlands Habitat	$	863,959	$	874,149
817	725-655	Wildlife Conservation Checkoff Fund	$	1,194,847	$	1,265,703
818	725-629	Cooperative Fisheries Research	$	885,000	$	893,000
819	725-685	Ohio River Management	$	113,376	$	116,551
TOTAL WLF Wildlife Fund Group			$	49,978,938	$	41,930,097
Waterways Safety Fund Group						
086	725-414	Waterways Improvement	$	2,858,590	$	2,933,212
086	725-416	Natural Areas Marine Patrol	$	25,000	$	25,000
086	725-417	Parks Marine Patrol	$	25,000	$	25,000
086	725-418	Buoy Placement	$	37,200	$	38,242
086	725-501	Shared Revenue	$	121,145	$	124,537
086	725-506	Watercraft Marine Patrol	$	300,000	$	300,000
086	725-513	Watercraft Educational Grants	$	100,000	$	100,000
086	739-321	Division of Watercraft	$	8,648,454	$	8,881,397
880	725-614	Cooperative Boat Harbor Projects	$	102,800	$	105,678
881	725-621	Education and Enforcement	$	1,374,694	$	1,409,061
TOTAL WSF Waterways Safety Fund						

Group			$ 13,592,883	$ 13,942,127
Holding Account Redistribution Fund Group				
R17	725-659	Bond Refunds	$ 276,000	$ 276,000
R29	725-607	Reclamation Fee Refund	$ 350,000	$ 350,000
R30	725-638	Surface Mining Reclamation Fees	$ 12,000	$ 12,000
R40	725-609	Wildlife Refunds	$ 20,000	$ 20,000
R43	725-624	Forestry	$ 700,000	$ 700,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 1,358,000	$ 1,358,000
Accrued Leave Liability Fund Group				
4M8	725-675	FOP Contract	$ 16,120	$ 16,120
TOTAL ALF Accrued Leave Liability Fund Group			$ 16,120	$ 16,120
TOTAL ALL BUDGET FUND GROUPS			$ 249,377,884	$ 245,889,513

SECTION 85.01. Rental Payments to the Ohio Public Facilities Commission

The foregoing appropriation item 725-413, Rental Payments to the Ohio Public Facilities Commission, shall be used to meet all payments at the times they are required to be made during the period from July 1, 1997, to June 30, 1999, by the Department of Natural Resources to the Ohio Public Facilities Commission pursuant to leases and agreements made under section 154.22 of the Revised Code, but limited to the aggregate amount of $33,305,000. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued pursuant to section 154.22 of the Revised Code.

Fountain Square

The foregoing appropriation item 725-404, Fountain Square Rental Payments to Ohio Building Authority, shall be used by the Department of Natural Resources to meet all payments required to be made to the Ohio Building Authority during the period July 1, 1997, to June 30, 1999, pursuant to leases and agreements with the Ohio Building Authority under section 152.241 of the Revised Code, but limited to the aggregate amount of $2,179,000.

The Director of Natural Resources, using intrastate transfer vouchers, shall make cash transfers to the General Revenue Fund from funds other than the General Revenue Fund to reimburse the General Revenue Fund for their share of the lease rental payments to the Ohio Building Authority. The transfers from the non General Revenue funds shall be made within 10 days of the payment from the Ohio Building Authority for the actual amounts necessary to fulfill the leases and agreements pursuant to section 152.241 of

the Revised Code.

The foregoing appropriation item, 725-664, Fountain Square Facilities Management Fund (Fund 635), shall be used for payment of repairs, renovation, utilities, property management, and building maintenance expenses for the Fountain Square Complex. Cash transferred by intrastate transfer vouchers from various department funds and rental income received by the Department of Natural Resources shall be deposited to the Fountain Square Facilities Management Fund (Fund 635).

SECTION 85.02. Central Support Indirect Chargeback

With the exception of the Division of Wildlife, whose indirect central support charges shall be paid by the GRF from the foregoing appropriation item 725-401, Wildlife - GRF Central Support, the Department of Natural Resources, with the approval of the Director of Budget and Management, shall utilize a methodology for determining each division's payments into the Central Support Indirect Chargeback Fund (Fund 157). The methodology used shall contain the characteristics of administrative ease and uniform application. Payments to the Central Support Indirect Chargeback Fund shall be made using an intrastate transfer voucher.

Wildlife License Reimbursement

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of the Office of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees.

Soil and Water Districts

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed $30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit such payments to the special

fund established pursuant to section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district.

No funds shall be used to pay for cost sharing under section 1511.02 of the Revised Code if the Chief of the Division of Soil and Water Conservation issues an order finding a person has caused agricultural pollution by failure to comply with the standards established under that section.

Up to $40,000 in cash may be transferred in fiscal year 1998 from Soil and Water Conservation Fund (513) to Departmental Services - Interstate Fund (507). The moneys shall be used for the purchase of vehicles and field equipment to support the Conservation Works of Improvement Program.

Of the foregoing appropriation item 725-502, Soil and Water Districts, $50,000 shall be distributed to the Delaware County Soil and Water Conservation District in each fiscal year. These monies are in addition to any state payments to the Delaware County Soil and Water Conservation District as authorized by section 1515.10 of the Revised Code for fiscal years 1998 and 1999.

Of the foregoing appropriation item 725-502, Soil and Water Districts, $100,000 in fiscal year 1998 shall be used to dredge the Tuscora Lake in Tuscarawas County.

Of the foregoing appropriation item 725-502, Soil and Water Districts, $1,000,000 in fiscal year 1999 shall be used for the Girard City Dam project. The $1,000,000 shall not be released until the Department of Natural Resources certifies that a match of at least $1,000,000 has been obligated to the Girard City Dam project through federal government, local government, and/or private sources.

Of the foregoing appropriation item 725-502, Soil and Water Districts, $100,000 shall be distributed in each fiscal year for the Montgomery County Drainage Project.

Flood Mitigation

Of the foregoing appropriation item 725-502, Soil and Water Districts, $50,000 in fiscal year 1998 shall be paid to each of the counties of Gallia, Meigs, and Lawrence for flood mitigation and abatement. The soil and water conservation districts for those counties shall administer the money. These moneys are in addition to any state payments to Gallia, Meigs, and Lawrence County Soil and Water Districts as authorized by section 1515.10 of the Revised Code for fiscal year 1998.

Division of Parks and Recreation

Of the foregoing appropriation item 730-321, Division of Parks and

Recreation, $25,000 in fiscal year 1998 shall be distributed to the Northeast Shores Development Corporation for the maintenance and upkeep of the Memorial Gardens in the City of Cleveland (Cuyahoga).

Division of Soil and Water

Of the foregoing appropriation item, 737-321, Division of Soil and Water, $210,000 each fiscal year shall be distributed to the Water Quality Laboratory located at Heidelberg College.

Of the foregoing appropriation item, 737-321, Division of Soil and Water, $100,000 in each fiscal year shall be used for the Loramie Valley Alliance Watershed Project for flood and erosion control.

Of the foregoing appropriation item, 737-321, Division of Soil and Water, $250,000 each fiscal year shall be distributed to the Resource Conservation and Development Councils.

Canal Lands

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management.

Watercraft Marine Patrol

Of the foregoing appropriation item 739-321, Division of Watercraft, $50,000 in each fiscal year shall be expended for the purchase of equipment for marine patrols qualifying for funding from the Department of Natural Resources pursuant to section 1547.67 of the Revised Code. Proposals for equipment shall accompany the submission of documentation for receipt of a marine patrol subsidy pursuant to section 1547.67 of the Revised Code and shall be loaned to eligible marine patrols pursuant to a cooperative agreement between the Department of Natural Resources and the eligible marine patrol.

Water Resources Council

There is hereby created a Water Resources Council, consisting of the Directors, or the designees of the Directors of Agriculture, Development, Environmental Protection, Health, Natural Resources, Transportation, the State and Local Government Commission, Public Utilities Commission, Ohio Public Works Commission, and Ohio Water Development Authority. The Director of Natural Resources shall chair the council. The chair of the council shall appoint eleven public members representing local government, industry, and environmental interests. The council shall coordinate water policy development and planning activities of state agencies and consider and make recommendations regarding water policy development, planning

coordination, and funding issues.

Operating expenses of the council shall be paid from the Water Resources Council Fund, which is hereby created. The council may hire an executive director and staff to support its activities. The council may enter into contracts and agreements with state agencies, political subdivisions, and private interests to assist in meeting its objectives. The Department of Natural Resources shall serve as fiscal agent of the fund. The Departments of Agriculture, Development, Environmental Protection, Health, Natural Resources, and Transportation shall contribute equally, via interstate transfer voucher, to the fund. The State and Local Government Commission, Public Utilities Commission, Ohio Public Works Commission, and Ohio Water Development Authority may also voluntarily pay into the Water Resources Council Fund for the operating expenses of the council. If voluntary payment is made into the fund the portion for the Departments of Agriculture, Development, Environmental Protection, Health, Natural Resources, and Transportation shall be equally reduced.

SECTION 86. NUR STATE BOARD OF NURSING

General Services Fund Group

203	884-606	Nurse Aide	$ 450,000	$	498,000
4K9	884-609	Operating	$ 3,269,655	$	3,558,837
TOTAL GSF General Services Fund Group			$ 3,719,655	$	4,056,837
TOTAL ALL BUDGET FUND GROUPS			$ 3,719,655	$	4,056,837

SECTION 87. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY AND ATHLETIC TRAINERS BOARD

General Services Fund Group

4K9	890-609	Operating	$ 591,837	$	603,812
TOTAL GSF General Services Fund Group			$ 591,837	$	603,812
TOTAL ALL BUDGET FUND GROUPS			$ 591,837	$	603,812

SECTION 88. OLA OHIOANA LIBRARY ASSOCIATION

General Revenue Fund

GRF	355-501	Library Subsidy	$ 217,709	$	225,384
TOTAL GRF General Revenue Fund			$ 217,709	$	225,384
TOTAL ALL BUDGET FUND GROUPS			$ 217,709	$	225,384

SECTION 89. ODB OHIO OPTICAL DISPENSERS BOARD

General Services Fund Group

4K9	894-609	Operating	$	224,978	$ 229,888
TOTAL GSF General Services Fund Group			$	224,978	$ 229,888
TOTAL ALL BUDGET FUND GROUPS			$	224,978	$ 229,888

SECTION 90. OPT STATE BOARD OF OPTOMETRY

General Services Fund Group

4K9	885-609	Operating	$	231,140	$ 243,965
TOTAL GSF General Services Fund Group			$	231,140	$ 243,965
TOTAL ALL BUDGET FUND GROUPS			$	231,140	$ 243,965

SECTION 91. PBR STATE PERSONNEL BOARD OF REVIEW

General Revenue Fund

GRF	124-321	Operating	$	872,151	$ 897,549
TOTAL GRF General Revenue Fund			$	872,151	$ 897,549

General Services Fund Group

636	124-601	Transcript and Other	$	35,980	$ 36,987
TOTAL GSF General Services Fund Group			$	35,980	$ 36,987
TOTAL ALL BUDGET FUND GROUPS			$	908,131	$ 934,536

Transcript and Other

The foregoing appropriation item 124-601, Transcript and Other, may be used to produce and distribute transcripts and other documents. Revenues generated by charges for transcripts and other documents shall be deposited in the Transcripts and Other Fund (Fund 636).

SECTION 92. PRX STATE BOARD OF PHARMACY

General Services Fund Group

4A5	887-605	Drug Law Enforcement	$	102,500	$ 105,000
4K9	887-609	Operating	$	3,324,319	$ 3,509,931
TOTAL GSF General Services Fund Group			$	3,426,819	$ 3,614,931
TOTAL ALL BUDGET FUND GROUPS			$	3,426,819	$ 3,614,931

SECTION 93. SCR STATE BOARD OF PROPRIETARY SCHOOL REGISTRATION

General Revenue Fund

GRF	233-100	Personal Services	$	364,746	$ 375,688
GRF	233-200	Maintenance	$	101,353	$ 104,158
TOTAL GRF General Revenue Fund			$	466,099	$ 479,846
TOTAL ALL BUDGET FUND GROUPS			$	466,099	$ 479,846

SECTION 94. PSY STATE BOARD OF PSYCHOLOGY

General Services Fund Group

4K9	882-609	Operating	$ 400,313	$	406,407
TOTAL GSF General Services Fund Group			$ 400,313	$	406,407
TOTAL ALL BUDGET FUND GROUPS			$ 400,313	$	406,407

SECTION 95. PUB OHIO PUBLIC DEFENDER COMMISSION

General Revenue Fund

GRF	019-321	Public Defender Administration	$ 1,613,969	$	1,615,955
GRF	019-401	State Legal Defense Services	$ 6,573,237	$	6,555,060
GRF	019-403	Multi-County Public Defense-State Share	$ 937,351	$	959,644
GRF	019-404	Trumbull County-State Share	$ 370,875	$	379,808
GRF	019-405	Training Account	$ 50,000	$	50,000
GRF	019-501	County Reimbursement - Non-Capital Cases	$ 24,726,314	$	25,334,116
GRF	019-503	County Reimbursements - Capital Cases	$ 909,931	$	932,014
TOTAL GRF General Revenue Fund			$ 35,181,677	$	35,826,597

General Services Fund Group

101	019-602	Inmate Legal Assistance	$ 49,519	$	49,757
101	019-607	Juvenile Legal Assistance	$ 540,492	$	564,820
406	019-603	Training and Publications	$ 22,000	$	22,000
407	019-604	County Representation	$ 152,166	$	146,420
408	019-605	Client Payment	$ 67,352	$	121,980
TOTAL GSF General Services Fund Group			$ 831,529	$	904,977

Federal Special Revenue Fund Group

3M8	019-611	PD Case Management	$ 51,369	$	0
3M9	019-612	Community Reconciliation	$ 32,221	$	0
Total FED Federal Special Revenue Fund Group			$ 83,590	$	0

State Special Revenue Fund Group

4C7	019-601	Multi-County: County Share	$ 1,136,189	$	1,162,059
4X7	019-610	Trumbull County-County Share	$ 441,860	$	463,122
574	019-606	Legal Services Corporation	$ 12,250,000	$	14,300,000
TOTAL SSR State Special Revenue Fund Group			$ 13,828,049	$	15,925,181
TOTAL ALL BUDGET FUND GROUPS			$ 49,924,845	$	52,656,755

Indigent Defense Office

The foregoing appropriation items 019-404, Trumbull County - State Share and 019-610, Trumbull County Office, shall be used to support an indigent defense office for Trumbull County.

Training Account

The foregoing appropriation item 019-405, Training Account, shall be used by the Ohio Public Defender to provide legal training programs at no cost for lawyers who represent at least one indigent defendant at no cost.

SECTION 96. DHS DEPARTMENT OF PUBLIC SAFETY

General Revenue Fund

GRF	763-403	Emergency Management Agency	$ 3,547,541	$ 3,129,045
GRF	763-507	Individual and Family Grants	$ 145,500	$ 149,574
GRF	764-404	Transportation Enforcement Operations	$ 1,989,479	$ 2,048,976
GRF	769-321	Food Stamp Trafficking Enforcement Operations	$ 702,871	$ 721,222
TOTAL GRF General Revenue Fund			$ 6,385,391	$ 6,048,817

State Highway Safety Fund Group

840	761-667	Security Assessment	$ 250,000	$ 250,000
TOTAL HSF State Highway Safety Fund Group			$ 250,000	$ 250,000
TOTAL ALL BUDGET FUND GROUPS			$ 6,635,391	$ 6,298,817

American Red Cross Disaster Preparedness and Training

Of the foregoing appropriation item 763-403, Emergency Management Agency, up to $500,000 in fiscal year 1998 shall be distributed to the American Red Cross in Ohio for disaster preparedness and emergency training.

The Ohio Emergency Management Agency shall develop an agreement between the State and Ohio Chapters of the American Red Cross to specify the terms by which these funds shall be requested, distributed, and accounted for to enhance the disaster response capability of the American Red Cross in Ohio. Funds shall not be used for administrative costs. The Ohio Emergency Management Agency shall require of the American Red Cross a plan that facilitates implementation of the current Statement of Understanding between the State of Ohio and the American Red Cross. The release of funds shall be contingent upon a plan that is satisfactory to both parties.

Urban Search and Rescue

Of the foregoing appropriation item 763-403, Emergency Management Agency, up to $200,000 in each fiscal year of the biennium shall be used to match federal funds for the Miami Valley Urban Search and Rescue Task Force.

IFG State Match

The foregoing appropriation item 763-507, Individual and Family Grants, shall be used to fund the state share of costs to provide grants to

individuals and families in cases of disaster.

SECTION 97. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group				
558	870-602	Salvage and Exchange	$ 58,728	$ 60,373
TOTAL GSF General Services Fund Group			$ 58,728	$ 60,373
Federal Special Revenue Fund Group				
333	870-601	Gas Pipeline Safety	$ 362,403	$ 362,403
350	870-608	Motor Carrier Safety	$ 3,467,442	$ 3,631,606
TOTAL FED Federal Special Revenue Fund Group			$ 3,829,845	$ 3,994,009
State Special Revenue Fund Group				
4A3	870-614	Grade Crossing Protection Devices-State	$ 3,166,760	$ 1,200,000
4L8	870-617	Pipeline Safety-State	$ 150,318	$ 150,318
4S6	870-618	Hazardous Material Registration	$ 589,960	$ 584,599
4S6	870-621	Hazardous Materials Base State Registration	$ 185,040	$ 190,221
4U8	870-620	Civil Forfeitures	$ 225,000	$ 230,731
559	870-605	Public Utilities Territorial Administration	$ 4,583	$ 4,583
560	870-607	Special Assessment	$ 100,000	$ 100,000
561	870-606	Power Siting Board	$ 300,000	$ 300,000
587	870-609	Utility Forecasting	$ 1,295,000	$ 1,295,000
5F6	870-622	Public Utilities Fund	$ 21,866,815	$ 22,411,707
5F6	870-624	NARUC/NRRI Subsidy	$ 158,515	$ 158,515
5F6	870-625	Motor Transportation Regulation	$ 3,690,945	$ 3,785,713
638	870-611	Biofuels/Municipal Waste Technology	$ 65,935	$ 67,641
661	870-612	Hazardous Materials Transportation	$ 800,000	$ 800,000
664	870-613	Radiological Preparedness Board	$ 50,000	$ 0
TOTAL SSR State Special Revenue Fund Group			$ 32,648,871	$ 31,279,028
Agency Fund Group				
4G4	870-616	Base State Registration Program	$ 7,500,000	$ 7,500,000
TOTAL AGY Agency Fund Group			$ 7,500,000	$ 7,500,000
Holding Account Redistribution Fund Group				
R20	870-610	Motor Carrier Refunds	$ 200,000	$ 200,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 200,000	$ 200,000
TOTAL ALL BUDGET FUND GROUPS			$ 44,237,444	$ 43,033,410

Transfer to Public Utilities Fund

Within five days of the beginning of fiscal year 1998, the Director of

Budget and Management shall transfer from the General Revenue Fund to the Public Utilities Fund (Fund 5F6) an amount equal to the revenues credited to the General Revenue Fund in May and June of 1997 pursuant to sections 4921.18 and 4923.11 of the Revised Code.

Salvage and Exchange Fund Transfers

The Director of Budget and Management may transfer up to $100,000 in fiscal year 1998 and up to $100,000 in fiscal year 1999 from the Public Utilities Commission Salvage and Exchange Fund (Fund 558) to the Department of Public Safety Highway Patrol Salvage and Exchange Fund (Fund 841). The transferred amounts shall be used to purchase equipment for use on the Multi-Agency Radio Communications System for commercial motor vehicle enforcement purposes.

Hazardous Materials Fund Transfer

All revenue and uses previously ascribed to the Hazardous Wastes Background Investigation Fund (Fund 4T1), including all assets and obligations, shall be assumed by the Hazardous Materials Registration Fund (Fund 4S6), line item 870-618, Hazardous Materials Registration.

Grade Crossing Protection Program

In line item 870-614, Grade Crossing Protection Devices - State, as determined by the Director of Budget and Management, the funds necessary to honor encumbrances established in the prior fiscal year are hereby appropriated.

SECTION 98. RAC STATE RACING COMMISSION

State Special Revenue Fund Group						
562	875-601	Thoroughbred Race Fund	$	5,711,027	$	5,863,936
563	875-602	Standardbred Development Fund	$	1,727,946	$	1,776,033
564	875-603	Quarterhorse Development Fund	$	18,746	$	18,746
565	875-604	Racing Commission Operating Fund	$	3,790,893	$	3,885,669
5C4	875-607	Simulcast Horse Racing Purse	$	13,031,172	$	13,356,951
TOTAL SSR State Special Revenue Fund Group			$	24,279,784	$	24,901,335
Holding Account Redistribution Fund Group						
R21	875-605	Bond Reimbursements	$	212,900	$	212,900
TOTAL 090 Holding Account Redistribution Fund Group			$	212,900	$	212,900
TOTAL ALL BUDGET FUND GROUPS			$	24,492,684	$	25,114,235

SECTION 99. BOR BOARD OF REGENTS

General Revenue Fund

GRF 235-100	Personal Services	$ 2,513,796	$ 2,551,274
GRF 235-200	Maintenance	$ 517,712	$ 530,655
GRF 235-300	Equipment	$ 25,000	$ 25,625
GRF 235-401	Rental Payments to the Ohio Public Facilities Commission	$ 349,820,000	$ 362,968,000
GRF 235-402	Sea Grants	$ 301,475	$ 301,475
GRF 235-406	Articulation and Transfer	$ 300,000	$ 900,000
GRF 235-408	Midwest Higher Education Compact	$ 58,000	$ 58,000
GRF 235-409	Information System	$ 2,000,000	$ 2,000,000
GRF 235-414	State Grants and Scholarship Administration	$ 1,295,375	$ 1,327,759
GRF 235-415	JOBS Challenge	$ 500,000	$ 2,500,000
GRF 235-416	Performance Challenge	$ 3,078,000	$ 3,158,028
GRF 235-417	Technology Challenge	$ 2,000,000	$ 4,000,000
GRF 235-418	Access Challenge	$ 12,000,000	$ 16,000,000
GRF 235-420	Success Challenge	$ 2,000,000	$ 4,000,000
GRF 235-421	Higher Education Efficiency	$ 0	$ 2,000,000
GRF 235-454	Research Challenge	$ 12,764,600	$ 14,756,861
GRF 235-455	Productivity Improvement Challenge	$ 1,592,000	$ 1,615,880
GRF 235-474	AHEC Program Support	$ 2,030,303	$ 2,030,303
GRF 235-477	Access Improvement Projects	$ 1,051,102	$ 1,063,868
GRF 235-481	Discovery Project	$ 2,500,000	$ 2,500,000
GRF 235-501	Instructional Subsidy	$ 1,502,594,833	$ 1,547,937,109
GRF 235-502	Student Support Services	$ 1,000,000	$ 1,015,000
GRF 235-503	Ohio Instructional Grants	$ 93,601,365	$ 96,274,405
GRF 235-504	War Orphans' Scholarships	$ 3,731,840	$ 3,837,795
GRF 235-506	Postsecondary Readiness Testing	$ 676,183	$ 686,326
GRF 235-507	OhioLINK	$ 5,157,532	$ 6,323,134
GRF 235-509	Displaced Homemakers	$ 246,250	$ 246,250
GRF 235-510	Ohio Supercomputer Center	$ 3,764,682	$ 3,821,152
GRF 235-511	Cooperative Extension Service	$ 22,385,000	$ 23,937,400
GRF 235-514	Central State Supplement	$ 7,563,434	$ 7,744,956
GRF 235-515	CWRU School of Medicine	$ 4,108,478	$ 4,108,478
GRF 235-518	Capitol Scholarship Programs	$ 475,000	$ 200,000
GRF 235-519	Family Practice	$ 5,963,315	$ 5,963,315
GRF 235-520	Shawnee State Supplement	$ 3,600,000	$ 3,200,000
GRF 235-524	Police and Fire Protection	$ 246,250	$ 246,250
GRF 235-525	Geriatric Medicine	$ 1,043,571	$ 1,043,571
GRF 235-526	Primary Care Residencies	$ 2,887,656	$ 2,887,656
GRF 235-527	Ohio Aerospace Institute	$ 2,298,970	$ 2,333,455
GRF 235-530	Academic Scholarships	$ 7,000,000	$ 8,000,000
GRF 235-531	Student Choice Grants	$ 36,601,641	$ 39,338,596
GRF 235-535	Agricultural Research and Development Center	$ 30,660,880	$ 33,036,115
GRF 235-536	Ohio State University Clinical Teaching	$ 14,988,559	$ 15,348,284
GRF 235-537	University of Cincinnati Clinical Teaching	$ 12,327,886	$ 12,623,755

GRF	235-538	Medical College of Ohio At Toledo Clinical Teaching	$ 9,608,918	$	9,839,532
GRF	235-539	Wright State University Clinical Teaching	$ 4,668,200	$	4,780,237
GRF	235-540	Ohio University Clinical Teaching	$ 4,512,891	$	4,621,200
GRF	235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	$ 4,641,391	$	4,752,900
GRF	235-543	OCPM Clinical Subsidy	$ 460,000	$	470,000
GRF	235-545	OSU Cancer Hospital	$ 250,000	$	0
GRF	235-547	School of International Business	$ 1,000,000	$	1,250,000
GRF	235-549	Part-time Student Instructional Grants	$ 10,000,000	$	11,949,970
GRF	235-552	Capital Component	$ 7,642,415	$	7,642,415
GRF	235-553	Dayton Area Graduate Studies Institute	$ 2,900,000	$	3,700,000
GRF	235-554	Priorities in Graduate Education	$ 2,450,000	$	2,450,000
GRF	235-555	Library Depositories	$ 1,454,690	$	1,476,510
GRF	235-556	OARNET	$ 2,000,000	$	2,030,000
GRF	235-558	Long-term Care Research	$ 320,000	$	320,000
GRF	235-561	BGSU Canadian Studies Center	$ 168,500	$	168,500
GRF	235-572	Ohio State University Clinic Support	$ 1,194,706	$	1,338,070
GRF	235-583	Urban University Programs	$ 5,722,093	$	5,009,775
GRF	235-585	Ohio University Innovation Center	$ 50,000	$	50,000
GRF	235-587	Rural University Projects	$ 1,328,530	$	1,250,815
GRF	235-595	International Center Water Resources Development	$ 380,699	$	190,350
GRF	235-596	Hazardous Materials Program	$ 246,250	$	246,250
TOTAL GRF General Revenue Fund			$ 2,220,269,971	$	2,307,977,254
General Services Fund Group					
456	235-603	Publications	$ 35,000	$	35,000
TOTAL GSF General Services Fund Group			$ 35,000	$	35,000
Federal Special Revenue Fund Group					
3N6	235-605	State Student Incentive Grants	$ 2,000,000	$	2,000,000
3H2	235-608	Human Services Project	$ 8,437,000	$	9,280,700
312	235-609	Tech Prep	$ 145,774	$	153,063
312	235-631	Federal Grants	$ 2,073,000	$	2,176,650
TOTAL FED Federal Special Revenue Fund Group			$ 12,655,774	$	13,610,413
State Special Revenue Fund Group					
4E0	235-601	Teacher Education Loan Program	$ 45,000	$	45,000
4E8	235-602	HEFC Administration	$ 12,000	$	12,000
4P4	235-604	Physician Loan Repayment	$ 385,405	$	396,168
682	235-606	Nursing Loan Program	$ 577,255	$	593,316
649	235-607	Ohio State University	$ 480,000	$	500,000

y/Transportation Research		
TOTAL SSR State Special Revenue Fund Group	$ 1,499,660	$ 1,546,484
TOTAL ALL BUDGET FUND GROUPS	$ 2,234,460,405	$ 2,323,169,151

SECTION 99.01. Instructional Subsidy Formula

As soon as practicable during each fiscal year of the 1997-1999 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 37 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 of the Revised Code.

(A) Aggregate Expenditure Per Full-Time Equivalent Student

(1) Instruction and Support Services

Model	FY 1998	FY 1999
General Studies I	$ 3,468	$ 3,598
General Studies II	$ 3,689	$ 3,827
General Studies III	$ 4,844	$ 5,026
Technical I	$ 4,248	$ 4,407
Technical III	$ 7,436	$ 7,715
Baccalaureate I	$ 5,787	$ 6,004

Baccalaureate II	$ 6,751	$ 7,004
Baccalaureate III	$ 9,887	$ 10,258
Masters and Professional I	$ 10,889	$ 11,297
Masters and Professional II	$ 15,901	$ 16,497
Masters and Professional III	$ 21,904	$ 22,725
Doctoral I	$ 18,629	$ 19,328
Doctoral II	$ 23,436	$ 24,315
Medical I	$ 25,821	$ 26,789
Medical II	$ 35,968	$ 37,317

(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.

	FY 1998	FY 1999
All Expenditure Models	$ 501	$ 520

(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 1998 or fiscal year 1999 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:

	FY 1998	FY 1999
Classrooms	$4.85	$5.03
Laboratories	$6.04	$6.27
Offices	$4.85	$5.03
Audio Visual Data Processing	$6.04	$6.27

Storage	$2.15	$2.23
Circulation	$6.12	$6.35
Other	$4.85	$5.03

(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.

(c) The amounts allocated to models in (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.

	FY 1998	FY 1999
General Studies I	$ 469	$ 487
General Studies II	$ 522	$ 542
General Studies III	$1,208	$1,253
Technical I	$ 536	$ 556
Technical II	$1,044	$1,083
Baccalaureate I	$ 604	$ 627
Baccalaureate II	$ 990	$1,027
Baccalaureate III	$1,502	$1,558
Masters & Professional I	$ 934	$ 969
Masters & Professional II	$1,540	$1,598
Masters & Professional III	$2,527	$2,622
Doctoral I	$1,425	$1,478
Doctoral II	$2,308	$2,395
Medical I	$2,214	$2,297
Medical II	$3,415	$3,543

(b) The sum of the products for each campus determined in (B)(2)(a) 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; and (ii) average subsidy-eligible full-time equivalents for the five-year period ending in the prior year.

(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:

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 133.1% of the square-foot based POM subsidy in fiscal year 1998 and shall not exceed 146.4% of the square-foot-based subsidy in fiscal year 1999.

(2) Fiscal Year 1993 Adjustment

In order to provide an orderly phase-in of a simplified instructional subsidy formula, the Board of Regents shall calculate a fiscal year 1993 guarantee for each campus. The board shall calculate the amount of protected or buffered subsidy distributed to each campus in fiscal year 1993, less amounts for plant operation and maintenance and Academic Challenge.

In fiscal year 1998, for each campus for which the board calculates protected subsidy was distributed in fiscal year 1993, an adjustment shall be added to the core subsidy entitlement which shall consist of the following: the estimated amount of the protected fiscal year 1993 subsidy less the greater of 7.5 per cent of the actual fiscal year 1993 subsidy (less plant operation and maintenance and Academic Challenge) or five-sevenths of the protected fiscal year 1993 subsidy. If the deducted amount exceeds the amount of the protected fiscal year 1993 subsidy, the adjustment shall be zero.

In fiscal year 1999, the deducted proportions shall increase arithmetically, to 9.0 per cent or six-sevenths and so on until the year 2000, or until the fiscal year 1993 guarantee is eliminated.

(3) Annual Hold Harmless Provision

In addition to and after the other adjustments noted above, in fiscal year 1998 each campus shall have its subsidy adjusted to the extent necessary to provide an amount that is not less than one hundred three per cent of the instructional subsidy received by the campus in fiscal year 1997. In fiscal year 1999 each campus shall have its subsidy adjusted to the extent necessary to provide an amount that is not less than one hundred one per cent of the instructional subsidy received by the campus in fiscal year 1998.

(4) 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. 748 of the 121st 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 1998 and fiscal year 1999 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.

Limitations on State Subsidies for Doctoral Students

The Ohio Board of Regents is authorized to limit the number of subsidy-eligible full-time equivalent (FTE) doctoral students at all state-assisted universities in fiscal year 1998 and fiscal year 1999. The limitation shall be established by university and by doctoral subsidy level. In establishing the caps, the Board of Regents shall consider:

(1) Recent and historical trends in subsidy-eligible doctoral enrollments;

(2) Recommendations related to the Regents' review of doctoral programs;

(3) Contributions that doctoral education and research make to the economy and well-being of regions and the state.

SECTION 98.02. Mission-Based Core Funding for Higher Education

JOBS Challenge

Funds appropriated to line item 235-415, JOBS Challenge, shall be distributed to state-assisted colleges and universities in support of noncredit job-related training. In each fiscal year, funds shall be distributed to campuses in proportion to each campus' share of noncredit job-related training revenues received by all campuses for the previous fiscal year. It is the intent of the General Assembly that the JOBS Challenge program reward campus noncredit job-related training efforts in the same manner that the Research Challenge program rewards campuses for their ability to obtain sponsored research revenues.

Performance Challenge

The foregoing appropriation item 235-416, Performance Challenge,

shall be distributed by the Board of Regents to state-assisted, two-year colleges and regional campuses in support of performance. Fiscal year 1998 appropriations shall be used to fund the implementation of the Two-Year Campus Service Expectations. Fiscal year 1999 appropriations shall be used to continue and enhance the implementation of the Two-Year Campus Service Expectations.

Each two-year college and regional campus shall be eligible to receive a portion of the funds based upon the degree to which it achieves each of the Two-Year Campus Service Expectations. The Board of Regents shall judge two-year colleges that are co-located both as one entity and as separate institutions, and provide to each the higher amount produced by the two judgments. The Two-Year Campus Service Expectations were originally established in the Board of Regents' Securing the Future report, created in Am. Sub. H.B. 152 of the 120th General Assembly, and implemented by the Board of Regents in fiscal year 1994.

Technology Challenge

The foregoing appropriation item 235-417, Technology Challenge, shall be used by the Board of Regents to ensure that Ohio's state-assisted colleges and universities have the resources necessary to provide Ohioans with high-quality and cost-efficient technology-based education and services, as detailed in the Regents' Technology in Education report. The Board of Regents shall distribute funds according to policies developed in collaboration with representatives of public colleges and universities and approved by the Higher Education Funding Commission. These policies shall be designed to promote instructional advances through the development and application of information technology, including infrastructure improvements, professional development of faculty and staff, and the research and design of new materials and processes. The funds shall not be released until the Board of Regents submits a plan for the use of the funds to the President of the Senate, Speaker of the House of Representatives, and chairs of both the House and Senate Finance Committees. The plan shall include measurable outcomes for the use of the funds.

Access Challenge

In each fiscal year, the foregoing appropriation item 235-418, Access Challenge, shall be distributed to Ohio's state-assisted access colleges and universities in proportion to each campus' share of full-time equivalent enrollments at the General Studies level as determined in the subsidy calculation process in the previous fiscal year. For the purposes of this allocation, "access campuses" shall include state-assisted community

es, state community colleges, technical colleges, Shawnee State University, Central State University, Cleveland State University, the regional campuses of state-assisted universities, and, where they are organizationally distinct and identifiable, the community-technical colleges located at the University of Toledo, the University of Cincinnati, Youngstown State University, and the University of Akron.

For each campus receiving these funds and whose in-state, in-district, undergraduate tuition and fee charges are currently above the state average 50 per cent of all new subsidies received by each campus in each fiscal year shall be used to restrain growth of in-state undergraduate tuition and fees. For the purposes of this distribution, "new subsidies" means all amounts received by a campus in any fiscal year from this item in excess of amounts received by the campus from this item in the previous fiscal year.

Success Challenge

The foregoing appropriation item, 235-420, Success Challenge, shall be used by the Ohio Board of Regents to promote degree completion by students deemed to be at risk of educational failure. In fiscal years 1998 and 1999, an "at risk" student shall be defined to mean all degree recipients reported in the previous fiscal year at state-assisted colleges and universities who had received an Ohio Instructional Grant.

In future fiscal years, the definition of "at risk" students may be jointly revised by the Board of Regents and representatives of state-assisted colleges and universities to encompass different or additional measures of risk, including educational, economic, physical, or cultural disadvantage.

Funds shall be allocated in proportion to each campus' share of eligible total degree recipients, weighted to reflect the level of degree.

Higher Education Efficiency Challenge

Of the foregoing appropriation item 235-421, Higher Education Efficiency Challenge, grants totaling $2,000,000 shall be awarded in fiscal year 1999 to the state-assisted, two-year, and four-year universities or colleges that submit the best plans to increase operational efficiency. The plans shall be presented to the Ohio Board of Regents by December 31, 1998. Two awards of $500,000 shall be awarded to the highest-rated plan of both a two-year institution and a four-year institution based on an assessment of the plans by the Board of Regents. Two awards of $250,000 shall be granted to the two subsequent highest-rated plans of two-year institutions and two awards of $250,000 shall be awarded to the two subsequent highest-rated plans of the four-year institutions. Beginning in fiscal year 2000, the universities and colleges shall submit an annual report of the implementation of their plan to the Board of Regents, President of the

Senate, Speaker of the House of Representatives, the chairs of both the House of Representatives and Senate Education Committees, the Director of Budget and Management, and the Legislative Budget Officer. The report shall document progress made on the plan and bottom-line financial savings.

Research Challenge

The foregoing appropriation item 235-454, Research Challenge, shall be used to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued pursuant to section 1713.02 of the Revised Code, in order to strengthen the academic research for pursuing Ohio's economic redevelopment goals. The Ohio Board of Regents, in consultation with the colleges and universities, shall administer the Research Challenge Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to such eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Ohio Board of Regents plans for the institutional allocation of state dollars received through this program. Such institutional plans shall provide the rationale for the allocation in terms of the strategic targeting of funds for academic and state purposes, for strengthening research programs, and for increasing the amount of external research funds, and shall include an evaluation process to provide results of the increased support. It is the intent of the General Assembly that increases in funding for 235-454, Research Challenge, in the 1997-1999 biennium, over the 1993-1995 biennium levels, be used by campuses as unrestricted funding for research, in the same way that Instructional Subsidy allocations are used.

Of the foregoing appropriation item 235-454, Research Challenge, $100,000 in fiscal year 1998 shall be disbursed to the University of Toledo to support the Plant Science Research Facility.

Of the foregoing appropriation item 235-454, Research Challenge, $100,000 in fiscal year 1999 shall be disbursed by the Board of Regents on a project by project basis to the Ohio Plant Biotechnology Consortium for state university projects approved and recommended by the consortium. These monies are intended to promote a statewide coordinated effort which is necessary to develop discoveries in Ohio's universities into technologies for use by Ohio's farmers. All Board of Regents' requests for release of these monies shall be submitted to the Controlling Board for approval. The Consortium shall develop guidelines by which state universities may apply

for these monies for plant biotechnology projects. The project proposals shall identify ways in which the existing infrastructure shall be used in these projects and how the Cooperative Extension Services shall be used to disseminate the resulting information.

The Ohio Board of Regents shall submit a biennial report of progress to the General Assembly.

SECTION 99.03. Higher Education--Board of Trustees

Funds appropriated for instructional subsidies at colleges and universities may be used to provide such branch or other off-campus undergraduate courses of study and such master's degree courses of study as may be approved by the Ohio Board of Regents.

In providing instructional and other services to students, boards of trustees of state-assisted institutions of higher education shall supplement state subsidies by income from charges to students. Each board shall establish the fees to be charged to all students, including an instructional fee for educational and associated operational support of the institution and a general fee for noninstructional services, including locally financed student services facilities used for the benefit of enrolled students. The instructional fee and the general fee shall encompass all charges for services assessed uniformly to all enrolled students. Each board may also establish special purpose fees, service charges, and fines as required; such special purpose fees and service charges shall be for services or benefits furnished individual students or specific categories of students and shall not be applied uniformly to all enrolled students. A tuition surcharge shall be paid by all students who are not residents of Ohio.

Boards of trustees of individual state-assisted universities, and branch campuses, and community and technical colleges shall limit combined in-state undergraduate instructional and general fee increases for an academic year over the amounts charged in the prior academic year to no more than six per cent. The boards of trustees of individual state-assisted universities, and branch campuses, and community and technical colleges shall not authorize instructional and general fee increases of more than four per cent in a single vote. The six per cent limitation applies even if an institutional board of trustees has, prior to the effective date of this section, voted to assess a higher fee for the 1997-1998 academic year. These limitations shall not apply to increases required to comply with institutional covenants related to their obligations or to meet unfunded legal mandates or legally binding obligations incurred or commitments made prior to the effective date of this act with respect to which the institution had identified

such fee increases as the source of funds. Any increase required by such covenants and any such mandates, obligations or commitments will be reported by the Board of Regents to the Controlling Board. These limitations may also be modified by the Ohio Board of Regents, with the approval of the Controlling Board, to respond to exceptional circumstances as identified by the Ohio Board of Regents.

The board of trustees of a state-assisted institution of higher education shall not authorize a waiver or nonpayment of instructional fees nor general fees for any particular student or any class of students other than waivers specifically authorized by law or approved by the Chancellor. This prohibition is not intended to limit the authority of boards of trustees to provide for payments to students for services rendered the institution, nor to prohibit the budgeting of income for staff benefits or for student assistance in the form of payment of such instructional and general fees.

Each state-assisted institution of higher education in its statement of charges to students shall separately identify the instructional fee, the general fee, the tuition charge, and the tuition surcharge. Fee charges to students for instruction shall not be considered to be a price of service but shall be considered to be an integral part of the state government financing program in support of higher educational opportunity for students.

In providing the appropriations in support of instructional services at state-assisted institutions of higher education and the appropriations for other instruction it is the intent of the General Assembly that faculty members shall devote a proper and judicious part of their work week to the actual instruction of students. Total class credit hours of production per quarter per full-time faculty member is expected to meet the standards set forth in the budget data submitted by the Ohio Board of Regents.

No state-assisted college or university shall contract additional debt to finance additional student housing or permit the construction of additional student housing on land owned or leased by such institution without the approval of the Board of Regents. In granting or denying approval, the board shall consider demographic projections and established service districts, as well as the current strength of enrollment patterns throughout the state and in the public and private institutions that have historically drawn students from the same markets as the institution requesting additional housing. The board shall also consider statewide dormitory occupancy patterns and any debt burden that would be incurred by the institution. The board shall monitor demographic trends and shall recommend that the General Assembly modify this section when there is no longer a significant risk of future enrollment decline.

The board shall have no authority to prohibit the construction of privately financed housing constructed on land that is not owned or leased by the institution, even if the institution has entered or intends to enter into some type of contractual agreement with the developers or owners of such housing.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

SECTION 99.04. Medical School Subsidies

The foregoing appropriation item 235-515, CWRU School of Medicine, shall be disbursed to Case Western Reserve University through the Ohio Board of Regents in accordance with agreements entered into as provided for by section 3333.10 of the Revised Code, provided that the state support per full-time medical student shall not exceed that provided to full-time medical students at state universities.

The foregoing appropriation items 235-536 Ohio State University Clinical Teaching Subsidy, 235-537 University of Cincinnati Clinical Teaching Subsidy, 235-538 Medical College of Ohio at Toledo Clinical Teaching Subsidy, 235-539 Wright State University Clinical Teaching Subsidy, 235-540 Ohio University Clinical Teaching Subsidy, and 235-541 Northeastern Ohio Universities College of Medicine Clinical Teaching Subsidy shall be distributed through the Ohio Board of Regents.

The foregoing appropriation item 235-572, OSU Clinic Support, shall be distributed through the Ohio Board of Regents to the Ohio State University for support of dental and veterinary medicine clinics.

The Ohio Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation items 235-519, Family Practice, 235-525, Geriatric Medicine, and 235-526, Primary Care Residencies.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, $155,310 in fiscal year 1998 and $159,037 in fiscal year 1999 shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

Performance Standards for Medical Education

The Ohio Board of Regents, in consultation with the state-assisted medical colleges, shall develop performance standards for medical education. Special emphasis in the standards shall be placed on attempting to ensure that by fiscal year 2000 at least fifty per cent of the aggregate number of students enrolled in state-assisted medical colleges enter residency as primary care physicians. Primary care physicians are defined as general family practice physicians, general internal medicine practitioners and general pediatric care physicians. The Board of Regents shall be responsible for monitoring medical school performance in relation to their plans for reaching the fifty per cent systemwide standard for primary care physicians.

The foregoing appropriation item 235-526, Primary Care, shall be distributed in each fiscal year of the biennium based on whether the institution has submitted and gained approval for a plan. If the institution does not have an approved plan then they shall receive five per cent less funding per student than they would have received from their annual allocation. The remaining funding will be distributed among those institutions that meet or exceed their targets.

Area Health Education Centers

The foregoing appropriation item 235-474, AHEC Program Support, shall be used by the Ohio Board of Regents to support the medical school regional AHECs' educational programs for the continued support of medical and other health professions education and for support of the Area Health Education Center program.

Of the foregoing appropriation item 235-474, AHEC Program Support, $200,000 in each fiscal year shall be disbursed to the Ohio University College of Osteopathic Medicine for the establishment of a mobile health care unit to serve the southeastern area of the state. Of the foregoing appropriation item 235-474, AHEC Program Support, $150,000 in each fiscal year shall be used to support the Ohio Valley Community Health Information Network (OVCHIN) pilot project.

SECTION 99.05. Midwest Higher Education Compact

The foregoing appropriation item 235-408, Midwest Higher Education

Compact, shall be distributed by the Ohio Board of Regents pursuant to section 3333.40 of the Revised Code.

Postsecondary Readiness Testing

The foregoing appropriation item 235-506, Postsecondary Readiness Testing, shall be used for special programs in the early assessment of prospective college students in mathematics, science, and English.

Displaced Homemakers

Of the foregoing appropriation item 235-509, Displaced Homemakers, the Ohio Board of Regents shall continue funding pilot projects authorized in Am. Sub. H.B. 291 of the 115th General Assembly for the following centers: Cuyahoga Community College, University of Toledo, Southern State Community College, and Stark Technical College. The amount of $29,236 in each fiscal year shall be used for the Baldwin-Wallace Single Parents Reaching Out for Unassisted Tomorrows program.

Ohio Aerospace Institute

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Ohio Board of Regents pursuant to section 3333.042 of the Revised Code.

Productivity Improvement Challenge

The foregoing appropriation item 235-455, Productivity Improvement Challenge Program, shall be allocated by the Ohio Board of Regents to continue increasing the capabilities of Business and Industry Training Centers at Ohio's two-year college and university regional campuses to meet the varied training needs of Ohio enterprises. Funds will be available for capacity building projects and activities developed through the Enterprise Ohio Network of Business and Industry Training Centers. The Regents Advisory Committee for Workforce Development, in its advisory role, shall assist in the development of plans and activities.

Of the foregoing appropriation item 235-455, Productivity Improvement Challenge, $200,000 in fiscal year 1998 and $203,000 in fiscal year 1999 shall be used by the Miami Valley Career and Technology Center Grant Program.

Access Improvement Projects

The foregoing appropriation item 235-477, Access Improvement Projects, shall be used by the Ohio Board of Regents to develop innovative statewide strategies to increase student access and retention for specialized populations, and to provide for pilot projects that will contribute to improving access to higher education by specialized populations. The funds may be used for projects that improve access for nonpublic secondary students.

Of the foregoing appropriation item 235-477, Access Improvement Projects, $717,650 in fiscal year 1998 and $725,415 in fiscal year 1999 shall be distributed to the Appalachian Center for Higher Education at Shawnee State University. The Board of Directors of the center shall be comprised of the presidents of Shawnee State University, Ohio University, Belmont Technical College, Hocking Technical College, Jefferson Technical College, Muskingum Area Technical College, Rio Grande Community College, Southern State Community College, Washington State Community College, the dean of either the Salem or East Liverpool regional campuses of Kent State University, as designated by the president of Kent State University, and a representative of the Board of Regents as designated by the Chancellor.

OhioLINK

The foregoing appropriation item 235-507, OhioLINK, shall be used to support OhioLINK operations, including the continued installation, deployment, and enhancement of OhioLINK facilities and services.

Regional Library Depositories

The foregoing appropriation item 235-555, Library Depositories, shall be used to support the operations of the state-funded regional library depositories.

Ohio Supercomputer Center

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Ohio Board of Regents to support the operation of the center, located at The Ohio State University, to be developed as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the center shall be established by a governance committee, representative of Ohio's research universities and private industry, to be appointed by the Chancellor of the Ohio Board of Regents and established for this purpose.

Ohio Academic Resources Network (OARNet)

The foregoing appropriation item, 235-556 OARNet, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections.

Dormitory Occupancy*

The Ohio Board of Regents shall regularly monitor the occupancy rates of state university dormitory systems for the purpose of recognizing circumstances in which the financial stability of such institutions is threatened by the unavoidable costs of debt service and plant maintenance.

In conjunction with the development of biennial appropriation recommendations, the Ohio Board of Regents shall report to the General Assembly and the Legislative Service Commission its recommendations for financial assistance to universities whose dormitory occupancy rates are less than 75 per cent of designed capacity and whose ability to sustain required debt payments and required plant maintenance may be jeopardized thereby.

SECTION 99.06. Pledge of Fees*

Any new pledge of fees, or new agreement for adjustment of fees, made in the 1997-1999 biennium to secure bonds or notes of a state-assisted institution of higher education for a project for which bonds or notes were not outstanding on the effective date of this act shall be effective only after approval by the Ohio Board of Regents, unless approved in a previous biennium.

Rental Payments to the Ohio Public Facilities Commission

The appropriations to the Ohio Board of Regents from the General Revenue Fund for the purposes of division (A) of section 3333.13 of the Revised Code, include the amounts necessary to meet all payments at the times required to be made during the period from July 1, 1997, to June 30, 1999, by the Ohio Board of Regents to the Ohio Public Facilities Commission pursuant to leases and agreements made under section 154.21 of the Revised Code, as certified under division (C) of section 3333.13 of the Revised Code, but limited to the aggregate amount of $735,044,000 provided in appropriation item 235-401, Rental Payments to the Ohio Public Facilities Commission. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the source pledged thereto, the bond service charges on obligations issued pursuant to section 154.21 of the Revised Code.

Within five days after the beginning of fiscal year 1999, any funds in 235-401, Rental Payments to the Ohio Public Facilities Commission, which the Director of Budget and Management certifies as unnecessary for rental payments by the Board of Regents to the Ohio Public Facilities Commission, shall be transferred by the Director of Budget and Management to appropriation item 235-501, Instructional Subsidy. The Board of Regents shall use any transferred funds to augment instructional subsidy amounts to institutions in fiscal year 1999.

SECTION 99.07. Ohio Instructional Grants

Notwithstanding section 3333.12 of the Revised Code, in lieu of the

tables in that section, instructional grants for all full-time students shall be made for fiscal year 1998 using the tables under this heading.

For a full-time student who is a dependent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

OHIO INSTRUCTIONAL GRANTS
Private Institution Table of Grants

Gross Income	Maximum Grant $4,296 Number of Dependents				
	1	2	3	4	5 or more
Under $11,001	$4,296	$4,296	$4,296	$4,296	$4,296
$11,001 - $12,000	3,870	4,296	4,296	4,296	4,296
$12,001 - $13,000	3,432	3,870	4,296	4,296	4,296
$13,001 - $14,000	3,006	3,432	3,870	4,296	4,296
$14,001 - $15,000	2,580	3,006	3,432	3,870	4,296
$15,001 - $16,000	2,154	2,580	3,006	3,432	3,870
$16,001 - $17,000	1,722	2,154	2,580	3,006	3,432
$17,001 - $20,000	1,284	1,722	2,154	2,580	3,006
$20,001 - $23,000	1,062	1,284	1,722	2,154	2,580
$23,001 - $26,000	858	1,062	1,284	1,722	2,154
$26,001 - $29,000	780	858	1,062	1,284	1,722
$29,001 - $31,000	702	780	858	1,062	1,284
Over $31,000	-0-	-0-	-0-	-0-	-0-

For a full-time student who is financially independent and enrolled in a nonprofit educational institution that is not a state-assisted institution and that has a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Private Institution Table of Grants

Gross Income	Maximum Grant $4,296 Number of Dependents					
	0	1	2	3	4	5 or more
Under $3,601	$4,296	$4,296	$4,296	$4,296	$4,296	$4,296
$ 3,601 - $ 4,200	3,870	4,296	4,296	4,296	4,296	4,296
$ 4,201 - $ 4,700	3,432	3,870	4,296	4,296	4,296	4,296
$ 4,701 - $ 5,200	3,006	3,432	3,870	4,296	4,296	4,296

$ 5,201 - $ 5,700	2,580	3,006	3,432	3,870	4,296	4,296
$ 5,701 - $ 6,200	2,154	2,580	3,006	3,432	3,870	4,296
$ 6,201 - $ 7,200	1,722	2,154	2,580	3,006	3,432	3,870
$ 7,201 - $ 8,200	1,284	1,722	2,154	2,580	3,006	3,432
$ 8,201 - $ 9,200	1,062	1,284	1,722	2,154	2,580	3,006
$ 9,201 - $10,700	858	1,062	1,284	1,722	2,154	2,580
$10,701 - $12,200	780	858	1,062	1,284	1,722	2,154
$12,201 - $13,700	702	780	858	1,062	1,284	1,722
$13,701 - $15,200	-0-	702	780	858	1,062	1,284
$15,201 - $18,200	-0-	-0-	702	780	858	1,062
$18,201 - $21,200	-0-	-0-	-0-	702	780	858
$21,201 - $24,200	-0-	-0-	-0-	-0-	702	780
$24,201 - $28,900	-0-	-0-	-0-	-0-	-0-	702
Over $28,900	-0-	-0-	-0-	-0-	-0-	-0-

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the State Board of Proprietary School Registration, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Propriety Institution Table of Grants

Gross Income	Maximum Grant $3,642 Number of Dependents				
	1	2	3	4	5 or more
Under $11,001	$3,642	$3,642	$3,642	$3,642	$3,642
$11,001 - $12,000	3,288	3,642	3,642	3,642	3,642
$12,001 - $13,000	2,904	3,288	3,642	3,642	3,642
$13,001 - $14,000	2,538	2,904	3,288	3,642	3,642
$14,001 - $15,000	2,202	2,538	2,904	3,288	3,642
$15,001 - $16,000	1,806	2,202	2,538	2,904	3,288
$16,001 - $17,000	1,464	1,806	2,202	2,538	2,904
$17,001 - $20,000	1,122	1,464	1,806	2,202	2,538
$20,001 - $23,000	900	1,122	1,464	1,806	2,202
$23,001 - $26,000	720	900	1,122	1,464	1,806
$26,001 - $29,000	678	720	900	1,122	1,464
$29,001 - $31,000	594	678	720	900	1,122
Over $31,000	-0-	-0-	-0-	-0-	-0-

For a full-time student who is financially independent and enrolled in an educational institution that holds a certificate of registration from the State Board of Proprietary School Registration, the amount of the instructional

grant for the academic year shall be determined in accordance with the following table:

Propriety Institution Table of Grants

Gross Income	Maximum Grant $3,642 Number of Dependents					
	0	1	2	3	4	5 or more
Under $3,601	$3,642	$3,642	$3,642	$3,642	$3,642	$3,642
$ 3,601 - $ 4,200	3,288	3,642	3,642	3,642	3,642	3,642
$ 4,201 - $ 4,700	2,904	3,288	3,642	3,642	3,642	3,642
$ 4,701 - $ 5,200	2,538	2,904	3,288	3,642	3,642	3,642
$ 5,201 - $ 5,700	2,202	2,538	2,904	3,288	3,642	3,642
$ 5,701 - $ 6,200	1,806	2,202	2,538	2,904	3,288	3,642
$ 6,201 - $ 7,200	1,464	1,806	2,202	2,538	2,904	3,288
$ 7,201 - $ 8,200	1,122	1,464	1,806	2,202	2,538	2,904
$ 8,201 - $ 9,200	900	1,122	1,464	1,806	2,202	2,538
$ 9,201 - $10,700	720	900	1,122	1,464	1,806	2,202
$10,701 - $12,200	678	720	900	1,122	1,464	1,806
$12,201 - $13,700	594	678	720	900	1,122	1,464
$13,701 - $15,200	-0-	594	678	720	900	1,122
$15,201 - $18,200	-0-	-0-	594	678	720	900
$18,201 - $21,200	-0-	-0-	-0-	594	678	720
$21,201 - $24,200	-0-	-0-	-0-	-0-	594	678
$24,201 - $28,900	-0-	-0-	-0-	-0-	-0-	594
Over $28,900	-0-	-0-	-0-	-0-	-0-	-0-

For a full-time student who is a dependent and enrolled in a state-assisted educational institution, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants

Gross Income	Maximum Grant $1,734 Number of Dependents				
	1	2	3	4	5 or more
Under $11,001	$ 1,734	$ 1,734	$ 1,734	$ 1,734	$ 1,734
$11,001 - $12,000	1,554	1,734	1,734	1,734	1,734
$12,001 - $13,000	1,374	1,554	1,734	1,734	1,734
$13,001 - $14,000	1,218	1,374	1,554	1,734	1,734
$14,001 - $15,000	1,044	1,218	1,374	1,554	1,734
$15,001 - $16,000	858	1,044	1,218	1,374	1,554

$16,001 - $17,000	690	858	1,044	1,218	1,374
$17,001 - $20,000	522	690	858	1,044	1,218
$20,001 - $23,000	420	522	690	858	1,044
$23,001 - $26,000	342	420	522	690	858
$26,001 - $29,000	318	342	420	522	690
$29,001 - $31,000	288	318	342	420	522
Over $31,000	-0-	-0-	-0-	-0-	-0-

For a full-time student who is financially independent and enrolled in a state-assisted educational institution, the amount of the instructional grant for the academic year shall be determined in accordance with the following table:

Public Institution Table of Grants

Gross Income	Maximum Grant $1,734 Number of Dependents					
	0	1	2	3	4	5 or more
Under $3,601	$1,734	$1,734	$1,734	$1,734	$1,734	$1,734
$ 3,601 - $ 4,200	1,554	1,734	1,734	1,734	1,734	1,734
$ 4,201 - $ 4,700	1,374	1,554	1,734	1,734	1,734	1,734
$ 4,701 - $ 5,200	1,218	1,374	1,554	1,734	1,734	1,734
$ 5,201 - $ 5,700	1,044	1,218	1,374	1,554	1,734	1,734
$ 5,701 - $ 6,200	858	1,044	1,218	1,374	1,554	1,734
$ 6,201 - $ 7,200	690	858	1,044	1,218	1,374	1,554
$ 7,201 - $ 8,200	522	690	858	1,044	1,218	1,374
$ 8,201 - $ 9,200	420	522	690	858	1,044	1,218
$ 9,201 - $10,700	342	420	522	690	858	1,044
$10,701 - $12,200	318	342	420	522	690	858
$12,201 - $13,700	288	318	342	420	522	690
$13,701 - $15,200	-0-	288	318	342	420	522
$15,201 - $18,200	-0-	-0-	288	318	342	420
$18,201 - $21,200	-0-	-0-	-0-	288	318	342
$21,201 - $24,200	-0-	-0-	-0-	-0-	288	318
$24,201 - $28,900	-0-	-0-	-0-	-0-	-0-	288
Over $28,900	-0-	-0-	-0-	-0-	-0-	-0-

"Gross income" as used in this section shall include all taxable and nontaxable income of the parents, the student, and the student's spouse, except income derived from an Ohio academic scholarship and except income earned by the student between the last day of the spring term and the first day of the fall term, as published by the institution in which the student is enrolled. In the case of self-employed persons, business expenses as

defined by the Ohio Board of Regents shall be subtracted. Where no gross income or inadequate gross income as determined by the board is reported, the board shall establish a formula for determining the means by which the family maintained itself and translate the data into gross income for Ohio instructional grant purposes. Family income may be verified by supplying to the Commission a copy of the federal government income tax return, by authorizing access to the family federal government income tax return, or by other means satisfactory to the board.

"Dependent" as used in this section shall be defined by rules adopted by the Ohio Board of Regents.

Institutions of higher education that enroll students receiving instructional grants under this heading shall report to the Ohio Board of Regents all students who have received instructional grants but are no longer eligible for all or part of such grants and shall refund any moneys due the state within thirty days after the beginning of the quarter or term immediately following the quarter or term in which the student was no longer eligible to receive all or part of the student's grant. There shall be an interest charge of one per cent per month on all moneys due and payable after such thirty-day period. The Board of Regents shall immediately notify the Office of Budget and Management and the Legislative Budget Office of the Legislative Service Commission of all refunds so received. The foregoing appropriation item, 235-503, Ohio Instructional Grants, shall be used to make the payments authorized by division (C) of section 3333.26 of the Revised Code to the institutions described in that division. In addition, this appropriation shall be used to reimburse the institutions described in division (B) of section 3333.26 of the Revised Code for the cost of the waivers required by that division.

War Orphans' Scholarships

The foregoing appropriation item 235-504, War Orphans' Scholarships, shall be used to reimburse state-assisted institutions of higher education for waivers of instructional fees and general fees provided by them, and to provide grants to institutions that have received a certificate of authorization from the Ohio Board of Regents under Chapter 1713. of the Revised Code, in accordance with the provisions of section 5910.04 of the Revised Code, and to fund additional scholarship benefits provided by section 5910.032 of the Revised Code.

Part-time Student Instructional Grants

The foregoing appropriation item 235-549, Part-time Student Instructional Grants, shall be used to support a grant program for part-time undergraduate students who are Ohio residents and who are enrolled in

degree granting programs.

Eligibility for participation in the program shall include degree granting educational institutions that hold a certificate of registration from the State Board of Proprietary School Registration, and nonprofit institutions that have a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code, as well as state-assisted colleges and universities. Grants shall be given to students on the basis of need, as determined by the college, which will, in making these determinations, give special consideration to single-parent heads-of-household and displaced homemakers who enroll in an educational degree program that prepares the individual for a career. In determining need, the college also shall consider the availability of educational assistance from a student's employer. It is the intent of the General Assembly that these grants not supplant such assistance.

Within five days after the beginning of fiscal year 1999, any funds in appropriation item 235-503, Ohio Instructional Grants, which the Director of Budget and Management certifies as unnecessary for Ohio Instructional Grant awards to full-time students, shall be transferred by the Director of Budget and Management to appropriation item 235-549, Part-time Student Instructional Grants. The Board of Regents shall use the funds in fiscal year 1999 to augment the Part-time Student Instructional Grant program.

SECTION 99.08. Capitol Scholarship Programs

Of the foregoing appropriation item 235-518, Capitol Scholarship Programs, $200,000 shall be used to provide one hundred scholarships in each fiscal year in the amount of $2,000 each for students enrolled in Ohio's public and private institutions of higher education to participate in the Washington Center Internship Program. The scholarships shall be matched by the Washington Center's scholarship funds.

Of the foregoing appropriation item 235-518, Capitol Scholarship Programs, $275,000 in fiscal year 1998 shall be used by the Ray C. Bliss Institute of Applied Politics at the University of Akron to endow scholarships for students enrolled in the institute's internship program. The internship program shall be used to provide up to four interns per academic semester to the General Assembly.

Student Choice Grants

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code.

Academic Scholarships

Notwithstanding the provision in section 3333.22 of the Revised Code

requiring the annual amount of a scholarship for a scholar to be $2,000, in lieu of that amount the annual scholarship amount awarded to any scholar who received a scholarship for the 1994-1995 academic year shall be $1,000 for any academic year for which the scholar is eligible for a scholarship under section 3333.22 of the Revised Code.

Teacher Education Loan Program

The foregoing appropriation item 235-601, Teacher Education Loan Program, shall be used for the operating expenses associated with the administration of the Teacher Education Loan Program and the Paul Douglas Scholarship program as referenced in 20 U.S.C. 1111 et. seq.

Physician Loan Repayment

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 through 3702.81 of the Revised Code.

Nursing Loan Program

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to $140,731 in fiscal year 1998 and $144,569 in fiscal year 1999 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

SECTION 99.09. General Revenue Fund Appropriations for Instructional Subsidies, Cooperative Extension Service, and Agricultural Research and Development Center

The amounts appropriated for instructional subsidy payments to institutions, appropriation item 235-511, Cooperative Extension Service, and appropriation item 235-535, Agricultural Research and Development Center, are the maximum amounts of General Revenue Fund moneys available for distribution to colleges and universities for current operations, including costs resulting from collective bargaining agreements under Chapter 4117. of the Revised Code.

Cooperative Extension Service

Of the foregoing appropriation item 235-511, Cooperative Extension Service, $202,101 in fiscal year 1998 and $206,952 in fiscal year 1999 shall be used for additional staffing for county agents for expanded 4-H activities. Of the foregoing appropriation item 235-511, Cooperative Extension Service, $202,101 in fiscal year 1998 and $206,952 in fiscal year 1999 shall be used by the Cooperative Extension Service, through the Enterprise Center for Economic Development in cooperation with other agencies, for a

public-private effort to create and operate a small business economic development program to enhance the development of alternatives to the growing of tobacco, and implement through applied research and demonstration, the production and marketing of other high value crops and value-added products. Of the foregoing appropriation item 235-511, Cooperative Extension Service, $65,000 in each fiscal year shall be used for farm labor mediation and education programs. Of the foregoing appropriation item 235-511, Cooperative Extension Service, $205,200 in fiscal year 1998 and $210,125 in fiscal year 1999 shall be used to support the Ohio State University Marion Enterprise Center.

Agricultural Research and Development Center

Of the foregoing appropriation item 235-535, Agricultural Research and Development Center, $907,446 in fiscal year 1998 and $929,225 in fiscal year 1999 shall be distributed to the Piketon Agricultural Research and Extension Center.

Of the foregoing appropriation item 235-535, Agricultural Research and Development Center, $146,000 in each fiscal year shall be distributed to the Raspberry/Strawberry-Ellagic Acid Research program at the Ohio State University Medical College in cooperation with the Ohio State University College of Agriculture.

Of the foregoing appropriation item 235-535, Agricultural Research and Development Center, $400,000 in fiscal year 1998 shall be distributed to the Rural-Urban Center for Alternative Resolutions at Ohio State University.

Cooperative Extension Service and Agricultural Research and Development Center

The foregoing appropriation items 235-511, Cooperative Extension Service, and 235-535, Agricultural Research and Development Center, shall be disbursed through the Ohio Board of Regents to the Ohio State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to the provisions of section 126.09 of the Revised Code. Of the foregoing appropriation item 235-535, Agricultural Research and Development Center, $515,000 in fiscal year 1998 and $527,000 in fiscal year 1999 shall be used to purchase equipment, and $83,986 in fiscal year 1998 shall be used to purchase a freeze dryer for ongoing work with neutraceuticals.

The Ohio Agricultural Research and Development Center shall not be required to remit payment to The Ohio State University during the 1997-1999 biennium for cost reallocation assessments. The cost reallocation assessments include, but are not limited to, any assessment on state appropriations to the center.

SECTION 99.10. Sea Grants

The foregoing appropriation item 235-402, Sea Grants, shall be disbursed to The Ohio State University. The funds from this item shall be used to conduct research on fish in Lake Erie.

Information System

The foregoing appropriation item 235-409, Information System, shall be used by the Board of Regents to revise the higher education data system known as the Uniform Information System. In each fiscal year, up to $1,400,000 shall be reserved for Board of Regents' agency operations to manage the revision of the information system. The remainder of the appropriations shall be reserved for distribution to participating state-assisted and independent colleges and universities to assist campuses in complying with new reporting procedures and deadlines.

Discovery Project

The foregoing appropriation item 235-481, Discovery Project, shall be used to maintain a consortium led by Miami University and The Ohio State University which builds on the success of the original discovery project, which was funded with state funds and a National Science Foundation grant. The consortium shall provide funding to support and evaluate Discovery's successful professional development programs, directed by Miami University and to initiate Project Sustain at The Ohio State University. It shall also continue and expand the collaborative efforts between the colleges of arts and sciences and the colleges of education within Ohio's universities, for the purpose of retraining current teachers, and for creating new teacher preparation programs in the areas of science and mathematics.

Student Services

The foregoing appropriation item 235-502, Student Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

Central State Supplement

Central State University's fiscal year 1998 and fiscal year 1999 capital appropriations shall not exceed the amounts determined by the Board of Regents' capital allocation formula.

Shawnee State Supplement

The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees

below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of Appalachians.

Police and Fire Protection

The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), and Rootstown Township, which may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least five thousand dollars per year. Funds shall be distributed by the Ohio Board of Regents.

School of International Business

The foregoing appropriation item, 235-547, School of International Business, shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located at the University of Akron. They may confer with the Kent State University, Youngstown State University, and Cleveland State University as to the curriculum and other matters regarding the school.

Capital Component

The foregoing appropriation item 235-552, Capital Component, shall be used by the Ohio Board of Regents to implement the capital funding policy for state-assisted colleges and universities established in Am. H.B. 748 of the 121st General Assembly. Appropriations from this item shall be distributed to all campuses for which the estimated campus debt service attributable to new qualifying capital projects in Am. H.B. 748 of the 121st General Assembly is less than the campus' formula-determined capital component allocation. Campus allocations shall be determined by subtracting the estimated campus debt service attributable to new qualifying capital projects in Am. H.B. 748 of the 121st General Assembly from campus formula-determined capital component allocation. Moneys distributed from this appropriation item shall be restricted to capital-related purposes.

Dayton Area Graduate Studies Institute

The foregoing appropriation item 235-553, Dayton Area Graduate Studies Institute, shall be used by the Ohio Board of Regents to support the

Dayton Area Graduate Studies Institute, an engineering graduate consortium of three universities in the Dayton area - Wright State University, The University of Dayton, and the Air Force Institute of Technology - with the participation of the University of Cincinnati and the Ohio State University.

Priorities in Graduate Education

The foregoing appropriation item 235-554, Priorities in Graduate Education, shall be used by the Ohio Board of Regents to support improvements in graduate programs in computer science at state-assisted universities. In each fiscal year, up to $200,000 may be used to support collaborative efforts in graduate education in this program area.

Increasing the Participation of Ohio Residents in Graduate Programs

By December 31, 1997, the Board of Regents shall submit a plan on significantly increasing the numbers and percentages of Ohio residents participating in masters and doctoral programs in state-assisted universities. The report shall include recommendations for not sacrificing the quality of the graduate programs and preparing Ohio residents for entrance and success in the graduate programs. The report shall be submitted to the President of the Senate or a designee, the Speaker of the House of Representatives or a designee, the Director of Budget and Management, and the Legislative Budget Officer.

Long-Term Care Research

The foregoing appropriation item 235-558, Long-Term Care Research, shall be disbursed to Miami University for long-term care research.

BGSU Canadian Studies Center

The foregoing appropriation item 235-561, BGSU Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University, in conjunction with the International Trade Division of the Department of Development, to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

Urban University Programs

Of the foregoing appropriation item 235-583, Urban University Programs, universities receiving funds which are used to support an ongoing university unit must certify periodically in a manner approved by the Ohio Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds must come from continuing rather than onetime sources. At each participating state-assisted institution of higher education, matching funds must be within the

substantial control of the individual designated by the institution's President as the Urban University Program representative.

Of the foregoing appropriation item 235-583, Urban University Programs, $500,000 in fiscal year 1998 shall be used to support the Central Hower High School-University of Akron Teacher pilot program.

Of the foregoing appropriation item 235-583, Urban University Programs, $361,152 in fiscal year 1998 and $369,820 in fiscal year 1999 shall be used to support a public communication outreach program (WCPN). The granting of these funds shall be conditional upon an agreement between WCPN and the Nationality Broadcaster Association regarding the continued broadcast and preservation of ethnic programming on WCPN. The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

Of the foregoing appropriation item 235-583, Urban University Programs, $176,800 in each fiscal year shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Ohio Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education and health disciplines.

Of the foregoing appropriation item 235-583, Urban University Program, $51,500 in fiscal year 1998 and $97,850 in fiscal year 1999 shall be used for a pilot post-secondary enrollment options project involving the University of Toledo and Springfield High School. The purpose of the pilot project is to enable students who otherwise might not take advantage of the existing post-secondary enrollment options program, due to transportation problems, involvement in extracurricular activities, or not being ready for a large campus environment, to participate in post-secondary coursework. Post-secondary courses shall be offered at Springfield High School, at another high school to be designated by the Toledo Board of Education, and at University of Toledo off-campus sites during the academic year including summer session. The funds shall be used to provide a total of ten courses during fiscal year 1998 and 16 courses during fiscal year 1999.

Of the foregoing appropriation item, 235-583, Urban University Programs, $250,000 in fiscal year 1998, and $250,000 in fiscal year 1999

shall be used to support the Kent State University Learning and Technology Project. This project is a kindergarten through university collaboration between schools surrounding Kent's eight campuses in northeast Ohio, and corporate partners who will assist in development and delivery.

The Kent State University Project shall provide a faculty member who has a full-time role in the development of collaborative activities and teacher instructional programming between Kent and the K-12th grade schools that surround its eight campuses; appropriate student support staff to facilitate these programs and joint activities; hardware and software to schools that will make possible the delivery of instruction to pre-service and in-service teachers, and their students, in their own classrooms or school buildings. This will involve the delivery of low-bandwidth streaming video and Web-based technologies in a distributed instructional model.

Of the foregoing appropriation item, 235-583, Urban University Programs, $250,000 in fiscal year 1998 shall be used to support the Cleveland State University Engineering program.

Of the remainder of the appropriations, 50 per cent of the total in each fiscal year shall be distributed by the Ohio Board of Regents to Cleveland State University in support of the Urban Center of the College of Urban Affairs. The balance of the appropriations to this item shall be distributed to the Northeast Ohio Interinstitutional Research Program, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program.

Ohio University Innovation Center

The foregoing appropriation item 235-585, Ohio University Innovation Center, shall be disbursed to Ohio University to support the continuation of the existing program.

International Center for Water Resources Development

The foregoing appropriation item 235-595, International Center for Water Resources Development, shall be disbursed through the Ohio Board of Regents to Central State University in monthly payments, unless otherwise determined by the Director of Budget and Management pursuant to the provisions of section 126.09 of the Revised Code. Funds from this account shall be used to support the International Center for Water Resources Development at Central State University. This center shall develop methods to improve the management of water resources for Ohio and for emerging nations.

Rural University Projects

Of the foregoing appropriation item 235-587, Rural University Projects, Bowling Green State University shall receive $203,936 in fiscal year 1998 and $207,635 in fiscal year 1999. Miami University shall receive $312,047

in fiscal year 1998 and $317,707 in fiscal year 1999. Ohio University shall receive $712,547 in fiscal year 1998 and $725,473 in fiscal year 1999. These funds shall be used to support the Institute for Local Government Administration and Rural Development at Ohio University, the Center for Public Management and Regional Affairs at Miami University, and the public administration program at Bowling Green State University.

A small portion of the funds provided to Ohio University shall be used to establish a satellite office of the Institute for Local Government Administration and Rural Development at Shawnee State University. A small portion of the funds provided to Ohio University shall also be used for the Institute for Local Government Administration and Rural Development State and Rural Policy Partnership with the Governor's Office of Appalachia and the Appalachian delegation of the General Assembly.

Of the foregoing appropriation item 235-587, Rural University Projects, $100,000 shall be disbursed to Washington State Community College in fiscal year 1998 for athletic facility planning.

Hazardous Materials Program

The foregoing appropriation item 235-596, Hazardous Materials Program, shall be disbursed to Cleveland State University for the operation of a program to certify firefighters for the handling of hazardous materials. Training shall be available to all Ohio firefighters.

Ohio Higher Education Facilities Commission Support

The foregoing appropriation item 235-602, HEFC Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities of the Ohio Higher Education Facilities Commission. Upon the request of the Chancellor, the Director of Budget and Management shall transfer up to $12,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

Reading Recovery Program*

Notwithstanding section 3319.23 of the Revised Code, all state-assisted colleges and universities with teacher education programs shall provide instruction in the Reading Recovery Program.

Articulation and Transfer

The foregoing appropriation item 235-406, Articulation and Transfer, shall be used to implement the Articulation and Transfer policy.

Enrollment Auditing*

The Ohio Board of Regents shall conduct enrollment audits of state-supported institutions of higher education.

SECTION 99.11. * Faculty Workload Policy

Notwithstanding section 3345.45 of the Revised Code, any collective bargaining agreement in effect on the effective date of Am. Sub. H.B. 152 of the 120th General Assembly shall continue in effect until its expiration date.

SECTION 99.12. Repayment of Research Facility Investment Fund Moneys

Notwithstanding any provision of law to the contrary, all repayments of Research Facility Investment Fund loans shall be made to the Bond Serice Trust Fund. All Research Facility Investment Fund loan repayments made prior to the effective date of this act shall be transferred by the Director of Budget and Management to the Bond Service Trust Fund within sixty days of the effective date of this section.

Campuses are required to make timely repayments of Research Facility Investment fund loans, according to the schedule established by the Board of Regents. In the case of late payments, the Board of Regents is authorized to deduct from an institution's periodic subsity distribution an amount equal to the amount of the overdue payment for that institution, transfer such amount to the Bond Service Trust Fund, and credit the appropriate institution for the repayment.

Veterans' Preference

The Board of Regents shall work with the Governor's Office of Veterans' Affairs to develop specific veterans' preference guidelines for higher education institutions. These guidelines shall ensure that the institutions' hiring practices are in accordance with the intent of Ohio's veterans' preference laws.

SECTION 99.13. Commission on Public Legal Education

(A) As used in this section, "Action Plan" means the "Action Plan for Public Legal Education in Ohio" adopted by the Ohio Board of Regents in July 1996.

(B)(1) There is hereby created the Commission on Public Legal Education, consisting of ten members. One member shall be a judge of the Supreme Court, appointed by the Chief Justice; one member shall be a member of the Senate, appointed by the President of the Senate; one member shall be a member of the House of Representatives, appointed by the Speaker of the House of Representatives; one member shall be a member of the Ohio State Bar Association, appointed by the President of that Association; one member shall be a member of the Ohio Board of Regents, appointed by the Chairperson of that Board; and each of the

remaining five members shall be the dean of one of the five state-supported law schools, or the dean's designee.

(2) Members of the Commission shall be appointed not later than November 1, 1997. The member appointed by the Chief Justice of the Supreme Court shall convene an organizational meeting not later than two weeks after all appointments to the Commission have been made. The Commission may elect its own chairperson.

(3) The Ohio Board of Regents shall provide office space and support staff for the Commission to carry out its duties under this section. Members of the Commission shall serve voluntarily and shall not receive compensation or reimbursement of expenses for serving as a member.

(C) Notwithstanding section 3333.04 of the Revised Code, the Commission shall do all of the following:

(1) Review and evaluate the Action Plan and determine what parts of the Plan, if any, are necessary to sufficiently protect the public interest to ensure quality legal education in this state;

(2) Review the accreditation standards and requirements imposed on law schools by the American Bar Association and the Association of American Law Schools and standards and requirements imposed on law schools by the Ohio Supreme Court to determine whether these standards and requirements sufficiently protect the public interest to ensure quality legal education in this state;

(3) If, after reviewing and evaluating the Action Plan under division (C)(1) of this section, the Commission finds that any or all of the Plan is not necessary to sufficiently protect the public interest, report that finding. If the Commission determines that the standards and requirements described in division (C)(2) of this section do not sufficiently protect the public interest, it shall determine what standards and requirements should be imposed or removed in order to protect the public interest. The Commission shall recommend whatever changes in the Action Plan or the standards and requirements it determines are necessary.

(4) Submit a report of its findings and recommendations to the Education Committees of the Senate and the House of Representatives not later than May 1, 1998.

(D) Notwithstanding section 3333.04 of the Revised Code, the dates for implementing the Action Plan shall be delayed until the General Assembly acts upon the recommendations in the report submitted under division (C)(4) of this section.

(E) The Commission shall cease to exist on May 2, 1998, or after submitting its report under division (C)(4) of this section, whichever occurs

sooner.

SECTION 99.14. (A)(1) Central State University shall remain in a state of fiscal exigency as declared by its Board of Trustees in fiscal years 1998 and 1999. All current obligations of Central State University shall be paid with the appropriations made for such purpose under this act.

(2) Not later than June 30, 1998, the Board of Trustees of Central State University shall submit a plan to the Board of Regents for phasing out all academic programs that cannot reasonably be contained within the purview of either the University's College of Business, College of Education, or College of Arts and Sciences. In addition, the Board of Trustees shall reduce the number of faculty employed by Central State University to a level needed to support such academic programs, and shall not enter into any collective bargaining agreement after July 1, 1997, unless the agreement is consistent with, and appropriate for providing, such academic programs, and with budget projections for the University.

(3) Central State University shall do all of the following:

(a) Raise its admission standards for freshmen entering after July 1, 1998;

(b) Reduce its student attrition rate to a level agreed upon by the Board of Regents and the Board of Trustees of the University;

(c) Gain reaccreditation from the North Central Accrediting Association;

(d) Seek funds to rebuild the University's endowment fund to a level that at least meets fund level targets appropriate for institutions of comparable size to the University;

(e) Implement a system for alumni donations that at least meets donation targets appropriate for institutions of comparable size to the University;

(f) Reduce its cohort default rate for student loans.

(4) Central State University shall not expend any private or public funds for University sponsorship of, or participation in, intercollegiate sports activities for which the University was under sanction as of June 1, 1997, by the National Association of Intercollegiate Athletics. In addition, the University shall reduce expenditures for all other intercollegiate sports activities the University sponsors, or participates in, to a maximum of the fiscal year 1997 expenditure levels for those activities.

(B) The Director of Budget and Management shall appoint a chief financial officer for the University until such time as the Director determines that the necessary personnel to manage the fiscal affairs of the University

have been hired and sufficiently trained.

During fiscal years 1998 and 1999, the Director of Budget and Management shall take such actions as necessary which may include the hiring of a financial supervisor, at University expense, to report on all of the following: (1) adherence to a balanced budget; (2) status of current as well as projected cashflow by fund type; (3) status of outstanding accounts payable; (4) timeliness of intrafund transfers; (5) collection of federal receipts; and (6) efforts to control bad debt expense. Central State University shall make periodic reports if requested by the Director in addition to the quarterly financial reports required by division and division (A)(1) of section 3345.70 of the Revised Code.

If the fiscal environment at the University, in the judgment of the Director, is not meeting acceptable fiscal standards, the Director, upon written notice to the Board of Trustees of the University, shall assume responsibilities as the chief financial officer of the University. As chief financial officer, the Director shall take all necessary action to bring accounting practices at the University into compliance with acceptable fiscal standards.

Acceptable fiscal standards for purposes of this division shall include all of the following: (1) adoption and continued efforts to maintain a balanced budget as passed by the Board of Trustees of the University; (2) realistic projections of cashflow by fund type; (3) payment of accounts payable in a timely manner; (4) timeliness of intrafund transfers; (5) timely collection of federal receipts; (6) sufficient efforts to control bad debt expense; and (7) preparation of schedules required to prepare financial statements in a timely manner for purposes of the University's yearly audit.

Any encumbered funds remaining from appropriation item 042-407, Central State Deficit, as appropriated in Am. Sub. S.B. 6 of the 122nd General Assembly, shall be released contingent upon the approval of the Director of Budget and Management. Not more than $1,000,000 in fiscal year 1998 shall be released for reoccurring operating expenses.

(C) Effective July 1, 1999, Central State University shall be subject to all of the requirements of section 3345.72 of the Revised Code as if the University was declared to be in a state of fiscal watch as provided under that section.

(D) The Board of Regents shall report to the Governor and the General Assembly compliance by Central State University with the requirements of this section and section 3345.70 of the Revised Code. If the University demonstrates substantive non-compliance with the requirements of this section and section 3345.70 of the Revised Code, the Board of Regents shall

certify this information to the Director of Budget and Management. The Director shall issue a remedial directive to the University. If the University, in the judgment of the Director, has not made substantial, measurable progress within forty-five days of the remedial directive, it is the intent of the General Assembly that the Board of Regents shall thereupon develop and implement a plan for closure of the University.

(E) By March 1, 1998, the Board of Regents shall work with Central State University to do each of the following:

(1) Develop collaborative and cooperative agreements with other public colleges and universities. The agreements shall provide recruiting strategies for the University, opportunities for Central State students to take courses at other public colleges and universities in order to supplement the programs at Central State University or to meet course requirements if a particular course is not being offered at Central State University, opportunities for distance learning, research opportunities for both faculty and students, and any other opportunities as identified by the University and the Board of Regents.

(2) Develop specific action plans for implementing the new mission for Central State University as set forth in the mission statement entitled "Central State 2000: Journey to the Future," developed in conjunction with the Board of Trustees of Central State University. These plans shall include the implementation of a comprehensive marketing plan for the University designed to improve the University's image and to publicize its new mission, a student recruitment and retention plan designed to recruit and retain better academically prepared students and increase the University's enrollment, a plan to feature and obtain accreditation or re-accreditation of five degree programs (Urban Education, Manufacturing Engineering, Business, Fine and Performing Arts, and Social Work) at the University, measures to enhance faculty development, and measures to improve the library services and information technology at the University.

The Board of Regents and Central State University shall begin implementing the above agreements and plans no later than the 1998-1999 academic year.

SECTION 99.15. If the Ohio Board of Regents grants a compensation increase to the Chancellor or a Vice-Chancellor of the Board, the Board, not later than fifteen days after the effective date of the compensation increase, shall notify the chairpersons and ranking minority members of the House of Representatives Finance and Appropriations Committee and the Senate Finance and Financial Institutions Committee, or the chairpersons of the

successors to those committees, regarding the compensation increase and the rationale for it. The committees may conduct oversight hearings regarding the compensation increase and make any appropriate recommendations for legislation or administrative action relating to the compensation increase.

"Compensation increase," for purposes of this section, means a compensation increase in a percentage that exceeds the cumulative average percentage increase in the consumer price index prepared by the United States bureau of Labor Statistics (U.S. City Average for Urban Wage Earners and Clerical Workers: "All Items 1982-1984=100") that has occurred since the date of the same person's immediately preceding compensation increase.

This section expires July 1, 1999.

SECTION 99.16. Within ten days of the effective date of this section, the Director of Budget and Management shall transfer $3,750,000 from the Board of Regents item CAP-032, Research Facility and Investment Loans and Grants, to Central State University item CAP-081, Campus Rehabilitation, to accommodate the continued improvements necessary to address outstanding adjudication orders.

SECTION 99.17. A supplemental appropriation in the amount of $3,750,000 is hereby appropriated to the Board of Regents item CAP-032, Research Facility and Investment Loans and Grants, in addition to amounts previously appropriated in Section 51 of Am. H.B. 748 of the 121st General Assembly.

A supplemental appropriation in the amount of $2,250,000 is hereby appropriated to Central State University CAP-081, Campus Rehabilitation. This appropriation is in addition to amounts previously appropriated through Controlling Board actions and Section 51.03 of Am. H.B. 748.

Appropriations provided in this section shall be accounted for and subject to the provisions in Am. H.B. 748.

The Director of Budget and Management shall report quarterly to the General Assembly on the progress of all Central State capital expenditures.

SECTION 100. DRC DEPARTMENT OF REHABILITATION AND CORRECTION

General Revenue Fund

GRF 501-321	Institutional Operations	$ 607,925,735	$ 674,720,985

GRF	501-403	Prisoner Compensation	$	8,946,621	$	9,407,745
GRF	501-405	Halfway House	$	29,809,751	$	31,267,488
GRF	501-406	Lease Rental Payments	$	104,775,000	$	113,939,000
GRF	501-407	Community Nonresidential Programs	$	15,651,921	$	16,277,998
GRF	501-408	Community Misdemeanor Programs	$	6,589,325	$	7,380,044
GRF	501-501	Community Residential Programs-CBCF	$	33,721,083	$	41,796,733
GRF	502-321	Mental Health Services	$	59,774,370	$	64,632,914
GRF	503-321	Parole and Community Operations	$	58,887,887	$	66,403,197
GRF	504-321	Administrative Operations	$	25,448,388	$	26,211,841
GRF	505-321	Institution Medical Services	$	106,388,657	$	112,517,086
GRF	506-321	Institution Education Services	$	20,493,627	$	20,809,827
GRF	507-321	Institution Recovery Services	$	4,558,348	$	6,213,197
TOTAL GRF General Revenue Fund			$	1,082,970,713	$	1,191,578,055
General Services Fund Group						
4B0	501-601	Penitentiary Sewer Treatment Services	$	1,254,283	$	1,352,372
4D4	501-603	Prisoner Programs	$	14,998,249	$	15,386,398
4J3	501-612	Community Mental Health and Substance Abuse Treatment	$	1,264,649	$	1,300,060
4L4	501-604	Furlough Services	$	346,542	$	355,899
4S5	501-608	Education Services	$	891,903	$	916,050
483	501-605	Property Receipts	$	579,849	$	594,345
571	501-606	Training Academy Receipts	$	3,961,263	$	4,356,448
TOTAL GSF General Services Fund Group			$	23,296,738	$	24,261,572
Federal Special Revenue Fund Group						
3S1	501-615	Truth-In-Sentencing Grants	$	13,040,556	$	13,040,556
323	501-619	Federal Grants	$	6,134,200	$	6,134,200
TOTAL FED Federal Special Revenue Fund Group			$	19,174,756	$	19,174,756
Intragovernmental Service Fund Group						
148	501-602	Services and Agricultural	$	100,354,176	$	108,003,887
200	501-607	Ohio Penal Industries	$	50,855,491	$	51,759,204
TOTAL ISF Intragovernmental Service Fund Group			$	151,209,667	$	159,763,091
TOTAL ALL BUDGET FUND GROUPS			$	1,276,651,874	$	1,394,777,474

SECTION 100.01. Privately-Operated Prison

With regard to the prison currently under construction near the City of Conneaut in Ashtabula County, the Department of Rehabilitation and Correction shall take all necessary steps to ensure that the following occur in fiscal year 1999: (A) its construction is completed in a timely fashion; and (B) subsequent to completion of its construction, there will be sufficient funding available to promptly privatize its management and operation.

Ohio Building Authority Lease Payments

Appropriations to the Department of Rehabilitation and Correction from the General Revenue Fund include $222,676,000 for the biennium for appropriation item 501-406, Lease Rental Payments. This appropriation shall be used for payments to the Ohio Building Authority for the period July 1, 1997 to June 30, 1999, pursuant to the primary leases and agreements for those buildings made under Chapter 152. of the Revised Code which are the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

Prisoner Compensation

Money from the foregoing appropriation item 501-403, Prisoner Compensation, shall be transferred on a quarterly basis by intrastate transfer voucher to Fund 148, appropriation item 501-602, Services and Agricultural, for the purposes of paying prisoner compensation.

Halfway House

Of the foregoing appropriation item 501-405, Halfway House, $75,000 in fiscal year 1998 shall be distributed to the Talbert House Jobs Program.

Inmate Development Program

Of the foregoing appropriation item 503-321, Parole and Community Operations, at least $30,000 in each fiscal year shall be used for an inmate development program.

Community Mental Health and Substance Abuse Treatment

There is hereby created in the state treasury the Community Mental Health and Substance Abuse Treatment Fund (Fund 4J3), to be administered by the Department of Rehabilitation and Correction. This fund shall consist of moneys transferred from the Department of Mental Health, as well as any moneys transferred from appropriation items within the Department of Rehabilitation and Correction's budget as provided by this act. The money in Fund 4J3 shall be used by the Department of Rehabilitation and Correction to make grants to counties to coordinate, evaluate, and support mental health and substance abuse treatment for persons under the jurisdiction of the adult criminal justice system and to pay expenses of the Department of Rehabilitation and Correction incurred in administering the grant program, including the costs of an annual conference for the participating counties to share information and do program planning.

Of the foregoing appropriation item 501-407, Community Nonresidential Programs, up to $625,000 in each fiscal year may be used to transfer cash from the General Revenue Fund to the Community Mental Health and Substance Abuse Treatment Fund (Fund 4J3). This transfer shall take place using an intrastate transfer voucher.

SECTION 101. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund

GRF	415-100	Personal Services	$	6,974,196	$	7,147,615
GRF	415-401	Personal Care Assistance	$	778,680	$	778,680
GRF	415-402	Independent Living Council	$	270,600	$	396,218
GRF	415-403	Mental Health Services	$	750,000	$	750,000
GRF	415-404	MR/DD Services	$	1,286,281	$	1,318,438
GRF	415-405	Vocational Rehabilitation/Human Services	$	561,450	$	561,450
GRF	415-431	Office for People with Head Injury	$	192,672	$	195,452
GRF	415-506	Case Services for People with Disabilities	$	10,865,916	$	11,227,308
GRF	415-508	Services for People who are Deaf	$	48,854	$	48,854
GRF	415-509	Services for People who are Elderly	$	365,567	$	375,803
GRF	415-520	Independent Living Centers or Services	$	58,948	$	60,716
TOTAL GRF General Revenue Fund			$	22,153,164	$	22,860,534

General Services Fund Group

4W5	415-606	Indirect Costs	$	15,629,694	$	16,307,149
467	415-609	Stand Concessions	$	1,571,770	$	1,629,834
TOTAL GSF General Services Fund Group			$	17,201,464	$	17,936,983

Federal Special Revenue Fund Group

317	415-620	Disability Determination	$	59,462,014	$	61,382,614
3L1	415-601	Social Security Personal Care Assistance	$	3,027,000	$	3,027,000
3L1	415-605	Social Security Community Centers for People who are Deaf	$	1,100,000	$	1,100,000
3L1	415-607	Social Security Administration Cost	$	123,292	$	125,823
3L1	415-608	Social Security Special Programs/Assistance	$	1,330,981	$	1,343,818
3L1	415-610	Social Security Vocational Rehabilitation	$	1,302,000	$	1,302,000
3L1	415-614	Social Security Independent Living	$	285,979	$	285,979
3L4	415-611	Federal-Independent Living Council	$	185,400	$	190,962
3L4	415-612	Federal-Independent Living Centers or Services	$	530,532	$	546,444
3L4	415-615	Federal - Supported Employment	$	2,064,125	$	2,110,656
3L4	415-617	Federal Special Vocational Rehabilitation Programs	$	494,453	$	499,177
379	415-616	Federal-Vocational	$	105,202,487	$	110,562,781

		Rehabilitation		
TOTAL FED Federal Special Revenue Fund Group			$ 175,108,263	$ 182,477,254
State Special Revenue Fund Group				
4L1	415-619	Services for Rehabilitation	$ 1,800,000	$ 1,800,000
468	415-618	Third Party Funding	$ 6,138,409	$ 6,191,365
TOTAL SSR State Special Revenue Fund Group			$ 7,938,409	$ 7,991,365
TOTAL ALL BUDGET FUND GROUPS			$ 222,401,300	$ 231,266,136

Stand Concessions Fund--Crediting of Income

In crediting interest and other income earned on moneys deposited in the Stand Concessions Fund (Fund 467), the Treasurer of State and Director of Budget and Management shall ensure that the requirements of section 3304.35 of the Revised Code are met.

Personal Care Assistance

The foregoing appropriation item 415-401, Personal Care Assistance, shall be used in addition to the federal Social Security reimbursement funds used to provide personal care assistance services. These funds shall not be used in lieu of the Social Security reimbursement funds.

MR/DD Services

The foregoing appropriation item 415-404, MR/DD Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Ohio Department of Mental Retardation and Developmental Disabilities. The Rehabilitation Services Commission shall report to the Ohio Department of Mental Retardation and Developmental Disabilities, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

Vocational Rehabilitation/Human Services

The foregoing appropriation item 415-405, Vocational Rehabilitation/Human Services, shall be used as state matching funds to provide vocational rehabilitation services to mutually eligible clients between the Rehabilitation Services Commission and the Ohio Department of Human Services. The Rehabilitation Services Commission shall report to the Ohio Department of Human Services, as outlined in an interagency agreement, on the number and status of mutually eligible clients and the status of the funds and expenditures for these clients.

Office for People with Head Injury

Of the foregoing appropriation item 415-431, Office for People with Head Injury, $100,000 in each fiscal year shall be used for the state match for a federal grant awarded through P.L. 104-166, The Traumatic Brain Injury Act. The remaining appropriations in this item shall be used to plan

and coordinate head injury-related services provided by state agencies and other government or private entities, to assess the needs for such services and to set priorities in this area.

Services for People who are Deaf

The foregoing appropriation item 415-508, Services for People who are Deaf, shall be used to supplement the federal Social Security reimbursement funds used to provide grants to community centers for the deaf. These funds shall not be used in lieu of Social Security reimbursement funds.

Services for People who are Elderly

The foregoing appropriation item 415-509, Services for People who are Elderly, shall be used as matching funds for vocational rehabilitation services for eligible elderly citizens with a disability.

Social Security Reimbursement Funds

Reimbursement funds received from the Social Security Administration, U.S. Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment, shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:

(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code.

(B) Appropriation item 415-605, Social Security Community Centers for People who are Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments.

(C) Appropriation item 415-607, Social Security Administrative Cost, to provide administrative services needed to administer the Social Security reimbursement program.

(D) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to individuals with severe disabilities to achieve a noncompetitive employment goal such as homemaker.

(E) The foregoing appropriation item 415-614, Social Security Independent Living, to cover projected shortfall in federal funding for fiscal years 1998 and 1999.

(F) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities, who are Social Security beneficiaries, to achieve competitive employment. This item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living programs to pay their share of indirect costs as

mandated by federal OMB Circular A-87.

Indirect Costs

The foregoing appropriation item 415-606, Indirect Costs, shall be used to support the administrative functions of the commission related to the provision of vocational rehabilitation, disability determination services, and ancillary programs.

Independent Living Council

The foregoing appropriation items 415-402, Independent Living Council, and 415-611, Federal-Independent Living Council, shall be used to fund the operations of the State Independent Living Council.

Mental Health Services

The foregoing appropriation item 415-403, Mental Health Services, shall be used for the provision of vocational rehabilitation services to mutually eligible consumers of the Rehabilitation Services Commission and the Department of Mental Health.

The Department of Mental Health shall receive a quarterly report from the Rehabilitation Services Commission stating the numbers served, numbers placed in employment, average hourly wage, and average hours worked.

Independent Living Centers or Services

The foregoing appropriation items 415-520, Independent Living Centers or Services, and 415-612, Federal-Independent Living Centers or Services, shall be used to support state independent living centers or independent living services pursuant to Title VII-Independent Living Services and Centers for Independent Living of the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 U.S.C.A. 796d.

Federal - Special Vocational Rehabilitation Programs

The foregoing appropriation item 415-617, Federal-Special Vocational Rehabilitation Programs, shall be used to support vocational rehabilitation programs including, but not limited to, Projects with Industry and Training Grants.

SECTION 102. RCB RESPIRATORY CARE BOARD

General Services Fund Group

4K9 872-609	Operating	$ 231,904	$	236,401
TOTAL GSF General Services Fund Group		$ 231,904	$	236,401
TOTAL ALL BUDGET FUND GROUPS		$ 231,904	$	236,401

SECTION 103. REVENUE DISTRIBUTION FUNDS

Volunteer Firemen's Dependents Fund				
085	800-900	Volunteer Firemen's Dependents Fund	$ 200,000	$ 200,000
TOTAL 085 Volunteer Firemen's Dependents Fund			$ 200,000	$ 200,000
Agency Fund Group				
062	110-900	Resort Area Excise Tax	$ 250,000	$ 250,000
063	110-900	Permissive Tax Distribution	$ 1,124,200,000	$ 1,168,500,000
067	110-900	School District Income Tax Fund	$ 113,300,000	$ 130,300,000
4P8	001-698	Cash Management Improvement Fund	$ 1,800,000	$ 1,800,000
608	001-699	Investment Earnings	$ 175,000,000	$ 175,000,000
TOTAL AGY Agency Fund Group			$ 1,414,550,000	$ 1,475,850,000
International Fuel Tax Distribution Fund				
R45	110-617	International Fuel Tax Distribution	$ 75,000,000	$ 75,000,000
TOTAL R45 International Fuel Tax Distribution Fund			$ 75,000,000	$ 75,000,000
Revenue Distribution Fund Group				
049	038-900	Indigent Drivers Alcohol Treatment	$ 1,885,962	$ 1,885,962
050	762-900	International Registration Plan Distribution	$ 37,275,000	$ 39,138,750
051	762-901	Auto Registration Distribution Fund	$ 445,000,000	$ 448,300,000
060	110-900	Gasoline Excise Tax Fund	$ 107,700,000	$ 110,900,000
064	110-900	Local Government Revenue Assistance	$ 83,400,000	$ 86,800,000
065	110-900	Library/Local Government Support Fund	$ 374,700,000	$ 392,800,000
066	960-900	Undivided Liquor Permit Fund	$ 12,900,000	$ 13,300,000
068	110-900	State/Local Government Highway Distribution Fund	$ 217,600,000	$ 222,700,000
069	110-900	Local Government Fund	$ 595,900,000	$ 621,700,000
082	CAS-900	Horse Racing Tax Fund	$ 250,000	$ 250,000
083	700-900	Ohio Fairs Fund	$ 2,850,000	$ 2,900,000
TOTAL RDF Revenue Distribution Fund Group			$ 1,879,460,962	$ 1,940,674,712
TOTAL ALL BUDGET FUND GROUPS			$ 3,369,210,962	$ 3,491,724,712

Additional Appropriations

Appropriation line items in this section are for the purpose of administering and distributing the designated revenue distributions fund according to the Revised Code. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 104. SAN BOARD OF SANITARIAN REGISTRATION

General Services Fund Group

4K9	893-609	Operating	$	88,449	$ 94,536
TOTAL GSF General Services Fund Group			$	88,449	$ 94,536
TOTAL ALL BUDGET FUND GROUPS			$	88,449	$ 94,536

SECTION 105. OSB OHIO STATE SCHOOL FOR THE BLIND

General Revenue Fund

GRF	226-100	Personal Services	$	4,925,292	$ 5,130,951
GRF	226-200	Maintenance	$	692,335	$ 676,533
GRF	226-300	Equipment	$	67,575	$ 69,534
TOTAL GRF General Revenue Fund			$	5,685,202	$ 5,877,018

General Services Fund Group

4H8	226-602	Education Reform Grants	$	41,615	$ 41,615
Total GSF General Services Fund Group			$	41,615	$ 41,615

State Special Revenue Fund Group

4M5	226-601	Fees and Gifts	$	29,200	$ 29,200
TOTAL SSR State Special Revenue Fund Group			$	29,200	$ 29,200

Federal Special Revenue Fund Group

310	226-626	Coordinating Unit	$	976,449	$ 976,449
TOTAL FED Federal Special Revenue Fund Group			$	976,449	$ 976,449
TOTAL ALL BUDGET FUND GROUPS			$	6,732,466	$ 6,924,282

SECTION 106. OSD OHIO STATE SCHOOL FOR THE DEAF

General Revenue Fund

GRF	221-100	Personal Services	$	6,245,133	$ 6,465,025
GRF	221-200	Maintenance	$	918,097	$ 944,938
GRF	221-300	Equipment	$	151,543	$ 180,715
TOTAL GRF General Revenue Fund			$	7,314,773	$ 7,590,678

General Services Fund Group

4M1	221-602	Education Reform Grants	$	39,867	$ 40,730
Total GSF General Services Fund Group			$	39,867	$ 40,730

State Special Revenue Fund Group

4M0	221-601	Fees and Gifts	$	15,877	$ 16,430
TOTAL SSR State Special Revenue Fund Group			$	15,877	$ 16,430

Federal Special Revenue Fund Group

311	221-625	Coordinating Unit	$	523,892	$ 527,921
TOTAL FED Federal Special Revenue Fund Group			$	523,892	$ 527,921
TOTAL ALL BUDGET FUND GROUPS			$	7,894,409	$ 8,175,759

SECTION 107. SOS SECRETARY OF STATE

General Revenue Fund					
GRF	050-321	Operating Expenses	$ 7,099,684	$	6,728,197
GRF	050-403	Election Statistics	$ 108,112	$	119,738
GRF	050-407	Pollworker Training	$ 95,000	$	166,000
TOTAL GRF General Revenue Fund			$ 7,302,796	$	7,013,885
General Services Fund Group					
413	050-601	Information Systems	$ 170,000	$	170,000
414	050-602	Citizen Education Fund	$ 72,300	$	31,680
4B9	050-608	Campaign Finance Diskette Sales	$ 5,000	$	5,000
4S8	050-610	Board of Voting Machine Examiners	$ 7,200	$	7,200
TOTAL General Services Fund Group			$ 254,500	$	213,880
State Special Revenue Fund Group					
599	050-603	Corporations/UCC	$ 1,586,422	$	1,603,975
TOTAL SSR State Special Revenue Fund Group			$ 1,586,422	$	1,603,975
Holding Account Redistribution Group					
R01	050-605	Uniform Commercial Code Refunds	$ 65,000	$	65,000
R02	050-606	Corporate/Business Filings Refunds	$ 250,000	$	250,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 315,000	$	315,000
TOTAL ALL BUDGET FUND GROUPS			$ 9,458,718	$	9,146,740

Board of Voting Machine Examiners

The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses which are authorized to be paid from the Board of Voting Machine Examiners Fund which is created in section 3506.05 of the Revised Code. Moneys not used shall be returned to the person or entity submitting the equipment for examination. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

Holding Account Redistribution Group

The foregoing appropriation items 050-605 and 050-606, Holding Account Redistribution Fund Group, shall be used to hold revenues until they are directed to the appropriate accounts or until they are refunded. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 108. SEN THE OHIO SENATE

General Revenue Fund					
GRF	020-321	Operating Expenses	$ 11,077,661	$	11,299,214
TOTAL GRF General Revenue Fund			$ 11,077,661	$	11,299,214

General Services Fund Group						
102	020-602	Senate Reimbursement	$	383,347	$	391,014
409	020-601	Miscellaneous Sales	$	29,488	$	30,078
TOTAL GSF General Services Fund Group			$	412,835	$	421,092
TOTAL ALL BUDGET FUND GROUPS			$	11,490,496	$	11,720,306

SECTION 109. CSF COMMISSIONERS OF THE SINKING FUND

General Revenue Fund						
GRF	155-900	Debt Service	$	19,711,000	$	26,098,000
TOTAL GRF General Revenue Fund			$	19,711,000	$	26,098,000
Debt Service Fund Group						
071	155-900	Highway Obligations Bond Retirement Fund	$	99,440,000	$	70,547,000
072	155-900	Highway Capital Improvements Bond Retirement Fund	$	49,165,000	$	77,906,000
076	155-900	Coal Research and Development Bond Retirement Fund	$	7,584,000	$	8,346,000
073	155-900	Natural Resources Bond Retirement	$	12,127,000	$	17,753,000
TOTAL DSF Debt Service Fund Group			$	168,316,000	$	174,552,000
TOTAL ALL BUDGET FUND GROUPS			$	188,027,000	$	200,650,000

Additional Appropriations

Appropriation items in this section are for the purpose of paying the principal and interest on bonds or other instruments of indebtedness of this state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 110. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY

General Services Fund Group						
4K9	886-609	Operating	$	314,026	$	321,548
TOTAL GSF General Services Fund Group			$	314,026	$	321,548
TOTAL ALL BUDGET FUND GROUPS			$	314,026	$	321,548

SECTION 111. SLG STATE AND LOCAL GOVERNMENT COMMISSION OF OHIO

General Revenue Fund						
GRF	046-321	Operating Expenses	$	240,277	$	246,284
TOTAL GRF General Revenue Fund			$	240,277	$	246,284
TOTAL ALL BUDGET FUND GROUPS			$	240,277	$	246,284

SECTION 112. SLC OHIO STUDENT AID COMMISSION

State Special Revenue Fund Group

462	373-603	Operating Expenses	$ 2,586,603	$	0
TOTAL SSR State Special Revenue Fund Group			$ 2,586,603	$	0
TOTAL ALL BUDGET FUND GROUPS			$ 2,586,603	$	0

Commission Termination Authority

The foregoing appropriation item 373-603, Operating Expenses, shall be used by the Director of Budget and Management to satisfy any outstanding financial obligations of the Ohio Student Aid Commission. The appropriation item may also be used to incur any new obligations associated with the termination of the operations of the Student Aid Commission. The Director shall transfer any unobligated balance in the Operating Expenses Fund (Fund 462), remaining on June 30, 1998, to such entity as shall be designated by written directive of the federal agency responsible for administering the Federal Family Education Loan Program. Amounts necessary to complete this transfer are hereby appropriated. The Director of Budget and Management shall take such actions as are necessary to complete the termination of the operations of the Ohio Student Aid Commission and may take steps to request of the General Assembly the repeal of the Commission's statutes and the rescissions of the Commission's rules.

SECTION 113. BTA BOARD OF TAX APPEALS

General Revenue Fund

GRF	116-100	Personal Services	$ 2,217,663	$	2,274,244
GRF	116-200	Maintenance	$ 107,400	$	120,800
GRF	116-300	Equipment	$ 88,969	$	69,200
TOTAL GRF General Revenue Fund			$ 2,414,032	$	2,464,244

General Services Fund Group

439	116-602	Reproduction of Decisions	$ 25,362	$	26,008
TOTAL GSF General Services Fund Group			$ 25,362	$	26,008
TOTAL ALL BUDGET FUND GROUPS			$ 2,439,394	$	2,490,252

SECTION 114. TAX DEPARTMENT OF TAXATION

General Revenue Fund

GRF	110-100	Personal Services	$ 69,616,215	$	69,828,215
GRF	110-200	Maintenance	$ 12,789,253	$	12,901,265
GRF	110-300	Equipment	$ 4,876,148	$	4,731,605
GRF	110-410	Administration of Energy Credits	$ 723,964	$	743,128

GRF	110-412	Child Support Administration	$ 57,268	$ 58,872
GRF	110-506	Utility Bill Credits	$ 9,500,000	$ 9,500,000
GRF	110-901	Property Tax Allocation-Taxation	$ 305,000,000	$ 323,300,000
GRF	110-906	Tangible Tax Exemption - Taxation	$ 26,280,000	$ 27,090,000
TOTAL GRF General Revenue Fund			$ 428,842,848	$ 448,153,085
General Services Fund Group				
433	110-602	Tape File Account	$ 80,595	$ 82,852
TOTAL GSF General Services Fund Group			$ 80,595	$ 82,852
State Special Revenue Fund Group				
4C6	110-616	International Registration Plan	$ 578,097	$ 593,238
4R6	110-610	Tire Tax Administration	$ 138,780	$ 142,666
435	110-607	Local Tax Administration	$ 9,817,491	$ 10,017,570
436	110-608	Motor Vehicle Audit	$ 1,377,920	$ 1,412,811
437	110-606	Litter Tax and Natural Resource Tax Administration	$ 1,209,943	$ 1,240,870
438	110-609	School District Income Tax	$ 2,850,000	$ 2,515,000
639	110-614	Cigarette Tax Enforcement	$ 133,549	$ 136,888
642	110-613	Ohio Political Party Distributions	$ 1,233,600	$ 1,268,141
688	110-615	Local Excise Tax Adminstration	$ 299,267	$ 306,877
TOTAL SSR State Special Revenue Fund Group			$ 17,638,647	$ 17,634,061
Federal Special Revenue Fund Group				
3J6	110-601	Motor Fuel Compliance	$ 50,000	$ 50,000
3J7	110-603	International Fuel Tax Agreement	$ 40,000	$ 40,000
TOTAL FSR Federal Special Revenue Fund Group			$ 90,000	$ 90,000
Holding Account Redistribution Fund Group				
R10	110-611	Tax Distributions	$ 200,000	$ 200,000
R11	110-612	Miscellaneous Income Tax Receipts	$ 500,000	$ 500,000
TOTAL 090 Holding Account Redistribution Fund Group			$ 700,000	$ 700,000
TOTAL ALL BUDGET FUND GROUPS			$ 447,352,090	$ 466,659,998

Litter Control Tax Administration Fund

Notwithstanding section 5733.12 of the Revised Code, during the period July 1, 1997, to June 30, 1998, the amount of $1,209,943, and July 1, 1998, to June 30, 1999, the amount of $1,240,870, received by the Treasurer of State under Chapter 5733. of the Revised Code, shall be credited to the Litter Control Tax Administration Fund (Fund 437). The Director of Budget and Management shall provide the Treasurer of State with a monthly schedule in accordance with which the amounts shall be credited.

Audit Production Reporting*

The Department of Taxation shall report to the Office of Budget and

Management on a quarterly basis the audit production for all taxes administered by the department. An annual report on audit production shall be submitted to the Speaker of the House of Representatives and the President of the Senate at the conclusion of fiscal year 1998 and fiscal year 1999. Such report shall reference the previous two years' audit production for all taxes administered by the department.

Tangible Tax Exemption

In addition to the amounts specifically appropriated to item 110-906, Tangible Tax Exemption, for the tangible tax exemption payments to county treasurers made pursuant to division (G) of section 321.24 of the Revised Code, any sums which are determined to be necessary for this purpose are hereby appropriated.

International Registration Plan Audit

The foregoing appropriation item 110-616, International Registration Plan, shall be used pursuant to section 5703.12 of the Revised Code for audits of persons with vehicles registered under the International Registration Plan.

SECTION 115. DOT DEPARTMENT OF TRANSPORTATION

Transportation Modes

General Revenue Fund

GRF 774-445	Intermodal Capital Grants	$ 2,500,000	$ 0
GRF 775-451	Public Transportation - State	$ 27,688,520	$ 28,497,653
GRF 775-453	Waterfront Line Lease Payments - State	$ 1,782,000	$ 1,782,000
GRF 775-456	Public Transportation/ Discretionary Capital	$ 3,300,000	$ 3,300,000
GRF 775-458	Elderly and Disabled Fare Assistance	$ 3,123,832	$ 3,211,299
GRF 776-465	Rail Transportation Administration Supplement - State	$ 475,300	$ 487,183
GRF 777-471	Airport Improvements - State	$ 2,548,314	$ 2,569,270
GRF 777-473	Rickenbacker Lease Payments - State	$ 632,000	$ 812,000
TOTAL GRF General Revenue Fund		$ 42,049,966	$ 40,659,405
TOTAL ALL BUDGET FUND GROUPS		$ 42,049,966	$ 40,659,405

Intermodal Capital Grants

Of the foregoing appropriation item, 774-445, Intermodal Capital Grants, $2,500,000 in fiscal year 1998 shall be used for the Lima Intermodal Facility. The appropriation in this act is in addition to any other appropriation in the line item.

Aviation Lease Payments

The foregoing appropriation item 777-473, Rickenbacker Lease

Payments - State, shall be used to meet scheduled payments for the Rickenbacker Port Authority. The Director of Transportation shall certify to the Director of Budget and Management any appropriations in line item 777-473, Rickenbacker Lease Payments - State, that are not needed to make lease payments for the Rickenbacker Port Authority. Notwithstanding section 127.14 of the Revised Code, the amount certified is hereby transferred to appropriation item 777-471, Airport Improvements - State. The Director of Transportation shall report such transfers to the Controlling Board at the next regularly scheduled meeting of the board.

Noise Walls

Notwithstanding section 5511.01 of the Revised Code, the Department of Transportation shall improve an existing noise barrier along State Route 8 in the City of Cuyahoga Falls, Summit County, by retrofitting the traffic side with sound absorbing material panels. This barrier, identified as noise barrier "A" in the SUM 8-6.83 construction plans, beginning at the State Route 8 centerline station 276+50 left and ending at the State Route 8 centerline station 313+94 left, a length of approximately 3,744 feet or 0.709 miles, is located on the west side of State Route 8 between the Hudson Drive interchange and the Graham Road interchange.

Proceeds from Sale of Fiala Center

As determined by the Director of Budget and Management, any portion of the proceeds from the sale of the Fiala Center in Portage County which would otherwise reimburse the General Revenue Fund for contributions for the construction of the center shall be divided such that one-half is paid to the Muskingum County Airport and one-half to the Summit County Airport.

SECTION 116. TOS TREASURER OF STATE

General Revenue Fund

GRF	090-321	Operating Expenses	$ 8,929,789	$	8,091,119
GRF	090-401	Commissioners of the Sinking Fund	$ 340,000	$	363,800
GRF	090-402	Continuing Education	$ 364,200	$	386,241
GRF	090-405	Issuance Costs	$ 7,500	$	7,500
GRF	090-510	PERS Cost of Living	$ 2,028	$	1,633
GRF	090-511	STRS Cost of Living	$ 3,300	$	3,000
GRF	090-512	SERS Cost of Living	$ 700	$	700
GRF	090-520	PERS Pension Benefits	$ 576,435	$	492,982
GRF	090-521	STRS Pension Benefits	$ 485,000	$	460,000
GRF	090-522	SERS Pension Benefits	$ 116,000	$	95,000
GRF	090-523	Highway Patrol Retirement System	$ 4,776	$	4,600
GRF	090-524	Police and Fire Disability Pension	$ 80,000	$	75,000
GRF	090-530	PERS Ad Hoc Cost of Living	$ 1,633,500	$	1,482,112

GRF	090-531	STRS Ad Hoc Cost of Living	$ 2,300,000	$ 2,200,000
GRF	090-532	SERS Ad Hoc Cost of Living	$ 303,000	$ 267,000
GRF	090-533	Hwy Patrol Ad Hoc Cost of Living	$ 27,681	$ 27,500
GRF	090-534	Police & Fire Ad Hoc Cost of Living	$ 410,000	$ 395,000
GRF	090-544	Police and Fire State Contribution	$ 1,200,000	$ 1,200,000
GRF	090-554	Police and Fire Survivor Benefits	$ 2,130,000	$ 2,010,000
GRF	090-575	Police and Fire Death Benefits	$ 17,500,000	$ 19,300,000
GRF	090-900	Debt Service	$ 93,889,000	$ 113,060,000
TOTAL GRF General Revenue Fund			$ 130,302,909	$ 149,923,187
General Services Fund Group				
4E9	090-603	Securities Lending Income Fund	$ 1,500,000	$ 2,500,000
182	090-608	Financial Planning Commissions	$ 15,000	$ 15,000
577	090-605	Investment Pool Reimbursement	$ 250,000	$ 750,000
605	090-609	Treasurer of State Administrative Fund	$ 600,000	$ 600,000
4NO	090-611	Treasury Education Fund	$ 26,250	$ 27,500
4X9	090-612	State School Board Obligation	$ 2,000	$ 2,000
TOTAL GSF General Services Fund Group			$ 2,393,250	$ 3,894,500
Agency Fund Group				
425	090-635	Tax Refunds	$ 850,010,000	$ 890,010,000
TOTAL AGY Agency Fund Group			$ 850,010,000	$ 890,010,000
Debt Service Fund Group				
077	090-900	Capital Improvements Bond Service	$ 93,889,000	$ 113,060,000
TOTAL DSF Debt Service Fund Group			$ 93,889,000	$ 113,060,000
State Special Revenue Fund Group				
5C5	090-602	County Treasurer Education	$ 105,000	$ 110,000
TOTAL SSR State Special Revenue Fund Group			$ 105,000	$ 110,000
TOTAL ALL BUDGET FUND GROUPS			$ 1,076,700,159	$ 1,156,997,687

SECTION 116.01. Commissioners of the Sinking Fund

The foregoing appropriation item 090-401, Commissioners of the Sinking Fund, shall be used for all costs incurred by order of, or on behalf of, the Commissioners of the Sinking Fund, with respect to the issuance and sale of bonds or other obligations, including but not limited to engraving, printing, advertising, and other related outlays. The General Revenue Fund shall be reimbursed for such costs on intra-state transfer voucher drawn by the Commissioners of the Sinking Fund, pursuant to a certification by the Treasurer of State of the actual amounts used. The amounts necessary to

make such reimbursements are hereby appropriated from the bond retirement funds created by the laws and Constitution of this state to the extent such costs are incurred.

Capital Improvements Bond Service

The foregoing appropriation item 090-900, Capital Improvements Bond Service, shall be used for the purpose of paying the principal and interest on General Obligation Infrastructure Improvement Bonds issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 116.02. Police and Firemen's Death Benefit Fund

The foregoing appropriation item 090-575, Police and Fire Death Benefits, shall be disbursed by the Treasurer of State in quarterly payments at the beginning of each quarter to the Board of Trustees of the Police and Firemen's Disability and Pension Fund. By June 20 of each year, the Board of Trustees of the Police and Firemen's Disability and Pension Fund shall certify to the Treasurer of State the amount disbursed in each quarter of the current fiscal year to make the payments required by section 742.63 of the Revised Code and shall return to the Treasurer of State moneys received from this item but not disbursed.

Tax Refunds

The foregoing appropriation item 090-635, Tax Refunds, shall be used to pay refunds as provided in section 5703.052 of the Revised Code. If it is determined that additional appropriations are necessary, such amounts are hereby appropriated.

SECTION 117. TTA OHIO TUITION TRUST AUTHORITY

State Special Revenue Fund Group

645	095-601	Operating Expenses	$ 3,115,200	$	3,541,400
TOTAL SSR State Special Revenue Fund Group			$ 3,115,200	$	3,541,400
TOTAL ALL BUDGET FUND GROUPS			$ 3,115,200	$	3,541,400

Operating Expenses

The foregoing appropriation item 095-601, Operating Expenses, shall be used to pay the operating expenses of the Ohio Tuition Trust Authority.

SECTION 118. UST PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD

State Special Revenue Fund Group					
691	810-632	PUSTRCB Staff	$ 793,650	$	887,250
TOTAL SSR State Special Revenue Fund Group			$ 793,650	$	887,250
TOTAL ALL BUDGET FUND GROUPS			$ 793,650	$	887,250

SECTION 119. OVH OHIO VETERANS' HOME

General Revenue Fund					
GRF	430-100	Personal Services	$ 10,334,362	$	11,039,285
GRF	430-200	Maintenance	$ 4,676,165	$	5,007,942
TOTAL GRF General Revenue Fund			$ 15,010,527	$	16,047,227
Federal Special Revenue Fund Group					
3L2	430-601	Federal Grants	$ 6,690,000	$	7,034,267
TOTAL FED Federal Special Revenue Fund Group			$ 6,690,000	$	7,034,267
State Special Revenue Fund Group					
4E2	430-602	Veterans Home Operating	$ 3,082,672	$	3,320,470
604	430-604	Veterans Home Improvement	$ 466,192	$	579,839
TOTAL SSR State Special Revenue Fund Group			$ 3,548,864	$	3,900,309
TOTAL ALL BUDGET FUND GROUPS			$ 25,249,391	$	26,981,803

SECTION 121. VET VETERANS' ORGANIZATIONS

General Revenue Fund					
VAP AMERICAN EX-PRISONERS OF WAR					
GRF	743-501	State Support	$ 23,478	$	24,135
VAN ARMY AND NAVY UNION, USA, INC.					
GRF	746-501	State Support	$ 51,500	$	53,045
VKW KOREAN WAR VETERANS					
GRF	747-501	State Support	$ 46,296	$	47,685
VJW JEWISH WAR VETERANS					
GRF	748-501	State Support	$ 27,818	$	28,653
VCW CATHOLIC WAR VETERANS					
GRF	749-501	State Support	$ 54,288	$	55,917
VPH MILITARY ORDER OF THE PURPLE HEART					
GRF	750-501	State Support	$ 52,778	$	54,362
VVV VIETNAM VETERANS OF AMERICA					
GRF	751-501	State Support	$ 168,450	$	172,004
VAL AMERICAN LEGION OF OHIO					
GRF	752-501	State Support	$ 251,600	$	233,398
VII VETERANS OF WORLD WAR II-KOREA-VIETNAM					
GRF	753-501	State Support	$ 195,700	$	201,571
VAV DISABLED AMERICAN VETERANS					
GRF	754-501	State Support	$ 149,350	$	153,831
VOH RAINBOW DIVISION VETERANS' ASSOCIATION, OHIO					

GRF	755-501	State Support	$	3,964	$ 4,075
		VMC MARINE CORPS LEAGUE			
GRF	756-501	State Support	$	77,206	$ 79,522
		V37 37TH DIVISION AEF VETERANS' ASSOCIATION			
GRF	757-501	State Support	$	5,566	$ 5,733
		VFW VETERANS OF FOREIGN WARS			
GRF	758-501	State Support	$	133,900	$ 137,917
		VWI VETERANS OF WORLD WAR I			
GRF	759-501	State Support	$	23,478	$ 24,135
TOTAL GRF General Revenue Fund			$	1,265,372	$ 1,275,983
TOTAL ALL BUDGET FUND GROUPS			$	1,265,372	$ 1,275,983

Release of Funds

The foregoing appropriation items 743-501, 746-501, 747-501, 748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501, 755-501, 756-501, 757-501, 758-501, and 759-501, State Support, shall be released upon approval by the Director of Budget and Management.

American Ex-Prisoners of War

The American Ex-Prisoners of War shall be permitted to share an office with the Veterans of World War I.

Central Ohio United Services Organization

Of the foregoing appropriation item, 751-501, Vietnam Veterans of America, $50,000 in each fiscal year shall be used to support the activities of the Central Ohio USO.

Women in Military Service Memorial

Of the foregoing appropriation item 752-501, American Legion of Ohio, $25,000 in fiscal year 1998 shall be used for a contribution to The Women in Military Service Memorial in Washington, D.C.

SECTION 121. DVM STATE VETERINARY MEDICAL BOARD

General Services Fund Group

4K9	888-609	Operating	$	344,040	$ 353,543
TOTAL GSF General Services Fund Group			$	344,040	$ 353,543
TOTAL ALL BUDGET FUND GROUPS			$	344,040	$ 353,543

SECTION 122. WPR WOMEN'S POLICY AND RESEARCH COMMISSION

General Revenue Fund

GRF	920-321	Operating Expenses	$	247,719	$ 254,453
TOTAL GRF General Revenue Fund			$	247,719	$ 254,453

State Special Revenue Fund Group

4V9	920-602	Women's Policy and Research Commission Fund	$	25,000	$ 25,000

TOTAL SSR State Special Revenue Fund Group			$ 25,000	$ 25,000
TOTAL ALL BUDGET FUND GROUPS			$ 272,719	$ 279,453

SECTION 123. DYS DEPARTMENT OF YOUTH SERVICES

General Revenue Fund

GRF	470-401	Care and Custody	$ 131,135,560	$ 136,069,627
GRF	470-402	Community Program Services	$ 2,999,777	$ 2,974,897
GRF	470-404	Vocational Rehabilitation	$ 250,000	$ 256,250
GRF	477-406	Interagency Collaborations	$ 350,000	$ 350,000
GRF	470-412	Lease Rental Payments	$ 11,386,000	$ 14,890,000
GRF	470-502	County Youth Facility Maintenance	$ 8,118,616	$ 8,321,581
GRF	470-510	Youth Services	$ 21,047,784	$ 21,573,979
GRF	472-321	Parole Operations	$ 16,295,957	$ 16,618,397
GRF	477-321	Administrative Operations	$ 13,264,876	$ 13,727,840
TOTAL GRF General Revenue Fund			$ 204,848,570	$ 214,782,571

General Services Fund Group

4A2	470-602	Child Support	$ 154,170	$ 158,456
4G6	470-605	General Operational Funds	$ 10,280	$ 10,568
479	470-609	Employee Food Service	$ 108,439	$ 111,475
4J7	470-619	Community Mental Health/Substance Abuse Treatment	$ 246,720	$ 253,628
175	470-613	Education Reimbursement	$ 7,614,684	$ 7,808,022
TOTAL GSF General Services Fund Group			$ 8,134,293	$ 8,342,149

Federal Special Revenue Fund Group

321	470-601	Education	$ 1,934,237	$ 2,032,072
321	470-603	Juvenile Justice Prevention Programs	$ 563,981	$ 481,926
321	470-606	Nutrition	$ 2,570,108	$ 2,610,930
321	470-614	Title IV-E Reimbursements	$ 5,469,652	$ 5,609,415
TOTAL FED Federal Special Revenue Fund Group			$ 10,537,978	$ 10,734,343

State Special Revenue Fund Group

147	470-612	Vocational Education	$ 1,653,627	$ 1,695,629
TOTAL SSR State Special Revenue Fund Group			$ 1,653,627	$ 1,695,629
TOTAL ALL BUDGET FUND GROUPS			$ 225,174,468	$ 235,554,692

Ohio Building Authority Lease Payments

The foregoing appropriation item 470-412, Lease Rental Payments, in the Department of Youth Services, shall be used for payments, limited to the aggregate amount of $26,276,000, to the Ohio Building Authority for the period July 1, 1997, to June 30, 1999, pursuant to the primary leases and agreements for facilities made under Chapter 152. of the Revised Code which are the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

Care and Custody

In determining the amount of moneys necessary to fund the foregoing appropriation item 470-401, Care and Custody, in fiscal years 1998 and 1999 the Department of Youth Services shall compute the number of state target youth for each fiscal year. As defined in section 5139.01 of the Revised Code, state target youth means twenty-five per cent of the projected total number of felony level delinquency adjudications in the juvenile courts for each year of a biennium, factoring in revocations and recommitments. The foregoing appropriation item 470-401, Care and Custody, shall provide for an amount not less than $98 per day for each state target youth or not less than $20,000 per year for each state target youth for each year of the biennium.

Notwithstanding division (B)(2)(a)(i) of section 5139.43 of the Revised Code, the determination of which county a reduction of the monthly care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who are in the custody of the Department of Youth Services, are in an institution on June 30, 1995, and who do not qualify as public safety beds. The determination of which county a reduction of the monthly care and custody allocation will be charged against shall be made as follows until each youth is released:

(A) In the event of a commitment, the reduction shall be charged against the committing county.

(B) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the Department of Youth services pursuant to the order of recommitment, whichever is later. Reductions of the monthly allocation shall be charged against the county which recommitted the youth after the minimum expiration date of the original commitment.

(C) In the event of a revocation of a release on parole, the reduction shall be charged against the original committing county.

Community Program Services

Of the foregoing appropriation item 470-402, Community Program Services, $95,000 in fiscal year 1998 shall be used for the City of Cincinnati parental responsibility program. Of the foregoing appropriation item 470-402, Community Program Services, $100,000 in each fiscal year shall be used for the Columbus Youth Corps.

Vocational Rehabilitation

The Department of Youth Services and the Rehabilitation Services Commission shall enter into an interagency agreement for the provision of

vocational rehabilitation services and staff to mutually eligible clients. The foregoing appropriation item 470-404, Vocational Rehabilitation, shall be used to provide vocational rehabilitation services and staff in accordance with the interagency agreement. The Department of Youth Services may transfer additional moneys to appropriation item 470-404, Vocational Rehabilitation, with Controlling Board approval.

Employee Food Service and Equipment

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470-609, Employee Food Service, may be used to purchase equipment with funds received into the fund from reimbursement for state surplus property.

Education Reimbursement

The foregoing appropriation line item 470-613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This line item shall not be used for capital expenses.

Financial Assistance

Pursuant to section 5139.28 of the Revised Code, grants awarded for financial assistance for the operation and maintenance of schools or other facilities shall be in an amount not to exceed one half of the cost of operating and maintaining such schools or facilities, but may not exceed in any one month $540 multiplied by the average daily enrollment in each fiscal year.

Pursuant to section 5139.281 of the Revised Code, funding provided to a county for the operation and maintenance of each home shall be in an amount of fifty per cent of the approved annual operating cost, but shall not be in excess of $156,928 in each fiscal year.

Community Mental Health and Substance Abuse Treatment

There is hereby created in the state treasury the Community Mental Health and Substance Abuse Treatment Fund (Fund 4J7), to be administered by the Department of Youth Services. This fund shall consist of moneys transferred from the Department of Mental Health, as well as any moneys transferred from appropriation items within the Department of Youth Services' budget as provided by this act. The money in Fund 4J7 shall be used by the Department of Youth Services to make grants to counties to coordinate, evaluate, and support mental health and substance abuse treatment for persons under the jurisdiction of the juvenile criminal justice system and to pay expenses of the Department of Youth Services incurred in

administering the grant program, including the costs of an annual conference for the participating counties to share information and do program planning.

Title IV-E Reimbursements

Of the foregoing appropriation item 470-614, Title IV-E Reimbursements, up to $240,000 in each year of the biennium may be transferred to appropriation item 470-619, Community Mental Health and Substance Abuse Treatment Fund (Fund 4J7). Any such transfers shall be made using an intrastate transfer voucher.

SECTION 124. Personal Service Expenses

Unless otherwise prohibited by law, each appropriation in this act from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the Equal Opportunity Center; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. Such costs shall be determined in conformity with appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from line item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempt from the requirements of this section.

SECTION 125. Reissuance of Voided Warrants

In order to provide funds for the reissuance of voided warrants pursuant to section 117.47 of the Revised Code, there is hereby appropriated, out of moneys in the state treasury from the fund credited as provided in section 117.47 of the Revised Code, that amount sufficient to pay such warrants when approved by the Office of Budget and Management.

SECTION 126. Judgments Against State

Any appropriations contained in this act, except those to be applied to or used for payment of guarantees by or on behalf of the state or debt service on bonds, notes, or certificates of participation, may be used for the purpose of satisfying judgments, settlements, or administrative awards ordered or approved by the Court of Claims or other court of competent jurisdiction in

connection with civil actions against the state.

SECTION 127. * Capital Project Settlements

This section specifies an additional and supplemental procedure to provide for payments of judgments and settlements if the Director of Budget and Management determines, pursuant to division (C)(4) of section 2743.19 of the Revised Code, that sufficient unencumbered moneys do not exist in the particular appropriation to pay the amount of a final judgment rendered against the state or a state agency, including the settlement of a claim approved by a court, in an action upon and arising out of a contractual obligation for the construction or improvement of a capital facility if the costs under such contract were payable in whole or in part from a state capital projects appropriation. In such a case, the Director may either proceed pursuant to division (C)(4) of section 2743.19 of the Revised Code, or apply to the Controlling Board to increase an appropriation or create an appropriation out of any unencumbered moneys in the state treasury to the credit of the capital projects fund from which the initial state appropriation was made. The Controlling Board may approve or disapprove the application as submitted or modified. The amount of an increase in appropriation or new appropriation specified in an application approved by the Controlling Board is hereby appropriated from the applicable capital projects fund and made available for the payment of the judgment or settlement.

If the Director does not make the application authorized by this section or the Controlling Board disapproves the application, and the Director does not make application pursuant to division (C)(4) of section 2743.19 of the Revised Code, the Director shall for the purpose of making that payment request to the General Assembly as provided for in division (C)(5) of that section.

SECTION 128. Income Tax Distribution to Counties

There are hereby appropriated out of any moneys in the state treasury to the credit of the General Revenue Fund, which are not otherwise appropriated, funds sufficient to make any payment required by division (B)(2) of section 5747.03 of the Revised Code.

SECTION 129. Homestead Exemption and Property Tax Rollback

The appropriation item 110-901, Property Tax Allocation-Taxation,

made to the Department of Taxation, and the appropriation item 200-901, Property Tax Allocation-Education, made to the Department of Education, are appropriated to pay for the state's costs incurred due to the Property Tax Rollback and the Homestead Exemption in all taxing districts of the state which receive an appropriation for these purposes. The Tax Commissioner, in cooperation with the Department of Education, shall distribute these funds directly to the appropriate local taxing district of the state, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Property Tax Rollback and the Homestead Exemption by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the cost of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 110-901, Property Tax Allocation-Taxation, and 200-901, Property Tax Allocation-Education, for the Property Tax Rollback and the Homestead Exemption payments to local taxing districts, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 130. Transfers of Fiscal Year 1997 Ending Balances

(A) Notwithstanding division (B)(1)(b) of section 131.44 of the Revised Code as amended by this act, fiscal year 1997 surplus revenue that would otherwise have been transferred to the Income Tax Reduction Fund shall instead be distributed as provided in division (B) of this section.

(B)(1) The first $250,000,000 of such surplus revenue shall be transferred from the General Revenue Fund to Fund 021, School Building Assistance. Any moneys deposited in Fund 021 under division (B) (1) of this section are hereby appropriated to pay for school building construction or renovation for low-wealth school districts as provided by S.B. 102 of the 122nd General Assembly and other applicable provisions of law, except that up to 20 percent of the amount may be used for emergency repairs.

(2) The next $94,400,000 of such surplus revenue shall be transferred from the General Revenue Fund to Fund 4Y4, SchoolNet Plus. This money, when combined with the $30,600,000 transferred from the General Revenue Fund elsewhere in this act, constitutes the $125,000,000 needed to complete the SchoolNet Plus program, as provided by Section 45.36 of Am. Sub. H.B.

117 of the 121st General Assembly and Section 21 of Am. H.B. 748 of the 121st General Assembly.

(3) The next $35,000,000 of such surplus revenue shall be transferred from the General Revenue Fund to the Instructional Materials Education Fund (Fund 5F8), which is hereby created in the state treasury. The amount so transferred shall be used by school districts to pay for textbooks and instructional materials for schools. Of the $35,000,000 transferred, $25,000,000 shall be spent in fiscal year 1998, with the other $10,000,000 being reserved for fiscal year 1999.

(4) The next $9,200,000 of such surplus revenue shall be transferred from the General Revenue Fund to the Distance Learning Fund created in section 3317.51 of the Revised Code, and expended as provided in that section.

(5) Any surplus revenue in excess of the amounts distributed under divisions (B) (1), (2), (3), and (4) of this section shall be transferred to the Income Tax Reduction Fund in accordance with section 131.44 of the Revised Code.

SECTION 130.01. Lottery Transfers in Fiscal Year 1999

Notwithstanding division (B) of section 3770.06 of the Revised Code, from the amounts that the Director of Budget and Management transfers in fiscal year 1999 from the State Lottery Fund to the Lottery Profits Education Fund, the Director shall transfer the initial $15,000,000 of such amounts from the lottery profits education fund to Fund 5F8, the Instructional Materials Education Fund. This money shall be combined with the $10,000,000 that Fund 5F8 receives from fiscal year 1997 surplus revenue, to provide $25,000,000 in fiscal year 1999 to school districts for the purchase of textbooks and instructional materials for schools.

SECTION 131. Reappropriation of Unexpended Balances

Notwithstanding section 131.33 of the Revised Code, unexpended balances of appropriations and reappropriations against which encumbrances have been lawfully incurred by a state agency are, at the close of fiscal year 1997, to the extent of such encumbrances, hereby reappropriated from the funds from which they were originally appropriated and reappropriated and, except for encumbrances for items of special order manufacture not available on term contract or open market and reclamation of land and oil and gas wells, made available for the purpose of discharging such encumbrances for a period of five months from the end of the fiscal

ar. Unexpended balances of appropriations and reappropriations against which encumbrances for items of special order manufacture not available on term contract or in the open market and reclamation of land and oil and gas wells have been lawfully incurred are, at the close of the fiscal year, to the extent of such encumbrances, hereby reappropriated and made available for the purpose of discharging such encumbrances for a period of five months from the end of the fiscal year or, if the Director of Budget and Management approves, for a period of not more than twelve months from the end of the fiscal year.

Any items for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year shall be reported to the Controlling Board by the Director of Budget and Management. The report on each such item shall include the item, the cost of the item, the vendor involved, and the delivery date. Such reports to the board shall be updated on a quarterly basis while the encumbrance remains open.

After any such period, reappropriations made for the purpose of discharging encumbrances for operating expenses, defined as those encumbrances incurred for personal services, maintenance, and equipment, are canceled. Reappropriations for encumbrances other than operating expenses or items of special manufacture not available on term contract or in the open market and reclamation of land and oil and gas wells may be extended by obtaining the approval of the Director of Budget and Management.

SECTION 132. * Utility Radiological Safety Board Assessments

The maximum amounts that may be assessed against nuclear electric utilities in accordance with division (B)(2) of section 4937.05 of the Revised Code are as follows:

	FY 1998	FY 1999
Department of Agriculture		
Fund 4E4 Utility Radiological Safety	$95,552	$97,958
Department of Health		
Fund 610 Radiation Emergency Response	$752,788	$771,275
Environmental Protection Agency		
Fund 644 ER Radiological Safety	$198,095	$190,451
Emergency Management Agency		
Fund 657 Utility Radiological Safety	$744,361	$764,459

SECTION 133. Special Distribution Fund

The 122nd General Assembly hereby authorizes that the following moneys be deposited into the Special Distribution Fund: settlements or moneys obtained through judicial proceedings relating to the acquisition of a depository institution located in this state by a bank holding company and moneys payable to the state from purchases of depository institutions pursuant to the contracts for their acquisition. Any moneys deposited into the Special Distribution Fund (Fund 580) shall be transferred by the Director of Budget and Management to the General Revenue Fund.

SECTION 134. Fund Transfers

Notwithstanding any other provision of the law to the contrary, the Director of Budget and Management shall transfer up to the following amount in fiscal year 1998 and fiscal year 1999 from the specified fund into the General Revenue Fund no later than June 1, 1998 and June 1, 1999.

	FY 1998	FY 1999
Department of Commerce		
Fund 550 Securities	$5,000,000	$5,000,000

Not later than 90 days after the effective date of this section, the Department of Taxation shall certify the cash balance of the State Special Revenue Fund 4K0, Beverage Tax Administration, to the Director of Budget and Management. The Office of Budget and Management shall transfer the certified amount to the General Revenue Fund.

SECTION 135. Occupational and Licensing Board Fund Transfers

Notwithstanding any other provision of law to the contrary, the Director of Budget and Management shall transfer the following amounts of cash from the specified obsolete funds to the Occupational Licensing and Regulatory Fund (Fund 4K9) within 30 days of the effective date of this section.

Accountancy Board of Ohio	
Fund 567 Accountancy Testing	$9,573.96
State Board of Examiners of Architects	
Fund 568 Board of Examiners of Architects Testing	$138,384.03
State Veterinary Medical Board	
Fund R22 Licensure Refunds	$731.00

Fund 4D8 Testing Fees $91,214.51
State Board of Engineers and Surveyors
Fund 569 Testing Fees $317,979.22
State Medical Board
Fund 619 Medical and Podiatric Testing $72,955.25
State Board of Nursing
Fund 626 Publications and Education Conference $158.28
State Board of Pharmacy
Fund 3E3 Pharmaceutical Division $16,496.43
Fund 621 Sale of Publications $89,275.93
Occupational Therapy, Physical Therapy, and Athletic Trainers Board
Fund 4D9 Physical Therapy Testing $65,122.86
Board of Sanitarian Registration
Fund 4A7 Testing Fees $63.71

SECTION 136. Lease Payments to OPFC, OBA, and Treasurer

Certain appropriations are in this act for the purpose of lease payments to the Ohio Public Facilities Commission, to the Ohio Building Authority, and to the Treasurer for the purpose of paying principal and interest on bonds or notes issued by the Ohio Public Facilities Commission, the Ohio Building Authority, or the Treasurer pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SECTION 137. State and Local Rebate Authorization

There is hereby appropriated, from those funds designated by or pursuant to the applicable proceedings authorizing the issuance of state obligations, amounts computed at the time to represent the portion of investment income to be rebated or amounts in lieu of or in addition to any rebate amount to be paid to the federal government in order to maintain the exclusion from gross income for federal income tax purposes of interest on those state obligations pursuant to Section 148(f) of the Internal Revenue Code.

Appropriations shall be posted and disbursed for these purposes upon request and presentation of a voucher to the Director of Budget and Management.

SECTION 138. Capitol Square Renovation Loan Repayment

The Director of Budget and Management shall review the cash balance in the Capitol Square Renovation Gift Fund and shall recommend an amount to be transferred to the credit of the Department of Commerce Division of Administration Fund (Fund 163) toward repayment of the fiscal year 1994 loan of $500,000 for the education and historical areas of the Capitol Square Renovation Project. If $500,000 is not repaid in full in fiscal year 1995, this same review shall continue in each succeeding fiscal year until the Department of Commerce is repaid the $500,000.

SECTION 139. Veterans' Plaza

At the request of the Capitol Square Review and Advisory Board, the Director of Budget and Management may increase in the budget of the Capitol Square Review and Advisory Board the appropriation authority in line item 874-321, Operating Expenses, to pay for the completion of the Veterans' Plaza. The Director of Budget and Management shall ensure that proper cost control methods are practiced in completing the project. Upon the sale of the Ohio Veterans' Children's Home, the proceeds of the sale shall be deposited into the General Revenue Fund. These funds shall serve as repayment for the expenses incurred by the construction of the Veterans' Plaza.

SECTION 140. Transfers of Cash and Outstanding Encumbrance Balances

Notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions as described in this section. This section applies to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and the consolidation of funds as authorized by this act. The Director of Budget and Management may make any transfers of cash balances between funds. At the request of the Office of Budget and Management, the administering agency head shall certify to the Director the amount of the cash balance to be transferred to the receiving fund. The Director may transfer the estimated amount when needed to make payments. No more than thirty days after certifying the estimated amount the administering agency head shall certify the final amount to the Director. The Director shall transfer the difference between any estimated amount previously transferred

and such certified final amount.

The Director of Budget and Management may cancel encumbrances and reestablish such encumbrances or parts of encumbrances as needed in fiscal year 1998 in the appropriate fund and appropriation line item for the same purpose and to the same vendor. As determined by the Director, the appropriation authority necessary to reestablish such encumbrances in fiscal year 1998 in a different fund or appropriation line item within an agency or between agencies is hereby authorized and appropriated. The Director shall reduce each year's appropriation balances by the amount of the encumbrances canceled in their respective funds and appropriation line items.

Any fiscal year 1998 unencumbered or unalloted appropriation balances may be transferred to the appropriate line item to be used for the same purposes, as determined by the Director of Budget and Management.

SECTION 141. Federal Cash Management Improvement Act

Pursuant to the plan for compliance with the Federal Cash Management Improvement Act required by section 131.36 of the Revised Code, the Director of Budget and Management is authorized to cancel and reestablish all or parts of encumbrances in like amounts within the funds identified by the plan. Such amounts necessary to reestablish all or parts of encumbrances are hereby appropriated.

SECTION 142. Statewide Indirect Cost Recovery

Whenever the Director of Budget and Management determines that an appropriation made to a state agency from a fund of the state is insufficient to provide for the recovery of statewide indirect costs pursuant to section 126.12 of the Revised Code, the amount required for such purpose is hereby appropriated from the available receipts of such fund.

SECTION 143. GRF Transfers on Behalf of the Statewide Indirect Cost Allocation Plan

The total transfers made from the General Revenue Fund by the Director of Budget and Management pursuant to this section shall not exceed the amounts transferred into the General Revenue Fund pursuant to division (B) of section 126.12 of the Revised Code.

A director of an agency may certify to the Director of Budget and Management the amount of expenses not allowed to be included in the

Statewide Indirect Cost Allocation plan pursuant to federal regulations, from any fund included in the Statewide Indirect Cost Allocation plan, prepared as required by section 126.12 of the Revised Code.

Upon determining that no alternative source of funding is available to pay for such expenses, the Director of Budget and Management may transfer from the General Revenue Fund into the fund for which the certification is made, up to the amount of the certification. The director of the agency receiving such funds shall include, as part of the next budget submission prepared pursuant to section 126.02 of the Revised Code, a request for funding for such activities from an alternative source such that further federal disallowances would not be required.

SECTION 144. GRF Transfer on Behalf of the Attorney General

The Director of Budget and Management may transfer up to $200,000 in fiscal year 1998 and $75,000 in fiscal year 1999, from the General Revenue Fund to the General Reimbursement Fund (Fund 106), appropriation item 055-612, General Reimbursement, within the budget of the Attorney General. Such funds shall be used for the purpose of completing implementation of the case docketing system.

SECTION 145. * Education Minimum Standards

No amendments to the minimum standards adopted by the State Board of Education pursuant to division (D) of section 3301.07 of the Revised Code and in effect on January 1, 1993, shall be effective prior to September 1, 1995. No such standards in effect on January 1, 1993, shall be amended or repealed unless the proposed changes are filed with the chairpersons of the committees in the House of Representatives and the Senate that are responsible for consideration of education legislation and unless the proposed changes are approved through the adoption of a concurrent resolution by a majority of the members of both the House of Representatives and the Senate.

Any proposed changes to the minimum standards that establish learner outcomes or that would require school districts to implement or comply with performance-based standards for the development of a curriculum or for the assessment of students, shall be limited to changes that are directly related to student academic or vocational performance.

SECTION 146. Federal Government Interest Requirements

Notwithstanding any provision of law to the contrary, on or before the first day of September each fiscal year, the Director of Budget and Management, in order to reduce the payment of adjustments to the federal government as determined by the plan prepared pursuant to division (A)(5) of section 126.12 of the Revised Code, may designate such funds as the director considers necessary to retain their own interest earnings.

SECTION 147. Human Services Stabilization Fund

Notwithstanding Section 177 of Am. Sub. H.B. 117 of the 121st General Assembly, accumulated investment earnings in the Human Services Stabilization Fund at the end of fiscal year 1997 earned in fiscal year 1996 and fiscal year 1997 shall be transferred by the Director of Budget and Management to Fund 646, Low and Moderate Income Housing Trust Fund, no later than ten days after the effective date of this section. In making transfers from the Human Services Stabilization Fund to the General Revenue Fund, the amount of the transfer is hereby appropriated for the purpose designated by the Director of Budget and Management.

Low and Moderate Income Housing Trust Fund

Any investment earnings accrued during fiscal years 1998 and 1999 in the Human Services Stabilization Fund shall be transferred by the Director of Budget and Management to the Department of Development, Fund 646, Low and Moderate Income Housing Trust Fund. Since the transfer of accumulated investment earnings from fiscal years 1996 and 1997, combined with the GRF appropriation in this act, should provide sufficient operating money for the Low and Moderate Income Housing Trust Fund in fiscal year 1998, Human Services Stabilization Fund investment earnings for fiscal year 1998 shall be transferred by the Director of Budget and Management to the Low and Moderate Income Housing Trust Fund in July of 1998, to be used for fiscal year 1999. In fiscal year 1999, there shall be three more transfers by the Director of Budget and Management of Human Services Stabilization fund investment earnings to the Low and Moderate Income Housing Trust Fund. The first such transfer shall be in January of 1999, after the first two quarters of investment earnings have been credited to the Human Services Stabilization Fund. The second transfer shall be in April of 1999, after third quarter investment earnings have been credited to the Human Services Stabilization Fund. The third transfer shall be in June 1999, after fourth quarter investment earnings have been credited to the Human Services Stabilization Fund.

SECTION 148. From October 1, 1997, to July 1, 1998, the Director of Human Services has full authority to establish, change, and abolish positions for, and to assign, reassign, classify, reclassify, transfer, reduce, promote, or demote, all employees of the Department of Human Services who are not subject to Chapter 4117. of the Revised Code. If an employee is to be assigned, reassigned, classified, reclassified, transferred, reduced, or demoted during this period to a position in a classification assigned to a pay range lower than the pay range to which the employee's classification on the effective date of this section is assigned, the Director or, in the case of a transfer outside the Department, the Director of Administrative Services shall assign the employee to the appropriate classification and place the employee in Step X. The employee shall not receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation. The Director of Human Services shall report to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate on any actions taken by the Director under this section regarding employees of the Department. The Director shall make the report on an annual basis in 1997 and 1998.

SECTION 149. Unexpected Refunds

If a state agency determines that all or a portion of a fee, fine, penalty, or other nontax payment made to the state agency is not owed, the state agency may refund from the fund into which the payment was deposited the amount that is not owed. If the state agency needs additional appropriation authority in order to make a refund, the agency may request an increase in appropriation authority as provided in this section.

For those funds for which the Controlling Board may increase appropriation authority under section 131.35 of the Revised Code, the state agency may submit to the Controlling Board a request which meets all of the requirements of the board for an increase in appropriation authority.

For those funds for which the Controlling Board cannot increase appropriation authority under section 131.35 of the Revised Code, upon the request of the director of a state agency or a designee of the director, the Director of Budget and Management may increase appropriation authority sufficient to make a refund. The state agency shall certify to the Director of Budget and Management that an appropriation made to the state agency is insufficient to provide for a refund of a fee, fine, penalty, or other nontax payment that is not owed. Notwithstanding section 131.35 of the Revised

Code and subject to the approval of the Director of Budget and Management, the amount required for the refund is hereby appropriated to the Office of Budget and Management from the receipts deposited into the fund.

This section does not supersede any authority to make a refund which an agency may have under another section of law.

SECTION 150. Moratorium for New MR/DD Residential Facility Beds

(A) During the period beginning July 1, 1997, and ending June 30, 1999, the Department of Mental Retardation and Developmental Disabilities shall not issue development approval for, nor license under section 5123.19 of the Revised Code, new residential facility beds for persons with mental retardation or developmental disabilities, except that the department may approve the development or licensure, or both, of such new beds in an emergency. The department shall adopt rules in accordance with Chapter 119. of the Revised Code specifying what constitutes an emergency for the purposes of this section.

(B) For the purposes of division (A) of this section, the following shall not be considered new beds:

(1) Beds relocated from one facility to another, if the facility from which the beds are relocated reduces the number of its beds by the same number of beds that are relocated to the other facility;

(2) Beds to replace others that the Director of Health determines no longer comply with the standards of the Medical Assistance Program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

SECTION 151. Boards and Commissions Salary Study

The Legislative Budget Office of the Legislative Service Commission shall conduct a study of the salaries of the executive directors and administrators of all the boards and commissions in Ohio whose operating expenses are appropriated in H.B. 215 of the 122nd General Assembly. The study shall examine the current and potential future salary ranges for these positions. In conducting the study, the Legislative Budget Office may request information and assistance, and upon request shall receive information and assistance, from any state agencies or political subdivisions of the state. The Legislative Budget Office shall provide a copy of the report to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate by June 30, 1998.

SECTION 152. (A) Every person holding a certificate under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry wishing to renew that certificate shall apply to the State Medical Board, on or before July 1, 1998, for a certificate of registration upon an application furnished by the Board, and pay a fee to the Board, and, provided the person meets the requirements of Chapter 4731. of the Revised Code, be issued a certificate that expires according to the following schedule:

(1) Persons whose last name begins with the letters "A" through "B," shall pay a fee of three hundred seventy-one dollars and apply for a certificate of registration, which shall expire on July 1, 2001;

(2) Persons whose last name begins with the letters "C" through "d," shall pay a fee of three hundred thirty-nine dollars and apply for a certificate of registration, which shall expire on April 1, 2001;

(3) Persons whose last name begins with the letters "E" through "G," shall pay a fee of three hundred seven dollars and apply for a certificate of registration, which shall expire on January 1, 2001;

(4) Persons whose last name begins with the letters "H" through "k," shall pay a fee of two hundred seventy-five dollars and apply for a certificate of registration, which shall expire on October 1, 2000;

(5) Persons whose last name begins with the letters "L" through "M," shall pay a fee of two hundred forty-three dollars and apply for a certificate of registration, which shall expire on July 1, 2000;

(6) Persons whose last name begins with the letters "N" through "R," shall pay a fee of two hundred eleven dollars and apply for a certificate of registration, which shall expire on April 1, 2000;

(7) Persons whose last name begins with the letter "s," shall pay a fee of one hundred seventy-nine dollars and apply for a certificate of registration, which shall expire on January 1, 2000;

(8) Persons whose last name begins with the letters "t" through "z," shall pay a fee of one hundred forty-seven dollars and apply for a certificate of registration, which shall expire on October 1, 1999.

(B) The Board shall assess a penalty of twenty-five dollars for late applications. The Board shall deposit all fees it collects under this section into the State Treasury to the credit of the State Medical Board Operating Fund created by section 4731.24 of the Revised Code.

(C) On or before March 1, 1998, the Board shall mail or cause to be mailed to every person registered to practice medicine and surgery, osteopathic medicine and surgery, or podiatry, an application for the

registration required by this section, addressed to the last known post-office address of the person, or may cause the application to be sent to the person through the secretary of any recognized medical, osteopathic, or podiatric society. Failure of any person to receive an application from the Board does not excuse the person from the requirements contained in section 4731.281 of the Revised Code.

SECTION 153. The Legislative Service Commission shall conduct a study of the consumption of motor fuel in Ohio for recreational boating purposes and general and business aviation purposes. The study shall include a compilation of existing data from previous studies and research into any new relevant data, and shall determine: (1) the amount of motor fuel actually consumed in Ohio for recreational boating purposes; (2) whether the percentage of motor fuel excise tax revenue allocated to the Waterways Safety Fund under section 5737.051 of the Revised Code is an accurate reflection of the amount of motor fuel actually used for recreational boating purposes; and (3) the amount of motor fuel actually consumed in Ohio for general and business aviation, not including that consumed by commercial air carriers regulated under 14 C.F.R. Part 119.

On or before September 1, 1998, the Legislative Service Commission shall report its findings to the Speaker of the House of Representatives, the President of the Senate, the minority leaders of the House of Representatives and the Senate, the chairperson of the Agriculture and Natural Resources Committee of the House of Representatives, the chairperson of the Energy, Natural Resources, and Environment Committee of the Senate, and the Director of Natural Resources.

SECTION 154. The compensation and reimbursement for expenses added by this act to section 101.35 of the Revised Code as amended by this act are available only to a member of the Joint Committee on Agency Rule Review whose term in the General Assembly begins on or after the effective date of this section.

SECTION 155. Sections 111.15 and 119.01 of the Revised Code, insofar as those sections are amended by this act to clarify that rules of the Public Utilities Commission are subject to legislative review, apply prospectively only. A rule of the Public Utilities Commission adopted prior to the effective date of the amendment of sections 111.15 and 119.01 of the

Revised Code, which rule was not submitted to legislative review, is ratified, insofar as that omission otherwise may raise a question with respect to the validity of the rule.

SECTION 156. Within 180 days after the effective date of this section, the Public Utilities Commission shall assign a review date under division (B) of section 119.032 of the Revised Code to each of its rules that was adopted prior to the effective date of this section.

SECTION 157. (A) During the 1998 and 1999 fiscal years the Director of Budget and Management shall take such actions as the director determines are necessary to report the following financial information concerning Central State University:

(1) The university's adherence to a balanced budget;

(2) The status of the current and projected cash flow of university funds, by fund type;

(3) The status of outstanding payable accounts;

(4) The timelines of intrafund transfers;

(5) The collection of federal receipts; and

(6) The university's efforts to control bad debt expenses.

(B) The Central State University Board of Trustees shall work in cooperation with the Director of Budget and Management to create a stable and responsible fiscal operation for the university.

(C)(1) If in the judgment of the Director of Budget and Management the fiscal environment at Central State University is not meeting acceptable fiscal standards, upon written notice to the Central State University Board of Trustees the director shall assume responsibilities as the chief financial officer for the institution. As chief financial officer, the director shall take such actions the director determines are necessary to bring the university's accounting practices into compliance with acceptable fiscal standards.

(2) As used in this section, "acceptable fiscal standards" includes:

(a) Continuous efforts to maintain a balanced budget as passed by the board of trustees;

(b) Realistic projections of cash flow, by fund type;

(c) Timely payment of accounts;

(d) Timely intrafund transfers;

(e) Timely collection of federal receipts; and

(f) Sufficient efforts to control bad debt expenses.

(D) In achieving and maintaining a balanced budget, the Central State

University Board of Trustees shall maintain through the 1998-1999 biennium its declaration of a state of financial exigency, make budget reallocations by means other than uniform, across-the-board budget reductions or solely from non-salary sources, give priority to funding requests in support of general undergraduate education, reduce academic support units before reducing academic programs, and take other appropriate actions that may include, but are not limited to, reducing the number of faculty and staff.

SECTION 158. Whenever the Division of Real Estate or the Superintendent of Real Estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the Division or Superintendent of Real Estate and Professional Licensing, as the case may be.

SECTION 159. The State and Local Government Commission shall study the costs to local governments of complying with the requirements established under Am. Sub. H.B. 592 of the 117th General Assembly and any amendments made to Chapter 343. and the solid waste provisions of Chapter 3734. of the Revised Code after June 24, 1988. The Commission shall complete the study and provide a report on the results of the study, within one year after the effective date of this section, to the President of the Senate, the Speaker of the House of Representatives, and the chairpersons of the House and Senate standing committees that deal with environmental issues.

SECTION 160. The State Public Defender shall conduct a study to find new sources of funds for the Legal Aid Fund established in section 120.52 of the Revised Code as a replacement for the funds that currently are deposited into the Legal Aid Fund from IOTA accounts established pursuant to section 3953.231 of the Revised Code. Not later than December 31, 1997, the State Public Defender shall submit a report to the President and the Minority Leader of the Senate, the Speaker and the Minority Leader of the House of Representatives, the Director of Budget and Management, and the Director of the Legislative Budget Office of the Legislative Service Commission in which the State Public Defender makes recommendations for new sources of funds for the Legal Aid Fund.

SECTION 161. That Section 13 of Am. Sub. H.B. 60 of the 121st General Assembly be amended to read as follows:

SECTION 13 OF AM. SUB. H.B. 60/121st GA
*** DO NOT CUT APART ***

" Sec. 13. Not later than ~~eighteen months after the effective date of this section~~December 31, 1997, the Legislative Committee on Decentralization of State Government shall submit a written report of the cost-benefit analysis, the findings of the study, and any recommendations it has for administrative and legislative action to the Speaker of the House of Representatives and the President of the Senate. Upon submission of the written report, the Committee shall cease to exist."

SECTION 162. That existing Section 13 of Am. Sub. H.B. 60 of the 121st General Assembly is hereby repealed.

SECTION 163. The General Assembly hereby requests that the Supreme Court adopt, pursuant to its authority under Ohio Constitution, Article IV, Section 5, rules governing procedure in juvenile courts of the state that address the placement of children in foster homes in a county other than the county in which the child resided at the time of the removal.

SECTION 164. The Ohio Housing Finance Agency shall, with respect to the rules that this act requires the Agency to adopt pursuant to section 175.041 of the Revised Code, file the original version of the proposed rules pursuant to divisions (B) and (H) of section 119.03 of the Revised Code no later than January 1, 1998.

SECTION 165. During the period beginning on the effective date of this section and ending on December 15, 1999, the State Fire Marshal shall not do either of the following:

(A) Issue a license as a manufacturer of fireworks under sections 3743.02 and 3743.03 of the Revised Code to a person for a particular fireworks plant unless that person possessed such a license for that fireworks plant immediately prior to the effective date of this section;

(B) Issue a license as a wholesaler of fireworks under sections 3743.15 and 3743.16 of the Revised Code to a person for a particular location unless

that person possessed such a license for that location immediately prior to the effective date of this section;

(C)(1) Except as provided in division (C)(2) of this section, approve the transfer of a license as a manufacturer or wholesaler of fireworks under Chapter 3743. of the Revised Code to any location other than a location for which a license was issued under that chapter immediately prior to the effective date of this section.

(2) Division (C)(1) of this section does not apply to a transfer that the Fire Marshal approves pursuant to division (D)(2) of section 3743.17 of the Revised Code.

SECTION 166. There is hereby created the Fireworks Sales Demographics Study Committee consisting of seven members appointed within thirty days after the effective date of this act as follows: two members of the Senate appointed by the President of the Senate, one of whom is a member of the majority party, and one of whom is a member of the minority party; two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom is a member of the majority party, and one of whom is a member of the minority party; one employee of the Department of Commerce appointed by the Director of Commerce; one employee of the Department of Commerce appointed by the Fire Marshal; and one employee of the Department of Public Safety appointed by the Director of Public Safety. Vacancies on the Study Committee shall be filled in the same manner as the original appointment. The Office of the Fire Marshal shall provide necessary staff, facilities, supplies, and services to the Study Committee. The Study Committee shall first meet within thirty days after the Governor makes appointments to the Study Committee and shall meet at least every thirty days thereafter until the Study Committee ceases to exist upon submission of the report described in this section.

The Study Committee shall study the feasibility of and legal issues concerning placing limitations upon the number of licensed wholesalers permitted to conduct business in a geographic region of the state on the basis of population within the region. The Study Committee shall publish its findings and recommendations in a report and submit the report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on or before March 1, 1998, after which the Study Committee shall cease to exist.

SECTION 167. The Fire Marshal shall not revoke or deny the renewal of a license or permit that was issued under Chapter 3743. of the Revised Code before the effective date of this act solely on the basis that the license or permit holder, or any individual holding, owning, or controlling a five per cent or greater beneficial or equity interest in the license or permit holder has been convicted of or pled guilty to a felony under the laws of this state, another state, or the United States before the effective date of this act, provided that there is no cause for revocation or denial of renewal pursuant to sections 3743.08, 3743.21, 3743.52, or 3743.54 of the Revised Code.

SECTION 168. Any reference to "Class B fireworks" in any rule adopted by the State Fire Marshal or any statute shall be deemed to refer to "1.3G fireworks" and any reference to "Class C fireworks" in such a rule or statute shall be deemed to refer to "1.4G fireworks" until the rule or statute is amended to change the reference.

SECTION 169. (A) There is hereby created the Fireworks Fire Suppression Systems Task Force, which shall consist of eleven members. The Task Force shall study and identify effective fire suppression systems for buildings of licensed fireworks manufacturers and wholesalers. Within thirty days after the effective date of this act, the Speaker of the House of Representatives shall appoint one member of the House of Representatives, the President of the Senate shall appoint one member of the Senate, the Governor shall appoint one fire chief who is a member of the Ohio Fire Chiefs Association, and two members of the Ohio Pyrotechnics Association who are licensed fireworks manufacturers or licensed fireworks wholesalers, and the Director of Commerce shall appoint one person employed in the Office of the Fire Marshal, one fire suppression systems expert, one licensed fireworks exhibitor, one licensed fireworks manufacturer or one licensed fireworks wholesaler who is not a member of the Ohio Pyrotechnics Association, one member of the Board of Building Standards, and one person employed in the Department of Commerce.

(B) Vacancies on the Task Force shall be filled in the same manner as the original appointment. The Task Force shall first meet within thirty days after the Governor makes appointments to the Task Force and shall meet at least every thirty days thereafter until the Task Force ceases to exist upon submission of the report described in division (D) of this section.

(C) The Office of the Fire Marshal shall provide any necessary staff, facilities, supplies, and services to the Task Force.

(D) The Task Force shall prepare and submit a report of its findings and recommendations to the Governor, Speaker of the House of Representatives, and President of the Senate no later than July 1, 1998. The Task Force shall cease to exist upon submission of the report.

SECTION 170. Notwithstanding Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, for six months after the effective date of this section, the Governor may not execute a deed in the name of the state to convey to any buyer or buyers, the parcel of real estate known as the Bay View Armory, described as "Parcel No. 5" in Section 2 of Am. Sub. H.B. 376 of the 121st General Assembly, and further described as follows:

Volume 860, Page 115, Lucas County Deed Records - Being situated in the City of Toledo, Lucas County Ohio and beginning at a point on the established harbor line of the Maumee River, said point being 50'0 from and on line bearing S43 degrees-24 minutes-6 seconds E. From Manhattan Front Range Light Triangulation Station, said triangulation Station being located 146,501.1 feet N, of, and 135,529.5 feet E of the zero coordinate; thence along said harbor line N 42 degrees-40 minutes-11 seconds E 110.78 feet; thence N 48 degrees-20 minutes-49 seconds W 081.18 feet; thence N 63 degrees-44 minutes-49 seconds W 269.14 feet; thence N 86 degrees-57 minutes-49 seconds W 132.95 feet; thence S 50 degrees-09 minutes-11 seconds W 228.07 feet; thence S 6 degrees-17 minutes-41 seconds W 251.76 feet; thence Southwesterly to the southerly corner of the Toledo Yacht Club Lease; thence Southwesterly to a point 146,180.25 feet N and 135,270.92 feet E of the zero coordinates, thence S 43 degrees-8 minutes-40 seconds E 307.25 feet to the established harbor line of the Maumee River; thence along said harbor line N 46 degrees-35 minutes-54 seconds E 743.23 feet to the point of beginning.

SECTION 171. That Sections 4, 42, 47, and 48 of Am. H.B. 748 of the 121st General Assembly be amended to read as follows:

" Sec. 4. The amendments and enactments of sections 3345.11, 3345.12, 3354.121, ~~3354.122,~~ 3355.091, ~~3355.092,~~ 3357.112, ~~3357.113,~~ and 3358.10 of the Revised Code by ~~this act~~ Am. H.B. 748 of the 121st General Assembly apply to any proceedings commenced after their effective date, and, so far as their provisions support the actions taken, also apply to any proceedings that on their effective date are pending, in progress, or

completed, and to the obligations authorized or issued, or agreements entered into, pursuant to those proceedings, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution or other proceeding. Any such proceedings and obligations sold, issued, and delivered, or agreements entered into, pursuant to those proceedings, shall be deemed to have been taken, and authorized, sold, issued, and delivered, or entered into, in conformity with those amendments and enactments.

The authority provided in those sections provides additional and supplemental provisions for the subject matter that may also be the subject of other laws, and is supplemental to and not in derogation of any similar authority provided by, derived from, or implied by, the Ohio Constitution or any other law, including laws amended by ~~this act~~ Am. H.B. 748 of the 121st General Assembly, and no inference shall be drawn to negate the authority thereunder by reason of express provisions contained in those sections.

Sections 3345.11, 3345.12, 3354.121, 3354.122, 3355.091, 3355.092, 3357.112, 3357.113, and 3358.10 of the Revised Code as amended or repealed by ~~this act~~ Am. H.B. 748 of the 121st General Assembly shall be deemed to remain applicable to obligations issued or agreements entered into pursuant to or in reliance on them prior to the effective date of those amendments or repeals.

Sec. 42. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Ohio Parks and Natural Resources Fund (Fund 031). Revenues to the Ohio Parks and Natural Resources Fund shall consist of proceeds of obligations authorized to pay costs of capital projects as defined in section 1557.01 of the Revised Code for the Department of Natural Resources.

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES
STATEWIDE AND LOCAL PROJECTS

CAP-012	Land Acquisition	$	4,150,000
CAP-702	Upgrade Underground Fuel Storage Tanks	$	500,000
CAP-703	Cap Abandoned Water Wells	$	200,000
CAP-742	Fountain Square Building and Telephone System Improvements	$	375,000
CAP-746	Athens District Office - Land Acquisition, Design and Construction	$	2,300,000
CAP-747	DNR - Fairgrounds Areas - General Upgrading	$	600,000
CAP-748	Local Parks Projects - Statewide	$	22,300,000
CAP-753	Project Planning	$	700,000
CAP-868	New Philadelphia District Office Complex Relocation	$	1,500,000
CAP-873	Mill Creek Watershed	$	250,000
CAP-874	Lake Erie Access	$	1,000,000
CAP-875	Ohio River Access	$	500,000

CAP-877	Charles Mill Reservoir Dredging	$	815,006
CAP-881	Dam Rehabilitation	$	15,000,000
CAP-928	Handicapped Accessibility	$	375,000
CAP-929	Hazardous Waste/Asbestos Abatement	$	100,000
CAP-931	Wastewater/Water Systems Upgrades	$	5,675,000
CAP-995	Boundary Protection	$	375,000
CAP-999	Geographic Information Management System	$	2,000,000
Total Statewide and Local Projects		$	~~58,015,000~~ 58,715,000
	DIVISION OF CIVILIAN CONSERVATION		
CAP-835	Civilian Conservation Facilities	$	275,000
Total Division of Civilian Conservation		$	275,000
	DIVISION OF FORESTRY		
CAP-841	Operations and Maintenance Facility Development and Renovation	$	1,850,000
Total Division of Forestry		$	1,850,000
	DIVISION OF NATURAL AREAS		
CAP-826	Natural Areas and Preserves Maintenance/Facility Development	$	820,000
Total Division of Natural Areas		$	820,000
	DIVISION OF PARKS AND RECREATION		
CAP-234	State Parks Campgrounds, Lodges and Cabins	$	5,385,000
CAP-331	Park Boating Facilities	$	2,175,000
CAP-836	State Park Renovations/Upgrading	$	4,000,000
CAP-876	Statewide Trails Program	$	470,000
Total Division of Parks and Recreation		$	12,030,000
	DIVISION OF SOIL AND WATER CONSERVATION		
CAP-706	Nonpoint Source Implementation Program	$	2,250,000
Total Division of Soil and Water Conservation		$	2,250,000
	DIVISION OF WATER		
CAP-705	Rehabilitate Canals, Hydraulic Works and Support Facilities	$	1,500,000
CAP-819	Rehabilitate/Automate - Ohio Ground Water Observ. Well Network	$	200,000
CAP-820	Automated Stream, Lake and Ground Water Data Collection	$	275,000
CAP-828	Ohio and Erie Canal Rehabilitation	$	3,500,000
CAP-848	Hazardous Dam Rehabilitation - Statewide	$	250,000
Total Division of Water		$	5,725,000
Total Department of Natural Resources		$	~~80,965,006~~ 81,665,006

Long Island Boater Access and Picnic Area

Of the foregoing appropriation, CAP-012 Land Acquisition, $125,000 shall be used for the Long Island Boater Access and Picnic Area in Logan County. These funds shall be used for the Hilliker property at Long Island for grading for the parking lot and ramp, grading and seeding for the picnic area, shoreline rip rap, launch ramp and two courtesy docks.

Muskingum River Locks and Dams

Of the foregoing appropriation item CAP-881, Dam Rehabilitation, at

least $750,000 shall be spent for the rehabilitation of Muskingum River Locks and Dams.

Chippewa Marina

Of the foregoing appropriation, CAP-331, Park Boating Facilities, $200,000 shall be used for the Chippewa Marina Rehabilitation at Indian Lake State Park in Logan County for dock replacement, additional docks, and seawall repairs.

Statewide Trails

Of the foregoing appropriation item CAP-876, Statewide Trails Program, $250,000 shall be used for the Xenia to London portion of the Ohio to Erie Trail, and $70,000 shall be used for Adams Lake State Park walking trails.

Miami and Erie Canal Improvements

Of the foregoing appropriation item CAP-705, Rehabilitate Canals, Hydraulic Works and Support Facilities, at least $1,250,000 shall be used for Miami and Erie Canal Improvements.

Sec. 47. The Treasurer of State is hereby authorized to issue and sell, in accordance with the provisions of Section 2i of Article VIII, Ohio Constitution, and section 3318.21 of the Revised Code, original obligations in an aggregate principal amount not to exceed $100,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly. These authorized obligations shall be issued to provide funds appropriated in Section 46 of ~~this act~~ AM. H.B. 748 OF THE 121st GENERAL ASSEMBLY for the School Building Assistance Program Fund for the Department of Education to distribute per their rules pursuant to ~~section 3318.24~~ CHAPTER 3318. of the Revised Code, the owners or holders of which shall have no right to have excises or taxes levied by the General Assembly for the payment of principal or interest thereon.

Sec. 48. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Mental Health Facilities Improvement Fund (Fund 033) created by division (F) of section 154.20 of the Revised Code, derived from the proceeds of obligations heretofore and herein authorized, to pay costs of capital facilities as defined in section 154.01 of the Revised Code, for the Departments of Mental Health, Mental Retardation and Developmental Disabilities, and Alcohol and Drug Addiction Services.

Appropriations

ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION SERVICES

CAP-002	Community Assistance Projects	$	~~2,650,000~~ 2,850,000

CAP-003	Alcohol and Drug Addiction Center Renovations	$	250,000
Total Department of Alcohol and Drug Addiction Services		$	~~2,900,000~~ 3,100,000

Women's Recovery Center

Of the foregoing appropriation item CAP-002, Community Assistance Projects, $400,000 shall be used for the expansion of the Women's Recovery Center in Greene County.

Reed Warehouse Renovation Project

Of the foregoing appropriation item CAP-002, Community Assistance Projects, $200,000 shall be used for the renovation of the Reed Warehouse Renovation Project in Wayne County.

Renovate Eyman and Allman Buildings

The foregoing appropriation item CAP-003, Alcohol and Drug Addiction Center Renovations, shall be used to renovate the Eyman and Allman buildings on the grounds of the Massillon Psychiatric Center.

DMH DEPARTMENT OF MENTAL HEALTH

CAP-092	Hazardous Materials Abatement	$	750,000
CAP-479	Community Assistance Projects	$	11,500,000
CAP-906	Campus Consolidation Planning and Development	$	1,720,000
CAP-946	Demolition	$	750,000
CAP-976	Life Safety/Critical Plant Renovations	$	3,650,000
CAP-977	Patient Care and Environment Improvements	$	10,500,000
CAP-978	Operations and Infrastructure Improvements	$	1,850,000
CAP-981	Emergency Improvements	$	800,000
CAP-988	Telecommunications Network Development	$	500,000
Total Department of Mental Health		$	32,020,000

DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

STATEWIDE AND CENTRAL OFFICE PROJECTS

CAP-479	Community Residential Projects	$	3,000,000
CAP-480	Community Assistance Projects	$	19,400,000
CAP-848	Residential Equipment	$	649,500
CAP-886	Replacement of Underground Storage Tanks	$	400,000
CAP-901	Razing of Buildings	$	500,000
CAP-912	Telecommunication System Improvements	$	700,000
CAP-961	Energy Conservation	$	800,000
CAP-981	Emergency Improvements	$	200,000
Total Statewide and Central Office Projects		$	25,649,500

Community Assistance Projects

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the construction or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds

provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Community Residential Projects

The foregoing appropriation item CAP-479, Community Residential Projects, may be used, notwithstanding section 5123.36 of the Revised Code, to provide funds to governmental entities or nonprofit agencies for the development of community residential housing for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities.

	CAMBRIDGE DEVELOPMENTAL CENTER		
CAP-711	Residential Renovations - CAMDC	$	325,000
CAP-910	HVAC Renovations - Residential Buildings	$	300,000
CAP-942	Fire Alarm/Sprinkler System Improvements	$	125,000
Total Cambridge Developmental Center		$	750,000
	COLUMBUS DEVELOPMENTAL CENTER		
CAP-719	Residential Renovations - CDC	$	1,000,000
CAP-915	Waterline Replacements	$	400,000
CAP-916	Electrical System Renovation	$	400,000
CAP-943	Activity Building Renovations	$	600,000
Total Columbus Developmental Center		$	2,400,000
	GALLIPOLIS DEVELOPMENTAL CENTER		
CAP-784	Renovate Water System	$	100,000
CAP-853	Residential Renovations - GDC	$	400,000
CAP-944	Replace Emergency Generator/Electrical Systems	$	150,000
Total Gallipolis Developmental Center		$	650,000
	MONTGOMERY DEVELOPMENTAL CENTER		
CAP-945	Roof and Exterior Renovations	$	216,000
Total Montgomery Developmental Center		$	216,000
	MT. VERNON DEVELOPMENTAL CENTER		
CAP-014	Electrical System Renovations	$	150,000
CAP-080	Renovate Main Kitchen - Rian Hall	$	450,000
CAP-808	Roof Replacement	$	150,000
CAP-856	Renovate Residential Bathrooms	$	250,000
CAP-873	Replace Waterlines	$	250,000
Total Mt. Vernon Developmental Center		$	1,250,000
	NORTHWEST OHIO DEVELOPMENTAL CENTER		
CAP-946	Emergency Generator Replacement	$	350,000
CAP-947	Replace Chiller	$	475,000
CAP-948	Residential Renovations - NWDC	$	300,000
Total Northwest Ohio Developmental Center		$	1,125,000
	SOUTHWEST OHIO DEVELOPMENTAL CENTER		
CAP-863	Residential Building Renovations - SWDC	$	650,000
CAP-929	Program Building Renovation	$	250,000

Total Southwest Ohio Developmental Center		$	900,000
SPRINGVIEW DEVELOPMENTAL CENTER			
CAP-742	Renovate Administration Building Roof	$	150,000
CAP-864	Renovation of Clark Hall	$	450,000
Total Springview Developmental Center		$	600,000
TIFFIN DEVELOPMENTAL CENTER			
CAP-086	Replace Boiler Feedwater Heating and Storage Unit	$	190,000
CAP-897	ADA Compliance Improvements - TDC	$	235,000
CAP-933	Sprinkler System Installation	$	380,000
CAP-949	Replace Doors and Windows	$	355,000
Total Tiffin Developmental Center		$	1,160,000
WARRENSVILLE DEVELOPMENTAL CENTER			
CAP-867	Residential Renovations - WDC	$	75,000
CAP-950	ADA Compliance Improvements - WDC	$	110,000
CAP-951	Central Kitchen Improvements	$	60,000
Total Warrensville Developmental Center		$	245,000
YOUNGSTOWN DEVELOPMENTAL CENTER			
CAP-093	Administration Building/Emergency Generator Improvements	$	25,000
CAP-871	Residential Renovations - YDC	$	315,000
CAP-905	Central Training Building Renovations	$	370,000
CAP-952	Catchbasin and Gutter Replacement	$	225,000
Total Youngstown Developmental Center		$	935,000
Total Department of Mental Retardation and Developmental Disabilities		$	35,880,500
Total Mental Health Facilities Improvement Fund		$	~~70,800,500~~ 71,000,500"

SECTION 172. That existing Sections 4, 42, 47, and 48 of Am. H.B. 748 of the 121st General Assembly are hereby repealed.

SECTION 173. That Sections 5.01, 5.05, 15.02, and 19 of Am. Sub. S.B. 264 of the 121st General Assembly be amended to read as follows:

" Sec. 5.01. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

CIR-736	Asbestos Abatement - State Facilities	$	118,172
CIR-773	Governor's Residence Restoration	$	34,253
CIR-785	Rural Areas Historical Projects	$	145,000
CIR-786	Rural Areas Community Improvements	$	162,000
CIR-801	South Marginal Road Extension	$	1,000,000
CIR-804	Day Care Centers	$	842,261
CIR-816	Center for Contemporary Music	$	1,000,000
CIR-817	Urban Areas Community Improvements	$	~~1,500,000~~ 1,800,000
Total Department of Administrative Services		$	~~4,801,686~~

5,101,686

Rural Areas Historical Projects

Of the foregoing appropriation item, CIR-785, Rural Areas Historical Projects, grants shall be made for the following projects: $70,000 for Osnaburg Historical Society - Werner Inn renovations; $75,000 for Wayne County Courthouse renovations.

Rural Areas Community Improvements

Of the foregoing appropriation item, CIR-786, Rural Areas Community Improvements, grants shall be made for the following projects: $12,000 for Antioch Fire Station renovations; $25,000 for Belpre Swimming Pool project; $10,000 for Shadyside Municipal Building roof repairs; $65,000 for Tuscarawas County Home Elevator improvements; and $50,000 for Tuscarawas County Volunteer Fire Departments.

Urban Areas Community Improvements

Of the foregoing appropriation item, CIR-817, Urban Areas Community Improvements, grants shall be made for the following projects: $675,000 for Aviation Hall of Fame - Dayton; $100,000 for Aviation Trail - Dayton; $125,000 for Cleveland Playhouse Square; $25,000 for Columbus Civic Arena development planning; $50,000 for Columbus Symphony band shell; $125,000 for East Cleveland City Hall renovations; $100,000 for Hanna Fountain Restorations - Cleveland; $200,000 for Cultural Center for the Arts-Canton; ~~and~~ $100,000 for Webco industrial area development - Cleveland; $100,000 for Martin Luther King Civic Center - East Cleveland; and $200,000 for Karamu House Theater Cleveland.

Sec. 5.05. BOR BOARD OF REGENTS

CIR-054	Appalachian Region - Higher Education Facilities Improvements	$	1,159,616
Total Board of Regents		$	1,159,616

Appalachian Region - Higher Education Facilities Improvements

The amount reappropriated for the foregoing appropriation item CIR-054, Appalachian Region - Higher Education Facilities Improvements, shall be $1,159,616.

Total General Revenue Fund	$	~~12,890,106~~ 13,540,106

Sec. 15.02. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

CIR-807	Capital Square Renovations	$	1,963,377
CIR-809	Hazardous Substance Abatement in State Facilities	$	2,709,599
CIR-811	Health/EPA Laboratory Facilities	$	2,014,407
CIR-812	Old School for the Blind Renovation	$	188,535
CIR-814	Old Ohio School for the Blind Planning	$	375,637
CIR-815	Ohio Departments Building Renovations	$	19,422,072
CIR-821	Central Heating System Renovations	$	1,144,830
CIR-822	Americans with Disabilities Act	$	2,600,000
CIR-824	State Real Estate Inventory System	$	1,500,000

CIR-825	Columbus State Office Planning/Site Development	$	500,000
CIR-826	Office Services Building Purchase and Renovation	$	1,000,000
CIR-827	Statewide Communications System	$	16,426,339
CIR-830	Canton Office Building Planning	$	25,000
CIR-831	Land Acquisition	$	5,000,000
CIR-834	Develop Computerized Record Drawing Storage	$	500,000
CIR-835	Energy Conservation Projects	$	2,288,487
CIR-836	Lausche Building RTA Purchase/Renovations	$	6,000,000
CIR-837	Major Computer Purchases	$	16,552,729
CIR-838	SOCC Renovations	$	3,000,000
CIR-839	State/Local Government Center - Youngstown	$	1,000,000
CIR-841	State/Local Government/Public Safety Parking Facility - Lima	$	1,000,000
CIR-842	~~State/Local Government Center - Belmont County~~ BELMONT COUNTY REGIONAL HUMAN SERVICES BUILDING	$ $	900,000
CIR-843	New Veterans Home Planning	$	100,000
CIR-844	Hamilton State/Local Government Center - Planning	$	57,500
CIR-847	Coit Road Site Improvements	$	5,408,978
Total Department of Administrative Services		$	91,677,491

Hazardous Substance Abatement in State Facilities

The foregoing appropriation item CIR-809, Hazardous Substance Abatement in State Facilities, shall be used to fund the removal of asbestos, PCB, radon gas, and other contamination hazards from state facilities.

Prior to the release of funds for asbestos abatement, the Department of Administrative Services shall review proposals from state agencies to use these funds for asbestos abatement projects based on criteria developed by the Division of General Services Administration which shall include, but not be limited to, projects in state-owned buildings prioritized by the Asbestos Risk Assessment Study authorized in Am. Sub. S.B. 386 of the 117th General Assembly, projects in which abatement is required prior to planned renovation, abatement associated with the renovation of the Ohio Departments Building, and emergency projects where the need for asbestos abatement was previously unanticipated. Upon a determination by the Department of Administrative Services that the requesting agency cannot fund the asbestos abatement project and/or other toxic materials removal through existing capital and operating appropriations, the Department may request the release of funds for such projects by the Controlling Board. State agencies intending to fund asbestos abatement and/or other toxic materials removal through existing capital and operating appropriations shall notify the Deputy Director of the Division of General Services Administration of the nature and scope prior to commencing the project.

Only agencies that have received appropriations for capital projects from the Administrative Building Fund (Fund 026) are eligible to receive funding from this item. Public school districts are not eligible for funding

from this item.

Health/EPA Laboratory Facilities

The foregoing appropriation item CIR-811, Health/EPA Laboratory Facilities, shall be used to complete the renovation of the state's Perry Street laboratory facility to accommodate the Department of Health Laboratory and the Environmental Protection Agency's Water Quality Monitoring Laboratory.

Ohio Departments Building Renovations

The amount reappropriated for the foregoing appropriation item CIR-815, Ohio Departments Building Renovations, shall be $1,000,000 less than the sum of the unencumbered and unallotted balances as of June 30, 1996, in the Department of Administrative Services' Fund 026 items CAP-815, OHIO DEPARTMENTS BUILDING RENOVATIONS, CIR-815, OHIO DEPARTMENTS BUILDING RENOVATIONS, CAP-813, Heer Building Renovations, CIR-813, Heer Building Renovations, and CIR-829, Warehouse Facility.

Central Heating System Renovations

The foregoing appropriation item CIR-821, Central Heating System Renovations, shall be used to engineer and construct stand-alone heating systems for the Ohio Departments Building and the Bureau of Employment Services Building in accordance with the recommendations of the central heating system evaluation designated in Section 15 of Am. Sub. H.B. 904 of the 119th General Assembly.

Americans with Disabilities Act

The foregoing appropriation item CIR-822, Americans with Disabilities Act, shall be used to renovate state-owned facilities to provide access for physically disabled persons in accordance with Title II of the Americans with Disabilities Act.

Prior to the release of funds for renovation, state agencies shall perform self-evaluations of state-owned facilities identifying barriers to access to service. State agencies shall prioritize access barriers and develop a transition plan for the removal of these barriers. The Department of Administrative Services shall review proposals from state agencies to use these funds for Americans with Disabilities Act renovations.

Only agencies that have received appropriations for capital projects from Administrative Building Fund (Fund 026) are eligible to receive funding from this item. Public school districts are not eligible for funding from this item.

Office Services Building Purchase and Renovation

The amount reappropriated for the foregoing appropriation item,

IR-826, Office Services Building Purchase and Renovation, shall be $1,000,000.

MARCS Steering Committee and Statewide Communications System

There is hereby created a Multi-Agency Radio Communications System Steering Committee consisting of the designees of the Directors of Administrative Services, Public Safety, Natural Resources, Transportation, Rehabilitation and Correction, and Budget and Management. The Director of Administrative Services or his designee shall chair the committee. The committee shall provide assistance to the Director of Administrative Services for effective and efficient implementation of the MARCS system as well as develop policies for the ongoing management of the system. Upon dates prescribed by the Directors of Administrative Services and Budget and Management, the MARCS Steering Committee shall report to the Directors as to the progress of MARCS implementation and the development of policies related to the system.

The foregoing appropriation item CIR-827, Statewide Communications System, shall be used to purchase or construct the components of the Multi-Agency Radio Communications System (MARCS) that are not specific to any one agency. The equipment may include but is not limited to: multi-agency equipment at the Emergency Operations Center/Joint Dispatch Facility, computer and telecommunication equipment used for the functioning and integration of the system, communications towers, tower sites, and tower equipment, and linkages among towers and between towers and the State of Ohio Network for Integrated Communication (SONIC) system. The Director of Administrative Services shall, with the concurrence of the MARCS Steering Committee, determine the specific use of funds.

Spending from this line item shall not be subject to the requirements of Chapters 123. and 153. of the Revised Code.

Energy Conservation Projects

The foregoing appropriation item CIR-835, Energy Conservation Projects, shall be used to perform energy conservation renovations, including the United States ~~Enrivonmental~~ Environmental Protection Agency's Greenlights Program, in state-owned facilities. Prior to the release of funds for renovation, state agencies shall have performed a comprehensive energy audit for each project. The Department of Administrative Services shall review and approve proposals from state agencies to use these funds for energy conservation.

Public school districts and state-supported and state-assisted institutions of higher education are not eligible for funding from this item.

Lausche Building RTA Purchase and Renovations

The foregoing appropriation item CIR-836, Lausche Building RTA Purchase and Renovations, shall be used for the purchase and renovation of the 10th and 11th floors of the Frank J. Lausche Building in Cleveland, Ohio, by the Ohio Building Authority (OBA), in order to provide office space for state agencies.

The OBA shall prepare and submit a plan for the purchase of the two floors to the Director of Administrative Services. The plan shall include a draft of the proposed real estate purchase contract between the OBA and the Greater Cleveland Regional Transit Authority and a separate certification by the OBA of the purchase price of the real estate. Based on the plan, the Director of Administrative Services shall request the Director of Budget and Management to release from item CIR-836 the amount certified by the OBA to be needed for the purchase. The Director of Budget and Management may release these funds and, upon their release, the Director of Administrative Services shall transfer the amount released to the OBA, which shall use the funds to purchase the 10th and 11th floors of the Lausche Building.

The Ohio Building Authority shall prepare and submit a plan for the renovation of the 10th and 11th floors of the Lausche Building, including a description of the work to be done, along with estimated costs, to the Director of Administrative Services. Based on this plan, and following the transfer of title for the 10th and 11th floors to the OBA from the Greater Cleveland Regional Transit Authority, the Director of Administrative Services shall request the Director of Budget and Management to release from item CIR-836 the amount estimated by OBA to be needed for the renovations. The Director of Budget and Management may release these funds and, upon their release, the Director of Administrative Services shall transfer the amount released to the OBA which shall use the funds to pay the costs of the renovations. Upon completion of the renovations, any funds received by the OBA for the renovations that have not been used shall be refunded to the Department of Administrative Services for deposit into Fund 026 to the credit of appropriation item CIR-836.

Major Computer Purchases

Notwithstanding Section 81 of this act, the foregoing appropriation item, CIR-837, Major Computer Purchases, shall be used by the Department of Administrative Services to purchase computer equipment for the state. This equipment may include but is not limited to mainframe computers, strings of disks, storage units, printers, network equipment, and imaging systems.

The Director of Budget and Management shall annually compute the amount of revenue attributable to the amortization of all equipment

purchased from this line item which is recovered by the Department of Administrative Services as part of the rates charged by Fund 133, Computer Services. The Director of Budget and Management may transfer this revenue from Fund 133, Computer Services, to the General Revenue Fund via cash transfer to offset the debt service payments for this equipment.

Coit Road Site Improvements

The amount reappropriated for the foregoing appropriation item CIR-847, Coit Road Site Improvements, shall be the sum of the unencumbered and unallotted balances as of June 30, 1996, in the Department of Rehabilitation and Corrections' Fund 027 items CAP-005, Hazardous Waste - Coit Road, CIR-005, Hazardous Waste - Coit Road, and CAP-111, Prison Improvements and Statewide Projects Contingency.

The Director of Budget and Management may cancel encumbrances associated with Fund 027 appropriation items CAP-005, Hazardous Waste - Coit Road and CIR-005, Hazardous Waste - Coit Road, and reestablish such encumbrances or parts of encumbrances as needed in fiscal year 1997 in Fund 026 appropriation item CIR-847, Coit Road Site Improvements, for the same purpose and to the same vendor. As determined by the Director, the appropriation authority necessary to reestablish such encumbrances in fiscal year 1997 in Fund 026 for the Department of Administrative Services is hereby authorized. The Director shall reduce each year's appropriation balances by the amount of the encumbrances canceled in their respective funds and appropriation line items. All other related obligations of the Department of Rehabilitation and Correction that are associated with the Coit Road project are hereby transferred to the Department of Administrative Services.

Solely for the purpose of continuing to make rental payments under bond proceedings pursuant to Chapter 152. of the Revised Code, this facility shall be considered to be under the jurisdiction of the Department of Rehabilitation and Correction. After the term of the lease agreement between the Department of Rehabilitation and Correction and the Ohio Building Authority for the facility, jurisdiction shall be transferred to the Department of Administrative Services.

Sec. 19. All items set forth in this section are hereby appropriated out of any money in the state treasury to the credit of the Arts Facilities Building Fund (Fund 030). Revenues to the Arts Facilities Building Fund shall consist of proceeds of obligations authorized to pay costs of the following capital improvements:

Reappropriations

AFC ARTS FACILITIES COMMISSION

CIR-001	National Aviation Hall of Fame	$	2,000,000
CIR-002	Great Southern Opera House	$	2,400,000
CIR-003	Center of Science and Industry - Toledo	$	7,332,610
CIR-004	Valentine Theatre	$	4,132,000
CIR-005	Center of Science and Industry - Columbus	$	23,888,539
CIR-006	Appalachian Region - Arts Facilities	$	2,000,000
~~CIR-007~~	~~Karamu House Theater~~	$	~~200,000~~
~~CIR-009~~	~~Martin Luther King Civic Center~~	$	~~100,000~~
CIR-010	Sandusky State Theater Improvements	$	150,000
~~CIR-011~~	~~Riverbend Theater Improvements~~	$	~~350,000~~
CIR-012	Dayton Art Institute Improvements	$	2,750,000
CIR-013	Stambaugh Hall Improvements	$	600,000
CIR-014	Dayton Natural History/Children's Museum	$	1,250,000
CIR-015	Carillon Historic Park/Wright Hall	$	200,000
CIR-016	Paul Laurence Dunbar Museum Complex	$	50,000
CIR-017	Zion Center of the National Afro-American Museum	$	750,000
CIR-702	Campus Martius Museum/Land Office Renovation	$	648,620
CIR-708	Museum of Ceramics Renovations	$	31,777
CIR-734	Hayes Presidential Center - Museum and Home Improvements	$	349,068
CIR-742	Ft. Meigs Museum and Site Improvements	$	313,150
CIR-744	Zoar Village Visitor Center and Building Renovations	$	217,789
CIR-745	Emergency Renovations of Historic Sites and Museums	$	500
CIR-747	Ft. Recovery Museum, Fort, and Monument Improvements	$	98,745
CIR-748	Ft. Jefferson Building and Site Improvements	$	26,399
CIR-757	Schoenbrunn Village Renovation Restoration	$	75,464
CIR-758	Ft. Laurens Building and Site Improvements	$	23,846
CIR-760	Goodwin-Baggott Pottery Building Site and Exhibit	$	105,219
CIR-772	Ft. Hill Building, Site, and Exhibit Improvements	$	90,754
CIR-774	Acquisition of Warehouses	$	2,238,817
CIR-775	Fallen Timbers Monument Restoration and Site	$	61,018
CIR-776	Flint Ridge Building, Site, and Exhibit Improvements	$	79,067
CIR-777	Ft. Amanda Building and Site Improvements	$	41,794
CIR-778	Ft. Ancient Museum, Site, and Exhibit Improvements	$	1,838,712
CIR-779	Ft. Laurens Reconstruction and Exhibit Improvements	$	80,013
CIR-780	Harding Home Restoration	$	51,392
CIR-784	Ohio Historical Center Rehabilitation	$	1,095,040
CIR-785	Ohio Village Building Renovations and Improvements	$	508,138
CIR-786	Piqua/Ft. Pickawillany Acquisition and Improvements	$	1,511,746
CIR-787	Quaker Meeting House Building and Exhibit Improvements	$	20,643
CIR-789	Neil Armstrong Air and Space Museum Improvements	$	314,625
CIR-790	Reese-Peters Site Improvements	$	1,200,000
CIR-792	Harriet Beecher Stowe Museum Improvements	$	180,000
Total Arts Facilities Commission		$	~~59,355,485~~ 58,705,485
Total Arts Facilities Building Fund		$	~~59,355,485~~ 58,705,485

National Aviation Hall of Fame

The amount reappropriated for the foregoing appropriation item CIR-001, National Aviation Hall of Fame, shall be the sum of the unencumbered and unallotted balances as of June 30, 1996, in items

1, National Aviation Hall of Fame, and CIR-001, National Aviation Hall of Fame, minus $2,250,000.

Appalachian Region - Arts Facilities

The amount reappropriated for the foregoing appropriation item CIR-006, Appalachian Region - Arts Facilities, shall be $564,612 less than the unencumbered and unallotted balance as of June 30, 1996, in item CAP-006, Appalachian Region - Arts Facilities.

Dayton Natural History/Children's Museum

The amount reappropriated for the foregoing appropriation item CIR-014, Dayton Natural History/Children's Museum, shall be $1,250,000.

Carillon Historic Park/Wright Hall

The amount reappropriated for the foregoing appropriation item CIR-015, Carillon Historic Park/Wright Hall, shall be $200,000.

Paul Laurence Dunbar Museum Complex

The amount reappropriated for the foregoing appropriation item CIR-016, Paul Laurence Dunbar Museum Complex, shall be $50,000.

Zion Center of the National Afro-American Museum

The amount reappropriated for the foregoing appropriation item CIR-017, Zion Center of the National Afro-American Museum, shall be $750,000."

SECTION 174. That existing Sections 5.01, 5.05, 15.02, and 19 of Am. Sub. S.B. 264 of the 121st General Assembly are hereby repealed.

SECTION 175. That Sections 13, 35, 39, 40, 51.03, 51.04, 51.06, and 52 of Am. H.B. 748 of the 121st General Assembly, as amended by Am. Sub. S.B. 310 of the 121st General Assembly, be amended to read as follows:

" Sec. 13. All items set forth in this section are hereby appropriated out of any moneys in the General Revenue Fund (Fund GRF) which are not otherwise appropriated.

Appropriations

DAS DEPARTMENT OF ADMINISTRATIVE SERVICES

CAP-785	Rural Areas Historical Projects	$	~~461,000~~
			321,000
CAP-786	Rural Areas Community Improvements	$	~~2,530,000~~
		$	3,637,000
CAP-817	Urban Areas Community Improvements	$	~~3,987,668~~
			5,323,348
Total Department of Administrative Services		$	~~6,978,668~~
			9,281,348

Rural Areas Historical Projects

Of the foregoing appropriation item CAP-785, Rural Areas Historical Projects, grants shall be made for the following projects: ~~$140,000 for Taylorsville Inn Renovations;~~ $25,000 for War Monument Improvements - Windham; $196,000 for Wood County Historical Museum Renovations; and $100,000 for ~~Findlay Military Museum Improvements~~ the Hancock Historical Museum Association.

Rural Areas Community Improvements

Of the foregoing appropriation item CAP-786, Rural Areas Community Improvements, grants shall be made for the following projects: $250,000 for Belmont County Industrial Park Development; $100,000 for Coshocton Courthouse Renovations; $300,000 for an Agricultural Research Facility; $125,000 for Pritchard Laughlin Center Improvements; $100,000 for Holmes County Courthouse Renovations; $250,000 for Water and Sewer System Improvements - Wellston; $20,000 for the Smith Field Memorial Foundation; $100,000 for the Bethel Township Community Center; $15,000 for the Midway Community Center; $50,000 for Morgan County Economic Development; $100,000 for the Zanesville Bicentennial Celebration; $50,000 for Trumpet in the Land Improvements; $60,000 for the Belpre Swimming Pool Project; $50,000 for West Salem Village Hall Renovations; $50,000 for ~~Fayette County Rail Spur Project~~ Christman Park Walking Trail - Washington Court House; $50,000 for Old County Jail Renovations - Seneca County; $50,000 for the Olivedale Senior Citizens' Center expansion; $30,000 for the Chillicothe High School Alumni Library; $280,000 for Orange Center Renovations; ~~and~~ $125,000 to the Ashtabula County Commissioners for the Northeast 4-H Camp to make improvements to water and sewage; $500,000 FOR 4-H CAMP PALMER IN FULTON COUNTY; $100,000 for Morgan County Infrastructure; $500,000 for the Medina County Arts Center; and $7,000 for the Village of Jerusalem Town Hall.

Urban Areas Community Improvements

Of the foregoing appropriation item CAP-817, Urban Areas Community Improvements, grants shall be made for the following projects: $500,000 for Benjamin Rose Institute Improvements; $666,668 for International Friendship Park Improvements; $100,000 for Flowers Civic Center Renovations; $750,000 for Lincoln Heights Health Center; $100,000 for East Toledo Family Center Expansion; $175,000 for Maplewood Market Project; $100,000 for Maumee Youth Center; $250,000 for Stan Hywett Hall and Garden Improvements; $50,000 for South Toledo Center/Glendale Satellite Center; $100,000 for Interval Opportunity School Improvements; $75,000 for Collinwood Center; $60,000 for the Cincinnati Language Pilot

Program; $100,000 for Steubenville Bicentennial Celebration; $100,000 for the Cleveland Health Education Museum; $50,000 for the Beck Arts Center Renovations; $125,000 for Olmsted Falls Historical Footbridge; $50,000 for Henn Mansion Renovation; $100,000 for Cleveland Heights Civic Center; ~~and~~ $511,000 for CMACAO in Columbus; $500,000 for the J. Ashburn, Jr. Youth Center to be used for site acquisition and demolition; $200,000 for the William Howard Taft Birthplace - Cincinnati; $150,000 for the Freedom House in Cleveland; $250,680 for St. Stephen's At-Risk Youth Center in Columbus; $140,000 FOR MONTGOMERY COUNTY DISTRICT COURT FACILITY; AND $95,000 FOR COPLEY TOWNSHIP (SUMMIT COUNTY) RECREATION PROJECT.

AFC ARTS AND SPORTS FACILITIES COMMISSION

CAP-030	Cincinnati Riverfront Development	$	166,668
~~CAP-035~~	~~Institute of Industrial Technology~~	$	~~333,334~~
Total Arts and Sports Facilities Commission		$	~~500,002~~ 166,668

BES BUREAU OF EMPLOYMENT SERVICES

CAP-025	Migrant Rest Center Renovations	$	131,625
Total Bureau of Employment Services		$	131,625

OHS OHIO HISTORICAL SOCIETY

CAP-745	Emergency Renovations of Historic Sites and Museums	$	350,000
Total Ohio Historical Society		$	350,000

DNR DEPARTMENT OF NATURAL RESOURCES

CAP-942	Local Parks Projects	$	225,000
Total Department of Natural Resources		$	225,000

Local Parks Projects

Of the foregoing appropriation item CAP-942, Local Parks Projects, grants shall be made for the following projects: $25,000 for River Access Park Development - Belpre; $100,000 for Marietta Recreation Improvements; $50,000 for Toledo Pine Glen Park Improvements; and $50,000 for Fremont City Park Improvements.

DOT DEPARTMENT OF TRANSPORTATION

CAP-004	County Airport Improvements	$	450,000
CAP-005	Interchange Improvements - Clermont County	$	250,000
CAP-006	Youngstown-Warren Regional Airport Intermodal Facility Development	$	1,000,000
CAP-007	Muskingum County Intermodal Facility Development	$	750,000
Total Department of Transportation		$	2,450,000
Total General Revenue Fund		$	~~9,559,295~~ 12,604,641

County Airport Improvements

Of the foregoing appropriation item CAP-004, County Airport Improvements, grants shall be made for the following projects: $150,000 for Brown County Airport Improvements; $150,000 for Highland County Airport Improvements; and $150,000 for Pickaway County Memorial

Airport Improvements.
HB748/Sec35;draft
SECTION 35 OF AM. H.B. 748/121ST GA AS AMENDED BY AM. SUB. S.B. 310/121ST GA *** DO NOT CUT APART ***

Sec. 35. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Juvenile Correctional Building Fund (Fund 028). Revenues to the Juvenile Correctional Building Fund shall consist of proceeds of obligations authorized to pay costs of capital facilities as defined in section 152.09 of the Revised Code for the Department of Youth Services.

Appropriations

DYS DEPARTMENT OF YOUTH SERVICES

CAP-801	Fire Suppression, Safety and Security Renovations	$	2,000,000
CAP-803	General Institutional Renovations	$	2,500,000
CAP-812	Community Rehabilitation Centers	$	~~3,000,000~~
			3,401,000
CAP-821	Construct Maximum Security Facility	$	5,000,000
CAP-823	Cuyahoga Boys School Renovation/Expansion	$	3,750,000
CAP-825	Food Service, Storeroom, Laundry and Fence Renovations - Mohican Youth Center	$	2,500,000
CAP-826	Program and Medical Facility Addition/Renovation - Indian River School	$	1,700,000
CAP-827	Facility Space Study and Improvements Plan - TICO	$	100,000
CAP-828	Multi-Agency Radio Communications System Equipment	$	~~431,000~~
			30,000
CAP-829	Local Juvenile Detention Centers	$	22,885,000
Total Department of Youth Services		$	43,866,000

Community Rehabilitation Centers

From the foregoing appropriation item CAP-812, Community Rehabilitation Centers, the Department of Youth Services shall designate the projects involving the construction and renovation of single county and multi-county community corrections facilities for which the Ohio Building Authority is authorized to issue obligations.

The Department of Youth Services is authorized to review and approve the renovation and construction of projects for which funds are provided. The proceeds of any obligations authorized under this section shall not be applied to any such facilities which are not designated and approved by the Department of Youth Services.

The Department of Youth Services shall adopt guidelines to accept and review applications and designate projects. Those guidelines shall require the county or counties to justify the need for the facility and to comply with timelines for the submission of documentation pertaining to the site, program, and construction.

For purposes of this section, "community corrections facilities" shall have the same meaning as in section 5139.36 of the Revised Code.

Portage/Geauga Juvenile Detention Center

Of the foregoing appropriation items CAP-812, Community Rehabilitation Centers, $545,000 shall be used to renovate the Portage/Geauga Juvenile Detention Center.

Local Juvenile Detention Centers

From the foregoing appropriation item, CAP-829, Local Juvenile Detention Centers, the Department of Youth Services shall designate the projects involving the construction and renovation of county and multi-county juvenile detention centers for which the Ohio Building Authority is authorized to issue obligations.

The Department of Youth Services is authorized to review and approve the renovation and construction of projects for which funds are provided. The proceeds of any obligations authorized under this section shall not be applied to any such facilities that are not designated by the Department of Youth Services.

The Department of Youth Services shall comply with the guidelines set forth below, accept and review applications, designate projects, and determine the amount of state match funding to be applied to each project. The department shall, with the advice of the county or counties participating in a project, determine the funded design capacity of the detention centers that are designated to receive funding. Notwithstanding any provisions to the contrary contained in Chapter 152. or 153. of the Revised Code, the Department of Youth Services is authorized to coordinate, review, and monitor the drawdown and use of funds for the renovation and construction of projects for which designated funds are provided.

(A) The Department of Youth Services shall develop a formula to determine the amount, if any, of state match that may be provided to a single or multi-county detention center project. The formula shall include the factors specified below in subdivision (A)(1) and may include the factors specified below:

(1) The number of detention center beds needed in the county or group of counties, as estimated by the Department of Youth Services, is significantly more than the number of beds currently available;

(2) Any existing detention center in the county or group of counties does not meet health, safety or security standards for detention centers as established by the Department of Youth Services;

(3) The Department of Youth Services projects that the county or group of counties have a need for a sufficient number of detention beds to make

the project economically viable.

(4) The percentage of children in the county or group of counties living below the poverty level is above the state average;

(5) The per capita income in the county or group of counties is below the state average;

(6) The absence of a detention center within a county that is not a participant in a regional detention center.

The formula developed by the Department of Youth Services shall yield a percentage of state match ranging from 0 per cent to 60 per cent based on the above factors. Notwithstanding the foregoing provisions, if a single county or multi-county system currently has no detention center beds, then the percentage of state match shall be not less than 35 per cent. To determine the dollar amount of the state match for new construction projects, the percentage of state match shall be multiplied by $105,000 per bed for detention centers with a designated capacity of 99 beds or less, and by $130,000 per bed for detention centers with a design capacity of 100 beds or more. To determine the dollar amount of the state match for renovation projects the percentage match shall be multiplied by the actual cost of the renovation, provided that the cost of the renovation does not exceed $80,000 per bed. The funding authorized under this section that may be applied to a construction or renovation project shall not exceed the actual cost of the project.

The funding authorized under this section shall not be applied to any project unless the detention center will be built in compliance with health, safety, and security standards for detention centers as established by the Department of Youth Services. In addition, the funding authorized under this section shall not be applied to the renovation of a detention center unless the renovation is for the purpose of increasing the number of beds in the center, or to meet health, safety, or security standards for detention centers as established by the Department of Youth Services.

Sec. 39. All items set forth in this section are hereby appropriated out of any money in the state treasury to the credit of the Arts Facilities Building Fund (Fund 030). Revenues to the Arts Facilities Building Fund shall consist of proceeds of obligations authorized to pay costs of the following capital improvements:

Appropriations

AFC ARTS AND SPORTS FACILITIES COMMISSION

CAP-002	Great Southern Opera House	$	1,500,000
CAP-004	Valentine Theatre	$	9,500,000
CAP-005	Center for Science and Industry - Columbus	$	20,000,000
CAP-016	Paul Laurence Dunbar State Memorial Renovations	$	225,954
CAP-018	Adena State Memorial Renovations and Exhibit	$	477,338

	ng		
CAP-019	Ohio Village Education Center Construction and Equipment	$	735,000
CAP-020	Piqua Historical Area Buildings, Exhibits and Site Renovations	$	400,000
CAP-021	Ohio Historical Center - Archives and Library Shelving	$	470,169
CAP-022	National Afro-American Museum - Carnegie Library Renovations	$	223,768
CAP-023	National Afro-American Museum - Demolition of Shorter Hall	$	240,000
CAP-028	Ohio Ceramic Center	$	216,024
CAP-029	Cincinnati Riverfront Development	$	333,332
~~CAP-031~~	~~William Howard Taft Birthplace Education Center~~	$	~~200,000~~
~~CAP-032~~	~~Cincinnati Art Museum~~	$	~~500,000~~
CAP-033	Woodward Opera House Renovation	$	300,000
CAP-034	Institute of Industrial Technology	$	~~666,666~~ 1,000,000
CAP-035	Ritz Theatre Renovations	$	500,000
CAP-037	Canton Palace Theatre Renovations	$	500,000
~~CAP-039~~	~~Allen Theatre~~	$	~~1,500,000~~
~~CAP-040~~	~~City of Cleveland Lakefront Park Development~~	$	~~1,600,000~~
~~CAP-041~~	~~Cleveland Play House~~	$	~~500,000~~
CAP-702	Campus Martius Museum Renovations	$	202,702
CAP-734	Hayes Presidential Center - Museum and Home Improvements	$	1,000,000
CAP-742	Fort Meigs Museum and Exhibit Improvements	$	850,000
CAP-744	Zoar Village Visitor Center and Building Renovations	$	100,000
CAP-745	Emergency Renovations of Historic Sites and Museums	$	150,000
CAP-772	Fort Hill Building, Site, and Exhibit Improvements	$	716,212
CAP-776	Flint Ridge Building, Site, and Exhibit Improvements	$	600,000
CAP-778	Fort Ancient Building, Site, and Exhibit Improvements	$	612,715
CAP-781	Historical Center - Archives and Library Automation	$	1,500,000
CAP-784	Ohio Historical Center Rehabilitation	$	750,000
CAP-785	Ohio Village Building Renovations and Improvements	$	500,000
CAP-789	Neil Armstrong Air and Space Museum Improvements	$	193,294
CAP-791	Harrison Tomb and Site Renovations	$	88,550
Total Arts Facilities Commission		$	~~47,851,724~~ 43,885,058

Sec. 40. The Ohio Building Authority is hereby authorized to issue and sell, in accordance with the provisions of Section 2i of Article VIII, Ohio Constitution, and Chapter 152. of the Revised Code, and other applicable sections of Ohio law, original obligations in an aggregate principal amount not to exceed $42,700,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly to pay costs of capital facilities as defined in division (A)(5) of section 152.09 of the Revised Code, including construction as defined in division (H) of section 3383.01 of the Revised Code, of the Ohio arts facilities designated in Section 39 of ~~this act~~Am. H.B. 748 of the 121st General Assembly, the owners or holders of which shall have no right to have excises or taxes levied by the General Assembly for the payment of principal of or interest

on those obligations. The Ohio Building Authority may expend the proceeds from the sale of those obligations and all available receipts, as defined in division (A)(8) of section 152.09 of the Revised Code, with respect to such Ohio arts facilities for those costs. The designated Ohio arts facilities capital improvements for which appropriations are made from the Arts Facilities Building Fund (Fund 030) are determined to be capital improvements for the housing of branches and agencies of state government, and are the capital facilities to which proceeds of the obligations authorized herein are to be applied.

Notwithstanding any other provision of law, the Ohio Arts Facilities Commission shall acquire in the name of the State of Ohio, including but not limited to by lease, any real property or real property interests necessary or appropriate for the designated Ohio arts facilities, the Ohio Building Authority shall acquire from the Ohio Arts and Sports Facilities Commission interests in such real property or real property interests necessary or appropriate for the Authority's purposes, and the Ohio Building Authority shall lease the designated Ohio arts facilities, including but not limited to its real property interests, to the Ohio Arts and Sports Facilities Commission in accordance with division (D) of section 152.24 of the Revised Code.

Any lease, sublease, or other provision for use of any of the designated Ohio arts facilities by an arts organization between the Ohio Arts and Sports Facilities Commission and an arts organization shall be subject to approval by the Ohio Building Authority.

Sec. 51.03. UNIVERSITY OF AKRON

CAP-008	Basic Renovations	$	3,501,034
CAP-049	Basic Renovations - Wayne	$	115,975
CAP-064	Student Services Center - Phase II	$	6,000,000
CAP-077	Leigh Hall Rehabilitation	$	6,000,000
CAP-078	HVAC Replacement, Phase I - Wayne	$	660,000
CAP-079	ASEC Science/Technology Library Rehabilitation	$	2,080,000
CAP-080	University of Akron/Medina Technology Link	$	500,000
Total University of Akron		$	18,857,009

BOWLING GREEN STATE UNIVERSITY

CAP-009	Basic Renovations	$	3,295,064
CAP-054	University Hall Rehabilitation, Phase III - Theaters	$	230,000
CAP-060	Basic Renovations - Firelands	$	186,482
CAP-082	Hanna Hall Rehabilitation	$	4,885,000
CAP-083	Central Heating Plant Replacement, Phase II	$	4,905,080
CAP-086	Health Center - Second Floor Renovation	$	1,676,000
Total Bowling Green State University		$	15,177,626

CENTRAL STATE UNIVERSITY

CAP-022	Basic Renovations	$	836,327
CAP-053	Roof Replacements - Phase IV	$	254,980
CAP-079	Banneker Hall Rehabilitation, Phase III	$	1,125,000

CAP-080	Campus Security Improvements	$	453,500
Total Central State University		$	2,669,807

UNIVERSITY OF CINCINNATI

CAP-009	Basic Renovations	$	6,335,999
CAP-018	Basic Renovations - Clermont	$	155,574
CAP-025	Design, Art, Architecture, Planning Supplement	$	2,000,000
CAP-054	Raymond Walters Renovations	$	228,505
CAP-112	College Conservatory of Music	$	18,350,000
CAP-127	New Classroom/Laboratory Building - Clermont	$	651,200
CAP-128	Science and Allied Health Building - Walters	$	10,800,000
CAP-133	Visitors' Center	$	2,400,000
CAP-168	International Friendship Park	$	1,333,332
CAP-174	Classroom/Teaching Lab Renovations	$	6,050,000
CAP-175	Student Information System	$	2,500,000
CAP-176	Network Expansion	$	2,000,000
CAP-177	Critical Building Component Renovations	$	6,036,000
CAP-178	Utility Extension/Site Development - Walters	$	1,400,000
CAP-191	Cincinnati Art Museum	$	500,000
CAP-192	Cincinnati Riverbend Theater	$	350,000
Total University of Cincinnati		$	~~60,240,610~~
		$	61,090,610

CLEVELAND STATE UNIVERSITY

CAP-023	Basic Renovations	$	3,115,544
CAP-073	Cleveland Playhouse	$	500,000
CAP-112	Land Acquisitions	$	2,000,000
CAP-067	17th-18th Street Block	$	11,189,000
CAP-103	WCPN Radio Renovations	$	250,000
CAP-109	Classroom Upgrade	$	1,937,320
CAP-110	Technology Infrastructure	$	2,000,000
CAP-111	Intermuseum Laboratory	$	500,000
CAP-113	BioMedical Research	$	1,000,000
Total Cleveland State University		$	~~21,991,864~~
			22,491,864

The foregoing appropriation, CAP-113, BioMedical Research, shall be used for the purchase of biomedical related equipment.

KENT STATE UNIVERSITY

CAP-008	Severance Hall Improvements	$	5,200,000
CAP-022	Basic Renovations	$	3,479,135
CAP-105	Basic Renovations - East Liverpool	$	107,913
CAP-106	Basic Renovations - Geauga	$	48,644
CAP-107	Basic Renovations - Salem	$	94,054
CAP-108	Basic Renovations - Stark	$	296,267
CAP-110	Basic Renovations - Ashtabula	$	180,008
CAP-111	Basic Renovations - Trumbull	$	230,533
CAP-112	Basic Renovations - Tuscarawas	$	175,751
CAP-157	Moulton Hall Rehabilitation - Phase II	$	4,650,000
CAP-158	Auditorium Building Rehabilitation - Phase II	$	6,000,000
CAP-162	Science and Technology Building - Trumbull	$	3,750,000
CAP-176	Midway Drive Utilities Tunnel, Phase II	$	4,100,000
CAP-177	Business and Industry Outreach Facility, Phase I - Stark	$	1,240,800
CAP-178	Undergraduate Studies Rehabilitation	$	768,000
CAP-179	Boiler Repairs/EPA	$	850,000

Total Kent State University		$	31,171,105
	MIAMI UNIVERSITY		
CAP-018	Basic Renovations	$	3,423,093
CAP-066	Basic Renovations - Hamilton	$	222,057
CAP-069	Basic Renovations - Middletown	$	228,232
CAP-070	Chilled Water System - Phase VI	$	1,000,000
CAP-089	High Voltage Electric - Phase VI	$	500,000
CAP-096	McGuffey Hall Rehabilitation - Phase II	$	4,000,000
CAP-098	Computer Network Installation - Phase II	$	4,000,000
CAP-111	Roudebush Hall Rehabilitation	$	4,000,000
CAP-112	Chilled Water Loop, Phase I - Hamilton	$	400,000
CAP-113	Special Academic/Administrative Projects - Hamilton	$	366,920
CAP-114	Chilled Water Loop, Phase I - Middletown	$	750,000
CAP-115	Special Academic/Administrative Projects - Middletown	$	506,640
CAP-116	Hughes Hall Rehabilitation - Phase I	$	500,000
CAP-117	North Campus Refrigeration/Chilled Water Plant	$	1,664,000
Total Miami University		$	21,560,942
	OHIO STATE UNIVERSITY		
CAP-074	Basic Renovations	$	15,625,563
CAP-149	Basic Renovations - Regional Campuses	$	574,200
CAP-254	Basic Renovations - ATI	$	430,321
CAP-255	Supplemental Renovations - OARDC	$	1,760,000
CAP-292	Life Sciences Research Building	$	21,817,000
CAP-293	College of Business Facilities	$	24,240,000
CAP-302	Food Science and Technology Building	$	9,999,000
CAP-304	Conference Center - OARDC/ATI	$	2,100,000
CAP-363	School of Architecture Facility	$	8,233,280
CAP-369	Natural Habitat Research Site Improvements	$	4,500,000
CAP-425	Physical Sciences Building	$	4,000,000
CAP-426	Utilities Upgrade and Extension - Mansfield	$	682,000
CAP-427	Morrill Hall Remodeling - Vacated Library Space - Marion	$	485,760
CAP-428	Capital Equipment - OARDC	$	3,000,000
CAP-430	Hagerty Hall Rehabilitation	$	1,000,000
CAP-431	Sisson Hall Replacement	$	1,600,000
CAP-432	Columbus Speech and Hearing Center	$	1,000,000
CAP-433	Central Chilled Water Plant - OARDC	$	4,800,000
Total Ohio State University		$	105,847,124

Notwithstanding anything to the contrary in sections 9.33, 123.01, and 3345.50 and Chapter 153. of the Revised Code, the Ohio State University may negotiate, enter into, and locally administer a contract which combines the design and construction elements of the project into a single contract for the feed mill replacement project, funded with appropriations in the foregoing appropriation item CAP-255, Supplemental Renovations-OARDC, including an anticipated appropriation to be made in the approximate amount of $4,700,000.

	OHIO UNIVERSITY		
CAP-020	Basic Renovations	$	4,103,593
CAP-021	Conservancy District Access Improvements and	$	750,000

	ssessment		
CAP-086	Memorial Auditorium Rehabilitation	$	1,920,000
CAP-094	Bentley Hall Renovation	$	5,519,600
CAP-095	Basic Renovations - Eastern	$	114,406
CAP-098	Basic Renovations - Lancaster	$	187,303
CAP-099	Basic Renovations - Zanesville	$	207,742
CAP-113	Basic Renovations - Chillicothe	$	196,867
CAP-114	Basic Renovations - Ironton	$	59,859
CAP-115	Bennett Hall Rehabilitation, Phase IV - Chillicothe	$	440,000
CAP-141	College of Health & Human Services Renovation, Phase I	$	10,000,000
CAP-142	Health Professions (Biological Sciences) Labs	$	2,000,000
CAP-144	Shannon Hall Laboratory Rehabilitation, Phase I - Eastern	$	440,000
CAP-155	Brasee Hall Rehabilitation, Phase I - Lancaster	$	600,000
CAP-156	Herrold Hall Renovation - Lancaster	$	148,000
CAP-172	Elson Hall Rehabilitation, Phase I - Zanesville	$	704,000
Total Ohio University		$	27,391,370

SHAWNEE STATE UNIVERSITY

CAP-004	Basic Renovations	$	665,004
CAP-039	Central Heating Plant Replacement	$	1,236,400
Total Shawnee State University		$	1,901,404

UNIVERSITY OF TOLEDO

CAP-010	Basic Renovations	$	3,478,451
CAP-062	Pharmacy, Chemistry and Life Sciences Facility	$	6,500,000
CAP-071	Southwest Academic Center Rehabilitation - Phase I	$	9,582,000
CAP-076	Engineering Science Rehabilitation - Phase I	$	2,030,160
Total University of Toledo		$	21,590,611

WRIGHT STATE UNIVERSITY

CAP-015	Basic Renovations	$	2,703,370
CAP-055	Fawcett Hall Rehabilitation - Phase IV	$	800,000
CAP-064	Basic Renovations - Lake	$	90,554
CAP-072	Access Circulation	$	2,000,000
CAP-094	Campus Services Building	$	2,700,000
CAP-095	Technology Infrastructure	$	3,300,000
CAP-097	National Center for Composite Systems Technology - Phase I	$	10,500,000
Total Wright State University		$	22,093,924

YOUNGSTOWN STATE UNIVERSITY

CAP-014	Basic Renovations	$	2,193,963
CAP-085	College of Education - Auditorium	$	3,300,000
CAP-091	Fiber Optic Network Installation - Phase II	$	2,500,000
CAP-092	Butler Institute - National Center for the Study of American Art	$	2,000,000
CAP-103	Meshel Hall Rehabilitation	$	560,000
Total Youngstown State University		$	10,553,963

MEDICAL COLLEGE OF OHIO

CAP-010	Basic Renovations	$	1,211,074
CAP-048	Medical Infomatics Data Highway	$	1,280,000
CAP-049	Center for Classrooms of the Future	$	4,000,000
Total Medical College of Ohio		$	6,491,074

NORTHEASTERN OHIO UNIVERSITIES COLLEGE OF MEDICINE

CAP-018	Basic Renovations	$	350,117
CAP-035	Primary Care Medicine/Community Health Sciences Educ. Bldg.	$	3,489,547
CAP-036	Computer Services Networking Renov. & Expansion - Phase I	$	1,045,880
Total Northeastern Ohio Universities College of Medicine		$	4,885,544

CINCINNATI STATE TECHNICAL AND COMMUNITY COLLEGE

CAP-008	Interior Renovations	$	1,000,000
CAP-009	Exterior Rehabilitations	$	122,000
CAP-013	Basic Renovations	$	638,619
CAP-023	Supplemental Renovations - Fire Alarm	$	550,000
Total Cincinnati State Technical and Community College		$	2,310,619

CLARK STATE COMMUNITY COLLEGE

CAP-006	Basic Renovations	$	401,472
CAP-029	Shull Hall Rehabilitation	$	350,000
CAP-033	Recreational Outreach Facility	$	500,000
CAP-035	Parking Lots Renovation - Downtown Campus	$	222,000
Total Clark State Community College		$	1,473,472

COLUMBUS STATE COMMUNITY COLLEGE

CAP-006	Basic Renovations	$	820,577
CAP-007	Land Acquisition	$	3,520,000
CAP-037	Academic Center "C"	$	11,500,000
Total Columbus State Community College		$	15,840,577

CUYAHOGA COMMUNITY COLLEGE

CAP-031	Basic Renovations	$	2,064,225
CAP-033	Ohio College of Podiatric Medicine	$	400,000
CAP-055	Technology Learning Center, Phase II - Metro	$	1,575,000
CAP-064	Technology Learning Center - Western	$	2,550,000
CAP-065	Exterior Lighting and Site Improvements - Eastern	$	262,680
CAP-026	Playhouse Square	$	1,500,000
Total Cuyahoga Community College		$	~~6,851,905~~ 8,351,905

EDISON STATE COMMUNITY COLLEGE

CAP-006	Basic Renovations	$	267,724
Total Edison State Community College		$	267,724

JEFFERSON COMMUNITY COLLEGE

CAP-022	Basic Renovations	$	188,676
Total Jefferson Community College		$	188,676

LAKELAND COMMUNITY COLLEGE

CAP-006	Basic Renovations	$	652,392
CAP-021	Performing Arts Center Renovation	$	150,000
CAP-028	Athletic, Fitness, Teaching Center Expansion - Planning	$	100,000
CAP-029	North Parking Lot Expansion/Softball Field	$	350,000
CAP-030	Business and Community Education Center	$	2,000,000
CAP-031	North and West Loop Road	$	40,000
Total Lakeland Community College		$	3,292,392

LORAIN COMMUNITY COLLEGE

CAP-005	Basic Renovations	$	857,539
Total Lorain Community College		$	857,539

NORTHWEST STATE COMMUNITY COLLEGE

CAP-003	Basic Renovations	$	152,664
CAP-015	A-Wing Supplemental Renovation/Distance Learning	$	483,007
CAP-016	ImagiNet	$	500,000
Total Northwest State Community College		$	1,135,671

OWENS COMMUNITY COLLEGE

CAP-019	Basic Renovations	$	851,384
CAP-022	Findlay Campus Instructional Building	$	2,000,000
CAP-030	Math Science Building	$	3,515,600
Total Owens Community College		$	6,366,984

RIO GRANDE COMMUNITY COLLEGE

CAP-005	Basic Renovations	$	249,875
CAP-013	College of Business	$	633,600
Total Rio Grande Community College		$	883,475

SINCLAIR COMMUNITY COLLEGE

CAP-007	Basic Renovations	$	1,663,048
CAP-042	Autolab/Fire Science Facility	$	4,500,000
CAP-043	Technology Extension System	$	2,500,000
CAP-045	Facilities Management Facility	$	40,000
Total Sinclair Community College		$	8,703,048

SOUTHERN STATE COMMUNITY COLLEGE

CAP-010	Basic Renovations	$	221,130
CAP-019	New North Campus Facility	$	1,689,600
Total Southern State Community College		$	1,910,730

TERRA STATE COMMUNITY COLLEGE

CAP-009	Basic Renovations	$	342,299
CAP-016	Capital Equipment	$	440,000
Total Terra State Community College		$	782,299

WASHINGTON STATE COMMUNITY COLLEGE

CAP-006	Basic Renovations	$	151,442
CAP-097	Library Construction	$	2,500,000
Total Washington State Community College		$	2,651,442

For the purpose of the debt service allocation policy, funds appropriated to the foregoing appropriation line item CAP-097, Library Construction shall be treated as follows. There shall be no debt service deduction above the college's capital component allocation. The shortfall in the difference between the debt service deduction and the college's capital component allocation shall accumulate until the college's allocation exceeds its annual deduction for the debt service on the library. These excess allocations shall then be applied to the accumulated shortfall until such time as the accumulated shortfall has been recovered.

BELMONT TECHNICAL COLLEGE

CAP-008	Basic Renovations	$	188,079
Total Belmont Technical College		$	188,079

CENTRAL OHIO TECHNICAL COLLEGE

CAP-003	Basic Renovations	$	207,388
Total Central Ohio Technical College		$	207,388

HOCKING TECHNICAL COLLEGE

CAP-019	Basic Renovations	$	342,519
CAP-025	Natural Resources Multipurpose Building	$	1,222,750
CAP-032	Public Safety Service	$	3,900,000
CAP-033	Light and Oakley Halls	$	750,000
CAP-034	Student Center	$	350,000
Total Hocking Technical College		$	6,565,269
	LIMA TECHNICAL COLLEGE		
CAP-004	Basic Renovations	$	211,547
CAP-009	Life & Physical Sciences	$	14,475,000
CAP-011	Industrial & Engineering Technologies	$	2,715,000
Total Lima Technical College		$	17,401,547
	MARION TECHNICAL COLLEGE		
CAP-004	Basic Renovations	$	123,424
CAP-009	Technical Education Center Renovation	$	323,840
Total Marion Technical College		$	447,264
	MUSKINGUM AREA TECHNICAL COLLEGE		
CAP-007	Basic Renovations	$	215,778
Total Muskingum Area Technical College		$	215,778
	NORTH CENTRAL TECHNICAL COLLEGE		
CAP-003	Basic Renovations	$	350,206
Total North Central Technical College		$	350,206
	STARK TECHNICAL COLLEGE		
CAP-004	Basic Renovations	$	389,415
CAP-021	Addition to the Advanced Technology Center	$	1,056,000
Total Stark Technical College		$	1,445,415
Total Higher Education Improvement Fund		$	~~548,337,011~~ 551,187,011

Sec. 51.04. Debt Service Formula Allocation

~~Based on the foregoing appropriations for Fund 034, the Higher Education Improvement Fund, the following higher education institutions shall be responsible for the specified amounts as part of the debt service component of the instructional subsidy beginning in fiscal year 1998:~~

University of Akron	$ 14,080,000
University of Akron - Wayne	$ 660,000
Bowling Green State University	$ 11,696,080
Central State University	$ 1,833,480
University of Cincinnati	$ 36,936,000
University of Cincinnati - Clermont	$ 651,200
University of Cincinnati - Walters	$ 923,615
Cleveland State University	$ 17,126,320
Kent State University	$ 16,368,000
Kent State University - Stark	$ 1,240,800
Kent State University - Trumbull	$ 3,750,000
Miami University	$ 15,664,000
Miami University - Hamilton	$ 766,920
Miami University - Middletown	$ 1,256,640

Ohio State University	$ 70,889,280
Ohio State University - Mansfield	$ 682,000
Ohio State University - Marion	$ 485,760
Ohio University	$ 18,989,600
Ohio University - Eastern	$ 440,000
Ohio University - Chillicothe	$ 440,000
Ohio University - Lancaster	$ 748,000
Ohio University - Zanesville	$ 704,000
Shawnee State University	$ 1,236,400
University of Toledo	$ 18,112,160
Wright State University	$ 8,800,000
Youngstown State University	$ 8,360,000
Medical College of Ohio	$ 5,280
Northeastern Ohio Universities College of Medicine	$ 1,930,999
Cincinnati State Technical and Community College	$ 1,672,000
Clark State Community College	$ 572,000
Columbus State Community College	$ 3,520,000
Cuyahoga Community College	$ 4,387,680
Lakeland Community College	$ 2,640,000
Northwest State Community College	$ 483,007
Owens Community College	$ 4,375,737
Rio Grande Community College	$ 633,600
Sinclair Community College	$ 7,040,000
Southern State Community College	$ 1,689,600
Terra State Community College	$ 440,000
Hocking Technical College	$ 1,100,000
Lima Technical College	$ 3,708,009
Marion Technical College	$ 323,840
Stark Technical College	$ 1,056,000

~~Institutions not listed above shall not have a debt service obligation in fiscal year 1998.~~

Within sixty days after the effective date of ~~this act~~ Am. H.B. 748 of the 121st General Assembly, any institution of higher education may notify the Board of Regents of its intention not to proceed with any project appropriated in this act. Upon receiving notification, the Board of Regents may release the institution from its debt service obligation for the specific project.

Within ninety days after the effective date of this section, the Board of

Regents shall submit for approval by the Director of Budget and Management, a list of projects and project amounts for which each higher education institution shall be responsible as part of the debt service component of the instructional subsidy beginning in fiscal year 1998.

Sec. 51.06. The foregoing capital improvements for which appropriations are made from the Higher Education Improvement Fund (Fund 034) are determined to be capital improvements and capital facilities for state-supported or state-assisted institutions of higher education, and are designated as the capital facilities to which proceeds of obligations in the Higher Education Improvement Fund, created by section 154.21 of the Revised Code, are to be applied. All such appropriations are made to the Ohio Public Facilities Commission for application to the purposes for which appropriated through the exercise of its powers under Chapter 154. of the Revised Code, including where appropriate, provisions thereunder for production of revenues and receipts for bond service charges on such obligations.

The Ohio Public Facilities Commission is hereby authorized to issue and sell, in accordance with the provisions of Section 2i of Article VIII, Ohio Constitution, and Chapter 154. of the Revised Code, particularly section 154.21 of the Revised Code, original obligations in an aggregate principal amount not to exceed $ 559,000,000 in addition to the original issuance of obligations heretofore authorized by prior acts of the General Assembly to pay costs of capital facilities for state-supported and state-assisted institutions of higher education, the owners of which obligations shall have no right to have excises or taxes levied by the General Assembly for the payment of principal thereof or interest thereon.

Sec. 52. All items set forth in this section are hereby appropriated out of any moneys in the state treasury to the credit of the Parks and Recreation Improvement Fund (Fund 035) created by division (F) of section 154.22 of the Revised Code, derived from the proceeds of obligations heretofore and herein authorized, to pay costs of capital facilities, as defined in section 154.01 of the Revised Code, for parks and recreation.

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES

CAP-017	Indian Lake	$	3,500,000
CAP-234	State Parks Campgrounds, Lodges and Cabins	$	5,650,000
CAP-331	Parks Boating Facilities	$	775,000
CAP-702	Upgrade Underground Fuel Storage Tanks	$	3,500,000
CAP-703	Cap Abandoned Water Wells	$	250,000
CAP-727	Riverfront Improvements	$	4,350,000
CAP-748	Local Parks Projects	$	~~900,000~~ 2,500,000
CAP-827	Cuyahoga Valley Scenic Railroad	$	1,066,666

CAP-836	State Park Renovations/Upgrading	$	275,000
CAP-881	Dam Rehabilitation	$	250,000
CAP-928	Handicapped Accessibility	$	250,000
CAP-929	Hazardous Waste/Asbestos Abatement	$	1,500,000
CAP-931	Wastewater/Water Systems Upgrades	$	2,000,000
Total Department of Natural Resources		$	~~20,766,666~~ 25,866,666

Indian Lake

Of the foregoing appropriation item CAP-017, Indian Lake, $3,500,000 shall be used to acquire land at Indian Lake in Logan County.

Muskingum River Parkway - McConnelsville Boat Ramp

Of the foregoing appropriation item CAP-331, Parks Boating Facilities, $775,000 shall be spent for the Muskingum River Parkway - McConnelsville Boat Ramp.

Local Parks Projects

Of the foregoing appropriation item CAP-748, Local Parks Projects, $200,000 shall be used for West Woods Park Upgrade - Geauga County; $100,000 shall be used for Belmont Park District Improvements; $200,000 shall be used for Ravenna Community Park Development; $75,000 shall be used for Patricia Allyn Park, $20,000 shall be used for Franklin Park, $25,000 shall be used for Franklin Township Park, $20,000 shall be used for Franklin Pool, ~~$30,000 shall be used for Morrow Nature Preserve,~~ $100,000 shall be used for Nannie Rogers Park, $55,000 shall be used for Clearcreek Park; and $75,000 shall be used for Dover Recreational Facilities Improvements; and $1,600,000 for Lakefront Park Development - Cleveland.

Indian Lake Improvements

Of the foregoing appropriation, CAP-881, Dam Rehabilitation, $225,000 shall be used for Indian Lake Improvements, located in Logan County."

SECTION 176. That existing Sections 13, 35, 39, 40, 51.03, 51.04, 51.06, and 52 of Am. H.B. 748 of the 121st General Assembly, as amended by Am. Sub. S.B. 310 of the 121st General Assembly, are hereby repealed.

SECTION 177. That Section 4 of Sub. H.B. 167 of the 121st General Assembly, as amended by Sub. H.B. 710 of the 121st General Assembly, be amended to read as follows:

HB167/Sec4;draft

SECTION 4 OF SUB. H.B. 167/121ST GA AS AMENDED BY SUB. H.B. 710 OF THE 121ST GA

*** DO NOT CUT APART ***

" Sec. 4. (A) As used in this section, "poverty guideline" means the official poverty guideline as revised annually by the United States Secretary of Health and Human Services in accordance with section 673 of the "Community Services Block Grant Act, 95 Stat. 511 (1981), 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The Department of Human Services shall establish the ~~Adult~~ Non-TANF Emergency Assistance Program~~. Notwithstanding Section 60.08 of Am. Sub. H.B. 117 of the 121st General Assembly, of the amount appropriated by that act to the Department as~~ with funds in appropriation line item 400-512, ~~Employment~~ Non-TANF Emergency Assistance~~, $3,000,000 in fiscal year 1996 and $3,000,000 in fiscal year 1997 shall be used by the Department to fund the Adult Emergency Assistance Program~~.

Funds appropriated for the ~~Adult~~ Non-TANF Emergency Assistance Program shall be used to assist persons age eighteen or older who are not eligible for assistance under ~~the Family Emergency Assistance Program established under section 5107.16 of the Revised Code~~ the Temporary Assistance for Needy Families Program authorized by Executive Order 96-73V and have incomes not greater than ~~32~~ 40 per cent of the poverty guideline with emergency needs ~~such as~~ including food, clothing, ~~and~~ shelter, and other essential goods or services. The funds shall be used for direct payments to, or on behalf of, eligible persons.

(C) As soon as possible after the start of fiscal ~~year 1996~~ years 1998 and 1999, the Department shall distribute, in a single payment, the funds appropriated that fiscal year for the Non-TANF Emergency Assistance Program to the Ohio State Set-Aside Committee of the Federal Emergency Management Agency ~~shall make recommendations to the Department of Human Services and the General Assembly on the allocation, by county, of Adult Emergency Assistance Program funds for that fiscal year. On receipt of the recommendations, the Department shall distribute, in a single payment for each county, the amount allocated for each county. Each county's allocation shall be paid to a nonprofit entity that serves as the county's emergency food and shelter board. If an entity acts as the emergency food and shelter board for two counties, the allocation for both counties shall be paid to it.~~

~~The entities that receive allocations from the Department under the Adult Emergency Assistance Program in fiscal year 1996 may use program funds for administrative expenses, but an entity that receives an allocation from the Department may not use for administrative expenses more than~~

~~three per cent of the amount it receives under the Program. The Department may distribute in fiscal year 1996 to the Set-Aside Committee for its administrative expenses under the Program an amount not exceeding three per cent of the amount appropriated for the Program.~~

~~(D) As soon as possible after the start of fiscal year 1997, the Department shall distribute the appropriation for the Adult Emergency Assistance Program in a single payment to the Set-Aside Committee~~ or to a fiscal agent designated by the Committee. The Committee shall determine the amount of the appropriation to be allocated to each county, and the Committee or its fiscal agent shall distribute the allocations to the counties. Each county's allocation shall be paid to ~~the~~ a nonprofit entity that serves as the county's emergency food and shelter board or to a fiscal agent designated by the entity. If an entity serves as the emergency food and shelter board for more than one county, the allocation for each of those counties shall be paid to that entity.

The Committee may reallocate funds during fiscal ~~year 1997~~ years 1998 and 1999 based on its determination of local needs and expenditures.

The Committee or its fiscal agent may use up to three per cent of the fiscal ~~year 1997~~ years 1998 and 1999 appropriation for administrative expenses. The Committee may allow any county entity receiving funds under this section in fiscal ~~year 1997 or~~ years 1998 and 1999, the entity's fiscal agent, or an entity designated by the county entity to use up to ~~three~~ four per cent of ~~its~~ the county's allocation for administrative expenses.

~~(E)~~(D) If any local entity returns unexpended fiscal year ~~1996 Adult~~ 1998 Non-TANF Emergency Assistance funds to the ~~Department~~ State Set-Aside Committee, the Committee shall return the funds to the Department. The Department shall seek approval from the Controlling Board to transfer the unexpended funds to increase the fiscal year ~~1997~~ 1999 appropriation for ~~Adult~~ Non-TANF Emergency Assistance. If the Controlling Board approves the increase, the Department shall distribute the increased appropriation to the ~~State Set-Aside~~ Committee or its fiscal agent. The Committee may allocate, distribute, and reallocate the additional funds in the same manner as other fiscal year ~~1997 Adult~~ 1999 Non-TANF Emergency Assistance funds.

~~(F)~~(E) Each entity receiving funds under this section shall report to the Set-Aside Committee, in the form and manner required by the Committee, information regarding the entity's use of the funds. The Committee shall compile the information received from these reports and provide it to the Department and the General Assembly. The Committee shall provide the Department and the General Assembly with the information ~~pertaining to~~

~~fiscal year 1996~~ no later than ~~August 29, 1996. It shall provide the information pertaining to~~ September 30 of each fiscal year ~~1997 no later than August 29, 1997~~."

SECTION 178. That existing Section 4 of Sub. H.B. 167 of the 121st General Assembly, as amended by Sub. H.B. 710 of the 121st General Assembly, is hereby repealed.

SECTION 179. That Section 3 of Am. Sub. S.B. 20 of the 120th General Assembly be amended to read as follows:

" Sec. 3. Not later than ~~two years after the effective date of this act~~ January 1, 1998, the ~~Director of Public Safety and the~~ Registrar of Motor Vehicles shall adopt rules in accordance with Chapter 119. of the Revised Code to ~~require~~ establish a pilot program requiring that persons randomly selected within the pilot program according to a method developed by the ~~Director and~~ Registrar be required to verify the existence of proof of financial responsibility. Not later than January 1, 2000, the Registrar shall adopt rules in accordance with Chapter 119. of the Revised Code to establish a permanent program requiring that persons randomly selected on a statewide basis be required to verify the existence of proof of financial responsibility. In adopting the rules, the ~~Director and the~~ Registrar may consider relevant findings and recommendations of the Task Force on the Enforcement of the Financial Responsibility Laws of Ohio."

SECTION 180. That existing Section 3 of Am. Sub. S.B. 20 of the 120th General Assembly is hereby repealed.

SECTION 181. That Section 184 of Am. Sub. H.B. 152 of the 120th General Assembly, as amended by Am. Sub. H.B. 117 of the 121st General Assembly, be amended to read as follows:

" Sec. 184. Section 3745.25 of the Revised Code is hereby repealed, effective June 30, ~~1997~~1999."

SECTION 182. That existing Section 184 of Am. Sub. H.B. 152 of the 120th General Assembly, as amended by Am. Sub. H.B. 117 of the 121st General Assembly, is hereby repealed.

SECTION 183. That Section 5 of Sub. S.B. 223 of the 121st General Assembly be amended to read as follows:

" Sec. 5. Notwithstanding the educational requirements specified in division (B)(3) of section 4757.23 of the Revised Code, as renumbered and amended by ~~this act~~ Sub. S.B. 223 of the 121st General Assembly, ~~for eighteen months following the effective date of this act,~~ an individual ~~holding~~ who graduates on or before September 18, 1998, who holds only a master's degree in counseling may be eligible to receive a license as a professional counselor by completing the following:

(A) Sixty quarter hours of graduate credit in counselor training acceptable to the Counselors Professional Standards Committee of the Counselor and Social Worker Board;

(B) Not less than three years of supervised experience in counseling of a type approved by the Committee, two years of which must be completed after the award of the individual's master's degree."

SECTION 184. That existing Section 5 of Sub. S.B. 223 of the 121st General Assembly is hereby repealed.

SECTION 185. That Section 201 of Am. Sub. H.B. 117 of the 121st General Assembly, as amended by Am. Sub. H.B. 210 of the 122nd General Assembly, is hereby repealed.

SECTION 186. That Section 33 of Am. S.B. 206 of the 119th General Assembly, as amended by Am. Sub. H.B. 152 of the 120th General Assembly, be amended to read as follows:

" Sec. 33. The enactment of section 3701.89 of the Revised Code by ~~Amended Senate Bill No. 206~~Sub. H.B. 391 of the ~~119th~~ 120th General Assembly is intended to distribute the remaining moneys of the Stabilization Reserve Fund created by former section 3929.74 of the Revised Code to the hospitals and individual physicians on whose behalf the moneys were originally contributed. It is further intended to provide that all moneys not distributed to hospitals or physicians be paid to the Ohio Medical Quality Foundation created by section 3701.89 of the Revised Code. Section 3701.89 of the Revised Code is not intended to bar or in any manner determine or impair whatever rights the original payor of the moneys may have to recover some or all of the funds distributed from a particular

hospital or individual physician that receives funds distributed from the Stabilization Reserve Fund.

In connection with the distribution of the funds, no cause of action shall be asserted against the Joint Underwriting Association created by section 3929.72 of the Revised Code, its individual board members, officers, employees, and agents, no cause of action shall be asserted against the Stabilization Reserve Fund, its individual board members, officers, employees, and agents, no cause of action shall be asserted against the Ohio Fair Plan Underwriting Association created by section 3929.43 of the Revised Code, its board of governors, individual board members, members, officers, employees, and agents, and no cause of action shall be asserted against the Ohio Medical Quality Foundation, its individual trustees, officers, employees, and agents.

The Superintendent of Insurance shall cause notice of the proposed distribution of the remaining moneys in the Stabilization Reserve Fund to be published in a newspaper of general circulation in each county of this state for three consecutive weeks. The notice shall advise that each person having a claim against the remaining moneys in the Fund must present the claim to the Superintendent within 180 days after the Superintendent causes notice to be given pursuant to this paragraph.

In determining the plan of distribution for the remaining moneys in the Fund, the Superintendent shall give consideration to each claim presented and advise each claimant as to whether the claim has been accepted or rejected.

In the event a timely claim is presented and has been rejected by the Superintendent, suit may be brought upon the rejected claim in the Court of Common Pleas of Franklin County. The parties to any such action on a rejected claim shall be limited to the claimant and the Superintendent. Any such action shall be brought within one year of the date the claimant receives written notice that the claim has been rejected, or the cause of action is forever barred.

A claim that is not presented to the Superintendent within 180 days of the date the Superintendent gives notice pursuant to this section shall be forever barred as to all parties, and no payment shall be made nor any action maintained on the claim.

In distributing the remaining moneys of the Stabilization Reserve Fund, the Superintendent, as soon as reasonably possible, shall determine an amount of fund moneys necessary as a final reserve for rejected claims and the remaining expenses of the Fund, including the expenses of the distribution. The Superintendent also shall determine the amount of Fund

moneys to which each hospital or physician is entitled hereunder, and shall order transmission of those moneys from the Stabilization Reserve Fund to the Joint Underwriting Association which shall act as the agent of the Superintendent for the purpose of distributing the Stabilization Reserve Fund moneys to be distributed. The Superintendent shall direct and control the Joint Underwriting Association with respect to all activities undertaken in connection with the distribution of the moneys.

The Joint Underwriting Association shall distribute the moneys to each hospital or physician as entitled hereunder by delivery of a draft to the last known address of such individual or policyholder, except for those moneys determined by the Superintendent to be a final reserve. This distribution shall be made as soon as reasonably possible after the effective date of ~~Amended Senate Bill No.~~ Am. S.B. 206 of the 119th General Assembly.

The Joint Underwriting Association shall continue to hold the final reserve moneys until ordered by the Superintendent to make a final distribution to the Ohio Medical Quality Foundation. During the time period the Joint Underwriting Association is holding this final reserve, the Superintendent may order from time to time distributions from the final reserve for the payment of expenses connected with the distribution, any actions on rejected claims, the winding up of the affairs of the Stabilization Reserve Fund, and, whenever appropriate, interim distributions to the Ohio Medical Quality Foundation. The Stabilization Reserve Fund shall remain in existence until all moneys in the Fund are distributed as set forth in this section.

In the event that the Joint Underwriting Association and its Board of Governors are dissolved by the Superintendent pursuant to section 3929.721 of the Revised Code prior to the distribution of the remaining moneys in the Stabilization Reserve Fund, the Ohio Fair Plan Underwriting Association shall act as agent of the Superintendent for the purpose of distributing the Fund moneys to be distributed under this section and assuming all responsibilities designated for the Joint Underwriting Association by this section. The Superintendent may order transmission of Fund moneys to the Ohio Fair Plan Underwriting Association consistent with the Superintendent's determination under this section of the appropriate distribution of moneys in the Fund."

SECTION 187. That existing Section 33 of Am. S.B. 206 of the 119th General Assembly, as amended by Am. Sub. H.B. 152 of the 120th General Assembly, is hereby repealed.

SECTION 188. That Sections 5 and 6 of Am. Sub. S.B. 102 of the 122nd General Assembly be amended to read as follows:

SECTIONS 5 & 6 OF Am. Sub. S.B. 102/122nd GA
*** DO NOT CUT APART

" Sec. 5. SFC SCHOOL FACILITIES COMMISSION

General Revenue Fund

GRF 230-428	Lease Rental Payments	$ ~~21,780,000~~ 27,020,000	$ ~~36,030,000~~ 57,176,000
TOTAL GRF General Revenue Fund		$ ~~21,780,000~~ 27,020,000	$ ~~36,030,000~~ 57,176,000

State Special Revenue Fund

5E3 230-644	Operating Expenses	$ 2,000,000	$ 2,400,000
Total SSR State Special Revenue Fund Group		$ 2,000,000	$ 2,400,000
TOTAL ALL BUDGET FUND GROUPS		$ ~~23,780,000~~ 29,020,000	$ ~~38,430,000~~ 59,576,000

Operating Expenses

The foregoing appropriation item 230-644, Operating Expenses, shall be used by the Ohio School Facilities Commission to carry out its responsibilities pursuant to this section and Chapter 3318. of the Revised Code.

There is hereby created in the state treasury the Ohio School Facilities Commission Fund (Fund 5E3). The fund shall consist of transfers of moneys authorized by the General Assembly, grants and other revenues described in division (D) of section 3318.31 of the Revised Code, and investment earnings of the fund. Moneys credited to the fund may be used by the commission for staffing and other administrative expenses, to conduct evaluations of school facilities, to prepare building design specifications, to provide project management services, and for any other purposes deemed necessary by the commission consistent with Chapter 3318. of the Revised Code.

Within 10 days of the effective date of this section, the Director of Budget and Management shall transfer up to $2,000,000 by intrastate transfer voucher from the School Facilities Commission's appropriation item 230-428, Lease Rental Payments, to the Ohio School Facilities Commission Fund (Fund 5E3). In fiscal year 1999, by July 10, 1998, the Director of Budget and Management shall transfer up to $2,400,000 by intrastate transfer voucher from the School Facilities Commission's line item 230-428 Lease Rental Payments to the Ohio School Facilities Commission Fund (Fund 5E3). Investment earnings to the School Building Assistance Fund (Fund 032) in excess of the amounts required to meet estimated federal arbitrage rebate requirements may be transferred at the request of the Ohio

School Facilities Commission by the Director of Budget and Management to the Ohio School Facilities Commission Fund (Fund 5E3). Investment earnings to the Public School Building Fund (Fund 021) and repayments to the Public School Building Fund (Fund 021) made pursuant to Chapter 3318. of the Revised Code may be ~~tranferred~~ transferred at the request of the Ohio School Facilities Commission by the Director of Budget and Management to the Ohio School Facilities Commission Fund (Fund 5E3).

Lease Rental Payments

After the transfers described in this section under the heading, "Operating Expenses" are made, the remaining appropriation shall be used by the School Facilities Commission to meet all payments at the times required to be made during the period from July 1, 1997, to June 30, 1999, to pay bond service charges on obligations issued pursuant to Chapter 3318. of the Revised Code.

Sec. 6. ~~Debt Service~~Appropriations

For Lease Rental Payments

General revenue appropriations to the School Facilities Commission include ~~$21,780,000~~ 27,020,000 in fiscal year 1998 and ~~$36,030,000~~ 57,176,000 in fiscal year 1999 for appropriation item 230-428, Lease Rental Payments, and this line item has the same purpose and supersedes the former appropriation item 200-413, Lease Rental Payments, in the Department of Education.

Of the ~~$699,417,200~~ 679,417,200 in fiscal year 1998 and ~~$702,623,028~~ 672,623,028 in fiscal year 1999 that is estimated to be transferred from the State Lottery Fund to the Lottery Profits Education Fund, up to ~~$21,280,000~~ 21,105,000 in fiscal year 1998 and ~~$31,530,000~~ 32,780,000 in fiscal year 1999 shall first be transferred from the Lottery Profits Education Fund to the General Revenue Fund for reimbursement of funds spent under appropriation item 230-428, Lease Rental Payments. These funds shall then be transferred by the Director of Budget and Management to the School Building Program Bond Service Fund pursuant to section 3770.06 of the Revised Code."

SECTION 189. That existing Sections 5 and 6 of Am. Sub. S.B. 102 of the 122nd General Assembly are hereby repealed.

SECTION 190. Ohio Departments Building

(A) As used in this section:

(1) "Repair and renovate" and "repair and renovation" include, but are

not limited to, planning, programming, design, constructions, furnishing, and equipping of the Ohio Departments Building;

(2) "Appropriation" means appropriation items CAP-815 and CAP-849 in Section 28 of Am. H.B. 748 of the 121st General Assembly, appropriation items CIR-825, CIR-815, and CIR-831 in Section 15.02 of Am. Sub. S.B. 264 of the 121st General Assembly, and any subsequent appropriations made to or for the benefit of the Supreme Court for the repair and renovation of the Ohio Departments Building.

(B) The appropriation shall be used by or at the direction of the Supreme Court of Ohio for the repair and renovation of the Ohio Departments Building as follows:

(1) A portion shall be used by the Department of Administrative Services for the repair and renovation of the exterior, roof, and grounds of the Ohio Departments Building;

(2) The remaining portion shall be used after January 1, 1998 by the Ohio Building Authority for other expenses associated with the repair and renovation of the Ohio Departments Building, including, but not limited to, the interior and grounds of the Building.

(C) The Ohio Building Authority, with the prior approval of the Supreme Court, shall submit a plan and cost estimate of repair and renovation set forth in division (B)(2) of this section to the Department of Administrative Services. Based upon the plan, the Director of Administrative Services shall request the Director of Budget and Management to release from the appropriation the estimated amount. The Director of Budget and Management may release the funds and, upon their release, the Director of Administrative Services shall transfer the amount released to the Ohio Building Authority, which shall use the funds, and any investment earnings on the funds and other available receipts as defined in section 152.09 of the Revised Code, to pay the costs of the repair and renovation.

(D) Upon completion of the repair and renovation:

(1) Any funds received by the Ohio Building Authority for the repair and renovation that have not been used shall be refunded to the Department of Administrative Services for deposit into Fund 026;

(2) The Supreme Court shall own, operate, and manage the Ohio Departments funds received by the Ohio Building Authority for the repair and renovation that have not been used shall be refunded to the Department of Administrative Services for deposit into Fund 026 Building.

(E) The Supreme Court may enter into contracts or other agreements with the Department of Administrative Services, the Ohio Building

Authority, another state entity, or a private contractor to operate and manage the Ohio Departments Building.

(F) To assist the Ohio Building Authority, the Department of Administrative Services and the Supreme Court may assign, amend, or enter into any necessary or appropriate leases, contracts, or agreements relating to the Ohio Departments Building to or with the Ohio Building Authority upon terms satisfactory to all parties.

SECTION 191. The client payment fund, which the public defender reimbursement fund was renamed in this act through the amendments to sections 120.04, 120.33, and 2941.51 of the Revised Code, is the continuation of the public defender reimbursement fund.

SECTION 192. Governor's Community Service Council

The administrative duties of the Department of Youth Services pertaining to the Governor's Community Service Council as imposed by section 121.40 of the Revised Code are transferred to the Governor's Community Service Council on July 1, 1997.

The Council shall employ, promote, supervise, and remove employees as needed in connection with the performance of its duties under section 121.40 of the Revised Code and may assign duties to employees to the extent necessary to achieve the most efficient performance of its duties and functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of employees of the Council.

Employees of the Department of Youth Services, as determined by the collective bargaining agreement in force on the effective date of this section, who are the direct staff of the Governor's Community Service Council shall be transferred to and become employees of the Council on July 1, 1997.

Employees transferred under this section shall retain their civil service qualifications and status. Effective with the first pay period in which personnel services expenses are charged against fiscal year 1998 appropriations, the transferred employees shall retain their respective civil service classifications and status and any rights conferred by Chapter 4117. of the Revised Code as it now exists or is hereafter amended. Nothing in section 121.40 of the Revised Code, as amended by this act, shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code, or the rights and benefits conferred under that chapter to public employees or to any bargaining unit provided by collective bargaining agreements negotiated under Chapter 4117. of the Revised Code.

Notwithstanding section 124.13 of the Revised Code, all vacation leave time and other benefits earned by these employees of the Department of Youth Services shall be deemed to have been earned by them as employees of the Council.

Effective July 1, 1997, whenever reference is made in any law, contract, or document to the functions of the Department of Youth Services as fiscal agent to the Governor's Community Service Council, the reference shall be deemed to refer to the Department of Aging, and "fiscal agent" has the meaning given in division (D) of section 121.40 of the Revised Code as amended by this act. The Department of Aging shall have no responsibility for or obligation to the Council prior to July 1, 1997. Any validation, cure, right, privilege, remedy, obligation, or liability shall be retained by the Council.

On or before July 1, 1997, the Department of Aging and the Council shall enter into an agreement regarding the relationship between the Department of Aging as fiscal agent and the Council.

On or before July 1, 1997, the Department of Youth Services and the Department of Aging shall enter into an agreement for the transfer of all assets, books, records, documents, files, transcripts, and other material pertaining to the Council.

The Council shall maintain its office in Columbus and may hold sessions at any place within the state.

The Council may acquire facilities, equipment, and supplies necessary to house the Council, its employees, and files and records under the Council's control and to discharge any duty imposed upon it by law. The expense of those acquisitions shall be audited and paid in the same manner as other state expenses. For that purpose, the Council shall prepare and submit to the Office of Budget and Management a budget for each biennium according to sections 101.55 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the Council and staff in the discharge of any duty imposed upon the Council by law.

SECTION 193. Notwithstanding section 3317.026 of the Revised Code, as enacted by this act, the certifications required to be made under that section on or before February 28, 1998, shall include refunded taxes refunded on or after July 1, 1996, and on or before December 31, 1997, in lieu of refunded taxes refunded in calendar year 1997. In making the computation to determine the percentage that refunded taxes are of total taxes charged and payable for current expenses under that section on or before June 1, 1998, the Tax Commissioner shall determine the percentage that refunded taxes

refunded on or after July 1, 1996, and on or before December 31, 1997, certified as provided in this section, are of total taxes charged and payable for current expenses for calendar year 1997.

SECTION 194. Insurance Tax Phase-in Schedules

Sections 1731.07, 5725.18, 5725.181, 5729.03, and 5729.031 of the Revised Code, as amended or enacted by this act, shall first apply to tax year 1999 and shall be implemented according to the following schedule:

(A) For tax years 1999 through 2002, the tax imposed under section 5729.03 of the Revised Code on the gross premiums of foreign insurance companies that are not health insuring corporations shall be computed using the following rates:

For Tax Year	The percentage of premiums is
1999	2.3%
2000	2.09%
2001	1.84%
2002	1.62%

(B) For tax years 1999 through 2002, the tax imposed under section 5725.18 of the Revised Code on domestic insurance companies that are not health insuring corportaions shall equal the sum of the amounts computed under division (B)(1) and (2) of this section.

(1) The tax computed according to the method prescribed in section 5725.181 of the Revised Code, as enacted by this act, multiplied by the percentage prescribed as follows:

For Tax Year	Multiply the tax under section 5725.181 of the Revised Code by
1999	79%
2000	58%
2001	40%
2002	20%

(2) The tax computed using the percentage of gross premiums prescribed by section 5725.18 of the Revised Code, as amended by this act, multiplied by the percentage prescribed as follows:

For Tax Year	Multiply the tax under amended section 5725.18 of the Revised Code by
1999	21%

2000	42%
2001	60%
2002	80%

(C) For tax years 1999 through 2002, the tax imposed under sections 5725.18 and 5729.03 of the Revised Code on domestic and foreign insurance companies that are health insuring corporations shall be computed using the following rates:

For Tax Year	The percentage of premium rate payments is
1999	.21%
2000	.42%
2001	.60%
2002	.80%

(D) For tax years 1999 through 2002, the minimum tax for domestic insurance companies taxed under sections 5725.18 and 5725.181 of the Revised Code, the minimum tax for foreign insurance companies taxed under section 5729.03 of the Revised Code, and the minimum tax for health insuring corporations taxed under those sections shall equal the amount prescribed as follows:

For Tax Year	The minimum tax is
1999	$50
2000	$100
2001	$150
2002	$200

(E) For tax years 1999 through 2002, the credit available under section 5729.031 of the Revised Code may be claimed against the tax imposed on foreign insurance companies as computed under division (A) of this section, against the tax imposed on domestic insurance companies as computed under division (B) of this section, or against the tax imposed on health insuring corporations as computed under division (C) of this section. The credit shall equal a percentage of the amount computed under division (C) of section 5729.031 of the Revised Code according to the following schedule:

For Tax Year	Percentage of credit allowed
1999	20%
2000	40%
2001	60%
2002	80%

As used in this section, "health insuring corporation" has the same

meaning as in section 1751.01 of the Revised Code, and "tax year" means the calendar year in which the tax imposed on the insurance company or health insuring corporation is charged.

SECTION 195. Pursuant to this act's abolition of the Alcoholism-Detoxification Centers Fund and the Drivers' Treatment and Intervention Fund, all money in the funds shall be transferred to the Alcohol and Drug Addiction Services Fund created by section 3793.21 of the Revised Code. The Alcohol and Drug Addiction Services Fund shall assume all obligations of the two abolished funds.

SECTION 196. That Section 4 of Am. Sub. H.B. 478 of the 119th General Assembly, as amended by Am. Sub. S.B. 300 of the 121st General Assembly, be amended to read as follows:

" Sec. 4. (A) Sections 3702.71, 3702.72, 3702.73, 3702.74, 3702.75, 3702.76, 3702.77, 3702.78, 3702.79, 3702.80, and 3702.81 of the Revised Code are hereby repealed, effective July 30, ~~1998~~2001.

(B) The repeal of section 3702.74 of the Revised Code does not impair the validity, operation, or enforceability of any executory contract entered into under that section, and the parties to any such contract shall meet all of their obligations under the contract notwithstanding such repeal."

SECTION 197. That existing Section 4 of Am. Sub. H.B. 478 of the 119th General Assembly, as amended by Am. Sub. S.B. 300 of the 121st General Assembly, is hereby repealed.

SECTION 198. That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly be amended to read as follows:

SB50/Sec5;draft

SECTION 5 OF AM. SUB. S.B. 50 OF THE 121st GENERAL ASSEMBLY

" Sec. 5. Sections 3 and 4 of ~~this act~~ Am. Sub. S.B. 50 of the 121st General Assembly shall take effect July 1, ~~1997~~ 1999."

SECTION 199. That existing Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly is hereby repealed.

SECTION 200. That Sections 45.32, 153, and 178 of Am. Sub. H.B. 117 of the 121st General Assembly be amended to read as follows:

" Sec. 45.32. (A) As used in this section:

(1) A "client district" of an educational service center means a city or exempted village school district that has entered into an agreement with that service center pursuant to section 3313.843 of the Revised Code.

(2) "ADM" means the combined ADM of the local school districts having territory in a service center and the ADM of each client district of such center.

(B) By June 1, 1997, in the case of any educational service centers that are serving only one local district pursuant to section 3311.051 of the Revised Code~~, and~~; by June 1, 1999, in the case of any service centers with ADMs of less than 8,000 that serve fewer than six local or client school districts; and by June 1, 2000, in the case of any educational service centers with ADMs of less than 8,000 that serve six or more local or client school districts, the superintendents of such service centers shall notify the Superintendent of Public Instruction of the name of one or more adjacent educational service centers with which such service centers will merge to form joint service centers. If the Superintendent does not receive such notification from a center serving only one local district or serving an ADM of less than 8,000 by the required date, the Superintendent shall determine one or more suitable adjacent centers for such merger and shall notify the superintendents and governing boards of all centers involved of ~~his~~ the determination. The centers named in the notification required by this section or determined by the Superintendent of Public Instruction pursuant to this section shall form a joint center pursuant to section 3311.053 of the Revised Code, which shall be effective on the first day of July immediately following notification by the service center, or by the Superintendent of Public Instruction, whichever applies.

Sec. 153. (A) Section 5112.20 of the Revised Code is hereby repealed, effective July 1, 1997. Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, ~~5112.20,~~ 5112.21, and 5112.99 of the Revised Code, as enacted by ~~this act~~ Am. Sub. H.B 117 of the 121st General Assembly, are hereby repealed, effective July 1, ~~1997~~ 1999.

(B) ~~Any money remaining in the Medicaid Oversight Fund on July 1, 1997, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes state in section 5112.19 of the Revised Code. When all money in the Medicaid~~

~~Oversight Fund has been spent after section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.~~

~~(C)~~ Any money remaining in the Legislative Budget Services Fund on July 1, ~~1997~~ 1999, the date that section 5112.19 of the Revised Code is repealed by division ~~(B)~~(A) of this section, shall be used solely for the purposes stated in section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist.

Sec. 178. Usage of Supplemental School Assistance Fund Money

(A) The Department of Education shall distribute money in the Supplemental School Assistance Fund to city, local, or exempted village school districts that qualify under this division.

(1)(a) A school district qualifies for a payment under division (A)(1)(a) of this section in fiscal year 1996 if its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995 is at least five per cent less than the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994. The amount of the payment for a district is eighty per cent of the product obtained by multiplying twenty-two mills by the difference between the district's total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995 and the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994.

(b) A school district qualifies for a payment under division (A)(1)(b) of this section in fiscal year 1996 if both of the following conditions are met:

(i) The amount obtained by subtracting the quotient obtained by dividing its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995 by its basic ADM as defined in division (A) of section 3317.02 of the Revised Code for fiscal year 1996, from the quotient obtained by dividing the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994 by its basic ADM for fiscal year 1996, is greater than $5,000;

(ii) Its total valuation per pupil for fiscal year 1996 is less than $200,000.

The amount of the payment under division (A)(1)(b) of this section is

twenty-five per cent of the district's payment under division (A)(1)(a) of this section.

(2) A school district qualifies for a payment under division (A)(2) of this section in fiscal year 1997 if it qualified for a payment under division (A)(1) of this section in fiscal year 1996 and section 3317.0212 of the Revised Code applies to the district in fiscal year 1997. The amount of the payment for such a district is equal to its total payment for fiscal year 1996 under division (A)(1) of this section.

(3) A school district qualifies for a payment under division (A)(3) of this section in fiscal year 1997 if it meets all of the following conditions:

(a) It qualified for a payment under division (A)(1) of this section in fiscal year 1996;

(b) Section 3317.0212 of the Revised Code does not apply to the district in fiscal year 1997;

(c) The total amount of the payment the district received under division (A)(1) of this section in fiscal year 1996 is greater than the amount obtained by subtracting from the amount of basic aid the district is entitled to under section 3317.022 of the Revised Code plus any adjustments made pursuant to divisions (C), (D), and (E) of section 3317.023 of the Revised Code for fiscal year 1997, the recalculated amount of such adjusted basic aid plus any amounts pursuant to section 3317.0212 of the Revised Code the district would be entitled to receive under that section for fiscal year 1997 using the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994 instead of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995.

The amount of the payment under division (A)(3) of this section equals the difference between the total amount of the payment the district received under division (A)(1) of this section in fiscal year 1996, and the amount obtained by subtracting from the amount of basic aid the district is entitled to under section 3317.022 of the Revised Code plus any adjustments made pursuant to division (C), (D), or (E) of section 3317.023 of the Revised Code for fiscal year 1997, the recalculated amount of such adjusted basic aid plus any amounts pursuant to section 3317.0212 of the Revised Code the district would be entitled to under that section for fiscal year 1997 using the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994 instead of its total tangible personal property tax valuation for telephone company and interexchange telecommunications

company property for tax year 1995.

(B) The Department of Education shall also distribute money in the Supplemental School Assistance Fund to joint vocational school districts that qualify under this division. A joint vocational school district qualifies for a payment in fiscal year 1996 if its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995 is at least five per cent less than the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994. In fiscal year 1996, the amount of the payment for a district is 80% of the product obtained by multiplying one mill by the difference between the district's total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1995 and the greater of its total tangible personal property tax valuation for telephone company and interexchange telecommunications company property for tax year 1993 or tax year 1994. In fiscal year 1997, the amount of the payment is the same amount as for fiscal year 1996.

(C) The Tax Commissioner shall provide any information requested by the Department of Education that is required for implementing this section.

(D) As used in this section, "telephone company" and "interexchange telecommunications company" have the same meanings as under section 5727.01 of the Revised Code.

(E) Notwithstanding any provisions in section 3317.028 of the Revised Code, when determining under that section in calendar year 1996, for school districts that qualified for a payment under division (A)(1) of this section, whether the taxable value of tangible personal property subject to taxation by each school district in the preceding tax year was less or greater than the taxable value of such property during the second preceding tax year, the Tax Commissioner shall exclude from the taxable value for both years the taxable value of telephone company and interexchange telecommunications company tangible personal property.

(F) In addition to the foregoing distributions, $138,673 each year of the biennium shall be distributed to school districts in the following manner to compensate them for tax changes regarding water transportation companies: Danbury Local School District (Ottawa County) $14,759, Put-In-Bay Local School District (Ottawa County) $123,004, Sandusky City School District (Erie County) $635, and Kelleys Island Local School District (Erie County) $275."

SECTION 201. That existing Sections 45.32, 153, and 178 of Am. Sub. H.B. 117 of the 121st General Assembly are hereby repealed.

SECTION 202. Any additional payments due for fiscal year 1997 as a result of the amendments by this act to Section 178 of Am. Sub. H.B. 117 of the 121st General Assembly shall be paid from the Supplemental School Assistance Fund (Fund 4Y5), which is hereby appropriated.

SECTION 203. The amendment by this act of sections 5112.04, 5112.18, and 5112.21 of the Revised Code is not intended to supersede the earlier repeal, with delayed effective date, of those sections.

SECTION 204. * That Section 3 of Sub. H.B. 441 of the 121st General Assembly be amended to read as follows:

" Sec. 3. Pursuant to section ~~122.19~~122.16 of the Revised Code and as soon as practicable after ~~the effective date of this act~~ August 22, 1996, the Director of Development shall certify the ~~economically disadvantaged~~ eligible areas for the period beginning July 1, 1996, and continuing through and ending December 31, 1996."

SECTION 205. * That existing Section 3 of Sub. H.B. 441 of the 121st General Assembly is hereby repealed.

SECTION 206. That Section 162 of Am. Sub. H.B. 298 of the 119th General Assembly be amended to read as follows:

" Sec. 162. (A) Sections 5733.04, 5733.05, and 5733.052 as amended by ~~this act~~Am. Sub. H.B. 298 of the 119th General Assembly and sections 5733.042, 5733.054, 5733.055, and 5733.068 of the Revised Code as enacted by ~~this act~~ Am. Sub. H.B. 298 of the 119th General Assembly shall first apply to taxable years ending on or after July 31, 1991.

(B) The legislative intent in the amendment by ~~this act~~ Am. Sub. H.B. 298 of the 119th General Assembly of section 5733.04 and the enactment of section 5733.042 of the Revised Code generally is to minimize future revenue losses to the state and its political subdivisions arising from the shifting of income from Ohio through the types of transactions described in

such sections as amended and enacted by ~~this act~~ Am. Sub. H.B. 298 of the 119th General Assembly.

Because of this legislative intent, a refundable corporation franchise tax credit is hereby authorized for any taxpayer if both of the following apply:

(1) For any tax year prior to the 1992 tax year, the taxpayer would have been subject to one or more of the additions required by divisions (I)(12) and (13) of section 5733.04 of the Revised Code if such divisions had been in effect for that tax year.

(2) After the effective date of ~~this act~~ Am. Sub. H.B. 298 of the 119th General Assembly, the taxpayer pays corporation franchise tax pursuant to assessment for any tax year prior to the 1992 tax year in effect based on the additions to net income required by divisions (I)(12) and (13) of section 5733.04 of the Revised Code.

The credit shall be equal to the difference between the amount of the corporation franchise tax paid and the amount that would have been due if the taxpayer's net income was not in effect adjusted in the manner provided in divisions (I)(12) and (13) of section 5733.04 of the Revised Code; plus any penalty or interest paid by the taxpayer in connection with the tax; plus interest on the sum of those amounts, computed at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date that the taxpayer paid those amounts to the date that the credit is refunded or credited against the taxpayer's current franchise tax liability.

The Tax Commissioner shall credit the full amount of any credit authorized by this section to the taxpayer's current tax liability, or refund the full amount of the credit, or credit a portion and refund the remainder. In the case of a refund, the Tax Commissioner shall certify the amount of the refund to the Director of Budget and Management and the Treasurer of State for payment from the Tax Refund Fund created by section 5703.052 of the Revised Code.

No particular form is required to be filed to claim this credit, but the credit must be claimed in writing not later than three years after the date on which the payment giving rise to the credit was made.

(C) If a taxpayer pays a corporation franchise tax assessment for any tax year prior to tax year 1992 in order to claim the credit provided by this section, and the assessment is based in whole or part on a requirement that the taxpayer file combined reports with one or more corporations whose activities are primarily limited to the maintenance and management of intangible investments or of the intangible investments of corporations, business trusts, or other entities registered as investment companies under the "Investment Company Act of 1940," as amended, 15 U.S.C. 80a-1 et

seq., and the collection and distribution of the income from such investments or from tangible property, and the assessment imposes tax based upon additions to net income similar to those required by divisions (I)(12) and (13) of section 5733.04 of the Revised Code, payment of the assessment shall not be an admission by or an election by the taxpayer to such combination, and any corporations included in the combination whose activities are primarily limited to those described shall not be required to continue to be so included solely because the assessment was paid. Commencing with tax year 1992, unless the Tax Commissioner determines that a different combination is necessary, the combination shall exclude such corporations but shall include all other corporations in the combination upon which the assessment was based. Nothing herein shall be construed to limit, modify, or otherwise negate the authority and right of the Tax Commissioner to change, modify, or require a combination of taxpayers and corporations for any and all franchise tax report years.

The taxpayer that is the parent company of a combined group of corporations granted a credit under this section shall have the right to allocate the credit among the members of the combined group in any manner as the taxpayer, in its discretion, determines. The Tax Commissioner shall have no right to limit, restrict, or modify the allocation selected by the taxpayer.

~~For tax year 1992 and thereafter, the existence between a related member and a taxpayer of a relationship, with respect to the use of intangible property, of lessor and lessee, respectively, licensor and licensee, respectively, or creditor and debtor, respectively, or the existence between a related member and a taxpayer of any other similar relationship pursuant to which the taxpayer directly or indirectly pays or accrues to a related member any expense or costs for indebtedness or any expense or costs for the use of intangible property shall not by itself be sufficient grounds for the Tax Commissioner to require that the taxpayer and any such related member file combined returns. For purposes of the section, the term "related member" has the same meaning as in division (A)(6) of section 5733.042 of the Revised Code as enacted by this act.~~"

SECTION 207. That existing Section 162 of Am. Sub. H.B. 298 of the 119th General Assembly is hereby repealed.

SECTION 208. That Sections 40, 41, 42, and 43 of Am. Sub. S.B. 310 of the 121st General Assembly are hereby repealed.

SECTION 209. Section 166 of Am. Sub. H.B. 117 of the 121st General Assembly is hereby repealed.

SECTION 210. Sections 5733.02, 5733.022, 5733.03, 5733.042, 5733.05, 5733.051, 5733.052, 5733.053, 5733.055, 5733.06, 5733.061, 5733.065, 5733.066, 5733.067, 5733.068, 5733.069, 5733.0611, 5733.09, 5733.12, 5733.31, 5733.311, 5733.32, 5733.33, and 5733.98 of the Revised Code, as amended or enacted by this act, apply to tax years 1999 and thereafter, except as otherwise provided in division (A) of section 5733.05 and divisions (A)(6) through (8) of section 5733.98 of the Revised Code.

SECTION 211. Sections 5733.111, 5733.40, 5733.41, 5747.057, 5747.059, 5747.062, 5747.07, 5747.072, 5747.08, 5747.11, 5747.131, 5747.14, 5747.15, 5747.18, 5747.20, 5747.21, 5747.22, 5747.26, 5747.261, 5747.30, 5747.31, sections 5747.40 to 5747.45, and sections 5747.451, 5747.452, and 5747.98 of the Revised Code, as amended or enacted by this act first apply to taxable years beginning in 1998 and thereafter.

SECTION 212. Sections 122.16, 122.17, 122.18, and 5709.66 of the Revised Code, as amended by this act, apply to tax years 1999 and thereafter in the case of persons subject to the tax imposed under section 5733.06 of the Revised Code, and apply to taxable years beginning in 1998 and thereafter for persons subject to the tax imposed by section 5747.02 of the Revised Code.

SECTION 213. Sections 3734.904, 3734.907, 3769.088, 4305.13, 4305.131, 5728.09, 5728.10, 5733.11, 5733.26, 5735.11, 5735.12, 5735.121, 5739.13, 5739.132, 5739.15, 5741.10, 5741.14, 5743.081, 5743.082, 5743.52, 5743.56, divisions (F) and (G) of section 5747.07, division (G) of section 5747.08, sections 5747.13, 5749.06, 5749.07, and 5749.10 of the Revised Code, as amended by this act, apply to assessments issued on or after January 1, 1998, to the extent that the amendment of those sections applies to the imposition and accrual of interest on assessments issued thereunder.

SECTION 214. The amendment by this act of section 5711.32 of the Revised Code applies to refunds for overpayments of taxes resulting from taxpayer errors that are the subject of an assessment becoming final on or after the effective date of that section.

SECTION 215. (A) By the amendment by this act of Section 162 of Am. Sub. H.B. 298 of the 119th General Assembly, the General Assembly intends to return Ohio law to the state in which it existed immediately before the enactment of the paragraph stricken by that amendment, but only as to the subjects of that paragraph. The General Assembly does not intend that amendment to expressly or implicitly affirm or deny that the existence or absence of any relationship described in that paragraph, or of any relationship similar to any relationship described in that paragraph, is or is not sufficient grounds for the Tax Commissioner to require that a taxpayer and any related member file combined returns for the purpose of any tax year. The General Assembly intends that the law applicable before the enactment of Section 162 of Am. Sub. H.B. 298 of the 119th General Assembly, and the prior judicial or quasi-judicial interpretations of that law, shall speak for themselves.

(B) By the enactment of sections 5733.111 and 5747.131 of the Revised Code, the General Assembly does not intend to expressly or implicitly affirm or deny that the doctrines referred to in those sections might or might not be extended to transactions before the effective date of those sections, and any case or controversy relating to such transactions. The General Assembly intends that the law applicable before that effective date, and the prior judicial or quasi-judicial interpretations of that law, shall speak for themselves.

SECTION 216. The Tax Commissioner first shall determine if a reduction in the tangible personal property tax assessment rate for property described in division (D) of section 5711.22 of the Revised Code, as amended by this act, is required for returns required to be filed in 1998. If the Commissioner determines the rate reduction is required, the assessment rate in 1998 for the property described in that division shall be 20 per cent.

SECTION 217. Section 12 of Am. Sub. S.B. 259 of the 121st General Assembly is hereby repealed.

SECTION 218. Section 29 of Sub. H.B. 670 of the 121st General Assembly is hereby repealed.

SECTION 219. If any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, or if any application of any item of law that constitutes the whole or part of a codified or uncodified section of law contained in this act, is held invalid, the invalidity does not affect other items of law or applications of items of law that can be given effect without the invalid item of law or application. To this end, the items of law of which the codified and uncodified sections contained in this act are composed, and their applications, are independent and severable.

SECTION 220. Except as otherwise specifically provided in this act, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the codified and uncodified sections of law contained in this act, and the items of law of which the codified and uncodified sections of law contained in this act are composed, except as otherwise specifically provided in this act, go into immediate effect when this act becomes law.

SECTION 221. Except as otherwise specifically provided in this act, the repeal by this act of a codified or uncodified section of law is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the repeal by this act of a codified or uncodified section of law, except as otherwise specifically provided in this act, goes into immediate effect when this act becomes law.

SECTION 222. Sections 3.17, 9.06, 103.143, 103.21, 107.30, 111.16, 120.04, 120.33, 121.37, 121.38, 122.19 (122.16) (as it results from Sub. H.B. 441 of the 121st General Assembly), 124.15, 124.181, 124.34, 124.391, 125.15, 125.28, 125.42, 125.83, 125.831, 126.07, 126.12, 126.14, 126.21, 126.26, 127.16, 169.03, 169.05, 169.08, 171.05, 181.52, 329.04, 718.01, 924.10, 991.03, 1555.09, 1557.06, 1703.03, 1703.05, 1703.07,

1703.08, 1703.12, 1703.22, 1703.26, 1703.27, 2151.355, 2744.05, 2941.51, 3313.535, 3317.01, 3343.08, 3345.11, 3345.12, 3383.01, 3701.14, 3701.261, 3701.502, 3702.31, 3705.24, 3746.121, 3748.12, 3748.13, 3769.10, 3770.02, 3770.06, 3773.43, 3773.56, 4111.01, 4117.02, 4121.39, 4121.446, 4123.31, 4123.402, 4123.418, 4141.131, 4301.10, 4305.13, 4305.131, 4701.20, 4703.50, 4709.06, 4715.06, 4715.13, 4715.14, 4715.16, 4715.21, 4715.24, 4715.27, 4715.35, 4717.09, 4723.31, 4725.06, 4725.45, 4729.65, 4731.09, 4731.10, 4731.14, 4731.15, 4731.17, 4731.22, 4731.24, 4731.26, 4731.291, 4731.38, 4731.40, 4731.53, 4731.56, 4732.04, 4733.08, 4734.16, 4736.06, 4740.03, 4741.03, 4747.03, 4751.06, 4751.07, 4753.04, 4755.49, 4755.99, 4757.31, 4759.08, 4901.10, 4901.19, 4903.10, 4903.11, 4903.23, 4905.21, 4905.26, 4905.66, 4905.69, 4905.81, 5101.02, 5101.06, 5101.07, 5101.14, 5101.144, 5101.58, 5111.11, 5111.111, 5111.18, 5119.02, 5119.53, 5120.03, 5120.09, 5120.16, 5120.38, 5122.43, 5123.05, 5139.01, 5139.04, 5139.07, 5139.36, 5139.42, 5139.86, 5531.10, 5703.21, 5709.62, 5709.63, 5709.632, 5728.10, 5733.01, 5733.02, 5733.03, 5733.031, 5733.04, 5733.042, 5733.05, 5733.056, 5733.057, 5733.065, 5733.066, 5733.067, 5733.069, 5733.09, 5733.12, 5733.121, 5733.33, 5733.34, 5735.143, 5739.01, 5739.02, 5739.033, 5739.07, 5739.072, 5739.132, 5739.133, 5739.17, 5741.101, 5743.081, 5747.01, 5747.02, 5747.03, 5747.057, 5747.062, 5747.07, 5747.08, 5747.11, 5747.12, 5747.13, 5747.20, 5747.21, 5747.22, 5747.30, 5747.31, 5747.32, 5747.98, and 5749.07 of the Revised Code, as amended or enacted by this act; and the items of law of which such sections of the Revised Code, as amended or enacted by this act, are composed, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, such sections as amended or enacted by this act, and the items of law of which such sections as amended or enacted by this act are composed, take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such section as amended or enacted by this act, or against any item of law of which any such section as amended or enacted by this act is composed, the section as amended or enacted, or item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 223. Sections Marked with an Asterisk

Uncodified sections of law contained in this act, and items of law contained within the uncodified sections of law that are contained in this act, that are marked with an asterisk, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the

Revised Code, the uncodified sections and items of law marked with an asterisk take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against an uncodified section or item of law marked with an asterisk, the uncodified section or item of law marked with an asterisk, unless rejected at the referendum, takes effect at the earliest time permitted by law.

An asterisk thus marking an uncodified section or item of law has the form *.

This section defines the meaning and form of, but is not itself to be considered marked with, an asterisk.

SECTION 224. The repeal by this act of each of the following sections is subject to the referendum: sections 125.94, 1703.08, 1703.09, 1703.11, 1703.14, 4743.04, 5111.85, 5119.25, 5119.28, 5123.06, and 5123.32 of the Revised Code. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, each such repeal takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such repeal, the repeal, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 225. (A) The amendment by this act to division (A) of section 124.18 of the Revised Code, which states that use of sick leave is not considered active pay status, constitutes an item of law that is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, this item of law goes into immediate effect when this act becomes law.

(B) The amendment by this act to division (D) of section 124.18 of the Revised Code, which states that, in cases in which an employee is not paid by warrant of the Auditor of State, the appointing authority is to determine whether use of sick leave is considered active pay status, constitutes an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 226. (A) The amendment by this act to division (A)(1) of

on 131.35 of the Revised Code that modifies the conditions precedent for expenditure of federal funds constitutes an item of law that is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, this item of law goes into immediate effect when this act becomes law.

(B) The amendment by this act to division (A)(2) of section 131.35 of the Revised Code that eliminates the consequence if federal funds are received in an amount less than that appropriated by the General Assembly constitutes an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 227. Section 149.303 of the Revised Code, as amended by this act, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as amended is entitled to go into immediate effect when this act becomes law. However, section 149.303 of the Revised Code, as amended by this act, takes effect on February 1, 1998, or the day this act becomes law, whichever is later.

SECTION 228. Sections 3345.50 and 3345.51 of the Revised Code, as amended by this act, are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the sections as amended take effect on July 1, 1998, or the ninety-first day after this act is filed with the Secretary of State, whichever is later. If however, a referendum petition is filed against either section as amended, the section as amended, unless rejected at the referendum, takes effect at the earliest time permitted by law that is on or after the effective date specified in the preceding sentence.

SECTION 229. (A) The amendment by this act to section 4713.19 of the Revised Code that requires all receipts of the State Board of Cosmetology to be deposited into the Occupational Licensing and Regulatory Fund constitutes an item of law that is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the

Revised Code, this item of law goes into immediate effect when this act becomes law.

(B) The amendment by this act to section 4713.19 of the Revised Code that provides for the President or Executive Director of the State Board of Cosmetology to approve vouchers constitutes an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 230. (A) The amendment by this act to division (B) of section 4731.281 of the Revised Code that requires the State Medical Board to deposit a portion of biennial registration fees into the Physician Loan Repayment Fund until July 30, 2001, constitutes an item of law that is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, this item of law goes into immediate effect when this act becomes law.

(B) The amendment by this act to division (B) of section 4731.281 of the Revised Code that (1) increases the biennial registration fee charged by the State Medical Board and (2) provides for deposit of biennial registration fees into the State Medical Board Operating Fund constitute separate items of law that are each subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, these items of law take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 231. (A) The amendments by this act to section 5101.14 of the Revised Code, except for the amendments to the second paragraph of division (A) of the section, constitute items of law that are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, these items of law go into immediate effect when this act becomes law.

(B) The amendments by this act to the second paragraph of division (A) of section 5101.14 of the Revised Code constitute an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes

effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 232. (A) The amendments by this act to section 5101.141 of the Revised Code, except for the amendments to division (E) of the section, constitute items of law that are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, these items of law go into immediate effect when this act becomes law.

(B) The amendments by this act to division (E) of section 5101.141 of the Revised Code constitute an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 233. (A) The amendment by this act to section 5139.01 of the Revised Code that adds a definition of "unruly child" constitutes an item of law that is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, this item of law goes into immediate effect when this act becomes law.

(B) The amendments by this act to section 5139.01 of the Revised Code other than as described in division (A) of this section constitute items of law that are subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, these items of law take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 234. (A) The amendment by this act to division (E) of section 5139.04 of the Revised Code that provides rule-making authority to implement section 5139.34 of the Revised Code and eliminates rule-making authority to implement section 5139.46 of the Revised Code constitutes an item of law that is not subject to the referendum. Therefore, under Ohio

Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the item of law goes into immediate effect when this act becomes law.

(B) The amendment by this act to division (B) of section 5139.04 of the Revised Code that eliminates rule-making authority to define administrative time constitutes an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, the item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 235. (A) The amendments by this act to section 5139.42 of the Revised Code, except for the amendment to division (F)(4) of the section, constitute items of law that are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, these items of law go into immediate effect when this act becomes law.

(B) The amendment by this act to division (F)(4) of section 5139.42 of the Revised Code, which removes a reference to care and custody in community corrections facilities, constitutes an item of law that is subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, this item of law takes effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against the item of law, the item of law, unless rejected at the referendum, takes effect at the earliest time permitted by law.

SECTION 236. (A) The amendments by this act to section 5139.43 of the Revised Code, except for the amendments to division (B)(2)(a)(ii) of the section, constitute items of law that are not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, these items of law go into immediate effect when this act becomes law.

(B) The amendment by this act to the first and second paragraphs of division (B)(2)(a)(ii) of section 5139.43 of the Revised Code constitute separate items of law that are each subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1c and section 1.471 of the Revised Code, these items of law take effect on the ninety-first day after this act is filed with the Secretary of State. If, however, a referendum petition is filed against any such item of law, the item of law, unless rejected at the

referendum, takes effect at the earliest time permitted by law.

SECTION 237. Section 5705.412 of the Revised Code, as amended by this act, is not subject to the referendum. Therefore, under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code, the section as amended is entitled to go into immediate effect when this act becomes law. However, section 5705.412 of the Revised Code, as amended by this act, takes effect on July 1, 1998, or the day this act becomes law, whichever is later.

SECTION 238. Section 124.15 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 117, Am. Sub. S.B. 99, and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of none 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.

SECTION 239. Section 125.04 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 107, Am. Sub. S.B. 99, and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of none 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.

SECTION 240. Section 127.16 of the Revised Code is presented in this act as a composite of the section as amended by Am. H.B. 249, Am. Sub. S.B. 99, Am. Sub. S.B. 150, and Am. Sub. S.B. 162 of the 121st General Assembly, with the new language of none 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.

SECTION 241. Section 164.09 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 538, Am. H.B. 748, and Am. Sub. S.B. 257 of the 121st General Assembly, with the new language of none 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.

SECTION 242. Section 1785.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. H.B. 344 and Sub. H.B. 276 of the 119th 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.

SECTION 243. Section 2151.355 of the Revised Code is presented in Section 1 of this act as a composite of the section as amended by Sub. H.B. 274, Am. Sub. H.B. 445, and Am. Sub. S.B. 269 of the 121st General Assembly, with the new language of none 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.

SECTION 244. Section 2151.421 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 274, Am. Sub. S.B. 269, and Sub. S.B. 223 of the 121st General Assembly, with the new language of none 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.

SECTION 245. Section 3307.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 82 and Am. Sub. H.B. 586 of the 121st 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.

SECTION 246. Section 3317.01 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Am. Sub. H.B. 223 of the 121st 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.

SECTION 247. Sections 3345.50 and 3345.51 of the Revised Code are presented in this act as composites of the sections as amended by Am. H.B. 748 and Am. Sub. S.B. 264 of the 121st 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.

SECTION 248. Section 3365.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 434 and Am. Sub. H.B. 777 of the 118th 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.

SECTION 249. Section 3769.088 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 297 and Am. Sub. H.B. 361 of the 120th 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.

SECTION 250. Section 3769.10 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 297 and Am. Sub. H.B. 361 of the 120th 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.

SECTION 251. Section 4301.17 of the Revised Code is presented in Section 1 of this act as a composite of the section as amended by both Am. Sub. S.B. 149 and Am. Sub. S.B. 162 of the 121st 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.

SECTION 252. Section 4301.43 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Sub. H.B. 239 of the 121st 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.

SECTION 253. Section 4509.101 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 353 and Am. Sub. H.B. 438 of the 121st 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.

SECTION 254. Section 4703.16 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 117, Sub. H.B. 231, and Sub. H.B. 167 of the 121st General Assembly, with the new language of none 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.

SECTION 255. Section 4731.22 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 154 and Am. Sub. S.B. 259 of the 121st 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.

SECTION 256. Section 4755.47 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 279 and Sub. H.B. 499 of the 120th 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.

SECTION 257. Section 4755.61 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 117 and Sub. H.B. 167 of the 121st 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.

SECTION 258. Section 5120.16 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 124 and Am. Sub. S.B. 285 of the 121st 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.

SECTION 259. Section 5709.66 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 167, Am. H.B. 249, and Am. Sub. S.B. 188, all of the 121st General Assembly, with the new language of none 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.

SECTION 260. Section 5733.98 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 343, Sub. H.B. 441, and Sub. S.B. 18 of the 121st General Assembly, with the new language of none 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.

SECTION 261. Section 5739.024 of the Revised Code is presented in this act as a composite of the section as amended by both Am. H.B. 163 and Am. Sub. H.B. 207 of the 120th 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.

SECTION 262. Section 5739.13 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 152 and Am. Sub. H.B. 327 of the 120th 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.

SECTION 263. Section 5747.02 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 442 and Am. Sub. S.B. 310 of the 121st 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.

SECTION 264. Section 5747.07 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. S.B. 74 and Sub. H.B. 715 of the 120th 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.

SECTION 265. Section 5747.98 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 343, Sub. H.B. 441, and Sub. S.B. 18 of the 121st General Assembly, with the new language of none 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.

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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____.

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Secretary of State.

File No. _____ Effective Date _____